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**Datasheet for the decision
of 26 August 2024**

Case Number: T 2402/22 - 3.2.04

Application Number: 15717871.6

Publication Number: 3253702

IPC: B66B1/46

Language of the proceedings: EN

Title of invention:

ARRANGEMENT AND METHOD FOR ALLOCATING DESTINATION CALLS

Patent Proprietor:

Kone Corporation

Opponent:

Otis Elevator Company

Headword:

Relevant legal provisions:

EPC Art. 111(1)

Keyword:

Revocation of the patent following statement of abandonment by the proprietor

Decisions cited:

T 0237/86

Catchword:



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Case Number: T 2402/22 - 3.2.04

D E C I S I O N
of Technical Board of Appeal 3.2.04
of 26 August 2024

Appellant: Otis Elevator Company
(Opponent) One Carrier Place
Farmington, Connecticut 06032 (US)

Representative: Dehns
St. Bride's House
10 Salisbury Square
London EC4Y 8JD (GB)

Respondent: Kone Corporation
(Patent Proprietor) Kartanontie 1
00330 Helsinki (FI)

Representative: Glück Kritzenberger Patentanwälte PartGmbH
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
23 August 2022 concerning maintenance of the
European Patent No. 3253702 in amended form.**

Composition of the Board:

Chairman J. Wright
Members: S. Hillebrand
T. Bokor

Summary of Facts and Submissions

- I. The appeal was filed by the appellant (opponent) against the interlocutory decision of the opposition division finding that, on the basis of the [new] auxiliary request I, filed at the oral proceedings before the opposition division, the patent in suit met the requirements of the EPC.
- II. In its statement of grounds of appeal, the appellant-opponent requested that the decision under appeal be set aside and that the patent be revoked. In its reply to the appeal dated 21 March 2024, the respondent-proprietor requested that the appeal be rejected, which the Board understood to mean that the opponent's appeal be dismissed. In the alternative, the respondent-proprietor requested that the patent be maintained in amended form according to one of auxiliary requests II to VIII.
- III. A summons to oral proceedings was issued on 2 January 2024.
- IV. In a communication pursuant to Article 15(1) RPBA, the parties were informed of the Board's provisional opinion on the issues of the appeal.
- V. In a letter dated 20 August 2024, received on 23 August 2024, the respondent-proprietor indicated that it would not participate in the scheduled oral proceedings and stated "we herewith irrevocably drop the European Patent EP 3 253 702".

VI. Oral proceedings before the Board were held by video conference on 26 August 2024, in the absence of the respondent-proprietor.

Reasons for the Decision

1. The appeal is admissible.
2. In the Board's view, the statement made by the respondent-proprietor in its letter dated 20 August 2024 that "we irrevocably drop the European Patent EP 3 253 702" was a clear indication that it wished to abandon the European patent. In accordance with established jurisprudence (see Case Law of the Boards of Appeal, 10th edition, 2022 (CLBA) IV. D. 2, in particular T0237/86, headnote and reasons 4) a statement of abandonment of a patent, whatever the form of words used, is to be interpreted as a request that the patent be revoked. In the present case, the use of the word "irrevocably" demonstrates to the Board that the respondent-proprietor was well aware of the serious and irreversible legal consequences of its statement.
3. This can but mean that the respondent-proprietor no longer maintains its previous requests for maintenance of the patent in any form but rather requests, as does the appellant-opponent, that the impugned decision be set aside and that the patent be revoked.
4. Since the proprietor itself requests revocation and there are no other issues to consider, the decision to revoke the patent can be given without examination of the substantive issues.
5. Accordingly, having regard to the respondent proprietor's letter dated 20 August 2024, the Board has

decided to exercise its power under Article 111(1) EPC
by revoking the patent.

Order

For these reasons it is decided that:

The decision under appeal is set aside.

The patent is revoked.

The Registrar:

The Chairman:



A. Chavinier-Tomsic

J. Wright

Decision electronically authenticated