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**Datasheet for the decision
of 4 February 2015**

Case Number: T 1218/10 - 3.5.02

Application Number: 04788386.3

Publication Number: 1708217

IPC: H01H19/20, H01H25/00, B60H1/00

Language of the proceedings: EN

Title of invention:
Switch mechanism

Patent Proprietor:
Valeo Thermal Systems Japan Corporation

Opponents:
Delphi France SAS
Behr-Hella Thermocontrol GmbH

Headword:

Relevant legal provisions:
EPC R. 84(1)

Keyword:
Lapse of patent in all designated states -
continuation of appeal proceedings (no)

Decisions cited:
T 0708/01

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

European Patent Office
D-80298 MUNICH
GERMANY
Tel. +49 (0) 89 2399-0
Fax +49 (0) 89 2399-4465

Case Number: T 1218/10 - 3.5.02

**D E C I S I O N
of Technical Board of Appeal 3.5.02
of 4 February 2015**

Appellant: Valeo Thermal Systems Japan Corporation
(Patent Proprietor) 39, Aza Higashihara Oaza Sendai
Konan-machi, Osato-gun
Saitama 3600193 (JP)

Representative: Léveillé, Christophe
Gevers France
41, avenue de Friedland
75008 Paris (FR)

Respondent: Delphi France SAS
(Opponent 1) Delphi - Legal staff
64 Avenue de la Plaine de France
BP 65059 - Tremblay En France
95972 Roissy Charles de Gaulle Cedex (FR)

Representative: Robert, Vincent
Delphi France SAS
Bât. le Raspail - ZAC Paris Nord 2
22, avenue des Nations
CS 65059 Villepinte
95972 Roissy CDG Cedex (FR)

Respondent: Behr-Hella Thermocontrol GmbH
(Opponent 2) Mauserstrasse 3-5
70469 Stuttgart (DE)

Representative: Von Kreisler Selting Werner - Partnerschaft
von Patentanwälten und Rechtsanwälten mbB
Deichmannhaus am Dom
Bahnhofsvorplatz 1
50667 Köln (DE)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 29 March 2010
revoking European patent No. 1708217 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

| | |
|-----------------|-----------|
| Chairman | M. Ruggiu |
| Members: | G. Flyng |
| | W. Ungler |

Summary of Facts and Submissions

- I. The patent proprietor has appealed against the decision of the Opposition Division of 29 March 2010 revoking the European patent No. 1708217.
- II. The patent has meanwhile lapsed in all designated Contracting States.
- III. By a communication of the Board of 14 August 2014, the attention of the parties was drawn to Rule 84(1) EPC and the appellant (patent proprietor) was invited to inform the Board within two months from notification of the communication whether it was requested that the appeal proceedings be continued, or whether the appeal was withdrawn. The parties were advised that if no request for continuation of the appeal proceedings was received, the Board intended to terminate the appeal proceedings.
- IV. Within the time period set in the above communication no reply was filed.

Reasons for the Decision

1. If a European patent has lapsed in all designated Contracting States, opposition proceedings may be continued at the request of the opponent, Rule 84(1) EPC. It follows from Rule 100(1) EPC that this also applies in appeal proceedings following opposition proceedings.

However, if, as in the present case, the patent proprietor is the appellant, it would be inappropriate to allow the opponent to determine whether or not the

appeal proceedings are to be continued. For this reason, Rule 84(1) has to be applied in such cases so that the patent proprietor can request that the appeal proceedings be continued (see decision 708/01, not published in OJ EPO, and Case Law of the Boards of Appeal, seventh edition, IV.C.6.4 - Cases concerning continuation of opposition appeal proceedings).

2. The patent proprietor has been invited to file such a request for continuation, but has not done so.
3. The appeal proceedings are consequently terminated by this decision of the Board.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



U. Bultmann

M. Ruggiu

Decision electronically authenticated