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**Datasheet for the decision  
of 25 April 2024**

**Case Number:** T 1031/22 - 3.5.05

**Application Number:** 14193924.9

**Publication Number:** 2897068

**IPC:** G16H40/63, G16H50/20,  
G16H50/70, A61B5/00, A61B5/145

**Language of the proceedings:** EN

**Title of invention:**

Analyte testing method and system with high and low blood glucose trends notification

**Patent Proprietor:**

Lifescan Scotland Limited

**Opponent:**

Roche Diabetes Care GmbH

**Headword:**

Proprietor withdraws all claim requests/LIFESCAN

**Relevant legal provisions:**

EPC Art. 113(2)

**Keyword:**

Revocation of the patent - (yes): no claims on file

**Decisions cited:**

T 0677/90



**Beschwerdekammern**  
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**Chambres de recours**

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Case Number: T 1031/22 - 3.5.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.05**  
**of 25 April 2024**

**Appellant:** Roche Diabetes Care GmbH  
(Opponent) Sandhofer Strasse 116  
68305 Mannheim (DE)

**Representative:** Altmann Stöbel Dick Patentanwälte PartG mbB  
Theodor-Heuss-Anlage 2  
68165 Mannheim (DE)

**Respondent:** Lifescan Scotland Limited  
(Patent Proprietor) Beechwood Park North  
Inverness IV2 3ED (GB)

**Representative:** Carpmaels & Ransford LLP  
One Southampton Row  
London WC1B 5HA (GB)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
16 February 2022 concerning maintenance of the  
European Patent No. 2897068 in amended form.**

**Composition of the Board:**

**Chair** K. Bengi-Akyürek  
**Members:** E. Konak  
R. Romandini

## Summary of Facts and Submissions

- I. The appeal lies from the decision of the opposition division maintaining the opposed patent in amended form (Article 101(3) (a) EPC).
- II. The appellant (opponent) requested that the decision under appeal be set aside and that the patent be revoked. It further requested the reimbursement of the appeal fee in full (Rule 103(1) (a) EPC).
- III. The respondent (patent proprietor) requested that the appeal be dismissed as its **main request**. As an alternative, it requested that the patent be maintained in amended form according to one of the **auxiliary requests** filed with its written reply to the statement setting out the grounds of appeal.
- IV. The parties were summoned to oral proceedings before the board. A communication was issued under Article 15(1) RPBA including the board's negative preliminary opinion regarding compliance with Article 56 EPC as to all claim requests then on file.
- V. In response to the board's preliminary opinion, the respondent declared that it no longer approved the text for which the patent was granted and withdrew all requests on file. Furthermore, the appellant withdrew its request for the reimbursement of the appeal fee.
- VI. The scheduled oral proceedings were thus cancelled.

## Reasons for the Decision

1. The respondent stated that it no longer approves the text of the patent as granted. Furthermore, it withdrew all the claim requests underlying these appeal proceedings.
2. It follows that there is no text agreed by the respondent upon which the board could decide (cf. Article 113(2) EPC and **T 677/90**). Against this background, the patent is to 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 Chair:



B. Brückner

K. Bengi-Akyürek

Decision electronically authenticated