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**Datasheet for the decision  
of 27 January 2026**

**Case Number:** T 0857/24 - 3.2.04

**Application Number:** 16732199.1

**Publication Number:** 3313344

**IPC:** A61F13/551

**Language of the proceedings:** EN

**Title of invention:**

ADULT DISPOSABLE ABSORBENT ARTICLES AND ARRAYS OF SAID  
ARTICLES COMPRISING IMPROVED CAPACITY PROFILES

**Patent Proprietor:**

The Procter & Gamble Company

**Opponent:**

Brulie B.V.

**Headword:**

**Relevant legal provisions:**

EPC Art. 101, 113(2)

**Keyword:**

Withdrawal of approval of any text for maintenance of the  
patent

**Decisions cited:**

T 0073/84, T 0186/84, T 0655/01, T 1526/06, T 1960/12

**Catchword:**



**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

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European Patent Office  
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Case Number: T 0857/24 - 3.2.04

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.04**  
**of 27 January 2026**

**Appellant:**

(Opponent)

Brulie B.V.  
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**Representative:**

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**Respondent:**

(Patent Proprietor)

The Procter & Gamble Company  
One Procter & Gamble Plaza  
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**Representative:**

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Prospect House  
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**Decision under appeal:**

**Decision of the Opposition Division of the  
European Patent Office posted on 25 April 2024  
rejecting the opposition filed against European  
patent No. 3313344 pursuant to Article 101(2)  
EPC.**

**Composition of the Board:**

**Chairman** A. Pieracci  
**Members:** M. Hannam  
C. Heath

## **Summary of Facts and Submissions**

- I. This decision concerns the appeal filed by the opponent against the decision of the opposition division to reject the opposition to European patent No. 3 313 344.
- II. The appellant (opponent) requested that the decision under appeal be set aside and the patent be revoked.
- III. In its letter of response, the respondent (patent proprietor) requested that the appeal be dismissed or, in the alternative, that the patent be maintained according to one of auxiliary requests 1 to 4.
- IV. In preparation for oral proceedings, the Board issued a communication containing its provisional opinion on the objections to the requests on file.
- V. With its submission of 22 December 2025 the respondent filed further auxiliary requests 5 and 6.
- VI. Oral proceedings before the Board were held by video conference on 27 January 2026, during which the respondent stated unequivocally that it withdrew all its requests in connection with the patent and withdrew its approval of the granted text in any form.

## Reasons for the Decision

1. Under 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 proprietor of the patent. This principle has to be strictly observed also in opposition and opposition appeal proceedings.
2. Such an agreement cannot be deemed to exist if the patent proprietor, as in the present case, expressly states that it no longer approves any text for maintenance of the patent and also withdraws all its requests on file.
3. Since the text of the patent is at the disposition of the patent proprietor, a patent cannot be maintained against the patent proprietor's will. It is moreover clear that it wishes to prevent any text whatsoever of the patent from being maintained.
4. In the interests of legal certainty, the proceedings ought to be terminated as quickly as possible. The only possibility in such a case is for the Board to revoke the patent as envisaged in Article 101 EPC, but for other reasons (i.e. non-compliance with Article 113(2) EPC.)
5. In view of the above, the Board concludes that the patent must be revoked. This conclusion is also in line with case law developed by the Boards of Appeal in *inter alia* decisions **T 73/84**, **T 186/84**, **T 655/01**, **T 1526/06** and **T 1960/12** (see also the Case Law of the Boards of Appeal, 11th Edition, 2025, IV.D.2).

## 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. Magouliotis

A. Pieracci

Decision electronically authenticated