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**Datasheet for the decision  
of 4 June 2026**

**Case Number:** T 0381/25 - 3.5.05

**Application Number:** 20156199.0

**Publication Number:** 3669682

**IPC:** A24F40/40, A24F40/51,  
A24F40/60, A24F47/00

**Language of the proceedings:** EN

**Title of invention:**

Control body for an electronic smoking article

**Patent Proprietor:**

RAI Strategic Holdings, Inc.

**Opponents:**

Imperial Tobacco Limited  
Philip Morris Products S.A.  
JUUL Labs, Inc.

**Headword:**

Revocation requested by proprietor/RAI

**Relevant legal provisions:**

EPC Art. 113(2)

**Keyword:**

Revocation of the patent - (yes): withdrawal of approval of  
the patent's text



**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

Boards of Appeal of the  
European Patent Office  
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**Case Number:** T 0381/25 - 3.5.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.05**  
**of 4 June 2026**

|                                           |                                                                                                         |
|-------------------------------------------|---------------------------------------------------------------------------------------------------------|
| <b>Appellant:</b><br>(Opponent 2)         | Philip Morris Products S.A.<br>Quai Jeanrenaud 3<br>2000 Neuchâtel (CH)                                 |
| <b>Representative:</b>                    | DREISS Patentanwälte PartG mbB<br>Friedrichstraße 6<br>70174 Stuttgart (DE)                             |
| <b>Respondent:</b><br>(Patent Proprietor) | RAI Strategic Holdings, Inc.<br>401 North Main Street<br>Winston-Salem, NC 27101 (US)                   |
| <b>Representative:</b>                    | D Young & Co LLP<br>3 Noble Street<br>London EC2V 7BQ (GB)                                              |
| <b>Party as of right:</b><br>(Opponent 1) | Imperial Tobacco Limited<br>121 Winterstoke Road<br>Bristol BS3 2LL (GB)                                |
| <b>Representative:</b>                    | Mewburn Ellis LLP<br>Aurora Building<br>Counterslip<br>Bristol BS1 6BX (GB)                             |
| <b>Party as of right:</b><br>(Opponent 3) | JUUL Labs, Inc.<br>1000 F Street NW<br>Washington DC 20004 (US)                                         |
| <b>Representative:</b>                    | Peterreins Schley<br>Patent- und Rechtsanwälte PartG mbB<br>Hermann-Sack-Straße 3<br>80331 München (DE) |

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office  
posted/electronically transmitted on 3 January  
2025 concerning maintenance of the European  
Patent No. 3669682 in amended form.

**Composition of the Board:**

**Chair** K. Bengi-Akyürek  
**Members:** A. Wahrenberg  
C. Heath

## **Summary of Facts and Submissions**

- I. Opponent 2 appealed the opposition division's interlocutory decision to maintain the opposed patent in amended form on the basis of "auxiliary request 11". It requested that the decision under appeal be set aside and that the patent be revoked. Oral proceedings were requested as an auxiliary measure.
- II. The proprietor, as respondent, requested that the appeal be dismissed (main request) and that the patent be maintained in amended form on the basis of auxiliary request 11 as upheld by the opposition division or, alternatively, on the basis of one of auxiliary requests 24, 25, 49, 62, 63, 67, 80, 81, 85, 98, 99, 103, 116 or 117, or, in a further alternative, on the basis of the corresponding "a", "b" or "c" versions of any of those requests.
- III. Opponents 1 and 3 neither filed an appeal nor replied to opponent 2's statement of grounds of appeal.
- IV. The board summoned the parties to oral proceedings and issued a communication pursuant to Article 15(1) RPBA setting out its preliminary opinion.
- V. In response to the summons, the proprietor withdrew its approval of the text for grant. It further stated that it understood that this withdrawal of approval would result in revocation of the patent and termination of the appeal proceedings.
- VI. The board subsequently cancelled the oral proceedings.

## **Reasons for the Decision**

1. Pursuant to Article 113(2) EPC, the EPO shall examine and decide upon the patent only in the text submitted to it, or agreed, by the patent proprietor.
2. By withdrawing its approval of the text of the patent, the proprietor expressed its intention that the patent be revoked and the appeal proceedings be terminated. As a result, there is no approved text on the basis of which the board can examine the appeal. The patent must therefore be revoked without any substantive examination of patentability (see Case Law of the Boards of Appeal, 11th edition, section IV.D.2).
3. In these circumstances, holding oral proceedings would serve no purpose. There is no longer any text on which a decision could be based, and no party is adversely affected by the revocation of the patent. Moreover, the condition attached to opponent 2's request for oral proceedings is no longer fulfilled. The oral proceedings were therefore cancelled.

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chair:



B. Brückner

K. Bengi-Akyürek

Decision electronically authenticated