Datasheet for the decision of 24 January 2020

Case Number: T 0596/15 - 3.3.08
Application Number: 04030122.8
Publication Number: 1516931
IPC: C12N15/63
Language of the proceedings: EN

Title of invention:
DSRNA-mediated regulation of gene expression in plants

Patent Proprietor:
Syngenta Participations AG

Opponents:
Pajaro Limited
BASF SE
Bayer CropScience NV

Headword:
DSRNA-mediated regulation/SYNGENTA PARTICIPATIONS

Relevant legal provisions:
EPC R. 84(1), 101(1)
Keyword:
Lapse of patent in all designated states - termination of appeal proceedings

Decisions cited:
T 0329/88, T 0949/09, T 0520/10, T 0480/13

Catchword:
Case Number: T 0596/15 – 3.3.08

DECISION
of Technical Board of Appeal 3.3.08
of 24 January 2020

Appellant: Syngenta Participations AG
(Patent Proprietor)
Rosentalstrasse 67
4058 Basel (CH)

Representative: SYNGENTA IP
CHBS-B4.8
Rosentalstrasse 67
4058 Basel (CH)

Respondent I: Pajaro Limited
(Opponent 1)
90 Fetter Lane
London
EC4A 1EQ (GB)

Representative: Alt, Michael
Bird & Bird LLP
Maximiliansplatz 22
80333 München (DE)

Respondent II: BASF SE
(Opponent 2)
Carl-Bosch-Strasse 38
67056 Ludwigshafen (DE)

Representative: BASF IP Association
BASF SE
G-FLP-C006
67056 Ludwigshafen (DE)

Respondent III: Bayer CropScience NV
(Opponent 3)
J.E. Mommaertslaan 14
1831 Diegem (BE)
Representative: Almond-Martin, Carol
Ernest Gutmann - Yves Plasseraud S.A.S.
88, Boulevard des Belges
69452 Lyon Cedex 06 (FR)

Decision under appeal: Decision of the Opposition Division of the European Patent Office posted on 21 January 2015 revoking European patent No. 1516931 pursuant to Article 101(3)(b) EPC.

Composition of the Board:
Chairman: B. Stolz
Members: M. R. Vega Laso
J. Geschwind
Summary of Facts and Submissions

I. The appeal of the patent proprietor (appellant) lies from a decision of an opposition division posted on 21 January 2015, revoking the European patent No. 1 516 931 (application No. 04030122.8) with the title "DSRNA-mediated regulation of gene expression in plants".

II. The patent had been opposed by four opponents. However, during the appeal proceedings opponent 4 withdrew its opposition.

III. By a communication pursuant to Rule 84(1) EPC dated 29 October 2019, the board informed the parties that the European patent had lapsed in all the designated Contracting States and that, pursuant to Rule 84(1) EPC the appeal proceedings would be discontinued, unless a request for continuation was filed by any of the parties within two months from notification of the board's communication.

IV. By letter dated 4 November 2019, opponent 1 (respondent I) informed the board that it did not intend to further proceed with the appeal.

V. By letter dated 4 December 2019, opponent 3 (respondent III) submitted that it did not see any need for the continuation of the appeal proceedings.

VI. No request for continuation of the appeal proceedings was received from either the appellant or opponent 2 (respondent II).
Reasons for the Decision

1. Pursuant to Rule 84(1) EPC in conjunction with Rule 100(1) EPC, appeal proceedings may be continued after the European patent has lapsed, if the opponent files a request to this effect within two months of a communication informing him of the lapse (see, inter alia, decisions T 329/88 of 22 June 1993; T 949/09 of 17 October 2012; and T 480/13 of 5 November 2014).

2. According to the jurisprudence of the Boards of Appeal (see, e.g., decision T 520/10 of 11 June 2013), when the patent proprietor has filed an appeal, by analogy to Rule 84(1) in connection with Rule 100(1) EPC the appeal proceedings may be continued also upon request of the patent proprietor.

3. Since no request for continuation of the appeal proceedings was received from any of the parties, the board decides to terminate the appeal proceedings.
Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar: The Chairman:

L. Malécot-Grob B. Stolz

Decision electronically authenticated