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**Datasheet for the decision
of 22 July 2026**

Case Number: T 0640/25 - 3.2.01

Application Number: 17704855.0

Publication Number: 3402555

IPC: A61M5/315

Language of the proceedings: EN

Title of invention:

MEDICAL DELIVERY DEVICE WITH LAMINATED STOPPER

Patent Proprietor:

W. L. Gore & Associates, Inc.

Opponents:

RIEDL, Peter (Opponent 1)

Hightone Management Limited (Opponent 2)

Headword:

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by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

Decisions cited:

T 0700/14, T 0073/84

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
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Case Number: T 0640/25 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 22 July 2026

Appellant: W. L. Gore & Associates, Inc.
(Patent Proprietor) 555 Paper Mill Road
Newark, DE 19711 (US)

Representative: HGF
HGF Limited
4th Floor, 1 City Square
Leeds LS1 2ES (GB)

Appellant: Hightone Management Limited
(Opponent 2) The Broadgate Tower
20 Primrose Street
EC2A 2ES London (GB)

Representative: Gill Jennings & Every LLP
The Broadgate Tower
20 Primrose Street
London EC2A 2ES (GB)

Party as of right: RIEDL, Peter
(Opponent 1) Ascherbachweg 6
85221 Dachau (DE)

Representative: Meissner Bolte Partnerschaft mbB
Patentanwälte Rechtsanwälte
Postfach 86 06 24
81633 München (DE)

Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted/
electronically transmitted on 28 February 2025
concerning maintenance of the European Patent
No. 3402555 in amended form.

Composition of the Board:

Chairman G. Pricolo

Members: V. Vinci

 S. Fernández de Córdoba

Summary of Facts and Submissions

- I. The appeals filed by the appellant (patent proprietor) and the appellant (opponent 2) are directed against the decision of the Opposition Division maintaining the European patent No. 3 402 555 in amended form.
- II. With a communication under Article 15(1) RPBA dated 8 May 2026, the Board informed the parties of its preliminary, non binding assessment of the case.
- III. The appellant (opponent 2) requested that the decision under appeal be set aside and that the patent be revoked.

With their letter dated 15 July 2026, the appellant (patent proprietor) unconditionally withdrew their approval of the text of the patent as granted and any outstanding requests on file.

The oral proceedings scheduled on 30 September 2026 were thus cancelled.

Reasons for the Decision

Article 113 (2) EPC

- 1. Pursuant to Article 113(2) EPC, the European Patent Office must examine and decide upon the European patent only in the text submitted to it, or agreed to, by the patent proprietor.
- 1.1 This principle must also be strictly observed in opposition appeal proceedings. Since the text of the

patent is at the disposition of the patent proprietor, a patent cannot be maintained against the patent proprietor's will.

- 1.2 In the present case, by letter dated 15 July 2026, the appellant (patent proprietor) unambiguously and unconditionally withdrew its approval of the text of the patent as granted and of all requests on file. Consequently, there is no text of the patent on the basis of which the Board can consider the appeal. The patent must therefore be revoked without consideration of the substantive issues (see T 700/14, Reasons 3 to 7, and T 73/84, Reasons 2 to 5).

Order

For these reasons it is decided that:

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

The Registrar:

The Chairman:



M. Schalow

G. Pricolo

Decision electronically authenticated