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**Datasheet for the decision
of 3 August 2023**

Case Number: T 1294/21 - 3.3.08

Application Number: 14790457.7

Publication Number: 3080279

IPC: C12N15/85, C12N9/22

Language of the proceedings: EN

Title of invention:

METHODS AND COMPOSITIONS FOR THE TARGETED MODIFICATION OF A
GENOME

Patent Proprietor:

Regeneron Pharmaceuticals, Inc.

Opponent:

CMS Cameron McKenna Nabarro Olswang LLP

Headword:

Targeted modification of a genome/REGENERON PHARMACEUTICALS

Relevant legal provisions:

EPC Art. 113(1)

Keyword:

Basis of decision - text or agreement to text withdrawn by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

Basis of decision - patent revoked

Decisions cited:

T 0073/84

Catchword:



Beschwerdekammern
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Chambres de recours

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Case Number: T 1294/21 - 3.3.08

D E C I S I O N
of Technical Board of Appeal 3.3.08
of 3 August 2023

Appellant I:
(Patent Proprietor)

Regeneron Pharmaceuticals, Inc.
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Representative:

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Appellant II:
(Opponent)

Hollywood, J.
CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place
78 Cannon Street
London EC4N 6AF (GB)

Representative:

CMS Cameron McKenna Nabarro
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Decision under appeal:

**Interlocutory decision of the Opposition
Division of the European Patent Office posted on
9 June 2021 concerning maintenance of the
European Patent No. 3080279 in amended form**

Composition of the Board:

Chairwoman T. Sommerfeld
Members: D. Pilat
 D. Rogers

Summary of Facts and Submissions

- I. Appeals were filed by both the patent proprietor (Appellant I) and the opponent (Appellant II) against the decision of the opposition division to maintain the patent No. 3 080 279 in amended form according to auxiliary request 1.
- II. At oral proceedings before the board, Appellant I initially requested as a main request that the decision under appeal be set aside and the patent be maintained upon the basis of auxiliary request 1A, or alternatively upon the basis of one of auxiliary requests 1, 2A, 3, 4A, 5A, 6, 7, 8A to 11A, 12, 13, 14A to 17A, and 18 to 37.
- III. Appellant II requested that the decision under appeal be set aside and the patent be revoked in its entirety.
- IV. During the oral proceedings, the patent proprietor withdrew all its requests on file and its approval to the text of the patent as granted. At the end of the oral proceedings, the Chair announced the board's decision.

Reasons for the Decision

1. Under the principle of party disposition established by Article 113(2) EPC, the EPO shall examine, and decide upon, the European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. Such an agreement cannot be deemed to exist if the patent proprietor - as in the present case - expressly

withdraws the consent to the text of the patent, and withdraws all claim requests on file.

3. There is therefore no text of the patent on the basis of which the board can consider the appeal. In these circumstances, the patent is to be revoked, without assessing issues relating to patentability (see decision T 73/84, OJ EPO 1985, 241 and Case Law of the Boards of Appeal of the European Patent Office, 10th edition 2022, III.B.3.3 and IV.D.2).
4. Revocation of the patent is also the main request of the appellant II (section III. above).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairwoman:



L. Malécot-Grob

T. Sommerfeld

Decision electronically authenticated