

Veröffentlichung im Amtsblatt	Ja/Nein
Publication in the Official Journal	Yes/No
Publication au Journal Officiel	Oui/Non

Aktenzeichen / Case Number / N^o du recours : T 118/90 - 3.3.1

Anmeldenummer / Filing No / N^o de la demande : 82 303 320.4

Veröffentlichungs-Nr. / Publication No / N^o de la publication : 0 068 840

Bezeichnung der Erfindung: Manufacture of aqueous formaldehyde
Title of invention:
Titre de l'invention :

Klassifikation / Classification / Classement : C07C 47/055

ENTSCHEIDUNG / DECISION
vom / of / du 30 August 1990

Anmelder / Applicant / Demandeur :

Patentinhaber / Proprietor of the patent /
Titulaire du brevet :

Monsanto Company

Einsprechender / Opponent / Opposant :

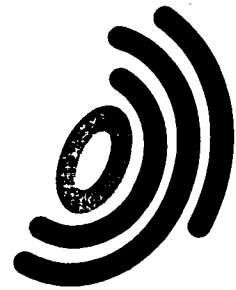
BASF AG

Stichwort / Headword / Référence : Abandoned patent/Monsanto

EPÜ / EPC / CBE Article 111(1)

Schlagwort / Keyword / Mot clé : "Revocation on the request of proprietor"

Leitsatz / Headnote / Sommaire



Case Number : T 118/90 - 3.3.1

D E C I S I O N
of the Technical Board of Appeal 3.3.1
of 30 August 1990

Appellant : BASF Aktiengesellschaft, Ludwigshafen
(Opponent) -Patentabteilung - C6-
Carl-Bosch-Strasse 38
D-6700 Ludwigshafen

Representative :

Respondent : Monsanto Company
(Proprietor of the patent) Patent Department
800 North Lindbergh Boulevard
St. Louis, Missouri 63166 (US)

Representative : Ernst, Hubert
Monsanto Services International S.A.
Avenue de Tervuren 270/272
B-1150 Brussels

Decision under appeal : Decision of the Opposition Division of the European
Patent Office dated 15 December 1989 rejecting
the opposition filed against European patent
No. 0 068 840 pursuant to Article 102(2) EPC.

Composition of the Board :

Chairman : K.J.A. Jahn
Members : R.W. Andrews
W. Moser

Summary of Facts and Submissions

- I. In a decision dated 15 December 1989 the Opposition Division rejected the Opposition filed by the Appellant (Opponent) against European patent No. 0 068 840 granted upon the subject-matter of European patent application No. 82 303 320.4.
- II. On 8 February 1990, an appeal was lodged against this decision in which the revocation of the patent in its entirety was requested. The appeal fee was paid on the same date. On 15 March 1990, the statement of grounds of appeal was filed.
- III. On the other hand, in a letter received on 4 July 1990, the Respondent (Proprietor of the patent) submitted the following request "The proprietor herewith requests revocation of the subject patent".

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.
2. The Respondent's request that his European patent be revoked has to be construed as a statement to the effect that he no longer approves the text in which the patent was granted and that he refrains from submitting an amended text (cf. T 186/84; OJ EPO 1986, 79).

Since it follows from the provision pursuant to Article 113(2) EPC that a European patent may not be maintained against the proprietor's will, the Board, in

the exercise of its power under Article 111(1) EPC, has therefore to revoke the present European patent (cf. T 73/84; OJ EPO 1985, 241 and T 237/86; OJ EPO 1988, 261).

Order

For these reasons, it is decided that:

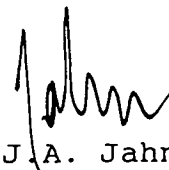
The decision of the Opposition Division dated 24 February 1988 is set aside and European patent No. 0 068 840 is revoked.

The Registrar:

The Chairman:



M. Beer



K.J.A. Jahn

RWB
W. D. Jahn