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D E C I S I O N
of 5 March 2002

Case Number: T 0854/01 - 3.3.2

Application Number: 91911598.0

Publication Number: 0597852

IPC: A61K 39/02

Language of the proceedings: EN

Title of invention:

Swine pneumonia vaccine and method for the preparation thereof

Patentee:

AMERICAN CYANAMID COMPANY

Opponent:

MERIAL

Headword:

-

Relevant legal provisions:

EPC Art. 108

EPC R. 65(1)

Keyword:

"Missing Statement of Grounds"

Decisions cited:

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Catchword:

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Case Number: T 0854/01 - 3.3.2

D E C I S I O N
of the Technical Board of Appeal 3.3.2
of 5 March 2002

Appellant:
(Opponent)

MERIAL
17 Rue Bourgelat
F-69002 Lyon (FR)

Representative:

Colombet, Alain André
c/o Cabinet Lavoix
2, Place d'Estienne d'Orves
F-75441 Paris Cedex 09 (FR)

Respondent:
(Proprietor of the patent)

AMERICAN CYANAMID COMPANY
Five Giralda Farms
Madison
New Jersey 07940 (US)

Representative:

VOSSIUS & PARTNER
Postfach 86 07 67
D-81634 München (DE)

Decision under appeal:

**Decision of the Opposition Division of the
European Patent Office posted 28 May 2001
rejecting the opposition filed against European
patent No. 0 597 852 pursuant to Article 102(2)
EPC.**

Composition of the Board:

Chairman: P. A. M. Lançon
Members: J. Riolo
S. U. Hoffmann

Summary of Facts and Submissions

- I. The appeal contests the decision of the Opposition Division of the European Patent Office posted 28 May 2001, rejecting the opposition pursuant to Article 102(2) EPC.

The Appellant filed a notice of appeal on 24 July 2001 and paid the fee for appeal on the same day.

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.

- II. By a communication dated 6 December 2001 sent by registered letter with advice of delivery, the Registry of the Board informed the Appellant that no Statement of Grounds had been filed and that the appeal could be expected to be rejected as inadmissible. The Appellant was invited to file observations within two months.
- 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 Chairman:

E. Görgmaier

P. A. M. Lançon