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**Datasheet for the decision
of 13 February 2025**

Case Number: T 1903/22 - 3.3.02

Application Number: 18180357.8

Publication Number: 3406686

IPC: C09K5/04, C10M171/00

Language of the proceedings: EN

Title of invention:

COMPOSITIONS COMPRISING A FLUOROOLEFIN

Patent Proprietor:

The Chemours Company FC, LLC

Opponent:

ARKEMA FRANCE

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Basis of decision - text or agreement to text withdrawn by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, T 1627/21

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
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Case Number: T 1903/22 - 3.3.02

D E C I S I O N
of Technical Board of Appeal 3.3.02
of 13 February 2025

Appellant: The Chemours Company FC, LLC
(Patent Proprietor) 1007 Market Street
Wilmington DE 19801 (US)

Representative: Abitz & Partner
Postfach 86 01 09
81628 München (DE)

Appellant: ARKEMA FRANCE
(Opponent) 420, Rue d'Estienne d'Orves
92700 Colombes (FR)

Representative: Bandpay & Greuter
11, rue Christophe Colomb
75008 Paris (FR)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
30 May 2022 concerning maintenance of the
European Patent No. 3406686 in amended form.**

Composition of the Board:

Chairman M. O. Müller
Members: S. Bertrand
B. Burm-Herregodts

Summary of Facts and Submissions

- I. The appeals by the opponent and the patent proprietor are against the opposition division's interlocutory decision that European patent No. 3 406 686, amended according to auxiliary request 2 comprising the set of claims filed on 14 January 2021, was found to meet the requirements of the EPC.
- II. The board summoned the parties to oral proceedings as requested and informed them of its preliminary opinion in a communication pursuant to Article 15(1) RPBA.
- III. Oral proceedings before the board took place on 13 February 2025.
- IV. During the oral proceedings, the patent proprietor withdrew its appeal and stated that it no longer approved of the text of the patent as granted or of the claims of all of the main and auxiliary requests on file.

Reasons for the Decision

1. According to the principle of party disposition established by Article 113(2) EPC, the European Patent Office will examine, and decide upon, the European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. In view of the patent proprietor's statement during the oral proceedings (point IV. above), there is no approved text on the basis of which the board could consider the appeal 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 1627/21, point 2 of the Reasons and decisions cited in it).

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 since the patent proprietor no longer challenges the request for revocation of the opposed patent, and the patent cannot be maintained against the proprietor's will (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).

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:



U. Bultmann

M. O. Müller

Decision electronically authenticated