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**Datasheet for the decision  
of 18 May 2020**

**Case Number:** T 0385/17 - 3.2.07

**Application Number:** 12160136.3

**Publication Number:** 2500153

**IPC:** B26B19/38

**Language of the proceedings:** EN

**Title of invention:**

Electric hair grooming appliance including touchscreen

**Patent Proprietor:**

Spectrum Brands, Inc.

**Opponent:**

Koninklijke Philips N.V.

**Headword:**

**Relevant legal provisions:**

EPC Art. 113(2)

**Keyword:**

Basis of decision - text or agreement to text withdrawn by  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

**Decisions cited:**

T 0073/84

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

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Case Number: T 0385/17 - 3.2.07

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.07**  
**of 18 May 2020**

**Appellant:** Koninklijke Philips N.V.  
(Opponent) High Tech Campus 5  
5656 AE Eindhoven (NL)

**Representative:** Uittenbroek, Arie Leendert  
Philips Intellectual Property & Standards  
High Tech Campus 5  
5656 AE Eindhoven (NL)

**Respondent:** Spectrum Brands, Inc.  
(Patent Proprietor) 3001 Deming Way  
Middleton, WI 53562 (US)

**Representative:** Dehns  
St. Bride's House  
10 Salisbury Square  
London EC4Y 8JD (GB)

**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 5 December 2016  
rejecting the opposition filed against European  
patent No. 2500153 pursuant to Article 101(2)  
EPC.**

**Composition of the Board:**

**Chairman** I. Beckedorf  
**Members:** A. Pieracci  
A. Cano Palmero

## **Summary of Facts and Submissions**

- I. The opponent (appellant) lodged an appeal in the prescribed form and within the prescribed time limit against the decision of the opposition division rejecting the opposition which had been filed against European patent No. 2 500 153.
- II. The patent proprietor (respondent) initially requested that the appeal be dismissed.
- III. In a letter dated 13 May 2020 the patent proprietor withdrew their approval to the text in which the patent was granted and their request for oral proceedings. They further declared that they wished to abandon the patent in suit.

## **Reasons for the Decision**

1. Due to the patent proprietor's unconditional declaration of non-approval of the text of the patent as granted and their declaration that they wished to abandon the patent in suit the Board can no longer decide on the appeal on its merits.
2. Article 113(2) EPC allows the European Patent Office to examine and to decide upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent. Since the text of the patent is at the disposal of the patent proprietor, a patent cannot be maintained against the patent proprietor's will (see the Case Law of the Boards of Appeal, 9th edition 2019, IV.D.2, with references to the case law, i.a. decision T 73/84, OJ EPO 1985, 241).

3. The patent can therefore only be revoked.
4. The present decision is taken without oral proceedings since the patent proprietor withdrew their request thereof.

## 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:



G. Nachtigall

I. Beckedorf

Decision electronically authenticated