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**Datasheet for the decision
of 18 September 2018**

Case Number: T 1878/16 - 3.2.02
Application Number: 09785999.5
Publication Number: 2339956
IPC: A61B5/1455, A61B5/00, G06F19/00
Language of the proceedings: EN

Title of invention:

SIGNAL PROCESSING SYSTEMS AND METHODS USING BASIS FUNCTIONS
AND WAVELET TRANSFORMS

Patent Proprietor:

Nellcor Puritan Bennett Ireland

Opponent:

Alopex Patentverwertungs-GmbH & Co. KG

Headword:

Relevant legal provisions:

EPC R. 84(1), 100(1), 133(1)

Keyword:

Lapse of the patent in all designated Contracting States -
termination of appeal proceedings

Decisions cited:

T 0598/98

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 1878/16 - 3.2.02

D E C I S I O N
of Technical Board of Appeal 3.2.02
of 18 September 2018

Appellant: Alopex Patentverwertungs-GmbH & Co. KG
(Opponent) Dresdnerstrasse 6
64839 Münster (DE)

Representative: Stoffregen, Hans-Herbert
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Respondent: Nellcor Puritan Bennett Ireland
(Patent Proprietor) Michael Collins Road
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Galway (IE)

Representative: Hargreaves, Timothy Edward
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 3 June 2016
rejecting the opposition filed against European
patent No. 2339956 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman E. Dufrasne
Members: M. Stern
D. Ceccarelli

Summary of Facts and Submissions

- I. The appeal of the opponent is directed against the decision of the Opposition Division posted on 3 June 2016 rejecting the opposition filed against European patent Nr. 2 339 956 pursuant to Article 101(2) EPC.
- II. Inspection of the Register had shown that the patent lapsed in all designated Contracting States.
- III. With communication of 12 June 2018 pursuant to Rule 84(1) EPC, sent with advice of delivery, the appellant-opponent was requested to inform the Board within a time-limit of two months after notification of the communication, whether he requested the appeal proceedings to be continued or not.
- IV. No answer to that communication was received within the two months' time-limit.
- V. On 3 September 2018 the registrar of the Board contacted the representative of the appellant-opponent who confirmed that no reply to the above communication had been delivered to a recognised postal service provider in due time before expiry of the period.

Reasons for the Decision

1. When a European patent has lapsed in all designated contracting states, in analogy to Rule 84(1) EPC, which is to be applied in opposition appeal proceedings pursuant to Rule 100(1) EPC, the opposition appeal proceedings may be continued at the request of appellant-opponent filed within two months of a communication from the European Patent Office informing

him of the lapse (e.g. T 598/98, point 1 of the Reasons).

2. Since the representative confirmed that no reply to the communication had been delivered to a recognised postal service provider in due time before expiry of the period, the expiry of the time limit of three months pursuant to Rule 133 EPC has not to be waited before proceeding further.
3. A continuation of the appeal proceedings was not requested so that the appeal proceedings are to be terminated.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



D. Hampe

E. Dufrasne

Decision electronically authenticated