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D E C I S I O N
of 19 December 2002

Case Number: T 0192/02 - 3.3.4

Application Number: 83901979.1

Publication Number: 0108128

IPC: C07K 13/00

Language of the proceedings: EN

Title of invention:

(Met-1,des-Cys1,des-Tyr2,des-Cys3) human gamma interferon and a DNA sequence encoding it

Patentee:

Amgen Inc.

Opponent:

Boehringer Ingelheim GmbH

Headword:

No grounds/AMGEN

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 0192/02 - 3.3.4

D E C I S I O N
of the Technical Board of Appeal 3.3.4
of 19 December 2002

Appellant: Amgen Inc.,
(Proprietor of the patent) One Amgen Center Drive
Thousand Oaks
California 91320-1799 (US)

Representative: Brown, John David
FORRESTER & BOEHMERT
Pettenkoferstrasse 20-22
D-80336 München (DE)

Respondent: Boehringer Ingelheim GmbH
(Opponent) D-55216 Ingelheim (DE)

Representative: Armitage, Ian Michael
MEWBURN ELLIS
York House
23 Kingsway
London WC2B 6HP (GB)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 12 December 2001
revoking European patent No. 0 108 128 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: U. M. Kinkeldey
Members: F. L. Davison-Brunel
C. Holtz

Summary of Facts and Submission

- I. The appeal contests the decision of the Opposition Division of the European Patent Office posted on 12 December 2001 revoking the European Patent No. 0 108 128.

The Appellant (patent proprietor) filed a notice of appeal by letter received on 13 February 2002 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 1 July 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