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THE EUROPEAN PATENT  
OFFICE

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(C) [X] To Chairmen

**D E C I S I O N**  
of 13 June 1994

**Case Number:** T 0070/94 - 3.4.2

**Application Number:** 85304741.3

**Publication Number:** 0168211

**IPC:** G01F 23/60

**Language of the proceedings:** EN

**Title of invention:**

Device for detecting the level of a liquid contained in a tank

**Patentee:**

Ing. C. Olivetti & C., S.p.A.

**Opponent:**

VDO Adolf Schindling AG

**Headword:**

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**Relevant legal norms:**

EPC Art. 113(2), 111(1), 102

**Keyword:**

"Patent revoked as consequence of patentee stating: 'We withdraw the patent application'"

**Decisions cited:**

T 0264/84, T 0677/90, T 0370/91, T 0237/86

**Headnote/Catchword:**



Case Number: T 0070/94 - 3.4.2

**D E C I S I O N**  
of the Technical Board of Appeal 3.4.2  
of 13 June 1994

**Appellant:** VDO Adolf Schindling AG  
(Opponent) Gräfstrasse 103  
D-60487 Frankfurt (DE)

**Representative:** Zmyj, Erwin, Dipl.-Ing.  
Rosenheimer Strasse 52  
D-81669 München (DE)

**Respondent:** Ing. C. Olivetti & C., S.p.A.  
(Proprietor of the patent) Via G. Jervis 77  
I-10015 Ivrea, Torino (IT)

**Representative:** Abnett, Richard Charles  
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**Decision under appeal:** Decision of the Opposition Division of the  
European Patent Office dated 10 December 1993  
rejecting the opposition filed against European  
patent No. 0 168 211 pursuant to Article 102(2)  
EPC.

**Composition of the Board:**

**Chairman:** E. Turrini  
**Members:** R. Zottmann  
M. Lewenton

## Summary of Facts and Submissions

- I. An appeal was lodged by the Appellant (Opponent) against the decision of 10 December 1993 of the Opposition Division which rejected the opposition against European patent No. 0 168 211 (application No. 85 304 741.3), requesting that said decision be set aside and the patent be revoked.
- II. In a letter dated 4 May 1994, the Respondent (Patentee) stated the following: "We ... hereby withdraw the above numbered European patent application. This withdrawal should now terminate the appeal proceedings."

## Reasons for the Decision

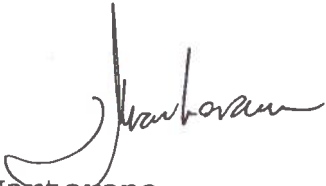
1. The appeal is admissible.
2. Although the respondent stated in said letter that he withdrew his **application**, the Board in accordance with the jurisprudence of the Boards of Appeal (see for example decisions T 0264/84, T 0677/90 and T 0370/91, all unpublished) interprets this statement as meaning that he no longer wishes his **patent** to be maintained and he therefore requests its revocation (Art. 113(2) EPC).
3. Following the principles stated in decision T 0237/86 (OJ EPO 1988, from p. 261 on), the Board in the exercise of its power under Article 111(1) EPC decides to revoke the European patent (Article 102 EPC).

**Order**

**For these reasons, it is decided that:**

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:



P. Martorana

The Chairman:



E. Turrini

