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Datasheet for the decision of 10 August 2026

Case Number: T 0142/26 - 3.3.08

Application Number: 22190961.7

Publication Number: 4119677

IPC: C12Q1/68

Language of the proceedings: EN

Title of invention:
Spatially distinguished, multiplex nucleic acid analysis of biological specimens

Patent Proprietors:
10X Genomics, Inc.
Illumina, Inc.

Opponents:
SKM-IP Schmid Krauß Kuttenkeuler Malescha Schieler Patentanwälte PartGmbB
James Poole Limited

Headword:
Multiplex nucleic acid analysis of biological specimens/ 10X GENOMICS, INC.; ILLUMINA, INC.

Relevant legal provisions:
EPC Art. 113(2)

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It can be changed at any time and without notic

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Basis of decision - text or agreement to text withdrawn by patent proprietors - patent revoked

Decisions cited:
T 0073/84, T 0186/84, T 0646/08, T 2434/18

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Boards of Appeal

Chambres de recours

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Case Number: T 0142/26 - 3.3.08

D E C I S I O N
of Technical Board of Appeal 3.3.08
of 10 August 2026

Appellant: (Opponent 1)	SKM-IP Schmid Krauß Kuttenkeuler Malescha Schieler Patentanwälte PartGmbB Oberanger 45 80331 München (DE)
Representative:	Kuttenkeuler, David SKM-IP PartGmbB Oberanger 45 80331 München (DE)
Respondent: (Patent Proprietor 1)	10X Genomics, Inc. 6230 Stoneridge Mall Road Pleasanton, CA 94588-3260 (US)
Respondent: (Patent Proprietor 2)	Illumina, Inc. 5200 Illumina Way San Diego, CA 92122 (US)
Representative:	Vossius & Partner Patentanwälte Rechtsanwälte mbB Siebertstraße 3 81675 München (DE)
Party as of right: (Opponent 2)	James Poole Limited One Southampton Row London WC1B 5HA (GB)
Representative:	Carpmaels & Ransford LLP One Southampton Row London WC1B 5HA (GB)

Decision under appeal: **Interlocutory decision of the Opposition Division of the European Patent Office posted/ electronically transmitted on 28 November 2025 concerning maintenance of the European Patent No. 4119677 in amended form**

Composition of the Board:

Chairwoman T. Sommerfeld
Members: R. Morawetz
A. Bacchin

Summary of Facts and Submissions

I. The appeal lodged by opponent 1 (appellant) lies from the opposition division's interlocutory decision that European patent No. 4 119 677 B1 ("the patent") with the set of claims of auxiliary request 1, submitted during oral proceedings on 4 November 2025, and the invention to which it relates met the requirements of the EPC.

II. The appellant requested that the decision under appeal be set aside and that the patent be revoked in its entirety.

III. The board appointed oral proceedings.

IV. In a letter dated 17 July 2026, the patent proprietors (respondents) stated that "*Patentees no longer approve the text on the basis of which the present patent was granted. Patentees further withdraw all requests previously pending in first instance proceedings.*

Patentees request confirmation of cancellation of the scheduled oral proceedings and termination of the proceedings by a decision revoking the patent based on the absence of an approved text."

V. Oral proceedings were cancelled.

Reasons for the Decision

1. Pursuant to the principle of party's disposition, as codified in Article 113(2) EPC, the European Patent Office shall examine, and decide upon the European

patent application or the European patent only in the text submitted to it, or agreed, by the applicant or the proprietor of the patent.

2. Since the text of a patent is at the disposition of the patent proprietor(s), their patent cannot be maintained against their will. In the case at hand the patent proprietors withdrew all pending claim requests and their approval of the text of the patent as granted (see section IV. above). Consequently, there is no longer any text of the patent in the proceedings which the board can consider for compliance with the requirements of the EPC, so that it is no longer possible to take a decision as to substance (see e.g. decisions T 186/84, OJ EPO 1986, 79, Reasons 5; T 646/08, Reasons 4 and T 2434/18, Reasons 4).

3. It is established case law that in the present circumstances the decision under appeal must be set aside and the patent be revoked without further substantive examination as to patentability (see decision T 73/84, OJ EPO 1985, 241 and Case Law of the Boards of Appeal of the European Patent Office, 11th edition 2025, sections III.B.3.3 and IV.D.2). The board has no reason to deviate from this consistent approach of the Boards of Appeal, with the consequence that the patent is to be revoked.

4. Revocation of the patent complies with the main request of the appellant. There are no remaining issues that need to be dealt with by the board in this appeal case, either.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The patent is revoked.

The Registrar: The Chairwoman:

C. Rodríguez Rodríguez T. Sommerfeld

Decision electronically authenticated