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D E C I S I O N
of 17 June 1998

Case Number: T 0525/94 - 3.3.1

Application Number: 86108266.7

Publication Number: 0206228

IPC: C09K 19/42

Language of the proceedings: EN

Title of invention:
Ferroelectric chiral smectic liquid crystal composition and light switching element

Patentee:
Chisso Corporation

Opponent:
Hoechst Aktiengesellschaft
BSG Technische Beratungs-Gesellschaft mbH, Esslingen

Headword:
Inadmissible appeal/BSG

Relevant legal provisions:
EPC Art. 99(1), 107, first sentence

Keyword:
"Company deleted from register - appeal inadmissible"

Decisions cited:
G 0008/91

Catchword:
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Case Number: T 0525/94 - 3.3.1

D E C I S I O N
of the Technical Board of Appeal 3.3.1
of 17 June 1998

Appellant:
(Opponent 01)

Hoechst Aktiengesellschaft
Zentrale Patentabteilung
Postfach 80 03 20
65903 Frankfurt (DE)

Representative:

Féaux de Lacroix, Stefan, Dr.
Bardehle-Pagenberg-Dost-Altenburg-
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Theodor-Heuss-Anlage 12
68165 Mannheim (DE)

Appellant:
(Opponent 02)

BSG Technische Beratungs-Gesellschaft mbH
Esslingen
Gewerbestrasse 4
85652 Pliening (DE)

Representative:

Fechner, Joachim, Dr.-Ing.
Im Broeltal 118
53773 Hennef (DE)

Respondent:
(Proprietor of the patent)

Chisso Corporation
6-32, Nakanoshima 3-chome
Kitaku
Osaka (JP)

Representative:

Hoffmann, Klaus, Dr. rer. nat.
Hoffmann Eitle
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Decision under appeal: **Interlocutory decision of the Opposition Division of the European Patent Office posted 26 April 1994 concerning maintenance of European patent No. 0 206 228 in amended form.**

Composition of the Board:

Chairman: A. J. Nuss
Members: R. E. Teschemacher
J. M. Jonk

Summary of Facts and Submissions

I. Both appeals contested the interlocutory decision of the Opposition Division dated 26 April 1994 concerning maintenance of the European patent No. 0 206 228 in amended form.

II. In a letter dated 19 February 1998, the Respondent (Patentee) submitted that Appellant 02 (Opponent 02) no longer existed, as the company had been removed from the register. The result of a search was attached showing the following entry in the commercial register of Esslingen a.N.:

"22.11.1996: BSG Technische Beratungsgesellschaft mbH in Liquidation (=i.L.), Essligen a.N. Die Liquidation ist beendet. Die Firma ist erloschen."

The Respondent requested that this appeal be rejected as inadmissible.

III. In a communication dated 9 March 1998, the Board invited Appellant 02 to establish that it was still a legal person.

IV. By letter dated 18 March 1998, Appellant 01 (Opponent 01), withdrew its appeal.

V. In a further communication dated 20 March 1998, the parties were informed that, considering the Respondent's submissions and Appellant 02's failure to establish that it was still a legal person, the Board had to assume that Appellant 02 could no longer be a party to the proceedings.

Reasons for the decision

1. From the Respondent's submissions it appears that Appellant 02 is no longer a legal person. These submissions have not been contested and the Board has no reason to question them. Only a natural or legal person can be a party to opposition proceedings (Article 99(1) EPC; *Lunzer/Singer*, The European Patent Convention, London 1995, 99.02). This applies also to the opposition proceedings at the appeal stage since Article 107, first sentence, EPC does not provide for different requirements in this respect (Rule 66(1) EPC). Therefore, Appellant 02 can no longer be a party to the proceedings and its appeal has become inadmissible.

2. The remaining appeal filed by Appellant 01 has been withdrawn. If the sole appeal is withdrawn opposition proceedings are terminated in respect of the substantive issues settled by the decision of the Opposition Division (G 8/91, OJ EPO 1993, 346).

Order

For these reasons it is decided that:

1. The appeal filed by Appellant 02 is rejected as inadmissible.

2. The appeal proceedings are terminated.

The Registrar: The Chairman:

E. Görgmaier A. Nuss