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**D E C I S I O N**  
**of 11 August 2000**

**Case Number:** T 0896/96 - 3.3.2

**Application Number:** 86300043.6

**Publication Number:** 0188313

**IPC:** A61K 7/18

**Language of the proceedings:** EN

**Title of invention:**  
Oral hygiene compositions

**Patentee:**  
BEECHAM GROUP p.l.c.

**Opponent:**  
HENKEL KGaA

**Headword:**  
-

**Relevant legal provisions:**  
EPC Art. 111(1)

**Keyword:**  
"Revocation of European patent on request of the proprietor"

**Decisions cited:**  
T 0237/86

**Catchword:**  
-



Case Number: T 0896/96 - 3.3.2

**D E C I S I O N**  
**of the Technical Board of Appeal 3.2.2**  
**of 11 August 2000**

**Appellant:** HENKEL KGaA  
(Opponent) Henkelstraße 67  
D-40589 Düsseldorf (DE)

**Representative:** -

**Respondent:** BEECHAM GROUP p.l.c.  
(Proprietor of the patent) Four New Horizons Court  
Harlequin Avenue  
Brentford  
Middlesex TW8 9EP (GB)

**Representative:** Thompson, Clive Beresford  
SmithKline Beecham plc  
Corporate Intellectual Property  
Two New Horizons Court  
Brentford  
Middlesex TW8 9EP (GB)

**Decision under appeal:** Interlocutory decision of the Opposition Division  
of the European Patent Office posted 7 August  
1996 concerning maintenance of European patent  
No. 0 188 313 in amended form.

**Composition of the Board:**

**Chairman:** P. A. M. Lançon  
**Members:** C. Germinario  
M. B. Günzel

## **Summary of Facts and Submissions**

- I. In a decision dated 7 August 1996 the Opposition Division maintained the European patent No. 0 188 313 in amended form.
- II. The Appellant (Opponent) appealed against the decision and filed a Statement of Grounds in which he requested that the patent be revoked.
- III. In a letter dated 21 July 2000 the representative of the proprietor stated that he withdrew the patent as granted.

## **Reasons for the Decision**

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.
2. With letter dated 21 July 2000, the respondent (patentee) declared that he withdrew his patent. According to the established Case Law of the Board of Appeal (see e.g. Decision T 237/86, OJ EPO 1988, 261) declarations of the patentee which, whatever their exact wording is, make it clear that the patentee does not wish the patent to be maintained are equivalent to a request for the patent to be revoked. As both parties agreed on the same request, the Board exercises its power under Article 111(1) EPC and decides to revoke the European patent.

**Order**

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

The decision of the Opposition Division dated 7 August 1996 is set aside and European patent No. 0 188 313 is revoked.

The Registrar:

The Chairman:

M. Dainese

P. Lançon