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**Datasheet for the decision
of 13 May 2014**

Case Number: T 1470/11 - 3.2.06

Application Number: 01310552.3

Publication Number: 1216676

IPC: A61F13/494, A61F13/476

Language of the proceedings: EN

Title of invention:
A sanitary napkin

Patent Proprietor:
Johnson & Johnson Industrial Ltda.

Opponent:
The Procter & Gamble Company

Headword:

Relevant legal provisions:
EPC R. 84(1), 100(1)

Keyword:
Surrender of patent in all designated states - (yes)
Termination of appeal proceedings



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

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Case Number: T 1470/11 - 3.2.06

D E C I S I O N
of Technical Board of Appeal 3.2.06
of 13 May 2014

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

Representative: Briatore, Andrea
Procter & Gamble Service GmbH
IP Department
Frankfurter Straße 145
61476 Kronberg im Taunus (DE)

Respondent: Johnson & Johnson Industrial Ltda.
(Patent Proprietor) Rodovia Presidente Dutra KM154,
Sao José Dos Campos
CEP 12237-350 Sao Paulo (BR)

Representative: Kirsch, Susan Edith
Carpmaels & Ransford LLP
One Southampton Row
London WC1B 5HA (GB)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
20 April 2011 concerning maintenance of the
European Patent No. 1216676 in amended form.**

Composition of the Board:

Chairman M. Harrison
Members: G. de Crignis
W. Sekretaruk

Summary of Facts and Submissions

- I. The appellant (opponent) filed an appeal against the interlocutory decision of the opposition division dated 20 April 2011, whereby European patent No. 1 216 676, which had been granted on European application No. 01 310 552.3, was found, in an amended form, to meet the requirements of the EPC.
- II. With its letter of 29 August 2011 the appellant filed a statement of grounds of appeal requesting revocation of the patent.
- III. With telefax of 12 January 2012, in reply to the appellant's statement of grounds of appeal, the respondent (proprietor) requested dismissal of the appeal and also filed auxiliary requests 1 and 2.
- IV. With telefax of 13 July 2012, the respondent withdrew its request for oral proceedings and requested a written decision.
- V. By way of the Board's communication dated 17 January 2014 pursuant to Rule 84(1) EPC, the parties' attention was drawn to the fact that the patent had meanwhile lapsed in all designated Contracting States and that the appeal proceedings might be continued at the request of the opponent (appellant) provided that within two months from notification of that communication such a request were filed.
- VI. No reply to the Board's communication was received.

Reasons for the Decision

1. If a European patent has lapsed in all designated Contracting States, opposition proceedings may be continued at the request of the opponent (see Rule 84(1) EPC). According to Rule 100(1) EPC, this also applies in appeal proceedings following opposition proceedings.
2. As no request of the opponent to this effect was filed, the appeal proceedings are to be terminated.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



M. H. A. Patin

M. Harrison

Decision electronically authenticated