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D E C I S I O N
of 20 April 2001

Case Number: T 0883/00 - 3.3.4

Application Number: 89902468.1

Publication Number: 0401254

IPC: C12P 21/00

Language of the proceedings: EN

Title of invention:

Method for controlling norleucine content in polypeptides

Patentee:

PHARMACIA & UPJOHN COMPANY

Opponent:

Monsanto Company
Eli Lilly and Company

Headword:

Norleucine content/PHARMACIA

Relevant legal provisions:

EPC Art. 108
EPC Rule 65(1)

Keyword:

"Missing Statement of Grounds"

Decisions cited:

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Catchword:

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Case Number: T 0883/00 - 3.3.4

D E C I S I O N
of the Technical Board of Appeal 3.3.4
of 20 April 2001

Appellant: PHARMACIA & UPJOHN COMPANY
(Proprietor of the patent) 301 Henrietta Street
Kalamazoo
Michigan 49001 (US)

Representative: Perry, Robert Edward
Gill Jennings & Every
Broadgate House
7 Eldon Street
London EC2M 7LH (GB)

Respondent: Monsanto Company
(Opponent) 800 North Lindbergh Boulevard
St. Louis, Missouri 63167 (US)

Representative: Jaenichen, Hans-Rainer, Dr.
Vossius & Partner
Postfach 86 07 67
D-81634 München (DE)

Opponent: Eli Lilly and Company
307 East McCarty Street
Indianapolis, Indiana (US)

Representative: Fisher, Adrian John
CARPMAELS AND RANSFORD
43 Bloomsbury Square
London WC1A 2RA (GB)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 26 June 2000
revoking European patent No. 0 401 254 pursuant to

Article 102(1) EPC.

Composition of the Board:

Chairwoman: U. M. Kinkeldey

Members: A. L. L. Marie
S. C. Perryman

Summary of Facts and Submissions

I. The appeal contests the decision of the opposition division of the European Patent Office posted on 26 June 2000, by which European patent No. 0 401 254 was revoked.

The appellant filed a notice of appeal by letter received on 4 August 2000 and paid the fee for appeal on 7 August 2000. No statement of grounds of appeal was filed. The notice of appeal contains nothing that could be regarded as a statement setting out the grounds of appeal pursuant to Article 108 EPC.

II. By a communication dated 4 December 2000, sent by registered letter with advice of delivery, the registry of the board informed the appellant that no statement of grounds has been filed and that the appeal could be expected to be rejected as inadmissible. The appellant was invited to file observations within two months and attention was drawn to the possibility of filing a request for re-establishment of rights under Article 122 EPC.

III. No answer has been given to the Registry's communication.

Reasons for the Decision

As no written statement setting out the grounds of appeal has been filed, the appeal has to be rejected as inadmissible

(Article 108 EPC in conjunction with Rule 65(1) EPC).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairwoman:

U. Bultmann

U. M. Kinkeldey