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**Datasheet for the decision
of 22 October 2020**

Case Number: T 1182/17 - 3.3.06

Application Number: 10780680.4

Publication Number: 2436516

IPC: B32B15/09, B05D7/14, B05D7/24,
C09D5/08, C09D7/12, C09D133/00,
C09D167/00, C09D175/04,
C09D175/06

Language of the proceedings: EN

Title of invention:
CHROMATE-FREE BLACK COATED METAL PLATE

Patent Proprietor:
Nippon Steel Corporation

Opponent:
ArcelorMittal

Headword:
Black-plate/Nippon Steel

Relevant legal provisions:
EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by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

Decisions cited:

T 0073/84, T 0186/84, T 1513/16

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 1182/17 - 3.3.06

D E C I S I O N
of Technical Board of Appeal 3.3.06
of 22 October 2020

Appellant:
(Opponent)

ArcelorMittal France
Immeuble "Le Cézanne"
6, rue André Campra
93200 Saint-Denis (FR)

Representative:

Plaisant, Sophie Marie
ArcelorMittal Research and Development
Intellectual Property
Immeuble Le Cézanne
6, rue André Campra
93200 Saint-Denis (FR)

Respondent:
(Patent Proprietor)

Nippon Steel Corporation
6-1, Marunouchi 2-chome,
Chiyoda-ku,
Tokyo (JP)

Representative:

Vossius & Partner
Patentanwälte Rechtsanwälte mbB
Siebertstrasse 3
81675 München (DE)

Decision under appeal:

**Decision of the Opposition Division of the
European Patent Office posted on 14 March 2017
rejecting the opposition filed against European
patent No. 2436516 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman J.-M. Schwaller
Members: S. Arrojo
 R. Cramer

Summary of Facts and Submissions

- I. The appeal from the opponent lies from the decision of the opposition division to reject the opposition against European patent No. 2 436 516.
- II. With its statement of grounds of appeal the appellant requested to set aside the decision and to revoke the patent in its entirety.
- III. In its reply, the patent proprietor and respondent requested to dismiss the appeal. Oral proceedings were requested as an auxiliary measure.
- IV. The board issued a communication under Article 15(1) RPBA 2020 to inform the parties of its preliminary opinion that none of the grounds of opposition prejudiced the maintenance of the patent as granted.
- V. With letter dated 21 October 2020 the respondent declared the following:

"Patentee herewith declares that he no longer approves the text in which the patent was granted".
- VI. In view of this declaration the oral proceedings were cancelled.

Reasons for the Decision

1. Article 113(2) EPC requires that the European Patent Office decides upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. With its letter of 21 October 2020 the patent proprietor explicitly disapproved the text of the patent without filing any other amended text on which further prosecution of the appeal could be based.
3. Since there is no alternative text of the patent which could be deemed to be approved by the patent proprietor, the above declaration of the patentee is considered to imply that the request to hold oral proceedings is also withdrawn (i.e. there is no text to be discussed).
4. It is established case law of the boards of appeal that in these circumstances, the proceedings are to be terminated by a decision ordering revocation of the patent, without going into the substantive issues (see, inter alia, decisions T 73/84, OJ EPO 1985, 241; T 186/84, OJ EPO 1986, 79; T 1513/16 and Case Law of the Boards of Appeal of the EPO, 9th edition, 2019, IV.D.2, page 1122).

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:



A. Pinna

J.-M. Schwaller

Decision electronically authenticated