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**Datasheet for the decision  
of 24 January 2020**

**Case Number:** T 0596/15 - 3.3.08

**Application Number:** 04030122.8

**Publication Number:** 1516931

**IPC:** C12N15/63

**Language of the proceedings:** EN

**Title of invention:**

DSRNA-mediated regulation of gene expression in plants

**Patent Proprietor:**

Syngenta Participations AG

**Opponents:**

Pajaro Limited  
BASF SE  
Bayer CropScience NV

**Headword:**

DSRNA-mediated regulation/SYNGENTA PARTICIPATIONS

**Relevant legal provisions:**

EPC R. 84(1), 101(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:**



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

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Case Number: T 0596/15 - 3.3.08

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.08**  
**of 24 January 2020**

**Appellant:** Syngenta Participations AG  
(Patent Proprietor) Rosentalstrasse 67  
4058 Basel (CH)

**Representative:** SYNGENTA IP  
CHBS-B4.8  
Rosentalstrasse 67  
4058 Basel (CH)

**Respondent I:** Pajaro Limited  
(Opponent 1) 90 Fetter Lane  
London  
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**Representative:** Alt, Michael  
Bird & Bird LLP  
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**Respondent II:** BASF SE  
(Opponent 2) Carl-Bosch-Strasse 38  
67056 Ludwigshafen (DE)

**Representative:** BASF IP Association  
BASF SE  
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67056 Ludwigshafen (DE)

**Respondent III:** Bayer CropScience NV  
(Opponent 3) J.E. Mommaertsstraat 14  
1831 Diegem (BE)

**Representative:** Almond-Martin, Carol  
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**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 21 January 2015  
revoking European patent No. 1516931 pursuant to  
Article 101(3) (b) EPC.**

**Composition of the Board:**

**Chairman** B. Stolz  
**Members:** M. R. Vega Laso  
J. Geschwind

## **Summary of Facts and Submissions**

- I. The appeal of the patent proprietor (appellant) lies from a decision of an opposition division posted on 21 January 2015, revoking the European patent No. 1 516 931 (application No. 04030122.8) with the title "DSRNA-mediated regulation of gene expression in plants".
- II. The patent had been opposed by four opponents. However, during the appeal proceedings opponent 4 withdrew its opposition.
- III. By a communication pursuant to Rule 84(1) EPC dated 29 October 2019, the board informed the parties that the European patent had lapsed in all the designated Contracting States and that, pursuant to Rule 84(1) EPC the appeal proceedings would be discontinued, unless a request for continuation was filed by any of the parties within two months from notification of the board's communication.
- IV. By letter dated 4 November 2019, opponent 1 (respondent I) informed the board that it did not intend to further proceed with the appeal.
- V. By letter dated 4 December 2019, opponent 3 (respondent III) submitted that it did not see any need for the continuation of the appeal proceedings.
- VI. No request for continuation of the appeal proceedings was received from either the appellant or opponent 2 (respondent II).

### **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 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. According to the jurisprudence of the Boards of Appeal (see, e.g., decision T 520/10 of 11 June 2013), when the patent proprietor has filed an appeal, by analogy to Rule 84(1) in connection with Rule 100(1) EPC the appeal proceedings may be continued also upon request of the patent proprietor.
  
3. Since no request for continuation of the appeal proceedings was received from any of the parties, the board decides to terminate the appeal proceedings.

**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