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**Datasheet for the decision
of 27 June 2025**

Case Number: T 1643/23 - 3.3.02

Application Number: 08251088.4

Publication Number: 2055762

IPC: C10M141/06, C10M141/10,
C10M169/04, C10M133/12,
C10N10/12, C10N30/00, C10N40/25

Language of the proceedings: EN

Title of invention:
Lubricating oil compositions comprising a biodiesel fuel and
an antioxidant

Patent Proprietor:
Chevron Oronite Company LLC

Opponent:
Afton Chemical Corporation

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Basis of decision - text or agreement to text withdrawn by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



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
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Case Number: T 1643/23 - 3.3.02

D E C I S I O N
of Technical Board of Appeal 3.3.02
of 27 June 2025

Appellant: Afton Chemical Corporation
(Opponent) 500 Spring Street
Richmond, Virginia 23219 (US)

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

Respondent: Chevron Oronite Company LLC
(Patent Proprietor) 5001 Executive Parkway
San Ramon, CA 94583 (US)

Representative: Haseltine Lake Kempner LLP
One Portwall Square
Portwall Lane
Bristol BS1 6BH (GB)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 13 July 2023
rejecting the opposition filed against European
patent No. 2055762 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman M. O. Müller
Members: P. O'Sullivan
R. Romandini

Summary of Facts and Submissions

- I. The appeal of the opponent (appellant) lies from the decision of the opposition division to reject the opposition against European patent 2 055 762.
- II. The appellant requested that the contested decision be set aside and that the patent be revoked in its entirety.
- III. The board summoned the parties to oral proceedings as requested and set out its preliminary opinion in a communication pursuant to Article 15(1) RPBA.
- IV. With letter dated 6 June 2025, the patent proprietor (respondent) stated that it no longer approved of the text in which the patent was granted, and thereby withdrew all requests, including the main request (patent as granted) and all auxiliary requests. It also stated that it did not intend to submit any further requests and that it understood that oral proceedings would be cancelled and a decision revoking the patent would be issued.
- V. Oral proceedings before the board scheduled for 3 July 2025 were cancelled.

Reasons for the Decision

1. Pursuant to Article 113(2) EPC, the European Patent Office shall 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 respondent's statement (point IV, above), there is no approved text on the basis of which the board could consider whether a ground for opposition prejudices the maintenance of the patent as granted or whether an amended text complies with the patentability requirements. Hence, it is no longer possible to take a decision as to the patent in substance because the absence of an approved text for the patent precludes any substantive examination of the alleged impediments to patentability. No other issues than the validity of the patent had to be considered by the board in this appeal case.
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 without assessing issues relating to patentability. This is because the respondent no longer challenges the appellant's request for revocation. A European 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