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**Datasheet for the decision  
of 12 September 2025**

**Case Number:** T 1681/23 - 3.3.04

**Application Number:** 06738028.7

**Publication Number:** 1869065

**IPC:** C07K1/18, B01D15/30, B01D15/32,  
B01D15/36, B01D15/38,  
C07K16/06, C07K1/16, C07K1/20,  
C07K1/22

**Language of the proceedings:** EN

**Title of invention:**

A method of weak partitioning chromatography

**Patent Proprietor:**

Wyeth LLC

**Opponents:**

Boult Wade Tennant LLP

Novo Nordisk A/S

Icosa

Margaret Dixon Limited

**Relevant legal provisions:**

EPC Art. 113(2)

**Keyword:**

Basis of decision - text or agreement to text withdrawn by  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

**Decisions cited:**

T 0073/84



**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

Boards of Appeal of the  
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**Case Number: T 1681/23 - 3.3.04**

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.04**  
**of 12 September 2025**

**Appellant I:**

(Patent Proprietor)

Wyeth LLC  
66 Hudson Boulevard East  
New York, NY 10001-2192 (US)

**Representative:**

Pfizer  
European Patent Department  
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**Appellant II:**

(Opponent 1)

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**Representative:**

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Salisbury Square House  
8 Salisbury Square  
London EC4Y 8AP (GB)

**Appellant III:**

(Opponent 2)

Novo Nordisk A/S  
Novo Allé  
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**Representative:**

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**Appellant IV:**

(Opponent 3)

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**Appellant V:**

(Opponent 4)

Margaret Dixon Limited  
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Counterslip Bristol BS1 6BX (GB)

**Representative:** Mewburn Ellis LLP  
Aurora Building  
Counterslip  
Bristol BS1 6BX (GB)

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
19 July 2023 concerning maintenance of the  
European Patent No. 1 869 065 in amended form

**Composition of the Board:**

**Chairwoman** M. Pregetter  
**Members:** B. Rutz  
R. Romandini

## **Summary of Facts and Submissions**

- I. The patent proprietor (appellant I) and opponents 1 to 4 (appellants II to V) filed appeals against the interlocutory decision of the opposition division that European Patent No. 1 869 065 in amended form based on auxiliary request 18 fulfilled the requirements of the EPC.
- II. The patent proprietor (appellant I) requested that the decision under appeal be set aside and the patent be maintained based on the claims of the main request, or, alternatively, based on one of the sets of claims of auxiliary requests 1 to 50.
- III. Opponents 1 to 4 (appellants II to V) requested that the decision under appeal be set aside and the patent be revoked.
- IV. The board appointed oral proceedings as requested by the parties and, in a communication pursuant to Article 15(1) RPBA, provided its preliminary appreciation of some matters concerning the appeal case.
- V. With a letter dated 12 September 2025 the patent proprietor (appellant I) withdrew its agreement to the text of the patent as granted according to Article 113(2) EPC and withdrew all requests pending in the present appeal proceedings.
- VI. The board then cancelled the oral proceedings.

## **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 if the patent proprietor - as in the present case - expressly declares that it withdraws the consent to the text of the patent in the form as granted and withdraws all claim requests on file (see section V. above).
3. There is therefore no text of the patent on the basis of which the board can consider the appeal. In these circumstances, the patent is to be revoked, without assessing issues relating to patentability (see also decision T 73/84, OJ EPO 1985, 241 and Case Law of the Boards of Appeal of the European Patent Office, 11th edition 2025, IV.D.2).
4. There is also no ancillary matter remaining that needs to be dealt with by the board in the present appeal case. The decision can therefore be issued without holding oral proceedings.

## **Order**

### **For these reasons it is decided that:**

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairwoman:



I. Aperribay

M. Pregetter

Decision electronically authenticated