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**Datasheet for the decision  
of 12 March 2015**

**Case Number:** T 2172/10 - 3.2.05

**Application Number:** 03078711.3

**Publication Number:** 1426195

**IPC:** B41M5/00

**Language of the proceedings:** EN

**Title of invention:**

Ink jet recording element

**Patent Proprietor:**

Eastman Kodak Company

**Opponents:**

Mitsubishi HiTec Paper Europe GmbH  
Saito & Hata International Patent Office

**Headword:**

**Relevant legal provisions:**

EPC R. 84(1), 100(1)

**Keyword:**

Lapse of patent in all designated states -  
termination of appeal proceedings

**Decisions cited:**

**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 2172/10 - 3.2.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.05**  
**of 12 March 2015**

**Appellant:** Mitsubishi HiTec Paper Europe GmbH  
(Opponent 01 )  
Niedernholz 23  
33699 Bielefeld (DE)

**Representative:** Eisenführ Speiser  
Patentanwälte Rechtsanwälte PartGmbH  
Postfach 10 60 78  
28060 Bremen (DE)

**Respondent:** Eastman Kodak Company  
(Patent proprietor)  
343 State Street  
Rochester, NY 14650-2201 (US)

**Representative:** Michael James Ellis  
Ellis IP Ltd  
Newbyth House  
East Linton  
East Lothian EH40 3DU (GB)

**Party as of right:** Saito & Hata International Patent Office  
(Opponent 02 )  
Akasata-Taisei Building  
1-1-18  
Akasaka Minato-ku  
Tokyo 107-0052 (JP)

**Representative:** Christopher K. Hamer  
Mathys & Squire LLP  
The Shard  
32 London Bridge Street  
London SE1 9SG (GB)

**Decision under appeal:** **Interlocutory decision of the opposition  
division of the European Patent Office posted on  
9 August 2010 concerning maintenance of the  
European Patent No. 1426195 in amended form.**

**Composition of the Board:**

**Chairman**            M. Poock  
**Members:**            H. Schram  
                             M. J. Vogel

### **Summary of Facts and Submissions**

- I. Opponent 01 lodged an appeal against the interlocutory decision of the opposition division dated 9 August 2010 concerning the maintenance of the European patent Nr. 1 426 195 in amended form.
- II. In a communication by the registrar of the board dated 19 August 2014 the parties were informed that the above-mentioned European patent has been surrendered or has lapsed with effect for all the designated Contracting States and that the appeal proceedings may be continued at the request of the opponent, provided that within two months from notification of this communication a request is filed.
- III. No reply was received to said communication.

### **Reasons for the Decision**

1. Pursuant to Rule 84(1) EPC in conjunction with Rule 100(1), proceedings are not continued after the European patent has lapsed for all the designated Contracting States by non-payment of the renewal fees, unless there is a request to this effect by the opponent filed within two month as from the notification by the European Patent Office of the lapse.
2. As in the present case, no such request has been received, neither from the appellant nor from the non-appealing opponent 02 as a party to the proceedings as of right under Article 107, second sentence, EPC, the proceedings are to be terminated by a decision of the board.

Hence there was no need to decide whether a request for continuation of the proceedings can be validly filed by an opponent as a party as of right.

**Order**

**For these reasons it is decided that:**

The appeal proceedings are terminated.

The Registrar:

The Chairman:



D. Meyfarth

M. Poock

Decision electronically authenticated