

Publication in the Official Journal Yes / ~~No~~

File Number: T 463/90 - 3.2.1
Application No.: 83 113 205.5
Publication No.: 0 120 143
Title of invention: Trailer braking system

Classification: B60T 13/66

D E C I S I O N
of 2 September 1991

Proprietor of the patent: Rockwell International Corporation
Opponent: Wabco Westinghouse Fahrzeugbremsen GmbH

Headword:

EPC Art. 111(1), 113(2)

Keyword: "Revocation requested by the proprietor of the patent"

Headnote



Case Number : T 463/90 - 3.2.1

D E C I S I O N
of the Technical Board of Appeal 3.2.1
of 2 September 1991

Appellant :
(Opponent)

WABCO Westinghouse
Fahrzeugbremsen GmbH
Postfach 91 12 80
Am Lindener Hafen 21
W-3000 Hannover 91 (DE)

Respondent :
(Proprietor of the patent)

Rockwell International Corporation
600 Grant Street
Pittsburg, Pennsylvania 15219 (US)

Representative :

Schwepfinger, Karl-Heinz, Dipl.-Ing.
Prinz, Leiser, Bunke & Partner
Manzingerweg 7
W-8000 München 60 (DE)

Decision under appeal :

Decision of Opposition Division of the European
Patent Office dated 14 February 1990, posted on
19 April 1990 rejecting the opposition filed
against European patent No. 0 120 143 pursuant to
Article 102(2) EPC.

Composition of the Board :

Chairman : F. Gumbel
Members : P. Alting van Geusau
M. Schar

Summary of Facts and Submissions

- I. In its decision issued at the oral proceedings of 14 February 1990 and posted in written form on 19 April 1990 the Opposition Division rejected the opposition filed against European patent No. 0 120 143 granted on the subject-matter of European patent application No. 83 113 205.5.
- II. The Appellant (Opponent) appealed against the decision of the Opposition Division on 8 June 1990, requesting that the patent be revoked. The appeal fee was also paid on 8 June 1990 and the Statement of Grounds of Appeal filed on 16 August 1990.
- III. In a letter dated 23 August 1991 the Respondent (Proprietor) requested revocation of the patent in response to a communication of the Board issued together with the summons to oral proceedings.

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.
2. The Respondent's request for revocation of their European patent has to be construed as a statement meaning that they no longer approve of the text in which the patent was granted and that they also refrain from submitting an amended text (cf. decision T 186/84, OJ 1986, 79).
3. Since it follows from the provision according to Article 113(2) EPC that a European patent cannot be maintained against the proprietor's will, the present European patent has, therefore, to be revoked (cf. T 73/84, OJ 1985, 241).

Order

For these reasons, it is decided that:

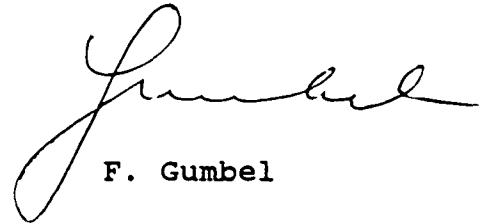
1. The decision under appeal is set aside.
2. The European patent No. 0 120 143 is revoked.

The Registrar:



S. Fabiani

The Chairman:



F. Gumbel