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Aktenzeichen / Case Number / N^o du recours : T 157/85
Anmeldenummer / Filing No / N^o de la demande : 79 300 875.6
Veröffentlichungs-Nr. / Publication No / N^o de la publication : 8153

Bezeichnung der Erfindung: Process for recovering oil from subterranean
Title of invention: oil-bearing formations and an emulsion useful
Titre de l'invention : therein

Klassifikation / Classification / Classement : E21B 43/22

ENTSCHEIDUNG / DECISION

vom / of / du 12 May 1986

Anmelder / Applicant / Demandeur :

Patentinhaber / Proprietor of the patent /
Titulaire du brevet :

American Cyanamid Company

Einsprechender / Opponent / Opposant :

Chemische Fabrik Stockhausen GmbH

Stichwort / Headword / Référence :

EPÜ / EPC / CBE

Article 102(3)(a), 113(2)
"Revocation of the European patent"
"Formal request by the proprietor of the patent"

Leitsatz / Headnote / Sommaire

Europäisches
Patentamt

Beschwerdekammern

European Patent
Office

Boards of Appeal

Office européen
des brevets

Chambres de recours



Case Number : T 157 /85

D E C I S I O N
of the Technical Board of Appeal 3.2.1
of 12 May 1986

Appellant :
(Opponent)
02

Chemischen Fabrik Stockhausen GmbH
D-4150 Krefeld

Representative :

Dr. Ing. Gerald Klöpsch
An Gross St. Martin 6
D - 5000 Köln 1

Respondent :
(Proprietor of the patent)

American Cyanamid Company
Berdan Avenue
Wayne
US - New Jersey 06904 (US)

Representative :

Allam, Peter Clerk et. al.
Lloyd Wise, Treagar and Co.
Norman House
105-109 Strand
GB - London WC2R OAE (GB)

Respondent :
(Opponent)
01

BASF Aktiengesellschaft
Carl-Bosch-Strasse 38
D-6700 Ludwigshafen

Decision under appeal :

Decision of Opposition Division of the
European Patent Office dated 22 April 1985
rejecting the opposition filed against
European patent No. 008 153 pursuant to
Article 102(2) EPC.

Composition of the Board :

Chairman : M. Huttner
Member : C. Wilson
Member : C. Payraudeau

Summary of Facts and Submissions

- I. The Opposition Division of the European Patent Office rejected the opposition to European patent No. 0 008 153 granted in response to European patent application No. 79 300 875.6, by a decision dated 22 April 1985.
- II. The Opponents appealed against the decision on 19 June 1985 and paid the fee on 20 June 1985. The statement of grounds was filed on 2 September 1985.
- III. The Opponents request that the European patent be revoked.

In a letter dated 19 March 1986 the proprietors of the patent withdrew their consent to the text of the patent as granted and stated that no amended text would be forwarded.

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is therefore admissible.
2. Article 113(2) EPC requires that the EPO confines its considerations to the text of the European patent "submitted to it, or agreed" by the proprietor.

In their letter of 19 March 1986 the proprietors of the patent have clearly withdrawn their agreement to the text of the patent as granted.

3. The absence of a valid text of the patent precludes any substantive examination of the alleged impediments to patentability (see decision T 186/84, OJ 1986, 79).

Order

For these reasons,

it is decided that :

1. the contested decision is set aside,
2. European patent No. 008 153 is revoked.

The Registrar

B. A. Norman

The Chairman

M. Huttner