DECISION of 13 March 2000

Case Number: T 0508/96 - 3.3.2
Application Number: 88305718.4
Publication Number: 0296845
IPC: A61K 31/71
Language of the proceedings: EN

Title of invention: Drug emulsion

Patentee: The University of Nottingham


Headword: -

Relevant legal provisions: EPC Art. 111(1)

Keyword: "Revocation of European patent as consequence of patentee stating: 'He no longer approves of the text of the patent that was granted'"

Decisions cited: -

Catchword: -
Case Number: T 0508/96 - 3.3.2

DECISION
of the Technical Board of Appeal 3.3.2
of 13 March 2000

Appellant: Yoshitomi Pharmaceutical Industries, Ltd.
6-9, Hiranomachi 2-chome
Chuo-ku
Osaka (JP)

Taischo Pharmaceutical Co., Ltd.
24-1, Takata-3-chome
Toshima-ku
Tokio 171 (JP)

Representative: Kraus, Walter, Dr.
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Respondent: The University of Nottingham
University Park
University Boulevard
Nottingham NG7 2RD (GB)

Representative: Bassett, Richard Simon
Eric Potter Clarkson
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Decision under appeal: Interlocutory decision of the Opposition Division of the European Patent Office posted 1 April 1996 concerning maintenance of European patent No. 0 296 845 in amended form.

Composition of the Board:
Chairman: U. Oswald
Members: J. Riolo
M. B. Günzel
Summary of Facts and Submissions

I. In a decision posted on 1 April 1996, the Opposition Division maintained the European patent No. 296 845 in amended form.

II. On 31 May 1996 the Appellant (Opponent) appealed against this decision and paid the appropriate fees on the same date. Statements of Grounds were filed on 12 August 1996 in which the Appellant requested that the patent be revoked.

III. In a letter dated 3 March 2000 the representative of the Respondent (proprietor of the patent) stated "the patentee no longer approves of the text of the patent that was granted".

Reasons for the Decision

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

2. The Respondent made it clear through his representative that he no longer approves of the text in which the patent was granted. Since he did not submit an amended text on which further prosecution of the appeal could be based, the patent must be revoked (see Decision T 73/84, OJ EPO 1985, 241).
Order

For these reasons it is decided that:

1. The decision of the Opposition Division is set aside.

2. The patent is revoked.

The Registrar: The Chairman:

M. Dainese U. Oswald