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**Datasheet for the interlocutory decision
of 7 August 2025**

Case Number: T 0246/23 - 3.3.10

Application Number: 16803229.0

Publication Number: 3296282

IPC: C07C17/358, B01J27/125,
B01J27/135, C07C21/18,
C07B61/00

Language of the proceedings: EN

Title of invention:

METHOD FOR PRODUCING HYDROHALOFLUOROOLEFINS

Patent Proprietor:

Central Glass Company, Limited

Opponent:

ARKEMA FRANCE

Headword:

Relevant legal provisions:

EPC Art. 24(3)

Keyword:

Suspicion of partiality - objection admissible (yes)

Decisions cited:

T 1028/96

Catchword:



Beschwerdekammern

Boards of Appeal

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Case Number: T 0246/23 - 3.3.10

I N T E R L O C U T O R Y D E C I S I O N
of Technical Board of Appeal 3.3.10
of 7 August 2025

Appellant:

(Opponent)

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Representative:

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Respondent:

(Patent Proprietor)

Central Glass Company, Limited
5253 Oaza Okiube
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Yamaguchi 755-0001 (JP)

Representative:

Manitz Finsterwald
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Decision under appeal:

**Interlocutory decision of the Opposition
Division of the European Patent Office posted on
12 December 2022 concerning maintenance of the
European Patent No. 3296282 in amended form.**

Composition of the Board:

Chair

P. Gryczka

Members:

R. Pérez Carlón

F. Blumer

Summary of Facts and Submissions

- I. The appellant (opponent) appealed the opposition division's decision concerning maintenance of European patent No. 3 296 828 in the form of auxiliary request 3.
- II. The respondent (patent proprietor) filed with the reply to the grounds of appeal auxiliary requests 3, 3a, 4, 4a, 5 and 5a. Auxiliary request 3 is the main (i.e. the highest ranked) request. Auxiliary request 5b was received on 27 March 2024.
- III. The board informed the parties in a communication in preparation to oral proceedings dated 16 January 2025 that it was of the preliminary view that the methods in claim 1 of all the requests lacked an inventive step and that, in view of that, it did not consider necessary to elaborate on any other issue at that point.
- IV. Oral proceedings before the board of appeal took place on 7 August 2025.

During the oral proceedings, the board announced its conclusion that the method in claim 1 of auxiliary requests 3, 3a, 4 and 4a lacked an inventive step starting from D3.

Upon opening of the debate on auxiliary request 5, the board informed the parties that it was of the preliminary view that the request contravened the principle of no reformatio in peius.

- V. The respondent raised an objection of suspected partiality against all board members. It argued in essence that an objection with respect to the principle of no reformatio in peius could only be raised by another party, and in no case by the board. Since the board raised the objection ex officio it was "on the side" of the opponent/appellant and thus suspected to be partial.

Reasons for the Decision

1. In accordance with the procedure in decision T 1028/96 (OJ EPO 2000, 475), the board in the present composition is competent to examine the admissibility of the objection under Article 24(3) EPC.

If the objection is admissible, the objected members are to be replaced by their alternates and the board in the new composition decides whether it is allowed.

2. The respondent's objection applies to all the members of the board in its original composition. The board in said composition will examine whether the respondent's objection is admissible in view of Article 24(3) EPC.
3. The respondent raised its objection immediately after the board mentioned the issue of reformatio in peius. There is thus no objection arising from the requirement of Article 24(3), second sentence, EPC.

The respondent has not based its objection upon the nationality of the members. No objection arises thus from the requirements of Article 24(3), third sentence, EPC, either.

The respondent has indicated the facts and arguments in support of its objection. The objection is thus sufficiently substantiated.

The appellant's arguments on this issue at the oral proceedings mainly concerned the substance of the objection, which should not be dealt with in this decision.

Order

For these reasons it is decided that:

The objection of suspected partiality on the part of the board members P. Gryczka, R. Pérez Carlón and F. Blumer is admissible.

The Registrar:

The Chair:



K. Boelicke

P. Gryczka

Decision electronically authenticated