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**Datasheet for the decision
of 14 April 2010**

Case Number: T 1822/09 - 3.3.06

Application Number: 02752548.4

Publication Number: 1412465

IPC: C11D 3/37

Language of the proceedings: EN

Title of invention:

Fabric care systems for providing anti-wrinkle benefits to fabric

Applicant:

THE PROCTER & GAMBLE COMPANY

Headword:

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Relevant legal provisions:

EPC Art. 108
EPC R. 103(1)(b)

Relevant legal provisions (EPC 1973):

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Keyword:

"Reimbursement of the appeal fee after withdrawal of the appeal (yes)"

Decisions cited:

T 2052/08, J 0010/07

Catchword:

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Case Number: T 1822/09 - 3.3.06

D E C I S I O N
of the Technical Board of Appeal 3.3.06
of 14 April 2010

Appellant:

THE PROCTER & GAMBLE COMPANY
One Procter & Gamble Plaza
Cincinnati, OHIO 45202 (US)

Representative:

Morelle, Evelyne Charlotte Isabelle
N.V. Procter & Gamble Services Company S.A.
Temselaan 100
B-1853 Stombeek-Bever (BE)

Decision under appeal:

Decision of the Examining Division of the
European Patent Office posted 11 May 2009
refusing European application No. 02752548.4
pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: P.-P. Bracke
Members: E. Bendl
U. Tronser

Summary of Facts and Submissions

- I. On 17 July 2009 the appellant filed a notice of appeal against the decision of the examining division dated 11 May 2009 and paid the appeal fee.
- II. No statement of grounds of appeal was filed.
- III. On 27 August 2009 the appellant withdrew its appeal.

Reasons for the Decision

- 1. According to Rule 103(1)(b) EPC the appeal fee shall be reimbursed if the appeal is withdrawn before the filing of the statement of grounds of appeal and before the period for filing that statement has expired. These conditions are fulfilled in the present case, since no statement of grounds of appeal was filed and the appeal was withdrawn on 27 August 2009, thus before the period for filing the statement has expired at the end of 22 September 2009 (21 May 2009 being Ascension day).
- 2. According to Article 1, No. 1 of the Decision of the Administrative Council of 28 June 2001 on the transitional provisions under Article 7 of the Act revising the EPC of 29 November 2000, Article 108 EPC in its new version shall apply to European patent applications pending at the time of its entry into force (13 December 2007), i.e. also to the present application. The conditions for the reimbursement of the appeal fee under Rule 103(1)(b) EPC (non-filing of statement of grounds of appeal and withdrawal of appeal before expiry of the period for filing the statement of

grounds of appeal) are closely linked to and interrelated with these requirements of Article 108 EPC. Therefore Rule 103(1)(b) EPC has to be regarded as implementing Article 108 EPC and thus applies to the present application (see T 2052/08 of 3 February 2009, points 5 and 6 of the reasons for the decision).

3. Furthermore, since all the procedural acts having relevance in the context of Article 108 and Rule 103(1)(b) EPC occurred in the present case after the entry into force of the revised EPC, the exception for not applying Article 106 and 108 EPC as discussed in J 10/07 (OJ EPO 2008, 567, point 1.2 of the reasons for the decision) does not apply (see T 2052/08, point 7 of the reasons for the decision).

Order

For these reasons it is decided that:

1. The appeal fee is reimbursed.
2. The appeal proceedings are closed.

The Registrar:

The Chairman:

G. Rauh

P.-P. Bracke