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D E C I S I O N
of 10 February 2004

Case Number: T 0949/03 - 3.3.7

Application Number: 94901323.9

Publication Number: 0667814

IPC: B32B 5/26

Language of the proceedings: EN

Title of invention:

Fibrous laminated web and method and apparatus for making the same and absorbent articles incorporating the same

Patentee:

KIMBERLY-CLARK WORLDWIDE, INC.

Opponent:

SCA Hygiene Products AB

Headword:

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Relevant legal provisions:

EPC Art. 108

EPC R. 65(1)

Keyword:

"Missing statement setting out the grounds of appeal"

Decisions cited:

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Catchword:

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Case Number: T 0949/03 - 3.3.7

D E C I S I O N
of the Technical Board of Appeal 3.3.7
of 10 February 2004

Appellant: KIMBERLY-CLARK WORLDWIDE, INC.
(Proprietor of the patent) 401 North Lake Street
Neenah, Wisconsin 54956 (US)

Representative: Grünecker, Kinkeldey
Stockmaier & Schwanhäusser
Anwaltssozietät
Maximilianstrasse 58
D-80538 München (DE)

Respondent: SCA Hygiene Products AB
(Opponent) S-405 03 Göteborg (SE)

Representative: Hammond, Andrew David
Ström & Gulliksson IP AB
Sjöporten 4
S-417 64 Göteborg (SE)

Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
26 June 2003 concerning maintenance of European
patent No. 0667814 in amended form.

Composition of the Board:

Chairman: R. E. Teschemacher
Members: B. L. ter Laan
G. Santavicca

Summary of Facts and Submissions

- I. The appeal contests the interlocutory decision of the Opposition Division of the European Patent Office posted on 26 June 2003 concerning maintenance of the European patent No. 0 667 814 in amended form.

The proprietors (appellants) filed a notice of appeal on 8 September 2003 (Monday) and paid the fee for appeal on the same day.

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.

- II. By communication dated 19 November 2003, sent by registered letter with advice of delivery, the Registry of the Board informed the appellant that no statement of grounds had been filed and that the appeal could be expected to be rejected as inadmissible.

The appellant was informed about the possibility of filing a request for re-establishment of rights under Article 122 EPC and was invited to file observations within two months

- III. By letter dated 4 December 2003 the appellant confirmed that the auxiliary request for oral proceedings made in the notice of appeal was not intended to apply to the question of inadmissibility of the appeal as a consequence of the fact that a written statement of grounds of appeal had not been filed and withdrew its request for oral proceedings.

Reasons for the Decision

As no written statement setting out the grounds of appeal has been filed, the appeal has to be rejected as inadmissible (Article 108 EPC 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:

C. Eickhoff

R. Teschemacher