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**Datasheet for the decision
of 16 November 2021**

Case Number: T 2692/17 - 3.2.06

Application Number: 12861657.0

Publication Number: 2776677

IPC: F01D1/04, F02C3/107, F02K3/06

Language of the proceedings: EN

Title of invention:
GAS TURBINE ENGINE

Patent Proprietor:
Raytheon Technologies Corporation

Opponent:
Safran Aircraft Engines

Headword:

Relevant legal provisions:
EPC Art. 113(2)

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Basis of decision - text or agreement to text withdrawn by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

Decisions cited:

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 2692/17 - 3.2.06

D E C I S I O N
of Technical Board of Appeal 3.2.06
of 16 November 2021

Appellant: Safran Aircraft Engines
(Opponent) 2 boulevard du Général Martial Valin
75015 Paris (FR)

Representative: Regimbeau
20, rue de Chazelles
75847 Paris Cedex 17 (FR)

Respondent: Raytheon Technologies Corporation
(Patent Proprietor) 10 Farm Springs Road
Farmington, CT 06032 (US)

Representative: Dehns
St. Bride's House
10 Salisbury Square
London EC4Y 8JD (GB)

Decision under appeal: **Interlocutory decision of the Opposition**
Division of the European Patent Office posted on
11 October 2017 concerning maintenance of the
European Patent No. 2776677 in amended form.

Composition of the Board:

Chairman M. Harrison
Members: P. Cipriano
E. Kossonakou

Summary of Facts and Submissions

- I. An appeal was filed by the appellant (opponent) against the interlocutory decision of the opposition division in which it held that the European patent No. 2 776 677 in an amended form met the requirements of the EPC.
- II. The appellant requested that the interlocutory decision be set aside and the patent be revoked.
- III. The respondent (patent proprietor) requested that the appeal be dismissed.
- IV. The Board issued a summons to oral proceedings and a subsequent communication containing its provisional opinion.
- V. Oral proceedings before the Board were held by video conference on 16 November 2021, during which the proprietor withdrew its approval of the text of the patent in any form.

Reasons for the Decision

1. Under Article 113(2) EPC, the European Patent Office shall consider and decide upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent. This principle has to be strictly observed also in opposition and opposition appeal proceedings.
2. Such an agreement cannot be deemed to exist where - as in the present case - the patent proprietor expressly

states that it no longer approves the text of the patent.

3. Since the text of the patent is at the disposition of the patent proprietor, a patent cannot be maintained against the patent proprietor's will. It is moreover clear that the respondent wishes to prevent any text whatsoever of the patent from being maintained. There is therefore no text of the patent on the basis of which the Board can consider the appeal.
4. In these circumstances, the proceedings are to be terminated by a decision ordering revocation of the patent, without examination as to patentability (see e.g. 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:



D. Grundner

M. Harrison

Decision electronically authenticated