Internal distribution code:
(A) [ ] Publication in OJ
(B) [ ] To Chairmen and Members
(C) [ ] To Chairmen
(D) [X] No distribution

Datasheet for the decision
of 16 July 2013

Case Number: T 0307/13 - 3.2.07
Application Number: 08150867.3
Publication Number: 1958880
IPC: B65C 3/16, B65C 9/06, A61M 5/00, B65D 25/56
Language of the proceedings: EN

Title of invention:
Disposable container and method for labelling it

Patent Proprietor:
CO.RI.M.A. S.r.l.

Opponents:
PAGO International AG
Krones AG
Sanofi-Aventis Deutschland GmbH

Headword:
-

Relevant legal provisions:
EPC Art. 113(2)

Keyword:
"Revocation of the patent at request of the patent proprietor"

Decisions cited:
T 0186/84, T 0073/84

Catchword:
-
Case Number: T 0307/13 - 3.2.07

DECISION of the Technical Board of Appeal 3.2.07 of 16 July 2013

Appellant II: Krones AG
(Opponent 2)
Böhmerwaldstrasse 5
D-93073 Neutraubling (DE)

Representative: Grünecker, Kinkeldey, Stockmair & Schwanhäuser
Leopoldstrasse 4
D-80802 München (DE)

Appellant I: Sanofi-Aventis Deutschland GmbH
(Opponent 3)
Industriepark Höchst
Bldg. K801
D-65926 Frankfurt am Main (DE)

Representative: Finger, Catrin Liedtke & Partner Patentanwälte
Elisabethstrasse 10
D-99096 Erfurt (DE)

Respondent: CO.RI.M.A. S.r.l.
(Patent Proprietor)
Strada delle Frigge 15
I-53035 Monteriggioni (SI) (IT)

Representative: Dall'Olio, Christian
INVENTION S.r.l.
Via delle Armi, 1
I-40137 Bologna (IT)

Party as of right: PAGO International AG
(Opponent 1)
Werdenstrasse 85
CH-9472 Grabs/St. Gallen (CH)

Representative: Riebling, Peter
Patentanwalt
Rennerle 10
D-88131 Lindau (DE)

Composition of the Board:

Chairman: H. Meinders
Members: G. Patton
I. Beckedorf
Summary of Facts and Submissions

I. The European patent No. 1 958 880 was maintained in amended form by the decision of the Opposition Division posted on 28 November 2012. Against this decision appeals were filed by opponent III (appellant I) and opponent II (appellant II), respectively on 5 February 2013 and 8 February 2013. The statements setting out the grounds of appeal were submitted by both appellants on 5 April 2013.

II. Both appellants request that the impugned decision be set aside and that the patent in suit be revoked.

III. With its letter of 21 May 2013 the patent proprietor (respondent) also requests the revocation of the patent in suit.

Reasons for the Decision

1. The appeals are admissible.

2. The respondent's request for revocation of the patent implies that the patent proprietor withdraws its agreement to the text in which the patent was maintained in amended form by the Opposition Division and that it does not intend to submit any other text for the maintenance of the patent (see e.g. T 73/84, OJ EPO, 1985, 241, reasons point 2).

3. Article 113(2) EPC, however, stipulates that the EPO may decide upon a European patent only in the text submitted to it, or agreed to by the patent proprietor.
This substantive requirement for maintaining the contested patent is not fulfilled in the present case.

4. The patent is therefore to be revoked, without going into the substantive issues (see T 186/84, OJ EPO 1986, 79, reasons point 5).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The patent is revoked.

The Registrar: G. Nachtigall

The Chairman: H. Meinders