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File No.: T 0322/91 - 3.2.5  
Application No.: 85 114 838.7  
Publication No.: 0 187 239  
Classification: B65H 67/06  
Title of invention: Bobbin loading apparatus

**D E C I S I O N**  
of 14 October 1993

Applicant:

Proprietor of the patent: Maschinenfabrik Rieter AG

Opponent: Wilhelm Stahlecker GmbH

Headword:

**EPC:** Art. 111(1) EPC

**Keyword:** "Revocation of patent on request of proprietor"

**Headnote**  
**Catchwords**



Case Number: T 0322/91 - 3.2.5

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.5  
of 14 October 1993

**Appellant:** Wilhelm Stahlecker GmbH  
(Opponent) D - 73326 Deggingen (DE)

**Representative:** Wilhelm & Dauster  
Patentanwälte  
European Patent Attorneys  
Hospitalstrasse 8  
D - 70174 Stuttgart (DE)

**Respondent:** Maschinenfabrik Rieter AG  
(Proprietor of the patent) Postfach 290  
CH - 8406 Winterthur (CH)

**Representative:** Canzler, Rolf  
c/o Rieter Ingolstadt  
Spinnereimaschinenbau Aktiengesellschaft  
Postfach 10 09 60  
Friedrich-Ebert-Strasse 84  
D - 85046 Ingolstadt (DE)

**Decision under appeal:** Decision of the Opposition Division of the  
European Patent Office dated 22 March 1991  
rejecting the opposition filed against European  
patent No. 0 187 239 pursuant to Article 102(2)  
EPC.

**Composition of the Board:**

**Chairman:** C.V. Payraudeau  
**Members:** H.J. Seidenschwarz  
H.P. Ostertag

### **Summary of Facts and Submissions**

- I. The Appellant (Opponent) lodged an appeal against the decision of the Opposition Division to reject the opposition against European patent No. 0 187 239.
  
- II. The Respondent (Proprietor) informed the Board of Appeal with a letter of 28 September 1993, that he is no longer interested in the prosecution of the patent application. This letter was followed up by a telecopy dated 12 October 1993, wherein the respondent stated that he withdraws the patent application in suit.

### **Reasons for the Decision**


1. Since the European patent application has already proceeded to grant, the Board interprets the statement of the Respondent, that he withdraws the patent application, as a request for revocation of the patent.
  
2. According to established jurisprudence of the Boards of Appeal (cf. for example T 73/84, OJ EPO 1985, 241, T 186/84, OJ EPO 1986, 79, T 237/86, OJ EPO 1988, 261 and T 459/88, OJ EPO 1990, 425), when both the Appellant and the Respondent are agreed that the patent should be revoked, which is presently the case, the Board may exercise its power under Article 111(1) EPC to revoke the patent.

**Order**

**For these reasons it is decided that:**

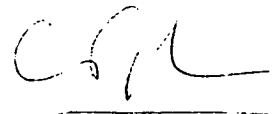
The contested decision is set aside, and the European patent No. 0 187 239 is revoked.

The Registrar:



A. Townend

The Chairman:



C. Payraudeau