

Publication in the Official Journal ~~Yes~~ / No

File Number: T 200/90 - 3.2.1
Application No.: 83 200 584.7
Publication No.: 0 092 885
Title of invention: A plastic bag with gusset folds and perforations

Classification: B65D 30/20

D E C I S I O N
of 12 February 1991

Applicant:

Proprietor of the patent: WAVIN B.V.

Opponent: 01) Bischof & Klein Verpackungswerke GmbH & Co.
02) Fardem B.V.

Headword:

EPC Article 113(2)

Keyword: "Withdrawal of agreement to text of patent by the proprietors"

Headnote



Europäisches
Patentamt

European
Patent Office

Office européen
des brevets

Beschwerdekammern

Boards of Appeal

Chambres de recours

Case Number : T 200/90 - 3.2.1

D E C I S I O N
of the Technical Board of Appeal
of 12 February 1991

Appellant :
(Proprietor of the patent)

WAVIN B.V.
Händellaan 251
NL-8031 EM Zwolle

Representative :

van der Veken, Johannes Adriaan, et al.
EXTERPATENT B.V.
P.O. Box 90649
NL-2509 LP 's-Gravenhage

Respondent :
(Opponent 01)

Bischof & Klein Verpackungswerke GmbH & Co.
D-4540 Lengerich (DE)

Representative :

Franz Lohrentz, Dipl.-Ing.
Louis, Pöhlau, Lohrentz & Segeth
Ferdinand-Maria-Straße 12
D-8130 Starnberg (DE)

Respondent :
(Opponent 02)

Fardem B.V.
Baandervesting
Edam (NL)

Representative:

Hoogstraten, Willem Cornelis Roeland
Octrooibureau DSM
P.O. Box 9
NL-6160 MA Geleen

Decision under appeal :

Decision of the Opposition Division of the
European Patent Office dated 15 January 1990
revoking European patent No. 0 092 885 pursuant
to Article 102(1) EPC.

Composition of the Board :

Chairman : F. Gumbel
Members : S. Crane
J.-C. Saisset

Summary of Facts and Submissions

I. European patent No. 0 092 885 granted on the basis of European patent application No. 83 200 584.7 was revoked by a decision of the Opposition Division dated 15 January 1990.

II. On 9 March 1990 the Appellants (Proprietors of the patent) filed an appeal against this decision and paid the fee for appeal.

The Statement of Grounds of Appeal was filed on 2 May 1990.

III. On 11 January 1991 the Board issued a summons to oral proceedings accompanied by a communication pursuant to Article 11(2) of the Rules of Procedure of the Boards of Appeal.

IV. With a letter dated 24 January 1991 the Appellants informed the Board that they were not interested in further prosecution of the case, that they no longer approved the text in which the patent was granted and that they would not submit an amended text. They also requested that the scheduled oral proceedings be cancelled.

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rules 1(1) and 64 EPC; it is, therefore, admissible.
2. The Appellants have withdrawn their approval of the text of the patent and at the same time stated that they would not

be submitting an amended text. There is, therefore, no text on the basis of which the Board can consider the appeal. In these circumstances it can only be assumed that the Appellants wish to prevent any text whatever of the patent from being maintained, see T 73/84 (OJ EPO 1985, 241). The only possibility for the Board is, therefore, to dismiss the appeal and thereby confirm revocation of the patent.

Order

For these reasons, it is decided that:

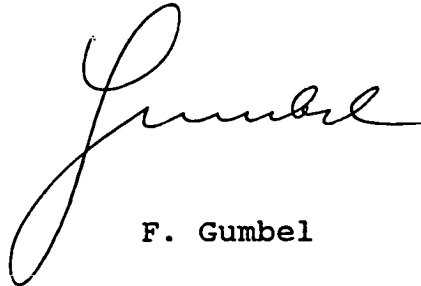
The appeal is dismissed.

The Registrar:



S. Fabiani

The Chairman:



F. Gumbel