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**Datasheet for the decision  
of 11 May 2010**

**Case Number:** T 0735/08 - 3.3.10

**Application Number:** 99918667.9

**Publication Number:** 1076640

**IPC:** C07C 11/02

**Language of the proceedings:** EN

**Title of invention:**

Process for converting oxygenates to olefins with direct  
product quenching for heat recovery

**Patentee:**

ExxonMobil Chemical Patents Inc.

**Opponent:**

UOP LLC

**Headword:**

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**Relevant legal provisions:**

EPC Art. 113(2)

**Keyword:**

"Proprietor approves no text of the patent - revocation"

**Decisions cited:**

T 0073/84

**Catchword:**

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Case Number: T 0735/08 - 3.3.10

**DECISION**  
of the Technical Board of Appeal 3.3.10  
of 11 May 2010

**Appellant:**  
(Opponent) UOP LLC  
P.O. Box 5017  
25 East Algonquin Road  
Des Plaines, Illinois 60017-5017 (US)

**Representative:** Dossmann, Gérard  
Casalonga & Partners  
Bayerstraße 71-73  
D-80335 München (DE)

**Respondent:**  
(Patent Proprietor) ExxonMobil Chemical Patents Inc.  
5200 Bayway Drive  
Baytown, TX 77520-5200 (US)

**Representative:** UEXKÜLL & STOLBERG  
Patentanwälte  
Beselerstrasse 4  
D-22607 Hamburg (DE)

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
13 February 2008 concerning maintenance of  
European patent No. 1076640 in amended form.

**Composition of the Board:**

**Chairman:** R. Freimuth  
**Members:** P. Gryczka  
D. S. Rogers

## **Summary of Facts and Submissions**

- I. The Opponent (Appellant) lodged an appeal against the interlocutory decision issued on 13 February 2008 by which the Opposition Division found that the European patent 1 076 640 could be maintained in amended form on the basis of the claims of the second auxiliary request then pending.
- II. During the oral proceedings held in front of the Board on 11 May 2010 the Proprietor of the patent in suit (Respondent) stated that he agreed neither to the text of the patent as maintained by the Opposition Division, nor to the text of the patent as granted, nor to any other text of the patent as submitted before the EPO.
- III. The Appellant requested that the decision under appeal be set aside and that the patent be revoked.
- IV. The Respondent requested that the decision under appeal be set aside and stated that he agreed neither to the text of the patent as maintained by the Opposition Division, nor to the text of the patent as granted, nor to any other text of the patent as submitted before the EPO.
- V. At the end of the oral proceedings the decision of the Board was announced.

## **Reasons for the Decision**

1. The appeal is admissible.

2. In accordance with Article 113(2) EPC, the EPO can maintain the patent only in the text agreed by the Proprietor of the patent. Agreement cannot be held to be given if the Proprietor states that he agrees neither to the text of the patent as maintained by the Opposition Division, nor to the text of the patent as granted, nor to any other text of the patent as submitted before the EPO. In such a situation a substantive requirement for maintaining the patent is lacking and the proceedings are to be terminated by a decision ordering revocation, without going into the substantive issues (see *inter alia* decision T 73/84 OJ EPO 1985, 241).

## **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:

D. Magliano

R. Freimuth