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**Datasheet for the decision
of 12 March 2020**

Case Number: T 2014/19 - 3.2.07

Application Number: 14306112.5

Publication Number: 2966000

IPC: B65D43/02, B65D43/16

Language of the proceedings: EN

Title of invention:

Container

Patent Proprietor:

Clariant Production (France) S.A.S.

Opponent:

CSP Technologies, Inc.

Headword:

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Basis of decision - text or agreement to text withdrawn by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

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

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Case Number: T 2014/19 - 3.2.07

D E C I S I O N
of Technical Board of Appeal 3.2.07
of 12 March 2020

Appellant: CSP Technologies, Inc.
(Opponent) 960 West Veterans Boulevard
Auburn, Alabama 36832 (US)

Representative: Maiwald Patent- und Rechtsanwalts-gesellschaft
mbH
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Elisenstraße 3
80335 München (DE)

Respondent: Clariant Production (France) S.A.S.
(Patent Proprietor) 6, rue Louise Michel
94603 Choisy le Roi (FR)

Representative: Hoffmann Eitle
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81925 München (DE)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 28 June 2019
rejecting the opposition filed against European
patent No. 2966000 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman I. Beckedorf
Members: A. Cano Palmero
S. Watson

Summary of Facts and Submissions

- I. The opponent (appellant) lodged an appeal in the prescribed form and within the prescribed time limit against the decision of the opposition division rejecting the opposition which had been filed against European patent No. 2 966 000.
- II. The patent proprietor (respondent) initially requested that the appeal be dismissed.
- III. In a letter dated 10 March 2020 the patent proprietor referred to Legal Advice no. 11/81 from the European Patent Office (OJ EPO 2/1982, p. 57 and 58) as well as the Board of Appeal Decision T 73/84 (OJ EPO 1985, 241) and stated that they disapprove of the text in which the patent was granted and that they do not submit an amended text. The patent proprietor withdrew all requests currently on file.

Reasons for the Decision

1. Due to the patent proprietor's unconditional declaration of non-approval of the text of the patent as granted, the withdrawal of all pending requests, and the announcement that an amended text for the patent would not be submitted for the maintenance of the patent in amended form, the Board can no longer decide on the appeal on its merits.
2. Article 113(2) EPC allows the European Patent Office to examine and to decide upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent. Since the text of the patent is at the disposal of the patent proprietor, a patent cannot be

maintained against the patent proprietor's will (see Case Law of the Boards of Appeal, 9th edition 2019, IV.D.2, with references to the case law, i.a. decision T 73/84, *supra*).

3. The patent can therefore only be revoked.
4. The present decision is taken without oral proceedings since the withdrawal of all the patent proprietor's requests affects their original request for oral proceedings as well.

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:



G. Nachtigall

I. Beckedorf

Decision electronically authenticated