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**Datasheet for the decision  
of 10 January 2007**

**Case Number:** T 0445/06 - 3.3.10

**Application Number:** 95302880.0

**Publication Number:** 0698395

**IPC:** A61L 27/00

**Language of the proceedings:** EN

**Title of invention:**

Tubular polytetrafluoroethylene implantable prostheses

**Patentee:**

Meadox Medicals, Inc.

**Opponent:**

AESCULAP AG & Co. KG

**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 0445/06 - 3.3.10

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.10  
of 10 January 2007

**Appellant:** AESCULAP AG & Co. KG  
(Opponent) Am Aesculap-Platz  
D-78532 Tuttlingen (DE)

**Representative:** Ruff, Michael  
Patentanwälte Ruff, Wilhelm,  
Beier, Dauster & Partner  
Kronenstrasse 306  
D-70174 Stuttgart (DE)

**Respondent:** Meadox Medicals, Inc.  
(Patent Proprietor) 112 Bauer Drive  
Oakland  
New Jersey 07436 (US)

**Representative:** Nash, David Allan  
HASELTINE LAKE  
Redcliff Quay  
120 Redcliff Street  
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**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
17 January 2006 concerning maintenance of the  
European patent No. 0698395 in amended form.

**Composition of the Board:**

**Chairman:** R. Freimuth  
**Members:** J. Mercey  
P. Schmitz

## **Summary of Facts and Submissions**

- I. In its interlocutory decision dated 17 January 2006 the Opposition Division decided that the European patent No. 0 698 395 as amended met the requirements of the EPC.
- II. The Patent Proprietor (Appellant) filed a notice of appeal on 24 March 2006 against the decision of the Opposition Division and paid the appeal fee on 22 March 2006. No statement of grounds was filed within the prescribed period in accordance with Article 108 EPC.
- III. By a communication dated 30 June 2006 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 it was to be expected that the appeal be rejected as inadmissible. The Appellant was invited to file observations within two months.
- IV. No reply from the Appellant was received within this time-limit.

## **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. Moser

R. Freimuth