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**D E C I S I O N**  
**of 16 March 2006**

**Case Number:** T 0911/05 - 3.3.08

**Application Number:** 91910872.0

**Publication Number:** 0600865

**IPC:** C12N 1/15

**Language of the proceedings:** EN

**Title of invention:**  
Xylanase production

**Patentee:**  
Quest International Services B.V.

**Opponents:**  
Lesaffre International  
GENENCOR INTERNATIONAL INC.  
DSM. N.V.

**Headword:**  
Xylanase/QUEST

**Relevant legal provisions:**  
EPC Art. 108  
EPC R. 65(1)

**Keyword:**  
"Missing statement of grounds"

**Decisions cited:**  
-

**Catchword:**  
-



Case Number: T 0911/05 - 3.3.08

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.08  
of 16 March 2006

**Appellant:** GENENCOR INTERNATIONAL INC.  
(Opponent 02) 925 Page Mill Rd.  
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**Representative:** Denison, Christopher Marcus  
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**Respondent:** Quest International Services B.V.  
(Proprietor of the patent) Huizerstraatweg 28  
NL-1411 GP Naarden (NL)

**Representative:** Duffy, Assumpta Dympna  
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**Other Party:** Lesaffre International  
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147 rue Gabriel Péri  
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**Representative:** Gallois, Valérie  
Cabinet BECKER & ASSOCIES  
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**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
9 May 2005 concerning maintenance of European  
patent No. 0600865 in amended form.

**Composition of the Board:**

**Chairman:** F. Davison-Brunel  
**Members:** M. R. Vega Laso  
C. Rennie-Smith

## Summary of Facts and Submissions

- I. The appeal lies from the interlocutory decision of the opposition division posted on 9 May 2005 concerning the European patent No. 0 600 865 entitled "Xylanase production", which was based on European patent application No. 91 910 872.0 published as WO 91/19782.
- II. The patent was opposed by three parties (opponents 01 to 03). By its letter of 19 September 2003, opponent 03 withdrew its opposition. In its interlocutory decision, the opposition division found that, taking into consideration the amendments made by the proprietor of the patent during the opposition proceedings, the patent and the invention to which it related met the requirements of the EPC (cf. Article 102(3) EPC).
- III. On 18 July 2005 opponent 02 (appellant) filed a notice of appeal against this decision, and requested *inter alia* oral proceedings under Article 116 EPC. The appeal fee was also paid on 18 July 2005. However, no statement of grounds of appeal was filed within the time limit set by Article 108 EPC.
- IV. By a communication dated 20 December 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 the 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

F. Davison-Brunel