

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

File Number: T 904/90 - 3.3.3

Application No.: 81 301 834.8

Publication No.: 0 063 655

Title of invention: Process for carburizing ferrous metals

Classification: C23C 8/20

DECISION  
of 26 February 1992

Proprietor of the patent: AIR PRODUCTS AND CHEMICALS, INC.

Opponents:

- 01 L'AIR LIQUIDE, S.A. pour l'étude et l'exploitation des procédés Georges Claude
- 02 Linde A.G.

Headword:

EPC Articles 102(3)(a), 111(1), 113(2)

Keyword: "Revocation of European patent at request of the proprietor"

Headnote



Case Number : T 904/90 - 3.3.3

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.3  
of 26 February 1992

**Appellant:**  
(Opponent 02)

Linde Aktiengesellschaft, Wiesbaden  
Zentrale Patentabteilung  
W-8023 Höllriegelskreuth (DE)

**Other party:**  
(Opponent 01)

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**(Representative)**

Vesin, Jacques  
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DES PROCÉDES GEORGES CLAUDE  
75 quai d'Orsay  
F-75321 Paris Cédex 07 (FR)

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

AIR PRODUCTS AND CHEMICALS; INC.  
P.O. Box 538  
Allentown, Pennsylvania 18105 (US)

**Representative :**

Sandmair, Kurt, Dr.  
Patentanwälte  
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**Decision under appeal :**

Interlocutory decision of the Opposition Division  
of the European Patent Office dated  
9 August 1990, posted on 14 September 1990  
concerning maintenance of European patent  
No. 0 063 655 in amended form.

**Composition of the Board :**

**Chairman :** F. Antony  
**Members :** R. Lunzer  
M. Auz Castro

### Summary of Facts and Submissions

- I. In a decision dated 9 August 1990, with written reasons posted on 14 September 1990 the Opposition Division rejected the Opposition filed against European patent No. 0 063 655 granted upon the subject-matter of European patent application No. 81 301 834.8.
- II. On 13 November 1990 the Appellant (Opponent 02) appealed against the decision and paid the appropriate fee. On 23 January 1991 he filed a Statement of Grounds in which he requested that the patent be revoked.
- III. In a letter dated 19 February 1992 the representative of the patentee stated "... herewith the patentee respectfully requests to revoke the patent".

### 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 through his representative 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 in accordance with Articles 102(3)(a) and 113(2) (see Decision T 237/86, OJ EPO 1988, 261).

Order

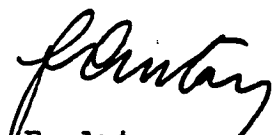
For these reasons, it is decided that:

- 1. The decision of the Opposition Division is set aside.
- 2. The patent is revoked.

The Registrar:

The Chairman:

  
 E. Gorgmaier

  
 F. Antony

Pal. 5.3.92  
 ME 9.3.92