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D E C I S I O N
of 16 June 2005

Case Number: T 0024/05 - 3.2.6

Application Number: 97904182.9

Publication Number: 0883394

IPC: A61F 13/15

Language of the proceedings: EN

Title of invention:

Dual elastic, liquid barrier containment flaps for a
disposable absorbent article

Patentee:

KIMBERLY-CLARK WORLDWIDE, INC.

Opponent:

Paul Hartmann AG

Headword:

-

Relevant legal provisions:

EPC Art. 108, 122

EPC R. 65(1)

Keyword:

"Missing statement of grounds of appeal"

Decisions cited:

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Catchword:

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Case Number: T 0024/05 - 3.2.6

D E C I S I O N
of the Technical Board of Appeal 3.2.6
of 16 June 2005

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

Representative: Davies, Christopher Robert
Frank B. Dehn & Co.,
European Patent Attorneys
179 Queen Victoria Street
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Respondent: Paul Hartmann AG
(Opponent) Paul-Hartmann-Strasse 12
D-89522 Heidenheim (DE)

Representative: Friz, Oliver
Patentanwälte
Dreiss, Fuhlendorf, Steimle & Becker
Gerokstrasse 1
D-70188 Stuttgart (DE)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 22 October 2004
revoking European patent No. 0883394 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: P. Alting van Geusau
Members: G. L. De Crignis
J. H. Van Moer

Summary of Facts and Submissions

I. The appeal lies against the decision of the Opposition Division of the European Patent Office taken at the oral proceedings held on 28 September 2004 revoking the European patent No. 0 883 394. The decision was posted to the appellant on 22 October 2004. The appellant filed a notice of appeal on 30 December 2004 and paid the fee for appeal on the same date. 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 a communication dated 6 April 2005, sent by registered letter with advice of delivery and received by the appellant on the 12 April 2005, the Registry of the Board informed the appellant that no statement of grounds had been filed and that the appeal would be expected to be rejected as inadmissible. The appellant was invited to file observations within two months and attention was drawn to Article 122 EPC (re-establishment of rights).

III. No response has been given to the Registry's communication.

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:

M. H. A. Patin

P. Alting van Geusau