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**Datasheet for the decision  
of 29 August 2017**

**Case Number:** T 0819/11 - 3.3.01

**Application Number:** 97917289.7

**Publication Number:** 0910631

**IPC:** C12N11/10

**Language of the proceedings:** EN

**Title of invention:**

ENZYME-CONTAINING GRANULES AND PROCESS FOR THE PRODUCTION  
THEREOF

**Patent Proprietor:**

Novozymes A/S

**Opponents:**

Henkel Kommanditgesellschaft auf Aktien VTP (Patente)  
BASF SE

**Headword:**

Lapse of the patent/NOVOZYMES

**Relevant legal provisions:**

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

**Keyword:**

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

**Decisions cited:**

T 0329/88, T 0165/95, T 0749/01, T 0043/02, T 0289/06

**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 0819/11 - 3.3.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.01**  
**of 29 August 2017**

**Appellant:** Henkel Kommanditgesellschaft auf Aktien  
(Opponent 1) VTP (Patente)  
Henkelstrasse 67  
40589 Düsseldorf (DE)

**Appellant:** BASF SE  
(Opponent 2) Patentabteilung - C6  
Carl-Bosch-Strasse 38  
67056 Ludwigshafen (DE)

**Respondent:** Novozymes A/S  
(Patent Proprietor) Krogshøjvej 36  
2880 Bagsvaerd (DK)

**Representative:** Potter Clarkson LLP  
The Belgrave Centre  
Talbot Street  
Nottingham NG1 5GG (GB)

**Decision under appeal:** **Decision of the Opposition Division of the European Patent Office posted on 8 February 2011 rejecting the oppositions filed against European patent No. 0910631 pursuant to Article 101(2) EPC.**

**Composition of the Board:**

**Chairman**           A. Lindner  
**Members:**         T. Sommerfeld  
                      L. Bühler

## **Summary of Facts and Submissions**

- I. The present appeal lies from the decision of the Opposition Division rejecting the oppositions against European patent No. 910631.
- II. By communication of the Board of 12 May 2017, the parties' attention was drawn to the fact that the patent had lapsed with effect for all designated Contracting States. Pursuant to Rules 84(1) and 100(1) EPC, the appellants (opponents) were invited to inform the board, within two months from notification of the communication, whether they requested a continuation of the appeal proceedings. The parties were informed that if no request for continuation of proceedings was received in due time, the appeal proceedings would be discontinued.
- III. Appellant II (opponent 2) replied with letter dated 12 July 2017, stating that it did not request a continuation of the proceedings. No reply from Appellant I (opponent 1) was received within the set time period.

## **Reasons for the Decision**

1. Rule 84(1) EPC provides that if "*the European patent has been surrendered in all the designated Contracting States or has lapsed in all those States, the opposition proceedings may be continued at the request of the opponent filed within two months of a communication from the European Patent Office informing him of the surrender or lapse*". According to

Rule 100(1) EPC, Rule 84(1) EPC also applies in opposition-appeal proceedings.

2. If no request for continuation of the proceedings is filed within the set time period and the state of the file gives no grounds for the proceedings to be continued by the board on its own motion, the appeal proceedings are terminated (see decisions T 329/88 of 22 June 1993; T 165/95 of 7 July 1997; T 749/01 of 23 August 2002; T 436/02 of 25 June 2004; T 289/06 of 17 December 2007).
  
3. In the present case, the notification of the lapse within the meaning of Rule 84(1) EPC was sent to the appellants on 12 May 2017. Thus, the period of two months for requesting continuation of the appeal proceedings ended on 22 July 2017 (Rule 126(2) EPC). Appellant II stated, with letter dated 12 July 2017, that it did not request continuation of the proceedings, while no request for continuation of the appeal proceedings was received from Appellant I within the set time period. Hence, the appeal proceedings are to be terminated.

## **Order**

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

The appeal proceedings are terminated.

The Registrar:

The Chairman:



S. Sánchez Chiquero

A. Lindner

Decision electronically authenticated