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D E C I S I O N
of 5 October 2005

Case Number: T 1197/01 - 3.3.9

Application Number: 93924080.0

Publication Number: 0666716

IPC: A23L 1/236

Language of the proceedings: EN

Title of invention:

Low Fat Spread

Patentee:

UNILEVER PLC/UNILEVER N.V.

Opponent:

LEHERTE, Georges IP Management sprl

Headword:

-

Relevant legal provisions:

EPC R. 60(1), 66(1)

Keyword:

"National patents lapsed in all designated States"
"Termination of appeal proceedings"

Decisions cited:

G 0001/90

Catchword:

-



Case Number: T 1197/01 - 3.3.9

D E C I S I O N
of the Technical Board of Appeal 3.3.9
of 5 October 2005

Appellant: LEHERTE, Georges IP Management sprl
(Opponent) Rue H. van Zuylen 78, bte 17
B-1180 Uccle, Brussels (BE)

Representative: -

Respondents: UNILEVER PLC
(Proprietors of the patent) Unilever House
Blackfriars
London EC4P 4BQ (GB)

UNILEVER N.V.
Weena 455
NL-3013 AL Rotterdam (NL)

Representative: Boerma, Caroline, et al
UNILEVER N.V.
Unilever Intellectual Property Group
Olivier van Noortlaan 120
NL-3133 AT Vlaardingen (NL)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 21 September 2001
rejecting the opposition filed against European
patent No. 0666716 pursuant to Article 102(2)
EPC.

Composition of the Board:

Chairman: P. Kitzmantel
Members: J. Jardón Alvarez
M.-B. Tardo-Dino

Summary of Facts and Submissions

- I. This appeal lies from the decision of the Opposition Division dated 21 September 2001, rejecting the opposition against the European patent EP-B-0 666 716.
- II. The Notice of Appeal was filed on 2 November 2001 and the appeal fee was paid on the same day. The Statement setting out the Grounds of Appeal was filed with letter received on 28 December 2001.
- III. In a letter dated 9 May 2005, the Respondent (Patent Proprietor) submitted "that the patent has lapsed in all contracting states".
- IV. By a communication dated 30 June 2005, the Board notified the parties that the appeal proceedings would be closed in accordance with the provisions of Rule 60(1) EPC in combination with Rule 66(1) EPC, unless a request for continuation of the proceedings were filed by the Appellant/Opponent within two months.
- V. A request for continuation of the proceedings was not filed.

Reasons for the Decision

1. After the lapse of a European patent for all the designated States and in the absence of a request for continuation of the proceedings, the proceedings are not continued (Rule 60(1) EPC in combination with Rule 66(1) EPC), ("special case" of closure of the

opposition proceedings, see G 1/90, OJ EPO, 1991, 275, point 7, of the reasons)

2. In the present case, the Respondent stated that the patent has lapsed in all contracting States, and the Appellant has not requested the continuation of the proceedings.

Therefore, there is no legal basis for a continuation of the appeal proceedings.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:

G. Röhn

P. Kitzmantel