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Datasheet for the decision of 1 September 2026

Case Number: T 0618/25 - 3.3.03

Application Number: 19724208.4

Publication Number: 3802689

IPC: C08L23/10, C08L23/04, C08L23/08, C08L23/12, C08K3/34

Language of the proceedings: EN

Title of invention:

PROCESS TO PRODUCE POLYPROPYLENE-BASED COMPOSITION FROM POST-CONSUMER RESINS AND ARTICLES MADE OF SAID COMPOSITIONS

Patent Proprietor:

TotalEnergies OneTech Belgium

Opponents:

Braskem America, Inc.
SUSTAINABLE MATERIALS SAS
Basell Poliolefine Italia S.r.l.
Veolia Environnement S.A.
REHAU Industries SE & Co. KG
SABIC Global Technologies B.V. /
SABIC Petrochemicals B.V.
Ineos Europe AG

Relevant legal provisions:

EPC Art. 113(2)

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It can be changed at any time and without notice

Keyword:
Basis of decision - text or agreement to text withdrawn by patent proprietor - patent revoked

Decisions cited:
T 0073/84, T 0186/84

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Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0

Case Number: T 0618/25 - 3.3.03

D E C I S I O N
of Technical Board of Appeal 3.3.03
of 1 September 2026

Respndent: (Patent Proprietor)	TotalEnergies OneTech Belgium Zone Industrielle C 7181 Seneffe (BE)
Representative:	De Clercq & Partners Edgard Gevaertdreef 10a 9830 Sint-Martens-Latem (BE)
Appellant 1: (Opponent 2)	SUSTAINABLE MATERIALS SAS 23-27 Avenue des Champs Pierreux 92000 Nanterre (FR)
Representative:	Prinz & Partner mbB Patent- und Rechtsanwälte Rundfunkplatz 2 80335 München (DE)
Appellant 2: (Opponent 3)	Basell Poliolefine Italia S.r.l. Via Pontaccio 10 20121 Milano (IT)
Representative:	LyondellBasell c/o Basell Poliolefine Italia Intellectual Property P.le Donegani 12 44122 Ferrara (IT)
Appellant 3: (Opponent 4)	Veolia Environnement S.A. 21 rue La Boétie 75008 Paris (FR)
Representative:	Santarelli Tour Trinity 1 bis Place de la Défense 92400 Courbevoie (FR)

Appellant 4: (Opponent 6)	SABIC Global Technologies B.V. / SABIC Petrochemicals B.V. Plasticlaan 1 / Europaboulevard 1 4612 PX Bergen op Zoom / 6135 LD Sittard (NL)
Representative:	Sabic Intellectual Property Group Sabic Intellectual Property Department P.O. Box 3008 6160 GA Geleen (NL)
Party as of right: (Opponent 1)	Braskem America, Inc. 1735 Market Street 28th Floor Philadelphia PA 19103-7583 (US)
Representative:	Zacco Denmark A/S Arne Jacobsens Allé 15 2300 Copenhagen S (DK)
Party as of right: (Opponent 5)	REHAU Industries SE & Co. KG Helmut-Wagner-Straße 1 95111 Rehau (DE)
Party as of right: (Opponent 7)	Ineos Europe AG Avenue des Uttins 3 1180 Rolle,Vaud (CH)
Representative:	King, Alex Mathisen & Macara LLP Charta House 30-38 Church Street Staines-upon-Thames, Middlesex TW18 4EP (GB)
Decision under appeal:	**Interlocutory decision of the Opposition Division of the European Patent Office posted/ electronically transmitted on 14 March 2025 concerning maintenance of the European Patent No. 3802689 in amended fo rm.**

Composition of the Board:

Chairman	D. Semino
Members:	O. Dury
	M. Millet

Summary of Facts and Submissions

I. The appeals by opponents 2, 3, 4 and 6 (appellants 1 to 4, respectively) lie from the interlocutory decision of the opposition division concerning maintenance of European patent No 3 802 689 in amended form according to the claims of auxiliary request 1b filed during the oral proceedings before the opposition division held on 18 and 19 February 2025 and an adapted description.

II. With letter of 14 May 2025, the patent proprietor filed a notice of appeal. However, they withdrew their appeal with letter of 12 June 2025.

III. In their statements of grounds of appeal appellants 1 to 4 all requested that the decision of the opposition division be set aside and the patent be revoked.

IV. In the rejoinder to the statements of grounds of appeal dated 16 January 2026 the patent proprietor, now respondent, initially requested that the appeals be dismissed (main request) or, in the alternative, that the patent be maintained in amended form according to any of auxiliary requests AR-A or AR-B filed therewith.

V. The parties were summoned to oral proceedings and a communication pursuant to Article 15(1) RPBA was then issued by the Board.

VI. With letter of 27 August 2026 the respondent stated:

"Please be advised that the Patent Proprietor no longer approves the text in which the patent was granted and as maintained in amended form. We are not submitting an

amended text. We will not be attending the oral proceedings.

We confirm withdrawal of the Main Request and Auxiliary Requests AR-A and AR-B filed with our letter dated January 16, 2026.".

VII. The oral proceedings were then cancelled.

VIII. Opponents 1, 5 and 7, who are all party as of right to the appeal proceedings pursuant to Article 107, second sentence, EPC, did not make any substantive submissions and/or filed any requests in the present appeal proceedings.

Reasons for the Decision

1. Under the provisions of Article 113(2) EPC, the EPO shall decide upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent.

2. In the present case the respondent/patent proprietor unambiguously indicated in their letter dated 27 August 2026 that they withdrew their approval of the text in which the patent was maintained during the opposition proceedings and that they would not be submitting an amended text. This constitutes a disapproval of any version of the text of the then pending requests, which were further simultaneously withdrawn. Therefore, agreement by the patent proprietor pursuant to Article 113(2) EPC cannot be held to be given.

3. Under such circumstances a substantive requirement for maintaining the patent is lacking and the proceedings are to be terminated by a decision ordering revocation, without going into the substantive issues (see e.g. decisions T 73/84 and T 186/84).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. European patent No. 3 802 689 is revoked.

The Registrar: The Chairman:

D. Hampe D. Semino

Decision electronically authenticated