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D E C I S I O N
of 8 August 2005

Case Number: T 0181/05 - 3.3.8

Application Number: 01950430.7

Publication Number: 1303613

IPC: C12N 15/45

Language of the proceedings: EN

Title of invention:

Rescue of canine distemper virus from cDNA

Applicant:

Wyeth Holdings Corporation

Opponent:

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Headword:

-

Relevant legal provisions:

EPC Art. 108

EPC R. 65(1)

Keyword:

"Missing statement of grounds - appeal inadmissible"

Decisions cited:

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Catchword:

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Case Number: T 0181/05 - 3.3.8

D E C I S I O N
of the Technical Board of Appeal 3.3.8
of 8 August 2005

Appellant:

Wyeth Holdings Corporation
Five Giralda Farms
Madison, NJ 07940 (US)

Representative:

Denholm, Anna M.
c/o John Wyeth & Brother Limited
Patents & Trade Marks Department
Huntercombe Lane South
Taplow
Maidenhead
Berkshire SL6 0PH (GB)

Decision under appeal:

Decision of the Examining Division of the
European Patent Office posted 22 November 2004
refusing European application No. 01950430.7
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: L. Galligani
Members: M. R. Vega Laso
C. Rennie-Smith

Summary of Facts and Submissions

- I. The applicant (appellant) filed on 11 January 2005 a notice of appeal against the decision of the examining division dated 22 November 2004, whereby the European patent application No. 01 950 430.7 (published as WO 02/00883) entitled "Rescue of canine distemper virus from cDNA" was refused pursuant to Article 97(1) EPC. In the notice of appeal oral proceedings under Article 116 EPC were requested. The appeal fee was paid on 11 January 2005. No statement of grounds of appeal was filed within the time limit set by Article 108 EPC.
- II. By a communication dated 4 May 2005 sent by registered letter with advice of delivery, the appellant was informed that no statement of grounds of appeal had been filed and that, therefore, it was to be expected that the appeal would be rejected as inadmissible. The appellant was invited to file observations within two months. Attention was also drawn to Article 122 EPC. The appellant did not reply to said communication, and no request for re-establishment of rights was filed.

Reasons for the Decision

As no written statement setting out the grounds of appeal has been filed, and as the notice of appeal does not contain any statements that could be regarded as a statement of grounds of appeal pursuant to Article 108 EPC, the appeal has to be rejected as inadmissible (Article 108 EPC in conjunction with Rule 65(1) EPC). Since the appeal is inadmissible, none of the requests in the notice of appeal, including the request for oral proceedings, can be considered.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

A. Wolinski

L. Galligani