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**D E C I S I O N**  
**of 1 February 1996**

**Case Number:** T 0174/95 - 3.4.2

**Application Number:** 88116698.7

**Publication Number:** 0362436

**IPC:** B01D 53/22

**Language of the proceedings:** EN

**Title of invention:**

Improved membrane separation system and process

**Patentee:**

PRAXAIR TECHNOLOGY, INC.

**Opponent:**

L'AIR LIQUIDE. S.A. pour l'étude et l'exploitation des procédés  
Georges Claude

**Headword:**

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**Relevant legal provisions:**

EPC Art. 102(3)(a), 113(2)

**Keyword:**

"No approved text: decision under appeal (revocation of the  
patent) confirmed

**Decisions cited:**

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**Catchword:**

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Case Number: T 0174/95 - 3.4.2

**D E C I S I O N**  
**of the Technical Board of Appeal 3.4.2**  
**of 1 February 1996**

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

PRAXAIR TECHNOLOGY, INC.  
39 Old Ridgebury Road  
Danbury  
CT 06810-5113 (US)

**Representative:**

Schwan, Gerhard, Dipl.-Ing.  
Elfenstrasse 32  
D-81739 München (DE)

**Respondent:**  
(Opponent)

L'AIR LIQUIDE, S.A.  
pour l'étude et l'exploitation  
des procédés Georges Claude  
75 Quai d'Orsay  
F-75321 Paris (FR)

**Representative:**

Le Moenner, Gabriel  
L'AIR LIQUIDE, Société Anonyme  
pour l'étude et l'exploitation  
des procédés Georges Claude  
75, Quai d'Orsay  
F-75321 Paris Cédex 07 (FR)

**Decision under appeal:**

Decision of the Opposition Division of the  
European Patent Office posted 19 December 1994  
revoking European patent No. 0 362 436 pursuant to  
Article 102(1) EPC.

**Composition of the Board:**

**Chairman:** E. Turrini  
**Members:** R. Zottmann  
L. C. Mancini

### **Summary of Facts and Submissions**

- I. The Opposition Division decided to revoke the European patent No. 0 362 436 (application No. 88 116 698.7).
- II. The Patentee lodged an appeal against said decision and requested to set aside said decision and to maintain the patent as granted.
- III. In a letter dated 18 December 1995, the Appellant (Patentee) put forward that he no longer approves the text in which the patent was granted and also does not intend to submit an amended text.

### **Reasons for the Decision**

1. The appeal is admissible.
2. Since the Appellant does not agree with the text of the patent and does not intend to submit an amended text, no text agreed by the Appellant exists or will exist. As a consequence of Articles 113(2) and 102(3)(a) EPC, the patent cannot be maintained and the decision under appeal has to be confirmed (see decision T 73/84, OJ EPO 1985, 241).

**Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:

P. Martorana

E. Turrini