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**Datasheet for the decision
of 16 July 2019**

Case Number: T 0268/16 - 3.5.03

Application Number: 03779711.5

Publication Number: 1579728

IPC: H04R25/00, H04R3/00

Language of the proceedings: EN

Title of invention:

MICROPHONE SYSTEM WITH DIRECTIONAL RESPONSE

Patent Proprietor:

OTICON A/S

Opponent:

Sivantos GmbH

Headword:

Microphone system/OTICON

Relevant legal provisions:

EPC R. 84(1), 100(1)

Keyword:

Lapse of patent in all designated states - termination of
appeal proceedings

Decisions cited:

T 0520/10

Catchword:



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Chambres de recours

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Case Number: T 0268/16 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 16 July 2019

Appellant: OTICON A/S
(Patent Proprietor) Kongebakken 9
2765 Smørum (DK)

Representative: TBK
Bavariaring 4-6
80336 München (DE)

Respondent: Sivantos GmbH
(Opponent) Henri-Dunant-Str. 100
91058 Erlangen (DE)

Representative: FDST Patentanwälte
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 25 November
2015 revoking European patent No. 1579728
pursuant to Articles 101(2) and 101(3) (b) EPC.**

Composition of the Board:

Chairman F. van der Voort
Members: T. Snell
J. Geschwind

Summary of Facts and Submissions

- I. This case concerns an appeal filed by the patent proprietor against the decision of the opposition division revoking European patent No. 1 579 728.
- II. According to the European Patent Register, European patent No 1 579 728 has lapsed in all designated contracting states. By communication dated 9 April 2019, the attention of the parties was drawn to Rule 84(1) EPC and the appellant (patent proprietor) was asked whether he wanted the appeal proceedings to be continued.
- III. There was no reply to the communication (the receipt of the communication was confirmed by the appellant in a submission dated 3 July 2019).

Reasons for the Decision

According to the jurisprudence of the Boards of Appeal (see, e.g., T 520/10, point 1 of the reasons), when the patent proprietor is the sole appellant and the patent has lapsed in all contracting states, by analogy to Rule 84(1) EPC in connection with Rule 100(1) EPC, the opposition appeal proceedings may be continued at the request of the patent proprietor, provided that the request is filed within two months from notification of the present communication. No such request has been filed. In consequence, the proceedings are terminated.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



G. Rauh

F. van der Voort

Decision electronically authenticated