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**Datasheet for the decision
of 4 August 2022**

Case Number: T 2261/18 - 3.3.08

Application Number: 14168417.5

Publication Number: 2781603

IPC: C12Q1/68

Language of the proceedings: EN

Title of invention:

Sequences for detection and identification of methicillin-resistant *Staphylococcus aureus*

Patent Proprietor:

Geneohm Sciences Canada, Inc.

Opponent:

Beckman Coulter, Inc.

Headword:

Detection methicillin-resistant *Staphylococcus aureus*/GENEOHM SCIENCES CANADA

Relevant legal provisions:

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

Keyword:

Decisions cited:

T 1905/16

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 2261/18 - 3.3.08

D E C I S I O N
of Technical Board of Appeal 3.3.08
of 4 August 2022

Appellant: Geneohm Sciences Canada, Inc.
(Patent Proprietor) 2555 Boul. du Parc Technologique
Québec, QC G1P 4S5 (CA)

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

Respondent: Beckman Coulter, Inc.
(Opponent) 250 S. Kraemer Boulevard
Brea, CA 92821 (US)

Representative: Boulton Wade Tennant LLP
Salisbury Square House
8 Salisbury Square
London EC4Y 8AP (GB)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 25 June 2018
revoking European patent No. 2781603 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chairwoman T. Sommerfeld
Members: P. Julià
D. Rogers

Summary of Facts and Submissions

- I. European patent no. 2 781 603 is based on European patent application no. 14 168 417.5, a divisional application of the earlier European patent applications nos. 10 181 533.0, 09 174 581.0 and 02 740 158.7 (published as EP 2 322 663, EP 2 236 621 and EP 1 397 510, respectively), the latter application being originally filed under the PCT and published as International patent application WO 02/099034. The patent was granted with 10 claims.
- II. An opposition was filed on the grounds set forth in Articles 100(a), 100(b) and 100(c) EPC. The opposition division considered the main request to contravene Article 76(1) EPC and auxiliary request 1 not to fulfil the requirements of Article 54 EPC. Auxiliary requests 2 to 13 were considered to contravene, *inter alia*, Article 76(1) EPC. The patent was thus revoked.
- III. The patent proprietor (appellant) lodged an appeal and filed the statement setting out their grounds of appeal to which the opponent (respondent) replied by filing observations.
- IV. The board summoned the parties to oral proceedings scheduled for 9 February 2023.
- V. In a communication pursuant to Article 17 of the Rules of Procedure of the Boards of Appeal (RPBA 2020), the board informed the parties that, at the date of the scheduled oral proceedings, the patent in suit would have lapsed in all Contracting States and that, according to Rule 84(1) EPC - which was also applicable in appeal proceedings against a decision of the

opposition division (Rule 100(1) EPC), the opposition proceedings could be continued at the request of the opponent.

The parties were also informed that, according to the case law of the Boards of Appeal of the EPO, if - as in the present case - the patent proprietor was an appellant, Rule 84(1) EPC applied also *mutatis mutandis* to the patent proprietor (cf. "Case Law of the Boards of Appeal of the EPO", 9th edition 2019, III.Q.1.2, 887, in particular, III.Q.1.2.2, 888).

The parties were further informed that, unless a request for continuation of the proceedings was filed within two months from notification of the board's communication, the appeal proceedings would be discontinued, the scheduled oral proceedings for 9 February 2023 would be cancelled, and the board would take the decision to terminate the present appeal proceedings. In this context, reference was made to the decision T 1905/16 of 16 November 2020.

- VI. Neither the appellant nor the respondent replied to the board's communication. Thus, no request for a continuation of the present appeal proceedings was filed by any of the parties.

Reasons for the Decision

Since no request for continuation of the appeal proceedings has been received (Rules 84(1) and 100(1) EPC), the oral proceedings scheduled for 9 February 2023 are cancelled and the board decides to terminate the present appeal proceedings.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairwoman:



L. Malécot-Grob

T. Sommerfeld

Decision electronically authenticated