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Datasheet for the decision of 27 August 2026

Case Number: T 0641/26 - 3.5.05

Application Number: 20214564.5

Publication Number: 3821724

IPC: A24F40/42, A24F47/00, A61M15/00, A24F40/40, A24F40/60, A61M11/04, A61M15/06, A61M16/00

Language of the proceedings: EN

Title of invention:
Cartridge and personal vaporizer device

Patent Proprietor:
JT International SA

Opponents:
Philip Morris Products S.A.
Nicoventures Trading Limited
Imperial Tobacco Limited

Headword:
Revocation requested by proprietor/JT INTERNATIONAL

Relevant legal provisions:
EPC Art. 113(2)

This datasheet is not part of the Decision
It can be changed at any time and without notice

Keyword:
Revocation of the patent - (yes): no approved claims on file
Decision in written proceedings - (yes): oral proceedings obsolete

Decisions cited:
T 0073/84, T 2405/12

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Case Number: T 0641/26 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 27 August 2026

Appellant: (Opponent 1)	Philip Morris Products S.A. Quai Jeanrenaud 3 2000 Neuchâtel (CH)
Representative:	Grünecker Patent- und Rechtsanwälte PartG mbB Leopoldstraße 4 80802 München (DE)
Former Appellant (party as of right): (Opponent 3)	Imperial Tobacco Limited 121 Winterstoke Road Bristol BS3 2LL (GB)
Representative:	Mewburn Ellis LLP Aurora Building Counterslip Bristol BS1 6BX (GB)
Respondent: (Patent Proprietor)	JT International SA 8, rue Kazem Radjavi 1202 Geneva (CH)
Representative:	Hoffmann Eitle Patent- und Rechtsanwälte PartmbB Arabellastraße 30 81925 München (DE)
Party as of right: (Opponent 2)	Nicoventures Trading Limited Globe House 1 Water Street London WC2R 3LA (GB)
Representative:	D Young & Co LLP 3 Noble Street London EC2V 7BQ (GB)

Decision under appeal: **Interlocutory decision of the Opposition Division of the European Patent Office posted/electronically transmitted on 17 February 2026 concerning maintenance of the European Patent No. 3821724 in amended fo rm.**

Composition of the Board:

Chair K. Bengi-Akyürek
Members: M. Höhn
J. Hoppe

Summary of Facts and Submissions

I. The appeal of opponent 1 lies from the interlocutory decision of the opposition division to maintain the opposed patent in amended form in accordance with the proprietor's "auxiliary request 5a" (Article 101(3)(a) EPC).

II. The parties' requests or submissions were as follows:

- The appellant (opponent 1) requested that the appealed decision be set aside and that the opposed patent be revoked in its entirety.

- Opponent 2 did not file any submission in the appeal proceedings.

- Opponent 3 (former appellant) withdrew its appeal before filing any statement of grounds of appeal and before the period for filing that statement had expired.

- The respondent (proprietor) stated with letter dated 24 August 2026 that it no longer approved the text of the patent in any form, including the text in which the patent was maintained by the opposition division in the decision under appeal, and stated that it would not submit any amended text of the patent. In addition, it withdrew all requests currently on file including the request that the appeals be dismissed and its request for oral proceedings.

Reasons for the Decision

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

2. If the patent proprietor states in opposition or appeal proceedings that it no longer approves the text in which the patent was granted, withdraws all of its claim requests and announces that it will not be submitting an amended text, there is no text of the patent on the basis of which the board can consider the appeal. It is generally accepted that the patent is to be revoked in such a case (cf. **T 73/84**, Reasons 2; **T 2405/12**, Reasons 2 to 4). Hence, also in this case, the patent is to be revoked.

3. Since this outcome corresponds to the appellant's requests, there was no need to hold oral proceedings which were only requested by the appellant as an auxiliary measure.

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:

S. Lichtenvort K. Bengi-Akyürek

Decision electronically authenticated