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**Datasheet for the decision
of 17 January 2020**

Case Number: T 0055/16 - 3.3.09

Application Number: 99924541.8

Publication Number: 1092120

IPC: B65D81/26, B29C45/16,
B01J20/28, C08J9/26, F26B21/08

Language of the proceedings: EN

Title of invention:
MODIFIED POLYMERS HAVING CONTROLLED TRANSMISSION RATES

Patent Proprietor:
CSP Technologies, Inc.

Opponent:
Clariant Produkte (Deutschland) GmbH

Headword:

Relevant legal provisions:
EPC Art. 101, 113(2)

Keyword:
Withdrawal of approval of any text for maintainance of the
patent - Revocation of the patent

Decisions cited:

T 0073/84, T 2405/12

Catchword:



Beschwerdekammern
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Chambres de recours

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Case Number: T 0055/16 - 3.3.09

D E C I S I O N
of Technical Board of Appeal 3.3.09
of 17 January 2020

Appellant: CSP Technologies, Inc.
(Patent Proprietor) 960 West Veterans Boulevard
Auburn, Alabama 36832 (US)

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

Appellant: Clariant Produkte (Deutschland) GmbH
(Opponent) Lenbachplatz 6
80333 München (DE)

Representative: Hoffmann Eitle
Patent- und Rechtsanwälte PartmbB
Arabellastraße 30
81925 München (DE)

Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted on
17 November 2015 concerning maintenance of the
European Patent No. 1092120 in amended form.

Composition of the Board:

Chairman A. Haderlein
Members: A. Veronese
D. Rogers

Summary of Facts and Submissions

- I. This decision concerns the appeals filed by the opponent and the patent proprietor against the decision of the opposition division finding that European patent EP 1 092 120 as amended meets the requirements of the EPC.
- II. The opponent/appellant requested that the decision under appeal be set aside and that the patent be revoked in its entirety.
- III. By letter dated 18 November 2019, the patent proprietor/appellant declared:

"The proprietor/appellant hereby states that the text in which the patent was granted is no longer approved and that it will not be submitting an amended text".

Reasons for the Decision

1. Pursuant to Article 113(2) EPC the EPO shall consider, and decide upon, the European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. Such an agreement cannot be deemed to exist if the patent proprietor/appellant - as in the present case - expressly states that it no longer approves the text of the patent as granted and declares that it will not be submitting an amended text.
3. Where there is no text of the patent on which basis the board can consider the appeal of the patent proprietor/appellant, the only possibility available to the board

is to revoke the patent as envisaged by Article 101 EPC. In this context reference is made to T 73/84 (OJ EPO 1985, 241) as well as to T 2405/12 and the decisions cited therein.

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

A. Haderlein

Decision electronically authenticated