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DECISION
of 10 November 2003

Case Number: T 0053/03 - 3.4.2

Application Number: 89304909.8

Publication Number: 0342910

IPC: G03G 15/00

Language of the proceedings: EN

Title of invention:

Photocopy monitoring system and method for monitoring copiers

Patentee:

MONITEL PRODUCTS CORPORATION

Opponent:

Richard Steiner

Headword:

Revocation at request of patent proprietor

Relevant legal provisions:

EPC Art. 111(1)

Keyword:

-

Decisions cited:

T 0481/96, T 0018/92, T 0347/90

Catchword:

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Case Number: T 0053/03 - 3.4.2

D E C I S I O N
of the Technical Board of Appeal 3.4.2
of 10 November 2003

Appellant: MONITEL PRODUCTS CORPORATION
(Proprietor of the patent) 85 Ridgedale Avenue
Cedar Knolls
New Jersey (USA)

Representative: Chettle, Adrian John
Withers & Rogers
Goldings House
2 Hays Lane
London SE1 2HW (GB)

Representative: Richard Steiner
(Opponent) Abertstrasse 11
D-82211 Hersching (DE)

Representative: Heusler, Wolfgang, Dipl.-Ing.
v. Bezold & Sozien
Patentanwälte
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 11 November 2002
revoking European patent No. 0342910 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: A. G. Klein
Members: A. G. M. Maaswinkel
M. J. Vogel

Summary of Facts and Submissions

- I. European patent No. 0 342 910 (based on application No. 89 304 909.8) was revoked by the decision of the opposition division dated 11 November 2002.
- II. On 10 January 2003 the patent proprietor filed an appeal against this decision and paid the appeal fee on the same day. The statement setting out the grounds of appeal was received on 11 March 2003. In this letter the appellant requested that the decision of the opposition division be set aside and that the patent be maintained on the basis of the amended patent specification documents filed together with the statement of the grounds of appeal.
- III. With the letter received on 21 July 2003 the respondent requested that the appeal be dismissed. Furthermore the respondent filed an auxiliary request for oral proceedings.
- IV. In a Communication pursuant to Article 11(2) of the Rules of Procedure of the Boards of Appeal sent on 12 September 2003 the board summoned the parties to oral proceedings to take place on 2 December 2003.
- V. With the letter dated 3 November 2003 and filed by facsimile on the same day the appellant stated: "*The applicant/proprietor no longer approves the text in which the patent was granted, and will not be submitting an amended text. Accordingly, the Oral Proceedings scheduled for 2 December 2003 should be cancelled, and it is expected that grant of the patent will be annulled*".

Reasons for the Decision

1. The appeal is admissible.
2. As discussed in Decision T 481/96, making reference to earlier Decisions T 18/92 and T 347/90, by requesting the annulment or revocation of the patent the appellant simultaneously expresses that he is no longer interested in the continuation of the appeal procedure nor in a decision in respect of the appeal under Article 111 EPC.
3. Therefore the board, following the established practice documented in the above Decisions, concludes that the above declaration of the appellant is to be taken as the withdrawal of the appeal.

Order

For these reasons it is decided that:

By the declaration of the appellant of 3 November 2003 implying the withdrawal of the appeal the appeal procedure is terminated; in agreement with the decision of the opposition division the patent remains revoked.

The Registrar:

The Chairman:

P. Martorana

A. Klein