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**Datasheet for the decision  
of 16 January 2015**

**Case Number:** T 1555/11 - 3.2.06

**Application Number:** 00907173.9

**Publication Number:** 1150635

**IPC:** A61F13/15

**Language of the proceedings:** EN

**Title of invention:**

PROCESSES AND APPARATUS FOR MAKING DISPOSABLE ABSORBENT  
ARTICLES

**Patent Proprietor:**

KIMBERLY-CLARK WORLDWIDE, INC.

**Opponent:**

THE PROCTER & GAMBLE COMPANY

**Relevant legal provisions:**

EPC Art. 113(2)

**Keyword:**

Basis of decision -  
text or agreement to text withdrawn by patent proprietor



**Beschwerdekammern  
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Case Number: T 1555/11 - 3.2.06

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.06**  
**of 16 January 2015**

**Appellant:** THE PROCTER & GAMBLE COMPANY  
(Opponent) One Procter & Gamble Plaza  
Cincinnati, Ohio 45202 (US)

**Representative:** O'Callaghan, Robert James  
Elkington and Fife LLP  
Prospect House  
8 Pembroke Road  
Sevenoaks, Kent TN13 1XR (GB)

**Respondent:** KIMBERLY-CLARK WORLDWIDE, INC.  
(Patent Proprietor) 401 North Lake Street  
Neenah, WI 54956 (US)

**Representative:** Chiva, Andrew Peter  
Dehns  
St Bride's House  
10 Salisbury Square  
London  
EC4Y 8JD (GB)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
12 May 2011 concerning maintenance of the  
European Patent No. 1150635 in amended form.**

**Composition of the Board:**

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

## **Summary of Facts and Submissions**

- I. By way of its interlocutory decision, the opposition division held that European Patent No. 1 150 635 as amended met the requirements of the European Patent Convention (EPC).
- II. The appellant (opponent) filed an appeal against this decision requesting revocation of the patent.
- III. The respondent (patent proprietor) requested dismissal of the appeal as a main request and submitted auxiliary requests 1 to 5.
- IV. In a communication annexed to the summons to oral proceedings, the Board expressed its provisional opinion on the requests before it.
- V. With letter of 15 December 2014, the respondent filed a new main request and new first to tenth auxiliary requests.
- VI. Oral proceedings were held before the Board on 16 January 2014 during which the appellant requested that the decision under appeal be set aside and the patent be revoked.

After hearing the parties on certain requests, the respondent declared that it no longer approved any text for maintenance of the patent.

## Reasons for the Decision

1. Article 113(2) EPC stipulates that the European Patent Office shall examine, and decide upon, the European patent or patent application only in the text submitted to it, or agreed, by the applicant or the proprietor of the patent.
2. In the present appeal case the respondent did not approve any version of the text in which the patent could be maintained.
3. In view of this, there is no version of the patent which is agreed by the appellant upon which the Board could decide. Consequently, the patent must be revoked.

## 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:



A. wolinski

M. Harrison

Decision electronically authenticated