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**Datasheet for the decision  
of 20 February 2018**

**Case Number:** T 0789/13 - 3.3.01  
**Application Number:** 06755404.8  
**Publication Number:** 1896006  
**IPC:** A61K31/275, A61K31/195,  
A61K9/28, A61K9/48, A61K9/16  
**Language of the proceedings:** EN

**Title of invention:**

A MANUFACTURING METHOD FOR ENTACAPONE-CONTAINING GRANULES FOR  
ORAL DOSAGE FORMS

**Patent Proprietor:**

Orion Corporation

**Opponents:**

Teva Pharmaceutical Industries Ltd.  
Meyer, Dr., Anne-Katrin

**Relevant legal provisions:**

EPC Art. 113(2)

**Keyword:**

Basis of decision - text submitted or agreed by patent  
proprietor (no)

**Decisions cited:**

T 1244/08, T 2054/08



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

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Case Number: T 0789/13 - 3.3.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.01**  
**of 20 February 2018**

**Appellant:** Orion Corporation  
(Patent Proprietor) Orionintie 1  
02200 Espoo (FI)

**Representative:** J A Kemp  
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London WC1R 5JJ (GB)

**Respondent:** Teva Pharmaceutical Industries Ltd.  
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49131 Petah Tiqva (IL)

**Representative:** Best, Michael  
Lederer & Keller  
Patentanwälte Partnerschaft mbB  
Unsöldstrasse 2  
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**Respondent:** Meyer, Dr., Anne-Katrin  
(Opponent 2) Rönkrei 43  
22399 Hamburg (DE)

**Representative:** Hamm&Wittkopp Patentanwälte PartmbB  
Jungfernstieg 38  
20354 Hamburg (DE)

**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 29 January 2013  
revoking European patent No. 1896006 pursuant to  
Article 101(3) (b) EPC.**

**Composition of the Board:**

**Chairman**           A. Lindner  
**Members:**           R. Hauss  
                          L. Bühler

## Summary of Facts and Submissions

- I. Following the grant of European patent No. 1 896 006, two notices of opposition to that patent were validly filed. This appeal lies from the decision of the opposition division revoking the opposed patent.
- II. With its statement setting out the grounds of appeal, the patentee (appellant) requested that the decision under appeal be set aside and that the patent be maintained on the basis of the claims as granted (which amounts to a request for rejection of the oppositions). Subsidiarily, the appellant requested that the patent be maintained in amended form on the basis of one of auxiliary requests 1 to 9 (all submitted with the statement of grounds).
- III. In their respective replies to the appellant's statement of grounds, the respondents (opponents 1 and 2) requested that the appeal be dismissed.
- IV. The board issued a summons to oral proceedings.
- V. With letter dated 2 February 2018, the appellant stated the following:  
  
*"The Patentee hereby disapproves the text of the granted patent.  
The Patentee will not be submitting an amended text.  
Art. 113(2) EPC states that the European Patent Office shall examine, and decide upon, the European patent application or the European patent only in the text submitted to it, or agreed, by the applicant or the proprietor of the patent."*
- VI. The board cancelled the oral proceedings.

## **Reasons for the Decision**

In the specific context of the appellant's declaration of 2 February 2018 (see above point V), the statement that "the Patentee will not be submitting an amended text" can only be regarded as a withdrawal of the then pending auxiliary requests.

According to established case law of the boards of appeal, the declaration of the appellant, as the proprietor of a patent that has been revoked by the opposition division, is to be interpreted as the withdrawal of its appeal (see e.g. decisions T 1244/08 and T 2054/08).

Consequently, the decision under appeal becomes final.

**Order**

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

The appeal proceedings are terminated.

The Registrar:

The Chairman:



M. Schalow

A. Lindner

Decision electronically authenticated