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**Datasheet for the decision
of 21 July 2020**

Case Number: T 0717/19 - 3.2.05

Application Number: 06797658.9

Publication Number: 1920180

IPC: F16L15/04, C10M103/06,
C10M169/02, C25D5/26, C25D7/00,
C10N10/12, C10N40/00,
C10N50/08, C10N50/10

Language of the proceedings: EN

Title of invention:
Threaded joint for steel pipes

Patent Proprietors:
Nippon Steel Corporation
Vallourec Oil and Gas France

Opponent:
Tenaris Connections B.V.

Relevant legal provisions:
EPC 1973 Art. 113(2)

Keyword:
Withdrawal of the approval of the text of the patent

Decisions cited:

T 0073/84, T 0186/84, T 0237/86, T 0459/88, T 0655/01,
T 1785/16



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 0717/19 - 3.2.05

D E C I S I O N
of Technical Board of Appeal 3.2.05
of 21 July 2020

Appellants I: Nippon Steel Corporation
(Joint Patent Proprietors) 6-1, Marunouchi 2-chome,
Chiyoda-ku,
Tokyo 100-8071 (JP)

Vallourec Oil and Gas France
54 rue Anatole France
59620 Aulnoye-Aymeries (FR)

Representative: J A Kemp LLP
14 South Square
Gray's Inn
London WC1R 5JJ (GB)

Appellant II: Tenaris Connections B.V.
(Opponent) Piet Heinkade 55
1019GM Amsterdam (NL)

Representative: August Debouzy
6-8, avenue de Messine
75008 Paris (FR)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
8 January 2019 concerning maintenance of the
European Patent No. 1920180 in amended form.**

Composition of the Board:

Chairman P. Lanz
Members: T. Vermeulen
 T. Karamanli

Summary of Facts and Submissions

- I. Both the joint patent proprietors (appellants I) and the opponent (appellant II) lodged an appeal against the interlocutory decision of the opposition division finding that European patent No. 1 920 180 as amended according to auxiliary request 3 met the requirements of the European Patent Convention.
- II. With their statement setting out the grounds of appeal, appellants I requested that the decision under appeal be set aside and that the patent be maintained as granted (main request) or, as an auxiliary measure, that the decision under appeal be set aside and that the patent be maintained as amended according to a first auxiliary request filed with their statement setting out the grounds of appeal or according to one of the second to ninth auxiliary requests filed with letter dated 30 September 2019.
- Appellant II requested that the decision be set aside and the patent be revoked in its entirety.
- III. With a letter dated 27 May 2020, appellants I informed the board as follows :
- "The proprietors no longer approve the text in which the patent was granted and we do not submit an amended text."*
- IV. On 1 July 2020 the board issued a communication pursuant to Rule 100(2) EPC inviting appellants I to clarify their requests. Reference was made to the main request and the auxiliary requests, including the

auxiliary request for oral proceedings, filed previously in the appeal proceedings.

- V. In a reply to the board's communication dated 10 July 2020, appellants I informed the board that

"the patentees no longer wish to maintain the requests".

Reasons for the Decision

1. The appeals are admissible.
2. Article 113(2) EPC 1973 provides that the European Patent Office must 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.
3. Since the text of the patent is at the disposition of the joint patent proprietors (appellants I), their patent cannot be maintained against their will.

During the appeal proceedings appellants I explicitly withdrew their approval of the text of the granted patent. At the same time, they stated that they would not submit an amended text, thereby expressing their intention to prevent any text whatever of the patent from being maintained.

By explicitly declaring that they no longer wished to maintain their requests, appellants I also unequivocally withdrew their approval of the text of

the patent as amended according to any of the then pending auxiliary requests.

There is therefore no text of the patent on the basis of which the board can consider compliance with the requirements of the EPC.

4. In decision T 73/84 (OJ EPO 1985, 241), it was held that, if the proprietor of a European patent states in opposition or appeal proceedings that it no longer approves the text in which the patent was granted and will not be submitting an amended text, the patent is to be revoked. This approach was confirmed *inter alia* by decisions T 186/84 (OJ EPO 1986, 79), T 237/86 (OJ EPO 1988, 261), T 459/88 (OJ EPO, 1990, 425), T 655/01 (not published) and T 1785/16 (not published).
5. In the circumstances of the present case, the board sees no reasons to deviate from the principles set out in the above-mentioned decisions. There are also no remaining issues that would have to be dealt with by the board in the present case. Therefore, the decision under appeal must be set aside and the patent be revoked.
6. Revocation of the patent complies with the requests of all the parties and the present decision can therefore be taken without holding oral proceedings.

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:



N. Schneider

P. Lanz

Decision electronically authenticated