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**Datasheet for the decision  
of 17 November 2011**

**Case Number:** T 0636/11 - 3.3.06

**Application Number:** 95302732.3

**Publication Number:** 684303

**IPC:** C11D 3/37, C11D 17/00,  
C11D 3/22, C11D 17/06

**Language of the proceedings:** EN

**Title of invention:**  
Detergent compositions

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

**Opponent:**  
The Procter & Gamble Company

**Headword:**  
Detergent composition with foam control/UNILEVER

**Relevant legal provisions:**  
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**Relevant legal provisions (EPC 1973):**  
EPC Art. 113(2)

**Keyword:**  
"Text of the patent no longer agreed by the proprietors -  
revocation"

**Decisions cited:**  
T 0073/84

**Catchword:**  
-



Case Number: T 0636/11 - 3.3.06

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.06  
of 17 November 2011

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

**Representative:** Samuels, Lucy Alice  
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The Broadgate Tower  
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**Respondents:** Unilever PLC  
(Patent Proprietors) Unilever House  
Blackfriars  
London  
Greater London EC4P 4BQ (GB)

and

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

**Representative:** Rosen Jacobson, Frans Lucas M.  
Unilever Patent Group  
P.O. Box 137  
D-3130 AC Vlaardingen (NL)

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
13 January 2011 concerning maintenance of  
European patent No. 684303 in amended form.

**Composition of the Board:**

**Chairman:** P.-P. Bracke  
**Members:** P. Ammendola  
U. Tronser

## Summary of Facts and Submissions

I. This appeal is from the interlocutory decision of the Opposition Division concerning the maintenance in amended form of European patent No. 0 684 303.

II. The Opponent had sought revocation of the granted patent.

The Opposition Division decided that the patent amended according to the main request of the Patent Proprietors met the requirements of the EPC.

III. The Opponent (hereinafter Appellant) lodged an appeal against this decision.

The Patent Proprietors (hereinafter Respondents) informed the Board with a letter of 4 April 2011 that they no longer approved "*the text in which the patent was granted*".

They also filed a letter of 7 June 2011 stating that they no longer approved "*the text in which the patent was granted or in any other form*" and wished to abandon the patent.

IV. The Appellant requested in writing that the decision under appeal be set aside and the patent be revoked. It also requested oral proceedings prior of any decision other than this.

## Reasons for the decision

1. The expressions contained in the letters of the Respondents cited above can only be interpreted by the Board as statements that they no longer approve the amended text of the patent that has been found to meet the requirements of the EPC in the decision under appeal.

Consequently, the Board has no basis on which to make a decision on patentability as would be required by Article 113(2) EPC (1973).

2. In accordance with Article 21 EPC, the Boards of Appeal shall be responsible for the examination of appeals from, in particular, decisions of the Opposition Divisions. Here, the decision of the Opposition Division was appealed by the Opponent who requests the revocation of the patent. This appeal is admissible. A decision must, thus, be taken.
3. According to the established case law of the Boards of Appeal (see e.g. T 73/84, OJ EPO 1985, 241), if the Proprietor of a European patent states in opposition or appeal proceedings that he no longer approves the text in which the patent was granted and does not submit an amended text, the patent is to be revoked. In the Board's judgment, this finding also applies in the present case. The patent is, thus, revoked.
4. Summoning oral proceedings is not necessary as the decision is in line with the Appellant's request.

**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:

D. Magliano

P.-P. Bracke