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D E C I S I O N
of 12 January 2004

Case Number: T 0442/03 - 3.4.2

Application Number: 94112728.4

Publication Number: 0640828

IPC: G01N 21/64

Language of the proceedings: EN

Title of invention:

Monitoring multiple reactions simultaneously and analyzing same

Patentee:

Applera Corporation

Opponent:

3-Dimensional Pharmaceuticals, Inc.
Bio-Rad Laboratories, Inc.

Headword:

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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 0442/03 - 3.4.2

D E C I S I O N
of the Technical Board of Appeal 3.4.2
of 12 January 2004

Appellant: Applera Corporation
(Proprietor of the patent) 850 Lincoln Centre Drive
Foster City, CA 94404 (US)

Representative: Roques, Sarah Elizabeth
J.A. Kemp & Co.
14 South Square
Gray's Inn
London WC1R 5JJ (GB)

Respondent: 3-Dimensional Pharmaceuticals, Inc.
(Opponent) Eagleview Corporate Center
Suite 104
665 Stockton Drive
Exton PA 19341 (US)

Representative: Chapman, Paul William
Kilburn & Strode
20 Red Lion Street
London WC1R 4PJ (GB)

Respondent: Bio-Rad Laboratories, Inc.
(Opponent) P.O. Box 5340
Hercules, California 94547 (US)

Respondent: Helbing, Jörg, Dr. Dipl.-Chem.
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 11 February 2003
revoking European patent No. 0640828 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: A. G. Klein
Members: M. A. Rayner
G. E. Weiss

Summary of Facts and Submissions

- I. The appeal contests the decision of the Opposition Division of the European Patent Office dated 11 February 2003, revoking the European patent No. 0 640 828 pursuant to Article 102(1) EPC.

The Appellant (Patent Proprietor) filed a notice of appeal on 16 April 2003 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 24 July 2003 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 received within the given time limit 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:

P. Martorana

A. G. Klein