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D E C I S I O N
of 5 May 2004

Case Number: T 1162/03 - 3.3.1

Application Number: 95939870.2

Publication Number: 0790990

IPC: C07D 311/72

Language of the proceedings: EN

Title of invention:

Process for the production of tocopherol and
tocopherol/tocotrienol concentrates

Patentee:

EASTMAN CHEMICAL COMPANY

Opponent:

BASF Aktiengesellschaft, Ludwigshafen

Headword:

Tocopherol/EASTMAN CHEMICAL

Relevant legal provisions:

EPC Art. 108

EPC R. 65(1)

Keyword:

"Missing Statement of Grounds"

Decisions cited:

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Catchword:

-



Case Number: T 1162/03 - 3.3.1

D E C I S I O N
of the Technical Board of Appeal 3.3.1
of 5 May 2004

Appellant: EASTMAN CHEMICAL COMPANY
(Proprietor of the patent) 100 North Eastman Road
Kingsport
TN 37660 (US)

Representative: Wibbelmann, Jobst, Dr., Dipl.-Chem.
Wuesthoff & Wuesthoff
Patent- und Rechtsanwälte
Schweigerstrasse 2
D-81541 München (DE)

Respondent: BASF Aktiengesellschaft, Ludwigshafen
(Opponent) -Patentabteilung - C6-
Carl-Bosch-Strasse 38
D-67056 Ludwigshafen (DE)

Representative: -

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 31 July 2003
revoking European patent No. 0790990 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: A. J. Nuss
Members: J. M. Jonk
J. H. Van Moer

Summary of Facts and Submissions

- I. The appeal contests the decision of the opposition division of the European Patent Office dated 31 July 2003 revoking the European patent No. 0 790 990. The decision was dispatched by registered letter with advice of delivery on 31 July 2003. The applicant filed a notice of appeal by letter received on 30 September 2003 and paid the fee for appeal on the same date. 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 29 January 2004 and sent by registered post, 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. The Appellant filed no observations in response to said 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:

N. Maslin

A. Nuss