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D E C I S I O N
of 18 August 2003

Case Number: T 0178/02 - 3.2.4

Application Number: 95610030.9

Publication Number: 0688493

IPC: A01D 34/66

Language of the proceedings: EN

Title of invention:
A mower with hollow rotating moving means

Patentee:
JF-FABRIKEN - J. FREUDENDAHL A/S

Opponent:
Maasland N.V.

Headword:
Mover/JF

Relevant legal provisions:
EPC Art. 113(2)

Keyword:
"Revocation request by patent proprietor"

Decisions cited:
T 0186/84

Catchword:
-

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Beschwerdekammern | Boards of Appeal | Chambres de recours

Case Number: T 0178/02 **-** 3.2.4

D E C I S I O N
of the Technical Board of Appeal 3.2.4
of 18 August 2003

Appellant: (Opponent)
Maasland N.V.
Weverskade 10
NL-3155 PD Maasland (NL)

Representative:
-

Respondent: (Proprietor of the patent)
JF-FABRIKEN - J. FREUDENDAHL A/S
Linde Alle
DK-6400 Sonderborg (DK)

Representative:
Raffnsöe, Knud Rosenstand
Internationalt Patent-Bureau
23 Höje Taastrup Boulevard
DK-2630 Taastrup (DK)

Decision under appeal:
Decision of the Opposition Division of the European Patent Office posted 18 January 2002 rejecting the opposition filed against European patent No. 0688493 pursuant to Article 102(2) EPC.

Composition of the Board:

Chairman: C. A. J. Andries
Members: P. Petti
M. Aúz Castro

Summary of Facts and Submissions

I. The opposition filed against the European patent No. 688 493 was rejected by the decision of the opposition division dispatched on 18 January 2002.

II. On 30 January 2002 the opponent (hereinafter appellant) lodged an appeal against this decision and simultaneously paid the appeal fee. A statement setting out the grounds of appeal was received on 22 May 2002. The appellant requested that the patent be revoked.

III. With the letter dated 5 August 2003 the representative of the proprietor of the patent requested on behalf of the proprietor that the patent be revoked.

Reasons for the Decision

1. The appeal is admissible.

2. It is established case law of the boards of appeal that a request by a patent proprietor to revoke a patent has to be regarded as a withdrawal of his consent to the granted text of the patent or to any other text proposed by him before its request to revoke the patent (see "*Case Law of the Boards of Appeal of the European Patent Office*", 4th edition 2001, point VII.D.11.3)

Due to the absence of a valid text of the patent, any substantive examination of the impediments to patentability as alleged by the appellant is precluded (cf. T 186/84, OJ EPO 1986, 79, section 5).

3. Therefore, since there is no text of the patent approved by the proprietor (Article 113(2) EPC) and both parties requested revocation of the patent, the patent has to be revoked.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The patent is revoked.

The Registrar: The Chairman:

G. Magouliotis C. Andries