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

Case Number: T 0548/16 - 3.3.01

Application Number: 06118876.9

Publication Number: 1731152

IPC: A61F13/00, A61K31/485,
A61K9/70, A61P25/04

Language of the proceedings: EN

Title of invention:

Sustained analgesia achieved with transdermal delivery of
buprenorphine

Patent Proprietor:

EURO-CELTIQUE S.A.
Mundipharma Laboratories GmbH
Napp Pharmaceutical Holdings Limited
Mundipharma Pharmaceuticals B.V.
Mundipharma AB
Mundipharma Pharmaceuticals Limited
Norpharma A/S
Mundipharma OY

Opponents:

Hexal AG
Gallafent, Alison
tesa Labtec GmbH

Headword:

Sustained analgesia with buprenorphine / EURO-CELTIQUE

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by patent proprietor



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Boards of Appeal
Chambres de recours

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Case Number: T 0548/16 - 3.3.01

D E C I S I O N
of Technical Board of Appeal 3.3.01
of 17 January 2020

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- Appellant:** Mundipharma Pharmaceuticals Limited
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
3 March 2016 concerning maintenance of the
European Patent No. 1731152 in amended form.**

Composition of the Board:

Chairman A. Lindner
Members: S. Albrecht
 Y. Podbielski

Summary of Facts and Submissions

- I. Appeals were lodged by opponents 01 and 02 as well as by the patent proprietors (hereinafter "appellants-patent proprietors") against the decision of the opposition division announced at the oral proceedings on 10 November 2015 concerning maintenance of European Patent No. 1 731 152 in amended form.
- II. In their letter dated 19 December 2019, the appellants-patent proprietors declared
- (a) that they no longer approved the text in which the patent had been granted,
 - (b) that they would not be submitting an amended text, and
 - (c) that they withdrew all requests on file.
- III. The oral proceedings which had been arranged for 14 January 2020 were thereafter cancelled.

Reasons for the Decision

1. Pursuant to Article 113(2) EPC, the EPO shall examine, 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 where - as in the present case - the proprietor expressly states that it no longer approves the text of the patent as granted and withdraws all pending requests.

3. There is therefore no text of the patent on the basis of which the Board can consider the appeal. In these circumstances, the proceedings are to be terminated by a decision ordering revocation of the patent, without examination as to patentability (Case Law of the Boards of Appeal of the European Patent Office, 9th edition 2019, IV.D.2).

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:



M. Schalow

A. Lindner

Decision electronically authenticated