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Aktenzeichen / Case Number / N° du recours : T 199/88 - 3.4.1

Anmeldenummer / Filing No / N° de la demande : 81 103 049.3

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Bezeichnung der Erfindung: Water-resistant reversed-phase thin layer  
Title of invention: chromatographic plate and a method for its  
Titre de l'invention : preparation

Klassifikation / Classification / Classement : G01N 30/90

### ENTSCHEIDUNG / DECISION

vom / of / du 17 March 1989

Anmelder / Applicant / Demandeur :

Patentinhaber / Proprietor of the patent /  
Titulaire du brevet :

Shionogi & Co., Ltd.,

Einsprechender / Opponent / Opposant :

Merck Patent GmbH

Stichwort / Headword / Référence :

EPÜ / EPC / CBE Articles 102(3a), 113(2)

Schlagwort / Keyword / Mot clé :

"Revocation of European patent at request  
of the proprietor"

Leitsatz / Headnote / Sommaire

Case Number : T 199 /88 - 3.4.1



**DECISION**  
of the Technical Board of Appeal 3.4.1  
of 17 March 1989

**Appellant :**  
(Opponent)

Merck Patent GmbH  
Frankfurter Strasse 250  
Postfach 41 19  
D-6100 Darmstadt 1

**Representative :**

**Respondent :**  
(Proprietor of the patent)

Shionogi & Co., Ltd.  
5-12-4, Sagisu  
Fukushima-ku  
Osaka, 553  
Japan

**Representative :**

Vossius & Partner  
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**Decision under appeal :**

Decision of Opposition Division of the European  
Patent Office dated 30 March 1988 rejecting  
the opposition filed against European patent  
No. 0 038 571 pursuant to Article 102(2) EPC.

**Composition of the Board :**

**Chairman :** K. Lederer  
**Members :** C. Black  
R. Schulte

## Summary of Facts and Submissions

- I. In a decision dated 30 March 1988 the Opposition Division decided to reject the opposition.
- II. The Appellant appealed against this decision and requested that the patent be revoked.
- III. By letter filed on 7 March 1989 the Respondent informed the Board of Appeal that "the patentee does no longer approve the text in which the patent was granted and does not intend to submit any other text".

## Reasons for the Decision

1. The appeal is admissible.
2. The patentee has made it clear in his letter filed on 7 March 1989 that he wishes the patent to be revoked. Following the principles stated in Decision T 426/86 dated 8 July 1987, in the exercise of its power under Article 111(1) EPC the Board has decided to revoke the European patent.

## Order

For these reasons, it is decided that:

The Decision of the Opposition Division is set aside, and European patent No. 0 038 571 is revoked.

The Registrar:

The Chairman:

F. Klein

K. Lederer