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Datasheet for the decision
of 18 May 2020

Case Number: T 0385/17 - 3.2.07
Application Number: 12160136.3
Publication Number: 2500153
IPC: B26B19/38
Language of the proceedings: EN

Title of invention:
Electric hair grooming appliance including touchscreen

Patent Proprietor:
Spectrum Brands, Inc.

Opponent:
Koninklijke Philips N.V.

Headword:

Relevant legal provisions:
EPC Art. 113(2)

Keyword:
Basis of decision - text or agreement to text withdrawn by
patent proprietor - patent revoked
Decisions cited:
T 0073/84

Catchword:
Case Number: T 0385/17 - 3.2.07

DECISION
of Technical Board of Appeal 3.2.07
of 18 May 2020

Appellant: Koninklijke Philips N.V.
(Opponent)
High Tech Campus 5
5656 AE Eindhoven (NL)

Representative: Uittenbroek, Arie Leendert
Philips Intellectual Property & Standards
High Tech Campus 5
5656 AE Eindhoven (NL)

Respondent: Spectrum Brands, Inc.
(Patent Proprietor)
3001 Deming Way
Middleton, WI 53562 (US)

Representative: Dehns
St. Bride's House
10 Salisbury Square
London EC4Y 8JD (GB)

Decision under appeal: Decision of the Opposition Division of the European Patent Office posted on 5 December 2016 rejecting the opposition filed against European patent No. 2500153 pursuant to Article 101(2) EPC.

Composition of the Board:
Chairman I. Beckedorf
Members: A. Pieracci
A. Cano Palmero
Summary of Facts and Submissions

I. The opponent (appellant) lodged an appeal in the prescribed form and within the prescribed time limit against the decision of the opposition division rejecting the opposition which had been filed against European patent No. 2 500 153.

II. The patent proprietor (respondent) initially requested that the appeal be dismissed.

III. In a letter dated 13 May 2020 the patent proprietor withdrew their approval to the text in which the patent was granted and their request for oral proceedings. They further declared that they wished to abandon the patent in suit.

Reasons for the Decision

1. Due to the patent proprietor's unconditional declaration of non-approval of the text of the patent as granted and their declaration that they wished to abandon the patent in suit the Board can no longer decide on the appeal on its merits.

2. Article 113(2) EPC allows the European Patent Office to examine and to decide upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent. Since the text of the patent is at the disposal of the patent proprietor, a patent cannot be maintained against the patent proprietor's will (see the Case Law of the Boards of the Boards of Appeal, 9th edition 2019, IV.D.2, with references to the case law, i.a. decision T 73/84, OJ EPO 1985, 241).
3. The patent can therefore only be revoked.

4. The present decision is taken without oral proceedings since the patent proprietor withdrew their request thereof.

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. Nachtigall  
I. Beckedorf

Decision electronically authenticated