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Aktenzeichen / Case Number / N^o du recours : T 533/88 - 3.4.1

Anmeldenummer / Filing No / N^o de la demande : 82 201 070.8

Veröffentlichungs-Nr. / Publication No / N^o de la publication : 0 072 601

Bezeichnung der Erfindung: Respiration monitor
Title of invention:
Titre de l'invention :

Klassifikation / Classification / Classement : A61B 5/08, A61B 5/00, A61B 5/05,
A61B 6/00, H05G 1/00

ENTSCHEIDUNG / DECISION

vom / of / du 6 November 1989

Anmelder / Applicant / Demandeur :

Patentinhaber / Proprietor of the patent /
Titulaire du brevet :

Kearns, Kenneth Layne

Einsprechender / Opponent / Opposant :

Biotronik Meß- und Therapiegeräte GmbH

Stichwort / Headword / Référence :

Abandoned patent/Kearns

EPÜ / EPC / CBE

Article 111(1) EPC

Schlagwort / Keyword / Mot clé :

"Revocation on the request of proprietor"

Leitsatz / Headnote / Sommaire



Case Number : T 533 /88 - 3.4.1

D E C I S I O N
of the Technical Board of Appeal 3.4.1
of 13 November 1989

Appellant : Biotronik Meß- und Therapiegeräte GmbH & Co.
(Opponent) Ingenieurbüro Berlin
Woermannkehe 1
D-1000 Berlin 47
(DE)

Representative : Christiansen, Henning, Dipl.-Ing.
Dietrich-Schäfer-Weg 21
D-1000 Berlin 41
(DE)

Respondent : Kearns, Kenneth Layne
(Proprietor of the patent) 12822 North 26th Drive Phoenix
Maricopa, Arizona
(US)

Representative : Boydell, John Christopher
Stevens, Hewlett & Perkins
5 Quality Court
Chancery Lane
London, WC2A 1HZ
(GB)

Decision under appeal : Decision of Opposition Division of the European
Patent Office dated 21 September 1988 rejecting
the opposition filed against European patent
No. 0 072 601 pursuant to Article 102(2) EPC.

Composition of the Board :

Chairman : J. Roscoe

Members : E. Turrini

C. Payraudeau

Summary of Facts and Submissions

- I. In a decision dated 21 September 1988 the Opposition Division rejected the Opposition filed against European patent No. 0 072 601 granted upon the subject-matter of European patent application No. 82 201 070.8.
- II. The Appellant appealed against the decision and filed a Statement of Grounds in which he requested that the patent be revoked.
- III. In a letter received on 10 October 1989, the representative of the Appellant stated "... we confirm that we wish the above patent to be revoked ...".

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.
2. The patentee has made it clear in his letter received on 10 October 1988 that he wishes his patent to be revoked. The Board can therefore in the exercise of its power under Article 111(1) EPC decide to revoke the European patent (see Decision T 237/86, OJ EPO 1988, 261).

Order

For these reasons, it is decided that:

The decision of the Opposition Division dated 21 September 1988 is set aside and European patent No. 0 072 601 is revoked.

The Registrar:

The Chairman:

M. Beer

J. Roscoe