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**Datasheet for the decision  
of 26 July 2021**

**Case Number:** T 0290/19 - 3.3.05

**Application Number:** 11185716.5

**Publication Number:** 2444142

**IPC:** B01D53/46, B01D53/86,  
B01J20/12, B01J20/16

**Language of the proceedings:** EN

**Title of invention:**

System and method for protection of scr catalyst and control  
of multiple emissions

**Patent Proprietor:**

The Babcock & Wilcox Company

**Opponent:**

Fletcher, Matthew James Edwin

**Headword:**

SCR catalyst protection/Babcock

**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Basis of decision - text or agreement to text withdrawn by  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 1467/16, T 1832/16

**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 0290/19 - 3.3.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.05**  
**of 26 July 2021**

**Appellant:** Fletcher, Matthew James Edwin  
(Opponent) Abel & Imray  
Westpoint Building  
James Street West  
Bath, Bath and North East Somerset BA1 2DA (GB)

**Representative:** Abel & Imray  
Westpoint Building  
James Street West  
Bath BA1 2DA (GB)

**Respondent:** The Babcock & Wilcox Company  
(Patent Proprietor) 1200 E. Market Street, Suite 650  
Akron, OH 44305 (US)

**Representative:** D Young & Co LLP  
120 Holborn  
London EC1N 2DY (GB)

**Decision under appeal:** **Decision of the Opposition Division of the European Patent Office posted on 13 November 2018 rejecting the opposition filed against European patent No. 2444142 pursuant to Article 101(2) EPC.**

**Composition of the Board:**

**Chairman** E. Bendl  
**Members:** S. Besselmann  
R. Winkelhofer

## **Summary of Facts and Submissions**

- I. The appeal in this case lies from the decision of the opposition division to reject the opposition against the European patent EP 2 444 142. The patent in suit concerns a method for the protection of an SCR catalyst.
- II. The opponent (appellant) appealed this decision.  
  
The appellant requests that the decision be set aside and the patent be revoked.
- III. In reply to the appeal, the patent proprietor (respondent) defended the patent and additionally filed first to seventh auxiliary requests (7 August 2019).
- IV. The respondent later withdrew the request for oral proceedings made with the reply and indicated that they would not be taking further action in the appeal proceedings (submission of 14 August 2020).
- V. In a further submission (2 July 2021), the respondent stated that they did not intend to defend the patent or uphold the auxiliary requests in the opposition appeal proceedings. The respondent declared that they no longer approved the text in which the patent was granted and no amended text would be provided. They furthermore confirmed their understanding that this meant the patent would be revoked.
- VI. The oral proceedings, as appointed for 26 November 2021, were cancelled.

## **Reasons for the Decision**

According to Article 113(2) EPC, a European patent may be maintained only in a version approved by the patent proprietor.

The respondent (patent proprietor) unequivocally withdrew their approval of the text in which the patent was granted, did not uphold the auxiliary requests and stated that they would not be submitting an amended text. In these circumstances the patent is to be revoked (T 73/84, OJ EPO 1985, 241; recently T 1467/16, T 1832/16; see Case Law of the Boards of Appeal of the EPO, 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:



C. Vodz

E. Bendl

Decision electronically authenticated