

**Internal distribution code:**

- (A)  Publication in OJ  
(B)  To Chairmen and Members  
(C)  To Chairmen  
(D)  No distribution

**Datasheet for the decision  
of 26 June 2008**

**Case Number:** T 1459/07 - 3.2.05

**Application Number:** 98964025.5

**Publication Number:** 1042114

**IPC:** B29C 59/04

**Language of the proceedings:** EN

**Title of invention:**

Microporous films having zoned breathability

**Patentee:**

KIMBERLY-CLARK WORLDWIDE, INC.

**Opponent:**

The Procter & Gamble Company

**Headword:**

-

**Relevant legal provisions:**

EPC Art. 108  
EPC R. 101(1)

**Relevant legal provisions (EPC 1973):**

-

**Keyword:**

"Missing statement of grounds"

**Decisions cited:**

-

**Catchword:**

-



Case Number: T 1459/07 - 3.2.05

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.05  
of 26 June 2008

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

**Representative:** Grünecker, Kinkeldey,  
Stockmair & Schwanhäusser  
Anwaltssozietät  
Leopoldstraße 4  
D-80802 München (DE)

**Respondent:** The Procter & Gamble Company  
(Opponent) One Procter & Gamble Plaza  
Cincinnati, OHIO 45202 (US)

**Representative:** Hucker, Charlotte Jane  
Gill Jennings & Every LLP  
Broadgate House  
7 Eldon Street  
London EC2M 7LH (GB)

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
19 June 2007 concerning maintenance of European  
patent No. 1042114 in amended form.

**Composition of the Board:**

**Chairman:** W. Zellhuber  
**Members:** P. Michel  
M. J. Vogel

## Summary of Facts and Submissions

- I. The appeal is against the decision of the Opposition Division of the European Patent Office posted 19 June 2007 maintaining the European patent No. 1042114 in amended form.

The appellant (patentee) filed a notice of appeal on 29 August 2007 and paid the fee for appeal on the same date. No statement setting out the grounds of appeal was filed. The notice of appeal contains nothing that could be regarded as a statement within the meaning of Article 108 EPC, third sentence.

- II. By a communication sent by registered letter with advice of delivery on 14 December 2007 and received by the appellant on 17 December 2007 the Registry of the Board informed the appellant that no statement of grounds had been filed and that the appeal could be expected to be rejected as inadmissible. The appellant was invited to file observations within two months. The attention of the appellant was also drawn to Rule 84a EPC 1973 and to Article 122 EPC 1973.

- III. No answer has been given to the Registry's communication.

## **Reasons for the Decision**

As no written statement setting out the grounds of appeal has been filed, and the notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC, the appeal has to be rejected as inadmissible pursuant to Rule 101(1) EPC in conjunction with Article 108 EPC, third sentence.

## **Order**

**For these reasons it is decided that:**

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

D. Meyfarth

W. Zellhuber