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**Datasheet for the decision  
of 8 January 2013**

**Case Number:** T 1513/09 - 3.2.06

**Application Number:** 05020695.2

**Publication Number:** 1767683

**IPC:** D05C15/22

**Language of the proceedings:** EN

**Title of invention:**

Looper for tufting machine

**Patentee:**

Nara Company, Ltd

**Opponent:**

Groz-Beckert KG

**Relevant legal provisions:**

EPC 1973 R. 60(1), 66(1)

**Keyword:**

Patent lapsed with effect for all designated Contracting  
States  
Appeal proceedings closed



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Case Number: T 1513/09 - 3.2.06

**D E C I S I O N**  
**of the Technical Board of Appeal 3.2.06**  
**of 8 January 2013**

**Appellant:** Groz-Beckert KG  
(Opponent) Parkweg 2  
72458 Albstadt (DE)

**Representative:** Rüger, Barthelt & Abel  
Webergasse 3  
73728 Esslingen (DE)

**Respondent:** Nara Company, Ltd  
(Patent Proprietor) 43-9, 1-cho  
Niwashirodai, Sakai-shi  
Osaka (JP)

**Representative:** Grünecker, Kinkeldey,  
Stockmair & Schwanhäusser  
Leopoldstrasse 4  
80802 München (DE)

**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted 20 May 2009  
rejecting the opposition filed against European  
patent No. 1767683 pursuant to Article 101(2)  
EPC.**

**Composition of the Board:**

**Chairman:** M. Harrison  
**Members:** G. Kadner  
W. Sekretaruk

## **Summary of Facts and Submissions**

- I. The rejection of the opposition against European patent No. 1 767 683 was announced at the oral proceedings on 23 April 2009, and the reasons for the decision were communicated to the parties with the written decision dated 20 May 2009.
- II. Notice of appeal was filed against this decision by the appellant (opponent) on 16 July 2009, and the appeal fee was paid on the same day. The grounds of appeal were filed on 9 September 2009, and with letter dated 9 November 2009 oral proceedings were requested as an auxiliary measure.
- III. With letter dated 29 December 2011 the respondent (patentee) informed the Board that it would no longer actively take part in the present proceedings. It requested however that the appeal be dismissed but withdrew its previous request for oral proceedings.
- IV. In a communication dated 15 September 2011, the appellant was informed that the European patent had lapsed with effect for all the designated Contracting States. In the same communication, the registry stated that the appeal proceedings would be continued if (erroneously) no request for continuation of the proceedings was filed in due time and the state of the files gave no reason for the proceedings to be continued by the European Patent Office of its own motion.
- V. In response to the appellant's letter dated 27 December 2011, asking whether the proceedings would be continued without a respective request, with the Board's

communication of 11 January 2012 the error was corrected such that the respective section of the communication correctly stated that "The appeal proceedings will not be continued if no request for continuation of the proceedings is filed ..."

VI. No request for continuation of the proceedings was filed.

### **Reasons for the Decision**

1. With communication dated 15 September 2011, corrected by way of the communication dated 11 January 2012, the parties were informed that the European patent had lapsed with effect for all the designated Contracting States.
2. According to Rule 60(1) in conjunction with Rule 66(1) EPC 1973, the opposition or appeal proceedings can be continued on request of the appellant/opponent, despite the European patent having lapsed with effect for all the designated Contracting States. The request must be filed within two months as from notification by the European Patent Office of the lapse.

Since no such request was filed after the (erroneous) communication of 15 September 2011, nor after the correction of that communication, no legal basis exists for continuation of the proceedings by the European Patent Office of its own motion. Therefore the appeal proceedings have to be closed.

**Order**

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

The appeal proceedings are closed.

The Registrar:

The Chairman:



M. H. A. Patin

M. Harrison

Decision electronically authenticated