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**Datasheet for the decision  
of 29 March 2007**

**Case Number:** T 1237/06 - 3.3.02

**Application Number:** 97122211.2

**Publication Number:** 0848955

**IPC:** A61K 31/665

**Language of the proceedings:** EN

**Title of invention:**

Anti-stress agent for animals comprising an ascorbic acid derivative

**Patentee:**

SHOWA DENKO KABUSHIKI KAISHA

**Opponent:**

BASF Aktiengesellschaft

**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 1237/06 - 3.3.02

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.02  
of 29 March 2007

**Appellant:**  
(Patent Proprietor)

SHOWA DENKO KABUSHIKI KAISHA  
13-9, Shiba Daimon 1-chome  
Minato-ku  
Tokyo (JP)

**Representative:**

Strehl Schübel-Hopf & Partner  
Maximilianstrasse 54  
D-80538 München (DE)

**Respondent:**  
(Opponent)

BASF Aktiengesellschaft  
D-67056 Ludwigshafen (DE)

**Representative:**

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**Decision under appeal:**

Decision of the Opposition Division of the  
European Patent Office posted 1 June 2006  
revoking European patent No. 0848955 pursuant  
to Article 102(1) EPC.

**Composition of the Board:**

**Chairman:** U. Oswald  
**Members:** H. Kellner  
J. Willems

## **Summary of Facts and Submissions**

- I. The appeal contests the decision of the Opposition Division of the European Patent Office dated 1 June 2006 revoking the European patent No. 0 848 955. The decision was dispatched by registered letter with advice of delivery on 29 May 2006. The Patent proprietor filed a notice of appeal by letter on 9 August 2006, and paid the fee for appeal on the same date. No Statement of Grounds was filed by the last permissible date, 12 October 2006, or at all. The notice of appeal contains nothing that could be regarded as a Statement of Grounds pursuant to Article 108 EPC.
- II. By a communication dated 17 November 2006 and sent by registered post, 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 communication invited the Appellant to file observations within two months and also drew its attention to Article 122 EPC (re-establishment of rights).
- III. The Appellant has neither filed any observations in response to the said communication nor made a request for re-establishment of rights.

## **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:

A. Townend

U. Oswald