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**Datasheet for the decision
of 2 July 2019**

Case Number: T 0267/15 - 3.2.07

Application Number: 05724799.1

Publication Number: 1722944

IPC: B26B21/40

Language of the proceedings: EN

Title of invention:

RAZORS AND SHAVING CARTRIDGES WITH GUARD

Patent Proprietor:

The Gillette Company LLC

Opponent:

Edgewell Personal Care Brands, LLC

Headword:

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - revocation of the patent at request of the patent proprietor

Decisions cited:

T 0186/84

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

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Case Number: T 0267/15 - 3.2.07

D E C I S I O N
of Technical Board of Appeal 3.2.07
of 2 July 2019

Appellant:
(Patent Proprietor)

The Gillette Company LLC
One Gillette Park
Boston, MA 02127 (US)

Representative:

Kohol, Sonia
Technical Centres Limited
Procter & Gamble Patent Department
Rusham Park
Whitehall Lane
Egham, Surrey TW20 9NW (GB)

Respondent:
(Opponent)

Edgewell Personal Care Brands, LLC
1350 Timberlake Manor Parkway
Chesterfield, MO 63017 (US)

Representative:

dompatent von Kreisler Selting Werner -
Partnerschaft von Patent- und Rechtsanwälten mbB
Deichmannhaus am Dom
Bahnhofsvorplatz 1
50667 Köln (DE)

Decision under appeal:

**Decision of the Opposition Division of the
European Patent Office posted on 12 December
2014 revoking European patent No. 1722944
pursuant to Article 101(3) (b) EPC.**

Composition of the Board:

Chairman I. Beckedorf
Members: V. Bevilacqua
G. Patton

Summary of Facts and Submissions

- I. The patent proprietor (appellant) lodged an appeal within the prescribed period and in the prescribed form against the decision of the opposition division revoking European patent No. 1 722 944.
- II. The appeal was originally directed towards maintaining the patent in an amended form on the basis of one of the requests filed with the statement setting out the grounds (main request, auxiliary requests 1 to 5).
- III. The patent proprietor declared with letter dated 3 April 2019 that he abandoned the patent in suit, no longer approved the text in which the patent in suit was granted, and requested the revocation thereof.

Reasons for the Decision

1. The patent proprietor explicitly disapproved the text in which the patent in suit was granted.

By abandoning the patent in suit and requesting revocation thereof, the patent proprietor also disapproved the text in which the patent was sought to be maintained during the opposition proceedings, as well as of the text of all the requests filed during appeal proceedings (main request, auxiliary requests 1 to 5), without filing any other amended text on which further prosecution of the appeal could be based, as explicitly confirmed by letter dated 3 April 2019.

2. As the text of a patent is at the disposition of the patent proprietor, a patent cannot be maintained against the patent proprietor's will (Article 113(2) EPC, settled case law, e.g. T 186/84, OJ EPO 1986, see

also Case Law of the Boards of Appeal, 8th edition 2016, IV.C.5.2 with further references to the jurisprudence).

3. The patent can therefore only remain revoked.
4. This decision is taken without oral proceedings because, in view of the above, the patent proprietor's auxiliary request for oral proceedings to discuss the maintenance of the opposed patent as well as the opponents' auxiliary request for oral proceedings have become obsolete.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



G. Nachtigall

I. Beckedorf

Decision electronically authenticated