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D E C I S I O N
of 10 March 2000

Case Number: T 0347/99 - 3.2.3

Application Number: 90305722.2

Publication Number: 0457983

IPC: B04C 5/20

Language of the proceedings: EN

Title of invention:

Cyclone separator including a hopper formed by water-steam cooled walls

Patentee:

FOSTER WHEELER ENERGY CORPORATION

Opponent:

Alstom Energy Systems S.A.

Headword:

-

Relevant legal provisions:

EPC Art. 102(3a), 113(2)

Keyword:

"Withdrawal of the request of the proprietor for maintaining the patent"

Decisions cited:

T 0186/84, T 0237/86

Catchword:

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Boards of Appeal

Chambres de recours

Case Number: T 0347/99 - 3.2.3

D E C I S I O N
of the Technical Board of Appeal 3.2.3
of 10 March 2000

Appellant: Alstom Energy Systems S.A.
(Opponent) 19-21, Avenue Morane Saulnier
B.P. 74
F-78140 Velizy-Villacoublay (FR)

Representative: Hasenrader, Hubert
Cabinet Beau de Loménie
158, rue de l'Université
F-75340 Paris Cédex 07 (FR)

Respondent: FOSTER WHEELER ENERGY CORPORATION
(Proprietor of the patent) Perryville Corporate Park
Clinton
New Jersey 08809-4000 (US)

Representative: Rackham, Anthony Charles
Lloyd Wise, Tregear & Co.
Commonwealth House
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London WC1A 1LW (GB)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 11 February 1999
rejecting the opposition filed against European
patent No. 0 457 983 pursuant to Article 102(2)
EPC.

Composition of the Board:

Chairman: C. T. Wilson
Members: F. E. Brösamle

M. K. S. Aúz Castro

Summary of Facts and Submissions

- I. In its decision dated 11 February 1999 the Opposition Division rejected the opposition against European patent No. 0 457 983.

- II. The Appellant (Opponent) appealed against the decision of the Opposition Division on 6 April 1999, requesting that the appealed decision be set aside and the patent revoked. The appeal fee was paid on 6 April 1999 and the statement of grounds of appeal filed on 9 June 1999.

- III. In a letter dated 14 February 2000 the Respondent (proprietor of the patent) stated that they withdraw their request that the patent be maintained.

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.

2. The fact that the Respondent has withdrawn the request that the European patent be maintained, has the consequence that there is no longer a text submitted to the European Patent Office by the Respondent or a text to which they have agreed on which the Board of Appeal could decide as required by Article 113(2) EPC. It follows from this, that the patent cannot be maintained against the will of the proprietor and thus has to be revoked (see Decisions T 186/84, OJ EPO 1986, 79 and T 237/86, OJ EPO 1988, 261).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The European patent No. 0 457 983 is revoked.

The Registrar:

The Chairman:

A. Counillon

C. T. Wilson