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**Datasheet for the decision  
of 23 April 2019**

**Case Number:** T 1928/16 - 3.5.02  
**Application Number:** 08736348.7  
**Publication Number:** 2041853  
**IPC:** H02J3/14, H02J3/32, H02J3/38  
**Language of the proceedings:** EN

**Title of invention:**

A Load Management Controller for a Household Electrical  
Installation

**Patent Proprietor:**

Cooper, Timothy Patrick

**Opponents:**

SIB Energy Limited  
Stiebel Eltron GmbH & Co. KG  
Viessmann Werke GmbH & Co. KG  
SMA Solar Technology AG

**Relevant legal provisions:**

EPC R. 84(1)

**Keyword:**

Lapse of patent in all designated states - continuation of  
appeal proceedings (no)

**Decisions cited:**

T 0708/01



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Case Number: T 1928/16 - 3.5.02

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.02**  
**of 23 April 2019**

**Appellant:** Cooper, Timothy Patrick  
(Patent Proprietor) Cambridge Mews  
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County Dublin (IE)

**Representative:** O'Connor, Michael Donal  
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**Respondent:** SIB Energy Limited  
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**Representative:** Forsyth, Helen Jane  
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**Respondent:** Stiebel Eltron GmbH & Co. KG  
(Opponent 2) Dr.-Stiebel-Str.  
37603 Holzminden (DE)

**Respondent:** Viessmann Werke GmbH & Co. KG  
(Opponent 3) Viessmannstrasse 1  
35107 Allendorf (DE)

**Representative:** MERH-IP Matias Erny Reichl Hoffmann  
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**Respondent:**  
(Opponent 4)

SMA Solar Technology AG  
Sonnenallee 1  
34266 Niestetal (DE)

**Decision under appeal:**

**Decision of the Opposition Division of the  
European Patent Office posted on 10 June 2016  
revoking European patent No. 2041853 pursuant to  
Article 101(3)(b) EPC.**

**Composition of the Board:**

**Chairman** R. Lord  
**Members:** G. Flynn  
W. Ungler

## **Summary of Facts and Submissions**

- I. The patent proprietor has appealed against the decision of the Opposition Division of 10 June 2016 revoking the European patent No. EP 2 041 853.
- II. The patent has meanwhile lapsed in all designated Contracting States.
- III. By a communication of the Board of 4 February 2019, the attention of the parties was drawn to Rule 84(1) EPC and the appellant (patent proprietor) was invited to inform the Board within two months from notification of the communication whether it was requested that the appeal proceedings be continued. The parties were advised that if no request for continuation of the appeal proceedings was received, the Board intended to terminate the appeal proceedings.
- IV. Within the time period set in the above communication no reply was filed.

## **Reasons for the Decision**

1. If a European patent has lapsed in all designated Contracting States, opposition proceedings may be continued at the request of the opponent, Rule 84(1) EPC. It follows from Rule 100(1) EPC that this also applies in appeal proceedings following opposition proceedings.
2. However, if, as in the present case, the patent proprietor is the appellant, it would be inappropriate to allow the opponent to determine whether or not the appeal proceedings are to be continued. For this

reason, Rule 84(1) EPC has to be applied in such cases so that the patent proprietor can request that the appeal proceedings be continued (see decision T0708/01, not published in OJ EPO, and Case Law of the Boards of Appeal, eighth edition, IV.C.4.1.2.b - Request for continuation of the proceedings made by the patent proprietor).

3. The patent proprietor has been invited to file such a request for continuation, but has not done so.
4. The appeal proceedings are consequently terminated by this decision of the Board.

## Order

### **For these reasons it is decided that:**

The appeal proceedings are terminated.

The Registrar:

The Chairman:



U. Bultmann

R. Lord

Decision electronically authenticated