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D E C I S I O N
of 2 October 2001

Case Number: T 0014/99 - 3.2.1
Application Number: 92400316.3
Publication Number: 0498733
IPC: B21B 1/08, B21B 1/10

Language of the proceedings: EN

Title of invention:
Method of rolling steel shapes

Patentee:
SUMITOMO METAL INDUSTRIES, LTD.

Opponent:
SMS Schloemann-Siemag AG

Headword:
-

Relevant legal provisions:
EPC Art. 102(3a), 113(2)

Keyword:
"Proprietor's request for revocation of the patent"

Decisions cited:
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Catchword:
-



Case Number: T 0014/99 - 3.2.1

D E C I S I O N
of the Technical Board of Appeal 3.2.1
of 2 October 2001

Appellant: SMS Schloemann-Siemag AG
(Opponent) Eduard-Schloemann-Strasse 4
D-40237 Düsseldorf (DE)

Representative: Valentin, Ekkehard, Dipl.-Ing.
Patentanwälte Hemmerich & Kollegen
Hammerstrasse 2
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Respondent: SUMITOMO METAL INDUSTRIES, LTD.
(Proprietor of the patent) 5-33, Kitahama 4-chome
Chuo-ku
Osaka-shi
Osaka 541-0041 (JP)

Representative: Schrimpf, Robert
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 23 October 1998
rejecting the opposition filed against European
patent No. 0 498 733 pursuant to Article 102(2)
EPC.

Composition of the Board:

Chairman: F. Gumbel
Members: M. Ceyte
G. Weiss

Summary of Facts and Submissions

- I. In a decision dated 23 October 1998 the Opposition Division rejected the opposition filed against European patent No. 0 498 733.
- II. The Appellant appealed against this decision and requested that the patent be revoked.
- III. In a letter dated 24 September 2001 the Respondent (patent proprietor) requested revocation of the patent.

Reasons for the Decision

1. The appeal is admissible.
2. The Respondent's request for revocation of their European patent has to be construed as a statement meaning that they no longer approve the text in which the patent was granted and that they also refrain from submitting an amended text (cf. decision T 186/84; OJ EPO 1986, 79).
3. Since it follows from the provision according to Article 113(2) EPC that a European patent cannot be maintained against the proprietor's will, the present European patent has, therefore, to be revoked (cf. T 73/84; OJ EPO 1985, 241).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The European patent No. 0 498 733 is revoked.

The Registrar:

The Chairman:

S. Fabiani

F. Gumbel