Datasheet for the decision
of 17 July 2012

Case Number: T 0981/09 - 3.3.06
Application Number: 01925514.0
Publication Number: 1272599
IPC: C11D 3/37, C11D 1/02
Language of the proceedings: EN
Title of invention:
Laundry wash compositions
Patentee:
Unilever PLC
Unilever N.V.
Opponent:
The Procter & Gamble Company
Headword:
Laundry Wash Compositions/UNILEVER
Relevant legal provisions:
EPC Art. 113(2)
Keyword:
"Proprietor's non-approval of the text of the patent"
Decisions cited:
-
Catchword:
-
Case Number: T 0981/09 - 3.3.06

DECISION of the Technical Board of Appeal 3.3.06 of 17 July 2012

Appellant: The Procter & Gamble Company
(Opponent)
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Respondent I: Unilever PLC
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Respondent II: Unilever N.V.
(Patent Proprietor 2)
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Representative: Bristow, Stephen Robert
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Composition of the Board:
Chairman: P.-P. Bracke
Members: G. Dischinger-Höppler
J. Geschwind
Summary of Facts and Submissions

I. The appeal is from the interlocutors decision of the Opposition Division of the European Patent Office posted on 23 February 2009 concerning maintenance of European patent No. 1272599 in amended form.

II. On 4 May 2009 the opponent (appellant) lodged an appeal against the decision and paid the corresponding fee on the same day. A statement of grounds was filed on 16 June 2009.

III. In reply to the summons to oral proceedings and the communication of the Board of 26 June 2012, the respondent's (proprietor's) representative stated by letter dated 6 July 2012, that the proprietor no longer approved the text of the granted patent.

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 EPC and Rule 99 EPC and is therefore admissible.

2. In accordance with Article 113(2) EPC, the EPO can maintain the patent only in the text agreed by the proprietor of the patent. Agreement cannot be held to be given if the proprietor, without submitting an amended text, expressly states that he no longer approves the text of the patent as granted or previously amended. In such a situation a substantive requirement for maintaining the patent is lacking and the proceedings are to be terminated by a decision
ordering revocation, without going into the substantive issues.

Order

For these reasons it is decided that:

1. The decision of the Opposition Division dated 23 February 2009 is set aside.

2. European patent No. 1 272 599 is revoked.

The Registrar: 

The Chairman:

D. Magliano P.-P. Bracke