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**Datasheet for the decision  
of 2 October 2015**

**Case Number:** J 0009/15 - 3.1.01

**Application Number:** 12836359.5

**Publication Number:** null

**IPC:** C12P7/10, A01D45/22, A01D45/24,  
A01D91/04, C10L1/02

**Language of the proceedings:** EN

**Title of invention:**  
METHOD FOR PRODUCING PROTEIN AND ETHANOL FROM ENSILAGED  
PODCROP

**Applicant:**  
Lundh, Jan

**Headword:**  
Missing statement of grounds of appeal

**Relevant legal provisions:**  
EPC Art. 108  
EPC R. 99(2), 101(1)

**Keyword:**  
Admissibility of appeal - missing statement of grounds

**Decisions cited:**

**Catchword:**



**Beschwerdekammern  
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Case Number: J 0009/15 - 3.1.01

**D E C I S I O N**  
**of the Legal Board of Appeal 3.1.01**  
**of 2 October 2015**

**Appellant:** Lundh, Jan  
(Applicant) Stigby 22  
560 34 Visingsä (SE)

**Decision under appeal:** Decision of the Receiving Section of the European Patent Office posted on 19 December 2014 ordering that European patent application No. 12836359.5 was finally withdrawn due to invalid payment of the fees prescribed by Rule 159(1) EPC.

**Composition of the Board:**

**Chairwoman** C. Vallet  
**Members:** O. Loizou  
W. Ungler

### **Summary of Facts and Submissions**

- I. The appeal is directed against the decision of the Receiving Section of 19 December 2014, posted on the same day.
  
- II. The appellant filed a notice of appeal on 1 March 2015 and paid the appeal fee on 26 February 2015. The statement of grounds of appeal, which had to be received by 29 April 2015, was not filed by the appellant.
  
- III. By communication of 23 June 2015, the Board informed the appellant that the written statement of grounds of appeal had not been received so far, and that it was therefore to be expected that the appeal would be rejected as inadmissible. The appellant was informed that any observations had to be filed within two months of notification of the communication, i.e 3 September 2015.
  
- IV. The Legal Board of appeal received no reply within the time limit.
  
- V. The appellant sent an email to the Formality Officer of first instance on 23 August 2015 with an attachment in which he explained his situation and the circumstances regarding the payment of the application fee. No mention was made either to the appeal or the decision under appeal.

## **Reasons for the Decision**

1. No written statement setting out the grounds of appeal was filed within the time limit provided by Article 108, third sentence, EPC in conjunction with Rule 126(2) EPC.
2. In addition, neither the notice of appeal nor any other document filed especially the appellant's email of 23 August 2015 contains anything that could be regarded by the board as a statement of grounds pursuant to Article 108 EPC and Rule 99(2) EPC. Therefore, the appeal has to be rejected as inadmissible (Rule 101(1) EPC).
3. Moreover even if the appellant's email of 23 August 2015 were to qualify as a reply to the communication sent on 23 June 2015 it is noted that it was only received by email which is not a legally recognised means of communication within the EPC (see <http://www.epo.org/applying/online-services/online-filing.html>). The appellant had been informed accordingly. Therefore, the appeal has to be rejected as inadmissible according to Rule 101(1) EPC).

**Order**

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

The appeal is rejected as inadmissible.

The Registrar:

The Chairwoman:



C. Eickhoff

C. Vallet

Decision electronically authenticated