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**Datasheet for the decision
of 15 March 2016**

Case Number: T 2191/11 - 3.2.06

Application Number: 03728469.2

Publication Number: 1504145

IPC: D04H1/56, D04H5/06, A47L13/16,
A47L13/17

Language of the proceedings: EN

Title of invention:
THREE-DIMENSIONAL COFORM NONWOVEN WEB

Patent Proprietor:
KIMBERLY-CLARK WORLDWIDE, INC.

Opponent:
THE PROCTER & GAMBLE COMPANY

Relevant legal provisions:
EPC Art. 113(2)

Keyword:
No text approved
Revocation requested by the patent proprietor

Decisions cited:
T 0735/08



Beschwerdekammern
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Case Number: T 2191/11 - 3.2.06

D E C I S I O N
of Technical Board of Appeal 3.2.06
of 15 March 2016

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

Representative: Anderson, James Edward George
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: Davies, Christopher Robert
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
3 August 2011 concerning maintenance of the
European Patent No. 1504145 in amended form.**

Composition of the Board:

Chairman M. Harrison
Members: G. de Crignis
M.-B. Tardo-Dino

Summary of Facts and Submissions

- I. By way of its interlocutory decision, the opposition division found that European Patent No. 1 504 145 as amended met the requirements of the European Patent Convention (EPC).
- II. The appellant (opponent) filed an appeal against this decision, requesting that the decision of the opposition division be set aside and the patent be revoked. An auxiliary request for oral proceedings was made, for the case that the patent were not revoked.
- III. The respondent (patent proprietor) requested dismissal of the appeal, or that the patent be maintained in amended form based on a first or second auxiliary request.
- IV. With its communication following a summons to oral proceedings, the Board indicated its preliminary opinion on the case.
- V. With letter of 25 February 2016, the respondent withdrew all its requests and also withdrew its approval of the granted text in any form. It also requested revocation of the patent.
- VI. The planned oral proceedings were cancelled.

Reasons for the Decision

1. Article 113(2) EPC requires that the EPO may decide upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. If, as in the present case, the patent proprietor withdraws approval of any text upon which the patent can be maintained, there is no text upon which a decision to maintain the patent can be made. In accordance therewith, the European patent must be revoked (see also e.g. T 735/08).

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:



M. H. A. Patin

M. Harrison

Decision electronically authenticated