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**Datasheet for the decision  
of 2 April 2025**

**Case Number:** T 1762/23 - 3.5.05

**Application Number:** 18188194.7

**Publication Number:** 3422742

**IPC:** H04R25/00

**Language of the proceedings:** EN

**Title of invention:**

Hearing aid configuration detection

**Patent Proprietor:**

GN Hearing A/S

**Opponent:**

Oticon A/S

**Headword:**

All requests withdrawn/GN HEARING

**Relevant legal provisions:**

EPC Art. 108, 113(2)

EPC R. 101(1)

**Keyword:**

Revocation of the patent - (yes): proprietor withdraws all requests on file

**Decisions cited:**

T 0677/90



**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

Boards of Appeal of the  
European Patent Office  
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**Case Number: T 1762/23 - 3.5.05**

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.05**  
**of 2 April 2025**

**Appellant I:** Oticon A/S  
(Opponent) Kongebakken 9  
2765 Smørum (DK)

**Representative:** Cohausz & Florack  
Patent- & Rechtsanwälte  
Partnerschaftsgesellschaft mbB  
Bleichstraße 14  
40211 Düsseldorf (DE)

**Appellant II:** GN Hearing A/S  
(Patent Proprietor) Lautrupbjerg 7  
2750 Ballerup (DK)

**Representative:** GN Store Nord A/S  
Lautrupbjerg 7  
2750 Ballerup (DK)

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
28 July 2023 concerning maintenance of the  
European Patent No. 3422742 in amended form.

**Composition of the Board:**

**Chair** K. Bengi-Akyürek  
**Members:** K. Peirs  
F. Bostedt

## **Summary of Facts and Submissions**

- I. The opponent's appeal lies from the interlocutory decision of the opposition division to maintain the opposed patent in amended form (Article 101(3) (a) EPC). The opponent requested that the appealed decision be set aside and that the patent be revoked.
- II. The proprietor filed its notice of appeal but failed to submit a statement setting out the grounds of appeal. In the notice of appeal, the proprietor requested that the decision of the opposition division be set aside and that the opposition be rejected.
- III. The board issued a communication under Rule 100(2) EPC including its preliminary opinion.
- IV. In a written reply to the board's communication, the proprietor stated that it withdrew "all requests on file".

## **Reasons for the Decision**

1. The proprietor's appeal is inadmissible since it failed to file an appeal within the prescribed time limit under Article 108, third sentence, EPC (cf. Rule 101(1) EPC).
2. The proprietor's statement indicated in point IV above means in particular that the proprietor withdrew all the claim requests underlying these appeal proceedings, which also includes the withdrawal of the agreement to the text of the claims as granted.

3. It follows that there is no text agreed by the proprietor of the opposed patent upon which the board could decide (cf. Article 113(2) EPC and **T 677/90**).
4. Against this background, the patent is to be revoked.

## **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