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**Datasheet for the decision
of 19 March 2013**

Case Number: T 0690/12 - 3.2.06
Application Number: 07014979.4
Publication Number: 2022885
IPC: D06F58/26
Language of the proceedings: EN

Title of invention:

Clothes dryer having an air passage volume with an insulated section, and heating unit and outer cover thereof

Patent Proprietor:

DBK David + Baader GmbH

Opponents:

Eichenauer Heizelemente GmbH & Co.KG
BSH Bosch und Siemens Hausgeräte GmbH

Headword:

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - agreement to text withdrawn by patent proprietor

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

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Case Number: T 0690/12 - 3.2.06

D E C I S I O N
of Technical Board of Appeal 3.2.06
of 19 March 2013

Appellant I: Eichenauer Heizelemente GmbH & Co.KG
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Representative: Twelmeier Mommer & Partner
Patent- und Rechtsanwälte
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Appellant II: BSH Bosch und Siemens Hausgeräte GmbH
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Representative: Blauert, Peter
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Respondent: DBK David + Baader GmbH
(Patent Proprietor) Rheinstrasse 72-74
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Representative: Polte, Willi
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
27 January 2012 concerning maintenance of the
European Patent No. 2022885 in amended form.**

Composition of the Board:

Chairman: M. Harrison
Members: T. Rosenblatt
W. Sekretaruk
M. Hannam
R. Menapace

Summary of Facts and Submissions

- I. In its interlocutory decision dated 27 January 2012, the opposition division considered that European patent No. 2 022 885 in an amended form met the requirements of the EPC.
- II. The opponents (appellants) filed appeals against this decision, requesting that the decision be set aside and that the patent be revoked in its entirety.
- III. In a letter dated 7 February 2013 the respondent (patent proprietor) declared that it withdrew the consent given during the oral proceedings before the opposition division to the agreed "text of the application".

Reasons for the Decision

1. The appeals are admissible.
2. According to Article 113(2) EPC, the European Patent Office shall examine and decide upon the European patent only in the text submitted to it, or agreed by the applicant or the proprietor of the patent.

Although the respondent in the declaration made in its letter of 7 February 2013 (see item III above) referred to the "text of the application", there can be no doubt in the present case that the agreed text meant by the respondent was that of the patent as amended. It follows that the respondent no longer agrees to the text of the European patent which the opposition division considered to meet the requirements of the EPC.

In the absence of any other text submitted to the EPO or agreed upon by the proprietor, the European patent cannot be maintained and must therefore 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:



M. H. A. Patin

M. Harrison

Decision electronically authenticated