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**Datasheet for the decision
of 23 February 2018**

Case Number: T 0167/14 - 3.3.08

Application Number: 06764894.9

Publication Number: 1899462

IPC: C12N9/96, A61K39/39

Language of the proceedings: EN

Title of invention:

STABLE AQUEOUS SYSTEMS COMPRISING PROTEINS

Patent Proprietor:

Arecor Limited

Opponents:

CSL Behring GmbH
Bureau Ottelohe, J.R.
Sanofi-Aventis Deutschland GmbH

Headword:

Stable aqueous proteins/ARECOR

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 0949/09, T 0520/10, T 0480/13

Catchword:



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Chambres de recours

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Case Number: T 0167/14 - 3.3.08

D E C I S I O N
of Technical Board of Appeal 3.3.08
of 23 February 2018

Appellant: Arecor Limited
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 29 November
2013 revoking European patent No. 1899462
pursuant to Article 101(2) and 101(3) (b) EPC.**

Composition of the Board:

Chairman B. Stolz
Members: P. Julià
D. Rogers

Summary of Facts and Submissions

- I. The appellant (patent proprietor) lodged an appeal against the decision of an opposition division posted on 29 November 2013, whereby the European patent No. 1 899 462 was revoked.
- II. By communication of the board of 12 July 2017, the parties' attention was drawn to the fact that the patent had meanwhile lapsed in all designated Contracting States and the respondents (opponents) were asked to inform the board within a period of two months whether they requested a continuation of the appeal proceedings. None of the three respondents filed a request for a continuation of the appeal proceedings.
- III. By a communication of the board of 30 November 2017, the appellant was asked to inform the board within a period of two months whether it requested a continuation of the appeal proceedings.
- IV. By letter dated 8 December 2017, the appellant declared that it did not wish to proceed with the appeal.

Reasons for the Decision

1. Pursuant to Rule 84(1) EPC in conjunction with Rule 100(1) EPC, appeal proceedings may be continued after the European patent has lapsed, if the opponent files a request to this effect within two months of a communication informing him/her of the lapse (see, *inter alia*, decisions T 329/88 of 22 June 1993; T 949/09 of 17 October 2012; and T 480/13 of 5 November 2014).

2. If, as in the present case, the patent proprietor is the appellant, it would be inappropriate to allow the opponents/respondents to decide whether the appeal proceedings shall be continued. For this reason, Rule 84(1) EPC has to be applied *mutatis mutandis* in such opposition appeal proceedings, so that it is the appellant/patent proprietor who can request that the appeal proceedings be continued (see T 520/10 of 11 June 2013).

3. As the patent proprietor/appellant has explicitly indicated that it does not request a continuation of the appeal proceedings (see Section IV *supra*), the appeal proceedings are terminated.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



L. Malécot-Grob

B. Stolz

Decision electronically authenticated