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**Datasheet for the decision
of 7 August 2013**

Case Number: T 1923/10 - 3.3.06

Application Number: 01998677.7

Publication Number: 1366224

IPC: D01F 8/06, D01F 8/12,
D01F 8/14, A61C 15/04

Language of the proceedings: EN

Title of invention:
MONOFILAMENT TAPE

Patent Proprietor:
McNeil-PPC, Inc.

Opponent:
The Procter & Gamble Company

Headword:
Monofilament tape/MCNEIL-PPC

Relevant legal provisions:
EPC Art. 113(2)

Keyword:
"Agreement to text withdrawn by patent proprietor - new text
not submitted - patent revoked"

Decisions cited:
T 0157/85

Catchword:
-



Case Number: T 1923/10 - 3.3.06

DECISION
of the Technical Board of Appeal 3.3.06
of 7 August 2013

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

Representative: Hirsch, Uwe Thomas M.H.
Procter & Gamble Service GmbH
Patent Department
Berliner Allee 65
D-64274 Darmstadt (DE)

Respondent: McNeil-PPC, Inc.
(Patent Proprietor) 199 Grandview Road
Skillman
NJ 08558-9418 (US)

Representative: Mercer, Christopher Paul
Carpmaels & Ransford LLP
One Southampton Row
London WC1B 5HA (GB)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted 9 July 2010
rejecting the opposition filed against European
patent No. 1366224 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman: B. Czech
Members: G. Santavicca
U. Tronser

Summary of Facts and Submissions

- I. The appeal by the opponent lies from the decision of the opposition division rejecting the opposition against European patent n° 1 366 224.
- II. In its statement setting out the grounds of appeal, the appellant requested that the patent in suit be revoked.
- III. In a letter of 19 July 2013, in response to a communication by the Board in preparation for the oral proceedings, the patent proprietor/respondent indicated that it was no longer interested in the case. Then, by letter of 24 July 2013, the patent proprietor irrevocably withdrew his approval of the text in which the patent was granted and announced that it would not be filing any text to replace the disapproved text.
- IV. With a communication faxed on 25 July 2013 the parties were informed that the oral proceedings scheduled to take place on 7 August 2013 had been cancelled.

Reasons for the Decision

1. The appeal is admissible.
2. According to Article 113(2) EPC, a European patent can be maintained only in a version approved by the patent proprietor. In the present case, the patent proprietor has expressly declared that it no longer approves the text in which the patent was granted and that it will not be submitting any amended text to replace the disapproved text. Therefore, in accordance with

established case law (e.g. decision T 0157/85 of 12 May 1986 acknowledged in the Case Law of the Boards of Appeal of the EPO, 6th edition 2010, VII.C.6.1.2) the patent is to be revoked without substantive examination as to patentability.

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:

L. Fernández Gómez

B. Czech