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**Datasheet for the decision  
of 28 October 2011**

**Case Number:** T 1325/08 - 3.4.03

**Application Number:** 00987374.6

**Publication Number:** 1250693

**IPC:** G09F 3/02, B65D 23/08

**Language of the proceedings:** EN

**Title of invention:**  
Indicia for containers

**Patent Proprietors:**  
Unilever PLC  
Unilever N.V.

**Opponent:**  
The Procter & Gamble Company

**Headword:**  
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**Relevant legal provisions:**  
EPC Art. 113(2)

**Relevant legal provisions (EPC 1973):**  
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**Keyword:**  
"No text agreed by the proprietor - revocation of the patent"

**Decisions cited:**  
T 0073/84, T 0186/84, T 0157/85, T 1655/07

**Catchword:**  
-



Case Number: T 1325/08 - 3.4.03

**D E C I S I O N**  
of the Technical Board of Appeal 3.4.03  
of 28 October 2011

**Appellant:** The Procter & Gamble Company  
(Opponent) One Procter & Gamble Plaza  
Cincinnati, Ohio 45202 (US)

**Representative:** Schneider, Stefan Michael  
Braun GmbH  
Frankfurter Straße 145  
D-61476 Kronberg im Taunus (DE)

**Respondents:** Unilever PLC  
(Patent Proprietors) Unilever House  
Blackfriars  
London  
Greater London EC4P 4BQ (GB)

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

**Representative:** Baker, Colin John  
Potter Clarkson LLP  
Park View House  
58 The Ropewalk  
Nottingham NG1 5DD (GB)

**Decision under appeal:** Decision of the Opposition Division of the  
European Patent Office posted 6 May 2008  
rejecting the opposition filed against European  
patent No. 1250693 pursuant to Article 101(2)  
EPC.

**Composition of the Board:**

**Chairman:** G. Eliasson  
**Members:** R. Q. Bekkering  
T. Bokor

## Summary of Facts and Submissions

- I. This decision concerns the appeal by opponent I (The Procter & Gamble Company) against the decision of the opposition division (posted 6 May 2008) rejecting the opposition against the European patent No. 1250693.
- II. On 2 July 2008, the appellant (opponent I) filed a notice of appeal against the above decision and paid the prescribed fee on the same day. A statement setting out the grounds of appeal was filed on 5 September 2008.

The appellant requested that the decision under appeal be reversed and that the patent be revoked in its entirety.

- III. With letter of 16 January 2009, the respondent (proprietor) filed a response to the appeal, requesting dismissal of the appeal and oral proceedings.

- IV. By letter of 10 October 2011, the respondent stated the following:

"The proprietor no longer approves the text in which the patent was granted, and will not submit an amended text."

- V. By letter of 17 October 2011, the respondent withdrew its request for oral proceedings.

## Reasons for the Decision

1. The appeal is admissible.
  
2. Article 113(2) EPC requires that the EPO shall decide upon the European patent only in the text submitted to it, or agreed by the proprietor of the patent.

Agreement cannot be held to be given if the proprietor without submitting an amended text, expressly states that he no longer approves the text of the patent as granted or previously amended.

In such situation a substantive requirement for maintaining the patent is lacking and the proceedings are to be terminated by a decision ordering revocation, without going into the substantive issues (see eg decisions T 73/84, OJ EPO 1985, 241; T 186/84, OJ EPO 1986, 79; T 157/85 of 12 May 1986, not published in OJ EPO; and T 1655/07 of 10 June 2009, equally not published in OJ EPO).

**Order**

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

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar

The Chairman

S. Sánchez Chiquero

G. Eliasson