

Internal distribution code:

- (A) [] Publication in OJ
(B) [] To Chairmen and Members
(C) [] To Chairmen
(D) [X] No distribution

D E C I S I O N
of 27 May 2002

Case Number: T 1191/01 - 3.3.4

Application Number: 94903271.8

Publication Number: 0630405

IPC: C12N 15/12

Language of the proceedings: EN

Title of invention:
Novel V28 seven transmembrane receptor

Patentee:
ICOS CORPORATION

Opponent:
SmithKline Beecham plc
Duphar International Research B.V.

Headword:
V28 receptor/ICOS

Relevant legal provisions:
EPC Art. 108
EPC R. 65(1)

Keyword:
"Missing Statement of Grounds"

Decisions cited:
-

Catchword:
-



Case Number: T 1191/01 - 3.3.4

D E C I S I O N
of the Technical Board of Appeal 3.3.4
of 27 May 2002

Appellant: ICOS CORPORATION
(Proprietor of the patent) 22021 20thh Avenue, S.E.
Bothell, WA 98021 (US)

Representative: Gowshall, Jonathan Vallance
FORRESTER & BOEHMERT
Pettenkoferstrasse 20-22
D-80336 München (DE)

Respondent: SmithKline Beecham plc
(Opponent) New Horizons Court, Great West Road
Brentford, Middlesex TW8 9EP (GB)

Representative: Valentine, Jill Barbara
GlaxoSmithKline
Corporate Intellectual Property (CN9.25.1)
980 Great West Road
Brentford, Middlesex TW8 9GS (GB)

Respondent: Duphar International Research B.V.
(Opponent) C.J. van Houtenlaan 36
NL-1381 CP Weesp (NL)

Representative: Oser, Andreas
Patentanwälte
Tiedtke-Bühling-Kinne & Partner
Bacariaring 4
D-80336 München (DE)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 22 August 2001
revoking European patent No. 0 630 405 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairwoman: U. M. Kinkeldey

Members: L. Galligani

V. Di Cerbo

Summary of Facts and Submissions

- I. The appeal contests the decision of the Opposition Division of the European Patent Office posted on 22 August 2001 revoking the European Patent No. 0 630 405.

The Appellant (patent proprietor) filed a notice of appeal by letter received on 30 October 2001 and paid the fee for appeal on the same date. No statement setting out the grounds of appeal was filed, and 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 14 February 2002, the Registry of the Board informed the Appellant that no statement setting out the grounds of appeal 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. Attention was also drawn to 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, Rule 65(1) EPC in conjunction with Article 108 EPC.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairwoman:

P. Cremona

U. Kinkeldey