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**Datasheet for the decision
of 16 October 2025**

Case Number: T 1136/23 - 3.3.08

Application Number: 15816598.5

Publication Number: 3227454

IPC: C12P21/00, C12P21/02,
C07K16/00, C07K14/00,
C07K16/24, A61K38/00

Language of the proceedings: EN

Title of invention:

Process for manipulating the level of glycan content of a glycoprotein

Patent Proprietor:

Amgen Inc.

Opponents:

Maiwald GmbH

CABINET LAVOIX

STRAWMAN LIMITED

Withers & Rogers LLP/Wallin Nicholas/Wright Howard

Headword:

Process for manipulating the level of glycan content of a glycoprotein/AMGEN

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by
patent proprietor

Decisions cited:

T 0186/84, T 0646/08, T 0728/11, T 2434/18, T 0477/22

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
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Case Number: T 1136/23 - 3.3.08

D E C I S I O N
of Technical Board of Appeal 3.3.08
of 16 October 2025

Appellant:

(Patent Proprietor)

Amgen Inc.
One Amgen Center Drive
Thousand Oaks, CA 91320-1799 (US)

Representative:

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Respondent I:

(Opponent 1)

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Representative:

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(Opponent 2)

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Respondent III:

(Opponent 3)

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Respondent V: Withers & Rogers LLP/Wallin Nicholas/Wright
(Opponent 5) Howard
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London SE1 2AU (GB)

Representative: Boulton Wade Tennant LLP
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 19 April 2023
revoking European patent No. 3227454 pursuant to
Article 101(3) (b) EPC**

Composition of the Board:

Chairwoman T. Sommerfeld
Members: B. Claes
L. Bühler

Summary of Facts and Submissions

- I. The appeal lodged by the patent proprietor (appellant) lies from the decision of the opposition division revoking European patent No. 3 227 454.
- 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 16 October 2025. During the oral proceedings, the appellant withdrew their consent and agreement under Article 113(2) EPC to the text of the patent as granted, withdrew all requests on file, and indicated that they would not be filing a replacement text.

Reasons for the Decision

- 1. According to the principle of party disposition established by Article 113(2) EPC, the EPO shall examine and decide upon a European patent only in the text submitted to it, or agreed upon, by the proprietor of the patent.
- 2. As the appellant withdrew its approval of any text for the maintenance of the patent under appeal, there is no approved text on the basis of which the board could consider the appeal and examine whether a ground for opposition under Article 100 EPC 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

(see decision T 186/84, OJ EPO 1986, 79, point 5 of the Reasons; T 646/08, point 4 of the Reasons, and T 2434/18, point 4 of the Reasons).

3. In a situation such as the present one, where the patent proprietor has appealed a decision of the opposition division revoking the patent, and where the appeal becomes devoid of subject-matter for substantive examination following the withdrawal of the appellant's agreement to any text for the maintenance of the patent, the appeal proceedings are to be terminated, and the decision under appeal becomes final (see decisions T 728/11, point 3 of the Reasons, and T 477/22, point 3 of the Reasons).

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairwoman:



C. Rodríguez Rodríguez

T. Sommerfeld

Decision electronically authenticated