DECISION
of 18 June 2003

Case Number: T 0259/03 - 3.2.6
Application Number: 94905418.3
Publication Number: 0735848
IPC: A61F 13/15

Language of the proceedings: EN

Title of invention: Tampon

Patentee: TAMBRANDS, INC.

Opponents: Kimberly-Clark Corporation
McNeil-PPC, Inc.

Headword: -

Relevant legal provisions:
EPC Art. 108
EPC R. 65(1)

Keyword: "Missing statement of grounds"

Decisions cited: -

Catchword: -
Case Number: T 0259/03 - 3.2.6

DECISION
of the Technical Board of Appeal 3.2.6
of 18 June 2003

Appellant: TAMBRANDS, INC. (Proprietor of the patent) 777 Westchester Avenue White Plains New York 10604 (US)

Representative: Boon, Graham Anthony Elkington and Fife Prospect House 8 Pembroke Road Sevenoaks Kent TN13 1XR (GB)

Respondent I: Kimberly-Clark Corporation (Opponent) 401 North Lake Street Neenah Wisconsin 54956-0349 (US)

Representative: Davies, Christopher Robert Frank B. Dehn & Co European Patent Attorneys 179 Queen Victoria Street London EC4V 4EL (GB)

Respondent II: McNeil-PPC, Inc. (Opponent) 199 Grandview Road Skillman NJ 08558 (US)

Representative: Groening, Hans Wilhelm, Dipl.-Ing. BOEHMERT & BOEHMERT Pettenkoferstrasse 20-22 D-80336 München (DE)

Decision under appeal: Interlocutory decision of the Opposition Division of the European Patent Office posted 27 December 2002 concerning maintenance of European patent No. 0 735 848 in amended form.

Composition of the Board:
Chairman: P. Alting van Geusau
Members: G. Pricolo
R. T. Menapace
Summary of Facts and Submissions

I. The appeal is from the interlocutory decision of the Opposition Division posted on 27 December 2002 concerning the maintenance in amended form of European patent No. 0 735 848, granted in respect of European patent application No. 94 905 418.3.

II. The appellant (patent proprietor) filed a notice of appeal on 25 February 2003. The payment of the appeal fee was recorded on 26 February 2003. No statement of grounds was filed. The notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC.

III. By a letter dated 6 May 2003 the patent proprietor informed the Board that it did not intend to pursue the appeal and that no statement of grounds would be filed.

Reasons for the Decision

As no written statement setting out the grounds of appeal has been filed and as the appellant does not intend to pursue its appeal as put down in its letter dated 6 May 2003, without expressly withdrawing its appeal, the appeal has to be rejected as inadmissible according to Article 108 EPC last sentence in conjunction with Rule 65(1) EPC.
Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar: The Chairman:

M. Patin P. Alting van Geusau