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**D E C I S I O N**  
**of 18 June 2003**

**Case Number:** T 0259/03 - 3.2.6

**Application Number:** 94905418.3

**Publication Number:** 0735848

**IPC:** A61F 13/15

**Language of the proceedings:** EN

**Title of invention:**  
Tampon

**Patentee:**  
TAMBRANDS, INC.

**Opponents:**  
Kimberly-Clark Corporation  
NcNeil-PPC, Inc.

**Headword:**  
-

**Relevant legal provisions:**  
EPC Art. 108  
EPC R. 65(1)

**Keyword:**  
"Missing statement of grounds"

**Decisions cited:**  
-

**Catchword:**  
-



Case Number: T 0259/03 - 3.2.6

**D E C I S I O N**  
**of the Technical Board of Appeal 3.2.6**  
**of 18 June 2003**

**Appellant:** TAMBRANDS, INC.  
(Proprietor of the patent) 777 Westchester Avenue  
White Plains  
New York 10604 (US)

**Representative:** Boon, Graham Anthony  
Elkington and Fife  
Prospect House  
8 Pembroke Road  
Sevenoaks  
Kent TN13 1XR (GB)

**Respondent I:** Kimberly-Clark Corporation  
(Opponent) 401 North Lake Street Neenah  
Wisconsin 54956-0349 (US)

**Representative:** Davies, Christopher Robert  
Frank B. Dehn & Co  
European Patent Attorneys  
179 Queen Victoria Street  
London EC4V 4EL (GB)

**Respondent II:** McNeil-PPC, Inc.  
(Opponent) 199 Grandview Road  
Skillman  
NJ 08558 (US)

**Representative:** Groening, Hans Wilhelm, Dipl.-Ing.  
BOEHMERT & BOEHMERT  
Pettenkoferstrasse 20-22  
D-80336 München (DE)

**Decision under appeal:** Interlocutory decision of the Opposition Division  
of the European Patent Office posted 27 December  
2002 concerning maintenance of European patent  
No. 0 735 848 in amended form.

**Composition of the Board:**

**Chairman:** P. Alting van Geusau  
**Members:** G. Pricolo  
R. T. Menapace

## **Summary of Facts and Submissions**

- I. The appeal is from the interlocutory decision of the Opposition Division posted on 27 December 2002 concerning the maintenance in amended form of European patent No. 0 735 848, granted in respect of European patent application No. 94 905 418.3.
- II. The appellant (patent proprietor) filed a notice of appeal on 25 February 2003. The payment of the appeal fee was recorded on 26 February 2003. No statement of grounds was filed. The notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC.
- III. By a letter dated 6 May 2003 the patent proprietor informed the Board that it did not intend to pursue the appeal and that no statement of grounds would be filed.

## **Reasons for the Decision**

As no written statement setting out the grounds of appeal has been filed and as the appellant does not intend to pursue its appeal as put down in its letter dated 6 May 2003, without expressly withdrawing its appeal, the appeal has to be rejected as inadmissible according to Article 108 EPC last sentence in conjunction with Rule 65(1) EPC.

**Order**

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

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

M. Patin

P. Alting van Geusau