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**Datasheet for the decision
of 13 November 2006**

Case Number: T 0821/06 - 3.3.04

Application Number: 00978435.6

Publication Number: 1229923

IPC: A61K 35/74

Language of the proceedings: EN

Title of invention:

Inhibition of Pathogens by Bacillus Coagulans Strains

Applicant:

Ganeden Biotech, Inc.

Opponent:

-

Headword:

Inhibition of Pathogens by BCS/GANEDEN

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 0821/06 - 3.3.04

D E C I S I O N
of the Technical Board of Appeal 3.3.04
of 13 November 2006

Appellant: Ganeden Biotech, Inc.
Suite 209,
5940 Pacific Mesa Court
San Diego, CA 92121 (US)

Representative: Crump, Julian Richard John
Mintz Levin Cohn Ferris Glovsky and Popeo
Intellectual Property LLP
The Rectory
9, Ironmonger Lane
London EC2V 8EY (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 20 December 2005
refusing European application No. 00978435.6
pursuant to Article 97(1) EPC.

Composition of the Board:

Chair: U. Kinkeldey
Members: R. Gramaglia
D. Rogers

Summary of Facts and Submissions

The appeal contests the decision of the Examining Division of the European Patent Office dated 20 December 2005 concerning refusal of the European Patent application No. 00 978 435.6.

The appellant (applicant) filed a notice of appeal on 28 February 2006 and paid the fee for appeal on the same day.

No statement of grounds was filed by the appellant.

The notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC.

By communications dated 9 August 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 the appeal could be expected to be rejected as inadmissible.

The appellant was invited to file observations within two months.

Attention was also drawn to Article 122 EPC.

In response to an inquiry by the registry of the Board, the representative of the appellant confirmed that no response had been or would be filed to the communication of 9 August 2006.

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 (Rule 65(1) EPC in conjunction with Article 108 EPC).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible

Registrar:

Chair:

P. Cremona

U. Kinkeldey