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**Datasheet for the decision
of 6 February 2020**

Case Number: T 1258/16 - 3.3.01

Application Number: 07837326.3

Publication Number: 2061561

IPC: A61K31/573, A61P35/00,
A61K31/58, A61K45/06

Language of the proceedings: EN

Title of invention:
Compositions for treating cancer

Patent Proprietor:
Janssen Oncology, Inc.

Opponents:

Alfred E. Tiefenbacher (GmbH & Co. KG)
Helm AG
Laboratorios Léon Farma, S.A.
STADA Arzneimittel AG
Hetero Drugs Ltd.
CABINET LAVOIX
Synthon B.V./Genthon B.V.
Galenicum Health S.L.
Teva Pharmaceutical Industries LTD.
Maiwald Patent- und Rechtsanwalts-gesellschaft mbH
Generics [UK] Limited
Actavis Group PTC ehf
Gallafent, Alison
Patentanwälte Isenbruck Bösl Hörschler PartG mbB
Zentiva k.s.

Headword:

Abiraterone prednisone combination for treatment of prostate cancer/JANSSEN

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by patent proprietor

Decisions cited:

T 1244/08, T 2054/08, T 0203/12

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 1258/16 - 3.3.01

D E C I S I O N
of Technical Board of Appeal 3.3.01
of 6 February 2020

Appellant: Janssen Oncology, Inc.
(Patent Proprietor) 10990 Wilshire Blvd. Suite 1200
Los Angeles CA 90024 (US)

Representative: Oates, Edward Christopher
Carpmaels & Ransford LLP
One Southampton Row
London WC1B 5HA (GB)

Respondent 1: Alfred E. Tiefenbacher (GmbH & Co. KG)
(Opponent 1) Van-der-Smissen-Straße 1
22767 Hamburg (DE)

Representative: Hamm&Wittkopp Patentanwälte PartmbB
Jungfernstieg 38
20354 Hamburg (DE)

Respondent 2: Helm AG
(Opponent 2) Nordkanalstrasse 28
20097 Hamburg (DE)

Representative: Hamm&Wittkopp Patentanwälte PartmbB
Jungfernstieg 38
20354 Hamburg (DE)

Respondent 3: Laboratorios León Farma, S.A.
(Opponent 3) Pol. Ind. Navatejera
C/La Vallina s/n
24008 Villaquilambre, Leon (ES)

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

Respondent 4: STADA Arzneimittel AG
(Opponent 4) Stadastrasse 2-18
61118 Bad Vilbel (DE)

Representative: Kernebeck, Thomas
Kernebeck Patentanwalts GmbH
Stiftstraße 2
60313 Frankfurt am Main (DE)

Respondent 5: Hetero Drugs Ltd.
(Opponent 5) Hetero Corporate, 7-2-A2
Industrial Estates, Sanath Nagar
Hyderabad-500 018, A.P. (IN)

Representative: ZBM Patents ApS
Symbion Box:33
Fruebjergvej 3
2100 Copenhagen Ø (DK)

Respondent 6: Synthon B.V./Genthon B.V.
(Opponent 7) Microweg 22
6545 CM Nijmegen (NL)

Representative: Prins, Hendrik Willem
Arnold & Siedsma
Bezuidenhoutseweg 57
2594 AC The Hague (NL)

Respondent 7: Galenicum Health S.L.
(Opponent 8) Avenida Diagonal 123 floor 11
08005 Barcelona (ES)

Representative: Galenicum Health S.L.
Avenida Diagonal 123, Floor 11
08005 Barcelona (ES)

Respondent 8: Teva Pharmaceutical Industries LTD.
(Opponent 9) 5 Basel Street
Petah Tiqva 49131 (IL)

Representative: Best, Michael
Lederer & Keller
Patentanwälte Partnerschaft mbB
Unsöldstrasse 2
80538 München (DE)

Respondent 9: Maiwald Patent- und Rechtsanwalts-gesellschaft
(Opponent 10) mbH
Jungfernstieg 38
20354 Hamburg (DE)

Representative: Hamm&Wittkopp Patentanwälte PartmbB
Jungfernstieg 38
20354 Hamburg (DE)

Respondent 10: Generics [UK] Limited
(Opponent 11) (trading as Mylan)
Albany Gate
Darkes Lane
Potters Bar
Hertfordshire EN6 1AG (GB)

Representative: Elkington and Fife LLP
Prospect House
8 Pembroke Road
Sevenoaks, Kent TN13 1XR (GB)

Respondent 11: Actavis Group PTC ehf
(Opponent 12) Reykjavikurvegi 76-78
220 Hafnarfjörður (IS)

Representative: Best, Michael
Lederer & Keller
Patentanwälte Partnerschaft mbB
Unsöldstrasse 2
80538 München (DE)

Respondent 12: Gallafent, Alison
(Opponent 13) Alison Gallafent Ltd
21 Bridge St
Llandeilo SA19 6BN (GB)

Representative: Gallafent, Alison
HGF Limited
Saviour House
9 St Saviourgate
GB-York YO1 8NQ (GB)

Respondent 13: Patentanwälte Isenbruck Bösl Hörschler PartG mbB
(Opponent 14) Eastsite One
Seckenheimer Landstrasse 4
68163 Mannheim (DE)

Representative: Jacobi, Markus Alexander
Patentanwälte
Isenbruck Bösl Hörschler PartG mbB
Eastsite One
Seckenheimer Landstrasse 4
68163 Mannheim (DE)

Respondent 14: Zentiva k.s.
(Opponent 15) U kabelovny 130
10237 Praha 10 (CZ)

Representative:

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

Decision under appeal:

**Decision of the Opposition Division of the
European Patent Office posted on 11 March 2016
revoking European patent No. 2061561 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chairman A. Lindner
Members: G. Seufert
 L. Bühler

Summary of Facts and Submissions

- I. The patent proprietor (appellant) lodged an appeal against the decision of the opposition division revoking the European patent No. 2 061 561.
- II. With the statement of grounds of appeal, the appellant filed an amended main request and auxiliary requests 1 to 7.
- III. Summons to oral proceedings accompanied by a communication pursuant to Article 15(1) RPBA 2007 were issued by the board.
- IV. In a letter dated 28 January 2020, the appellant's representative stated that the appellant withdrew all requests on file and its approval of the text upon which the patent was granted, that it would not be submitting any replacement text and that it understood the consequences that will follow from this action.
- V. Oral proceedings were cancelled.

Reasons for the Decision

1. The appeal is admissible.
2. According to established jurisprudence of the boards of appeal, the declaration of the appellant (see point IV above), as the proprietor of a patent that has been revoked by the opposition division, is to be interpreted as the withdrawal of its appeal (see *inter alia* T 1244/08, T 2054/08, T 203/12), with the consequence that the appeal proceedings are terminated

and the decision of the opposition division (i.e. revocation of the patent) becomes final.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



M. Schalow

A. Lindner

Decision electronically authenticated