

BESCHWERDEKAMMERN
DES EUROPÄISCHEN
PATENTAMTS

BOARDS OF APPEAL OF
THE EUROPEAN PATENT
OFFICE

CHAMBRES DE RECOURS
DE L'OFFICE EUROPEEN
DES BREVETS

Internal distribution code:

- (A) [] Publication in OJ
(B) [] To Chairmen and Members
(C) [X] To Chairmen

D E C I S I O N
of 22 July 1997

Case Number: T 0638/95 - 3.2.5

Application Number: 88308787.6

Publication Number: 0310296

IPC: B22D 11/10

Language of the proceedings: EN

Title of invention:

Rotary pouring nozzle for a vessel for holding molten metal

Patentee:

FOSECO INTERNATIONAL LIMITED

Opponent:

Didier-Werke AG

Veitsch-Radex Aktiengesellschaft für feuerfeste Erzeugnisse

Headword:

-

Relevant legal provisions:

EPC Art. 106(2)

EPC R. 60(1)

Keyword:

"National patents lapsed in all Designated States"

"Termination of appeal proceedings"

Decisions cited:

-

Catchword:

-



Europäisches
Patentamt

European
Patent Office

Office européen
des brevets

Beschwerdekammern

Boards of Appeal

Chambres de recours

Case Number: T 0638/95 - 3.2.5

D E C I S I O N
of the Technical Board of Appeal 3.2.5
of 22 July 1997

Appellant:
(Opponent)

Didier-Werke AG
Lessingstrasse 16-18
D-65189 Wiesbaden (DE)

Representative:

Keil, Rainer A., Dipl.-Phys. Dr.
KEIL & SCHAAFHAUSEN
Patentanwälte
Eyssensckstrasse 31
60322 Frankfurt am Main (DE)

Other party:
(Opponent)

Veitsch-Radex Aktiengesellschaft für
feuerfeste Erzeugnisse
Mommengasse 35
A-1040 Wien (AT)

Representative:

Becker, Thomas, Dr., Dipl.-Ing.
Patentanwälte
Becker & Müller
Turmstrasse 22
40878 Ratingen (DE)

Respondent:
(Proprietor of the patent)

FOSECO INTERNATIONAL LIMITED
285 Long Acre
Nechells
Birmingham B7 5JR (GB)

Representative:

Moore, John Hamilton
Burmah Castrol Group Patents Department
Burmah Castrol House
Pipers Way
Swindon, Wiltshire SN3 1RE (GB)

Decision under appeal:

Interlocutory decision of the Opposition Division
of the European Patent Office posted 30 June 1995
concerning maintenance of the European patent
No. 0 310 296 in amended form.

Composition of the Board:

Chairman: G. O. J. Gall
Members: W. D. Weiß
C. G. F. Biggio

Summary of Facts and Submissions

- I. The appellant (opponent I, Didier-Werke) lodged an appeal against the interlocutory decision of the Opposition Division on the amended form in which the patent No. 0 310 296 can be maintained.

- II. On 2 April 1997 by letter of 26 March 1997, the respondent (proprietor) communicated "that all the national patents corresponding to the above European patent have been abandoned by non-payment of their renewal fees". The Board, by a communication dated 15 April 1997, has notified of this expiration of the national patents to the parties to the proceedings and stated that, according to Rule 60 EPC, the appeal proceedings would be terminated without a decision on its substantial merits being issued unless a request to continue the proceedings was filed by the appellant or the other opposing party within two months.

- III. No request to continue the proceedings has been filed.

Reasons for the Decision

As the proceedings are not continued after abandonment of the European patent by non-payment of the renewal fees pursuant to Rule 60(1) EPC in conjunction with Rule 66(1) EPC, they are terminated ("special case" of termination of opposition proceedings referred to in G 1/90, OJ EPO 1991, 275, 279, Reasons, 7).

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:



A. Townend



The Chairman:



G. Gall

Beglaubigt/Certified Registry/Greffe
Certifiée conforme: München/Munich
Geschäftsstelle
0 1. AUG. 1997