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**Datasheet for the decision  
of 18 March 2025**

**Case Number:** T 0102/24 - 3.4.02

**Application Number:** 13153597.3

**Publication Number:** 2660640

**IPC:** G02B21/00, G02B21/16

**Language of the proceedings:** EN

**Title of invention:**

Microscope provided with plural optical units

**Patent Proprietor:**

Olympus Corporation

**Opponent:**

Carl Zeiss Microscopy GmbH

**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Basis of decision - text or agreement to text withdrawn by  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**

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Case Number: T 0102/24 - 3.4.02

**D E C I S I O N**  
**of Technical Board of Appeal 3.4.02**  
**of 18 March 2025**

**Appellant:** Carl Zeiss Microscopy GmbH  
(Opponent) Carl-Zeiss-Promenade 10  
07745 Jena (DE)

**Representative:** Schiffer, Axel Martin  
Rundfunkplatz 2  
80335 München (DE)

**Respondent:** Olympus Corporation  
(Patent Proprietor) 2951 Ishikawa-machi, Hachioji-shi,  
Tokyo 192-8507 (JP)

**Representative:** Schicker, Silvia  
Wuesthoff & Wuesthoff  
Patentanwälte und Rechtsanwalt PartG mbB  
Schweigerstraße 2  
81541 München (DE)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
30 November 2023 concerning maintenance of the  
European Patent No. 2660640 in amended form.**

**Composition of the Board:**

**Chairman** R. Bekkering  
**Members:** A. Hornung  
D. Rogers

## **Summary of Facts and Submissions**

- I. The opponent's (appellant's) appeal is against the Opposition Division's interlocutory decision that European patent No. 2 660 640 (the patent) in the version of the auxiliary request 1 and the invention to which it relates meet the requirements of the EPC.
- II. The appellant requested that the decision under appeal be set aside and the patent be revoked.
- III. In its reply, the patent proprietor (respondent) requested that the decision under appeal be set aside and the patent be maintained as granted or in amended form on the basis of the main request or one of the auxiliary requests 1 to 13.
- IV. Oral proceedings were appointed for 1 October 2025.
- V. In a submission dated 13 March 2025, the patent proprietor withdrew its approval of the text of the patent, and all outstanding requests including its request for oral proceedings, stated that it would not file new requests, and that it understood that the oral proceedings would be cancelled and that the patent would be revoked.
- VI. In view thereof, the oral proceedings were cancelled.

## **Reasons for the Decision**

1. Pursuant to Art. 113(2) EPC, the European Patent Office decides upon the European patent only in the text submitted, or agreed, by the patent proprietor.

2. There is no such agreement if the patent proprietor, as in the present case, expressly withdraw the consent to the text of the patent as granted, and all requests on file (see section V.).
3. Under these circumstances, it is settled case law that the appeal proceedings are terminated and that the patent be revoked without further substantive examination (see decision T 73/84 and Case Law of the Boards of Appeal, 10th edition 2022, sections III.B.3 and IV.D.2).
4. Since the board has no reason to deviate from this case law, the patent must 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 Chairman:



T. Buschek

R. Bekkering

Decision electronically authenticated