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**Datasheet for the decision
of 7 January 2019**

Case Number: T 1335/15 - 3.3.06
Application Number: 04778595.1
Publication Number: 1658252
IPC: B01J21/18, B01J27/10,
C07C17/04, C07C19/08,
C07C17/20, C07C17/25, C07C21/18
Language of the proceedings: EN

Title of invention:

Process for the manufacture of 1,3,3,3-tetrafluoropropene

Patent Proprietor:

Honeywell International Inc.

Opponents:

- 1) Arkema France
- 2) Mexichem Amanco Holding S.A. de C.V.

Headword:

Tetrafluoropropene preparation / HONEYWELL

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by
patent proprietor - patent revoked

Decisions cited:

T 1499/05, T 0073/84

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
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Case Number: T 1335/15 - 3.3.06

D E C I S I O N
of Technical Board of Appeal 3.3.06
of 7 January 2019

Appellant: Honeywell International Inc.
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Representative: Crooks, Elizabeth Caroline
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Appellant: Arkema France
(Opponent 1) DRD/Département Propriété Industrielle
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Representative: Dang, Doris
ARKEMA France
Département Propriété Industrielle
420, rue d'Estienne d'Orves
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Appellant: Mexichem Amanco Holding S.A. de C.V.
(Opponent 2) Rio San Javier No. 10
Fraccionamiento Viveros del Rio
Tlalnepantla, Estado de Mexico C.P. 54060 (MX)

Representative: Potter Clarkson LLP
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Decision under appeal: **Interlocutory decision of the Opposition**
Division of the European Patent Office posted on

15 May 2015 concerning maintenance of the
European Patent No. 1658252 in amended form.

Composition of the Board:

Chairman	G. Santavicca
Members:	L. Li Voti
	C. Heath

Summary of Facts and Submissions

- I. Both the patent proprietor and the two opponents respectively lodged appeals against the decision of the opposition division concerning the maintenance of the European Patent No. 1 658 252 in amended form according to the then pending Auxiliary Request.

- II. The Board issued a summons to oral proceedings and subsequently a communication dated 24 July 2018 in which it indicated its preliminary opinion.

- III. With letter dated 14 November 2018 the proprietor wrote the following:

"I advise that the proprietor no longer approves of the text upon which the above patent was granted, nor of the text upon which the Opposition Division decided to maintain the patent on 15 May 2015 or the main request and auxiliary requests 1-12 filed on 20 September 2018.

I understand that the patent will be revoked, and the oral proceedings scheduled for 21 November 2018 will be cancelled."

- IV. The oral proceedings were cancelled.

Reasons for the Decision

1. Pursuant to Article 113(2) EPC the European Patent Office shall examine and decide upon the European patent only in the text submitted, or agreed, by the proprietor of the patent.

2. Such an agreement is absent if the proprietor - in the present case by way of its letter submitted on 14 November 2018 - expressly states that it no longer approves the text of the patent as granted, as upheld by the Opposition Division and as amended according to all its pending further auxiliary requests.
3. It is established case law that in these circumstances the proceedings are terminated by a decision ordering the revocation of the patent without examination as to patentability (see **T 73/84**, OJ EPO 1985, 241 and **T 1499/05** of 14 June 2007).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:



D. Magliano

G. Santavicca

Decision electronically authenticated