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PATENTAMTS

BOARDS OF APPEAL OF
THE EUROPEAN PATENT
OFFICE

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D E C I S I O N
of 28 August 1995

Case Number: T 0816/91 - 3.2.2

Application Number: 86107851.7

Publication Number: 0206081

IPC: C22B 58/00

Language of the proceedings: EN

Title of invention:
Recovery of gallium

Patentee:
SUMITOMO CHEMICAL COMPANY, LIMITED

Opponent:
RHONE-POULENC CHIMIE

Headword:
-

Relevant legal provisions:
EPC Art. 102(s)(a), 113(2)

Keyword:
"Proprietor's request for revocation of the patent"

Decisions cited:
T 0073/84

Catchword:
-



Case Number: T 0816/91 - 3.2.2

D E C I S I O N
of the Technical Board of Appeal 3.2.2
of 28 August 1995

Appellant:
(Opponent)

RHONE-POULENC CHIMIE
25, Quai Paul Doumer
F-92408 Courbevoie Cedex (FR)

Representative:

Esson, Jean-Pierre
RHONE-POULENC CHIMIE
Direction de la Propriété Industrielle
25, quai Paul Doumer
F-92408 Courbevoie Cédax (FR)

Respondent:
(Proprietor of the patent)

SUMITOMO CHEMICAL COMPANY, LIMITED
Kitahama 4-chome 5-33
Chuo-ku
Osaka 541 (JP)

Representative:

Blumbach Weser Bergen Kramer
Zwirner Hoffmann
Patentanwälte
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D-81245 München (DE)

Decision under appeal:

**Decision of the Opposition Division of the
European Patent Office dated 13 August 1991
rejecting the opposition filed against European
patent No. 0 206 081 pursuant to Article 102(2)
EPC.**

Composition of the Board:

Chairman: H. J. Seidenschwarz
Members: R. A. Lunzer
J. C. M. De Preter

Summary of Facts and Submissions

- I. In a decision dated 13 August 1991 the Opposition Division rejected the opposition filed against European patent No. 0 206 081.

- II. The Appellant appealed against this decision by a letter filed on 21 October 1991 paid the fee for appeal on the same date and filed a Statement of Grounds of Appeal on 11 December 1991 in which he requested that the patent be revoked.

- III. In a reply dated 19 August 1995 to a facsimile of the Registry that the Board intended to summon the parties to attend oral proceedings in January 1996 the Respondent stated as follow:

"The patentee is no longer interested in maintaining the above referenced patent and did therefore not pay the annuity fees which became due in the designated countries. If not yet lapsed, the patentee requests revocation of the European patent."

The EPO has not been informed of the lapse of the patent in the designated states so that the Board has only to deal with the request of revocation of the European patent in suit.

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.
2. 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 EPO 1985, 241).

Order

For these reasons it is decided that:

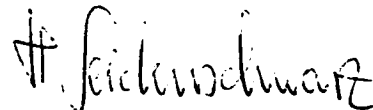
1. The decision under appeal is set aside.
2. The European patent No. 0 206 081 is revoked.

The Registrar:



S. Fabiani

The Chairman:



H. Seidenschwarz

