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**Datasheet for the decision
of 3 March 2025**

Case Number: T 0920/22 - 3.3.08

Application Number: 13812430.0

Publication Number: 2825654

IPC: C12N15/63

Language of the proceedings: EN

Title of invention:

CRISPR-CAS component systems, methods and compositions for
sequence manipulation

Patent Proprietor:

The Broad Institute, Inc.
Massachusetts Institute of Technology
President and Fellows of Harvard College
The Rockefeller University

Opponents:

Patent Boutique LLP
Schlich, George William
Vossius & Partner
Patentanwälte Rechtsanwälte mbB
Grund, Dr., Martin
Strawman Limited
COHAUSZ & FLORACK Patent- und Rechtsanwälte
Partnerschaftsgesellschaft mbB
Mathys & Squire LLP

Headword:

CRISPR/THE BROAD INSTITUTE,
MASSACHUSETTS INSTITUTE OF TECHNOLOGY
PRESIDENT AND FELLOWS OF HARVARD COLLEGE
THE ROCKEFELLER UNIVERSITY

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by the
patent proprietors

Decisions cited:

T 0073/84, T 0186/84, T 0646/08, T 2434/18

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

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Case Number: T 0920/22 - 3.3.08

D E C I S I O N
of Technical Board of Appeal 3.3.08
of 3 March 2025

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Appellant I: Massachusetts Institute of Technology
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Appellant I: President and Fellows of Harvard College
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Appellant I: The Rockefeller University
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Party as of right: Cohausz & Florack Patent- und Rechtsanwälte
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Representative: Cohausz & Florack
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
25 March 2022 concerning maintenance of the
European Patent No. 2825654 in amended form.**

Composition of the Board:

Chair T. Sommerfeld
Members: M. Montrone
A. Bacchin

Summary of Facts and Submissions

- I. Appeals were lodged by the patent proprietors, opponents 1 to 4 and 7 against the interlocutory decision of an opposition division according to which European patent No. 2 825 654 ("the patent") could be maintained in amended form.
- II. With their statement of grounds of appeal, appellants I (patent proprietors) submitted *inter alia* a main request and 63 auxiliary requests (auxiliary requests 0, 1 to 3, 3b and 4 to 61).
- III. With their statements of grounds of appeal, appellants II to VI (opponents 1 to 4 and 7, respectively) requested *inter alia* that the decision under appeal be set aside and the patent be revoked.
- IV. In reply to the opponents' appeals, appellants I submitted new auxiliary requests 62 to 125. Furthermore, appellants I requested *inter alia* that the patent be maintained on the basis of the main request or alternatively, that the patent be maintained in amended form on the basis of any of auxiliary requests 0, 1 to 3, 3b and 4 to 61 as filed with their statements of grounds of appeal, or that the patent be maintained in amended form on the basis of any of auxiliary requests 62 to 125 filed in reply to the opponents' appeals.
- V. The board appointed oral proceedings and, in a subsequent communication pursuant to Article 15(1) RPBA, provided its preliminary appreciation of some matters concerning the appeal.

- VI. In their letter dated 20 February 2025, appellants I declared that they no longer approved the text of the patent as granted or maintained as amended and they withdrew all requests previously pending in the appeal. They further requested that the patent be revoked and that the board confirmed cancellation of the scheduled oral proceedings and termination of the appeal proceedings by a decision revoking the patent based on the absence of an agreed text.
- VII. The board cancelled the oral proceedings and informed the parties accordingly.

Reasons for the Decision

1. Pursuant to 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 proprietors of the patent.
2. In the present case, the patent proprietors no longer approve the text in which the patent was granted. Furthermore, they have withdrawn all their pending requests, did not submit a further amended text and requested that the patent be revoked. The board understood this withdrawal as including the previously pending request for oral proceedings. There is thus no approved text on the basis of which the board could consider the appeals of the opponents and examine whether a ground for opposition prejudices the maintenance of the patent. It is also no longer possible to take a decision as to substance because the absence of an approved text precludes any substantive examination of the alleged impediments to patentability

(T 186/84, OJ 1986, 79, Reasons 5; T 646/08, Reasons 4 and T 2434/18, Reasons 4). The patent proprietors' statement indeed expresses that they are no longer interested in the continuation of the appeal proceedings.

3. According to the case law of the Boards of Appeal, in these circumstances the proceedings are to be terminated by a decision ordering revocation of the patent under Article 101 EPC without assessing issues relating to patentability. The patent proprietors no longer challenge the opponents' request for revocation of the opposed patent, in fact they even request the patent's revocation. The patent cannot be maintained against the proprietor's will (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).
4. There are no remaining issues that need to be dealt with by the board in the present appeal case.

Order

For these reasons it is decided that:

The decision under appeal is set aside.

The patent is revoked.

The Registrar:

The Chair:



C. Rodríguez Rodríguez

T. Sommerfeld

Decision electronically authenticated