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**Datasheet for the decision
of 28 October 2011**

Case Number: T 0158/08 - 3.4.03

Application Number: 91106365.9

Publication Number: 452969

IPC: H01J 37/12, H01J 37/252,
H01J 37/28

Language of the proceedings: EN

Title of invention:
Charged particle beam apparatus

Patentee:
Hitachi, Ltd.

Opponent:
Carl Zeiss NTS GmbH

Headword:
-

Relevant legal provisions:
EPC R. 84(1), 100(1)

Relevant legal provisions (EPC 1973):
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Keyword:
"Patent lapsed in all designated states"
"Termination of appeal proceedings"

Decisions cited:
-

Catchword:
-



Case Number: T 0158/08 - 3.4.03

DECISION
of the Technical Board of Appeal 3.4.03
of 28 October 2011

Appellant: Carl Zeiss NTS GmbH
(Opponent) Carl-Zeiss-Strasse 22
D-73447 Oberkochen (DE)

Representative: Gnatzig, Klaus
Carl Zeiss
Patentabteilung
D-73446 Oberkochen (DE)

Respondent: Hitachi, Ltd.
(Patent Proprietor) 6, Kanda Surugadai 4-chome
Chiyoda-ku
Tokyo 101 (JP)

Representative: Lang, Johannes
Bardehle Pagenberg
Prinzregentenplatz 7
D-81675 München (DE)

Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
10 October 2007 concerning maintenance of
European patent No. 452969 in amended form.

Composition of the Board:

Chairman: G. Eliasson
Members: V. L. P. Frank
T. Bokor

Summary of Facts and Submissions

- I. The appellant (opponent) lodged an appeal against the interlocutory decision of the opposition division of 10 October 2007 maintaining the European patent EP 0452969 in amended form.

- II. In a communication from the registrar of the board dated 4 July 2011 the parties were informed that the European patent had lapsed for all designated states and that the appeal proceedings could be continued at the request of the opponent provided that within two months from the notification of this communication a request to this effect was filed.

- III. The opponent did not request continuation of the proceedings.

Reasons for the Decision

1. Pursuant to Rule 84(1) EPC in conjunction with Rule 100(1) EPC, proceedings will only be continued after the European patent has lapsed for non-payment of the renewal fees if there is a request to this effect by the opponent filed within two months as from the notification by the European Patent Office of the lapse.

2. As in the present case, the appellant did not request the continuation of the proceedings, these are to be terminated.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar

The Chairman

S. Sanchez Chiquero

G. Eliasson