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D E C I S I O N
of 25 March 1998

Case Number: T 0007/97 - 3.2.4

Application Number: 91201159.0

Publication Number: 0459558

IPC: A22C 25/14

Language of the proceedings: EN

Title of invention:
Apparatus for proceedings flatfish

Patentee:
Meyn B.V.

Opponent:
Lumetech A/S

Headword:
-

Relevant legal provisions:
EPC Art. 102(3a), 113(2)

Keyword:
"Revocation at the request of the proprietor"

Decisions cited:
T 0186/84, T 0073/84, T 0237/86, T 0459/88

Catchword:
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Boards of Appeal

Chambres de recours

Case Number: T 0007/97 - 3.2.4

D E C I S I O N
of the Technical Board of Appeal 3.2.4
of 25 March 1998

Appellant:
(Opponent)

Lumetech A/S
Tuborg Havnevej 7
2900 Hellerup (DK)

Representative:

Wittrup, Flemming
c/o Hofmann-Bang & Boutard
Lehmann & Ree A/S
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Respondent:
(Proprietor of the patent)

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Representative:

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Decision under appeal:

Decision of the Opposition Division of the
European Patent Office posted 18 October 1996
rejecting the opposition filed against European
patent No. 0 459 558 pursuant to Article 102(2)
EPC.

Composition of the Board:

Chairman: C. A. J. Andries
Members: R. E. Gryc
M. Lewenton

Summary of Facts and Submissions

I. The Appellant (Opponent) lodged an appeal on 18 December 1996 against the decision of the Opposition Division, dated 18 October 1996, to reject the opposition against European patent No. 0 459 558.

The appeal fee was paid on 18 December 1996 and the statement setting out the grounds of appeal was filed on 28 February 1997.

The Appellant requested that the patent be revoked.

II. In a letter dated 9 March 1998, the Respondent (proprietor of the patent) stated that he withdraws the patent.

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.
2. The Respondent's statement that he withdraws the patent has been interpreted by the Board as a request for revocation of the patent.
3. According to established jurisprudence of the Boards of Appeal (see for example T 73/84, OJ EPO 1985, 241; T 186/84, OJ EPO 1986, 79; T 237/86, OJ EPO 1988, 261 and T 459/88, OJ EPO 1990, 425), when both the Appellant and the Respondent are agreed that the patent should be revoked, which is presently the case, the Board may exercise its power under Article 111(1) EPC to revoke the patent.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The European patent No. 045 558 is revoked.

The Registrar:



N. Maslin

The Chairman:



C. Andries

R.G.



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