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**D E C I S I O N**  
of 26 March 1996

**Case Number:** T 0913/93 - 3.3.2

**Application Number:** 91116139.6

**Publication Number:** 0472223

**IPC:** C02F 3/22

**Language of the proceedings:** EN

**Title of invention:**

Improved process for dissolving a gas in a liquid

**Applicant:**

PRAXAIR TECHNOLOGY, INC.

**Opponent:**

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**Headword:**

Refusal at the instigation of the appellant/PRAXAIR

**Relevant legal provisions:**

EPC Art. 97(1), 113(2)

**Keyword:**

"Lack of approved text"

"The Applicant no longer approves the text and does not intend to submit an amended text"

"Application to be refused"

**Decisions cited:**

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**Catchword:**



Case Number: T 0913/93 - 3.3.2

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.2  
of 26 March 1996

**Appellant:** PRAXAIR TECHNOLOGY, INC.  
39 Old Ridgebury Road  
Danbury, CT 06810-5113 (US)

**Representative:** Schwan, Gerhard, Dipl.-Ing.  
Elfenstrasse 32  
D-81739 München (DE)

**Decision under appeal:** Decision of the Examining Division of the European Patent Office posted 6 July 1993 refusing European patent application No. 91 116 139.6 pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** P. A. M. Lançon  
**Members:** G. J. Wassenaar  
R. E. Teschemacher

### Summary of Facts and Submissions

- I. In a decision dated 6 July 1993, the Examining Division refused the application according to Article 97(1) EPC.
- II. The Applicants filed a notice of appeal on 6 September 1993, paid the fee for appeal on the same date and filed a statement of grounds of appeal on 8 November 1993. They requested that a patent be granted on the basis of an amended claim 1 as submitted with the statement of grounds of appeal.
- III. In a letter dated 28 December 1995 the Appellants stated:

"Applicant no longer approves the text and also does not intend to submit an amended text."

### Reasons for the Decision

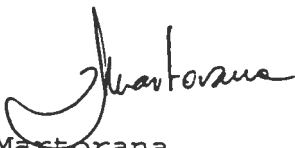
1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.
2. The EPO can consider and decide upon the application only in the text submitted to it, or agreed, by the applicant (Article 113(2) EPC. Since the Appellants no longer approve the text and do not intend to submit an amended text, they have removed the basis for any further substantive examination of the application. They have abstained from withdrawing both the appeal and the application. However, their declaration prevents the patent from being granted on the basis of any text. In the absence of an approved text, the application does not meet the requirements of the EPC (Article 97(1) EPC).

Order

For these reasons it is decided that:


The appeal is dismissed.

The Registrar:



P. Martorana

The Chairman:



P. A. M. Lançon

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