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D E C I S I O N
of 11 March 2005

Case Number: T 1290/04 - 3.3.7

Application Number: 92307260.7

Publication Number: 0529853

IPC: C07C 253/24

Language of the proceedings: EN

Title of invention:

Catalyst and process for producing nitriles

Patentee:

Mitsubishi Chemical Corporation

Opponent:

BASF Aktiengesellschaft

Headword:

-

Relevant legal provisions:

EPC Art. 108

EPC R. 65(1)

Keyword:

"Missing Statement of Grounds"

Decisions cited:

-

Catchword:

-



Case Number: T 1290/04 - 3.3.7

D E C I S I O N
of the Technical Board of Appeal 3.3.7
of 11 March 2005

Appellant: Mitsubishi Chemical Corporation
(Proprietor of the patent) 33 - 8, Shiba 5-chome
Minato-ku
Tokyo 108 - 0014 (JP)

Representative: Keen, Celia Mary
J. A. Kemp & Co.
14 South Square
Gray's Inn
London WC1R 5JJ (GB)

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 6 September 2004
revoking European patent No. 0529853 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: R. E. Teschemacher
Members: G. Santavicca
B. L. ter Laan

Summary of Facts and Submissions

- I. The appeal contests the decision of the Opposition Division of the European Patent Office posted on 6 September 2004 revoking European patent No. 0 529 853 pursuant to Article 102(1) EPC.

The Appellant (Proprietor of the patent) filed a notice of appeal on 3 November 2004 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. In a communication dated 2 February 2005 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 informed about the possibility of filing a request for re-establishment of rights under Article 122 EPC and was invited to file observations within two months.

- III. By letter dated 23 February 2005, the Appellant stated that it had decided not to pursue this appeal and that the failure to file a written statement of grounds had been intentional. Furthermore, it was confirmed that the auxiliary request for oral proceedings was not intended to apply to the question of inadmissibility of the appeal as a consequence of the fact that a written statement of grounds of appeal had not been filed.

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:

C. Eickhoff

R. Teschemacher