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**Datasheet for the decision
of 7 January 2025**

Case Number: T 0365/23 - 3.5.05

Application Number: 10829142.8

Publication Number: 2496720

IPC: G16B20/20, G16H20/40,
G16H50/20, C12Q1/68

Language of the proceedings: EN

Title of invention:

Non-invasive diagnosis of graft rejection in organ transplant patients

Patent Proprietor:

The Board of Trustees of the Leland Stanford
Junior University

Opponents:

- (1) Regimbeau
- (2) J A Kemp LLP

Relevant legal provision:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by
patent proprietor - (yes): patent revoked

Decisions cited:

T 0073/84



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0

Case Number: T 0365/23 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 7 January 2025

Appellant: J A Kemp LLP
(Opponent 2) 80 Turnmill Street
London EC1M 5QU (GB)

Representative: J A Kemp LLP
80 Turnmill Street
London EC1M 5QU (GB)

Respondent: The Board of Trustees of the Leland Stanford
(Patent Proprietor) Junior University
Office of the General Counsel
Building 170, Third Floor, Main Quad
P.O. Box 20386
Stanford, CA 94305-2038 (US)

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

Party as of right: Regimbeau
(Opponent 1) 20, rue de Chazelles
75847 Paris Cedex 17 (FR)

Representative: Regimbeau
20, rue de Chazelles
75847 Paris Cedex 17 (FR)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
14 December 2022 concerning maintenance of the
European Patent No. 2496720 in amended form.**

Composition of the Board:

Chair K. Bengi-Akyürek
Members: E. Konak
F. Blumer

Summary of Facts and Submissions

- I. Opponent 2 (appellant) filed an appeal against the opposition division's interlocutory decision maintaining the opposed patent in amended form.
- II. The appellant requested that the decision under appeal be set aside and that the patent be revoked in its entirety.
- III. In response to the board's preliminary opinion issued under Article 15(1) RPBA, the proprietor (respondent) declared, by its letter dated 3 January 2025, that it no longer approved the text in which the patent had been granted and would not be submitting any further requests.

Reasons for the Decision

1. Pursuant to 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 proprietor of the patent.
2. Such an agreement cannot be deemed to exist where - as in the present case - the proprietor expressly states that it no longer approves the text of the patent and will not be submitting an amended text.
3. Thus, there is no text of the patent on the basis of which the board can consider the appeal. In these circumstances, the proceedings are to be terminated by a decision ordering revocation of the patent, without

examination as to patentability (see e.g. **T 73/84**, OJ EPO 1985, 241).

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