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**Datasheet for the decision
of 28 June 2011**

Case Number: T 2130/10 - 3.3.10

Application Number: 02725416.8

Publication Number: 1372588

IPC: A61Q 5/08

Language of the proceedings: EN

Title of invention:

Hair bleach product

Patentee:

THE PROCTER & GAMBLE COMPANY

Opponent:

Henkel AG & Co. KGaA
KPSS-Kao Professional Salon Services GmbH

Headword:

Hair bleach product/PROCTER & GAMBLE

Relevant legal provisions:

EPC Art. 111(1), 113(2)

Keyword:

"Withdrawal of the agreement to the text of the patent-
revocation of the patent"

Decisions cited:

T 0073/84

Catchword:

-



Case Number: T 2130/10 - 3.3.10

DECISION
of the Technical Board of Appeal 3.3.10
of 28 June 2011

Appellant I: Henkel AG & Co. KGaA
(Opponent 1) Henkelstrasse 67
D-40589 Düsseldorf (DE)

Representative: -

Appellant II: KPSS-Kao Professional Salon Services GmbH
(Opponent 2) Pfungstädterstraße 92-100
D-64297 Darmstadt (DE)

Representative: Grit, Mustafa
KPSS-Kao Professional Salon Services GmbH
Pfungstädterstraße 92-100
D-64297 Darmstadt (DE)

Respondent: THE PROCTER & GAMBLE COMPANY
(Patent Proprietor) One Procter & Gamble Plaza
Cincinnati, OHIO 45202 (US)

Representative: L'Huillier, Florent Charles
Procter & Gamble Service GmbH
Patent Department/RP
Berliner Allee 65
D-64274 Darmstadt (DE)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 9 August 2010
rejecting the opposition filed against European
patent No. 1372588 pursuant to Article 101(2)
EPC.

Composition of the Board:

Chairman: P. Gryczka
Members: J.-C. Schmid
D. S. Rogers

Summary of Facts and Submissions

- I. The Appellants I and II (Opponents 1 and 2) lodged an appeal against the decision of the Opposition Division rejecting their opposition against European patent No. 1 372 588 pursuant to Article 101(2) EPC.
- II. With a letter filed on 11 June 2011 the Proprietor of the patent-in-suit (Respondent) informed the Board that it did not approve the text of the patent as granted and requested the revocation of the patent.
- III. The Appellants requested that the decision under appeal be set aside and that the patent be revoked.
- IV. The Respondent requested that the patent be revoked.

Reasons for the Decision

1. The appeals are admissible.
2. In accordance with Article 113(2) EPC, the EPO can maintain a patent only on the basis on a text agreed by the Proprietor of the patent.

The Proprietor of the patent indicated that it did not agree to the text of the patent as granted and did not propose any other text for the maintenance of the patent-in-suit.

Under such circumstances where a fundamental requirement for maintaining the patent is lacking, the proceedings are to be terminated by a decision ordering

revocation, without going into the substantive issues
(see *inter alia* decision T 73/84 OJ EPO 1985, 241).

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

C. Eickhoff

P. Gryczka