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**Datasheet for the decision
of 19 March 2024**

Case Number: T 0572/22 - 3.4.03

Application Number: 10842674.3

Publication Number: 2517167

IPC: G07D7/12, G07D7/1205,
G06Q40/00, G06F15/00

Language of the proceedings: EN

Title of invention:

METHOD AND AUTHENTICATION APPARATUS FOR AUTHENTICATING VALUE
DOCUMENTS

Patent Proprietor:

Honeywell International Inc.

Opponent:

Giesecke+Devrient Currency Technology GmbH

Headword:

Relevant legal provisions:

EPC Art. 101, 105a(2), 113(2)

EPC R. 84

Keyword:

Basis of decision - text or agreement to text withdrawn by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

Decisions cited:

T 1467/16, T 0757/17, T 1994/21

Catchword:



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Case Number: T 0572/22 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 19 March 2024

Appellant: Giesecke+Devrient Currency Technology GmbH
(Opponent) Prinzregentenstraße 159
81677 München (DE)

Representative: Giesecke+Devrient IP
Prinzregentenstraße 161
81677 München (DE)

Respondent: Honeywell International Inc.
(Patent Proprietor) 115 Tabor Road
Morris Plains, NJ 07950 (US)

Representative: Crooks, Elizabeth Caroline
Kilburn & Strode LLP
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
4 January 2022 concerning maintenance of the
European Patent No. 2517167 in amended form.**

Composition of the Board:

Chairman T. Häusser
Members: J. Thomas
D. Prietzel-Funk

Summary of Facts and Submissions

- I. This is an appeal by the opponent against the interlocutory decision of the opposition division in which the European patent No. 2 517 167 as amended during the opposition proceedings and the invention to which it relates were found to meet the requirements of the EPC.
- II. The appellant (opponent) requested that the decision under appeal be set aside and the patent be revoked in its entirety. Oral proceedings were requested as an auxiliary measure.
- III. The respondent (patent proprietor) requested in its reply to the statement of grounds of appeal as a main request that the appeal be dismissed or, in the alternative, that the patent be maintained according to one of the first to ninth auxiliary requests filed with the respondent's reply to the statement of grounds of appeal. Oral proceedings were requested as an auxiliary measure.
- IV. In preparation for the oral proceedings scheduled for the 14 May 2024, the board issued a communication under Article 15(1) RPBA expressing its provisional opinion that the appeal was likely to succeed.
- V. With letter of 15 March 2024, the respondent informed the board as follows: "*... the Proprietor no longer wish [sic] to pursue the claims of the main request or the claims of any of the auxiliary requests filed in connection with this appeal. We therefore unconditionally withdraw the above Patent with*

immediate effect". The respondent also withdrew its request for oral proceedings.

VI. The board subsequently cancelled the oral proceedings.

Reasons for the Decision

1. Under Article 113(2) EPC, the European Patent Office decides upon the European patent only in the text submitted to it, or agreed, by the patent proprietor. This principle has to be strictly observed also in opposition and opposition appeal proceedings.
2. Since the text of the patent is at the disposition of the patent proprietor, a patent cannot be maintained against the patent proprietor's will.
3. With letter of 15 March 2024 the respondent clearly stated that it no longer wished to pursue the claims of the main request or the claims of any of the auxiliary requests.
4. The board therefore concludes that the respondent no longer wishes to pursue any of its requests.
5. However, the respondent's statement that the patent is "unconditionally withdrawn" does not have the direct effect of terminating the appeal proceedings. A surrender of a patent is mentioned in Rule 84 EPC as a possibility in national proceedings only but is not provided for in the proceedings before the EPO.
6. Revocation at the request of the patent proprietor during opposition or opposition appeal proceedings is not possible, either, as it is explicitly excluded by Article 105a(2) EPC.

7. Nevertheless, in the interests of legal certainty, the proceedings should be terminated as quickly as possible. The only possibility in such cases is to revoke the patent, as is actually provided for in Article 101 EPC for other reasons and is common practice in the proceedings before the EPO and the Boards of Appeal (*Case Law of the Boards of Appeal of the EPO*, 10th edition 2022, IV.D.2; T 0757/17; T 1994/21; T 1467/16).

8. In view of the above the board concludes that the patent must be revoked.

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:



S. Sánchez Chiquero

T. Häusser

Decision electronically authenticated