

Internal distribution code:

- (A) Publication in OJ
(B) To Chairmen and Members
(C) To Chairmen
(D) No distribution

**Datasheet for the decision
of 4 October 2007**

Case Number: T 1849/06 - 3.3.08

Application Number: 92922321.2

Publication Number: 0618976

IPC: C12N 15/32

Language of the proceedings: EN

Title of invention:

Synthetic DNA sequence having enhanced insecticidal activity
in maize

Patentee:

Syngenta Participations AG

Opponents:

Dow Agrosciences LLC
Pioneer Hi-Bred International Inc.
Bayer BioScience N.V.
Monsanto Company

Headword:

Insecticidal DNA/SYNGENTA

Relevant legal provisions:

EPC Art. 108
EPC R. 65(1)

Keyword:

"Missing statement of grounds"

Decisions cited:

-

Catchword:

-



Case Number: T 1849/06 - 3.3.08

DECISION
of the Technical Board of Appeal 3.3.08
of 4 October 2007

Appellant:
(Patent Proprietor)

Syngenta Participations AG
Schwarzwaldallee 215
CH-4058 Basel (CH)

Representative:

Jaenichen, Hans-Rainer
Vossius & Partner
Postfach 86 07 67
D-81634 München (DE)

Respondents:
(Opponent 01)

Dow Agrosciences LLC
9330 Zionsville Road
INDIANAPOLIS IN 46268-1054 (US)

Representative:

Fisher, Adrian John
CARPMAELS & RANSFORD
43-45 Bloomsbury Square
London WC1A 2RA (GB)

(Opponent 02)

Pioneer Hi-Bred International Inc.
800 Capital Square
400 Locust Street
Des Moines, IA 50309 (US)

Representative:

Bentham, Andrew
J.A. Kemp & Co.
14 South Square Gray's Inn
London WC1R 5JJ (GB)

(Opponent 03)

Bayer BioScience N.V.
Technologiepark 38
B-9052 Gent (BE)

Representative:

Almond-Martin, Carol
ERNEST GUTMANN - YVES PLASSERAUD S.A.S.
88, Boulevard des Belges
F-69452 Lyon Cedex 06 (FR)

(Opponent 04)

Monsanto Company
800 North Lindbergh Boulevard
St. Louis, Missouri 63166 (US)

Representative:

von Menges, Albrecht
Uexküll & Stolberg
Patentanwälte
Beselerstrasse 4
D-22607 Hamburg (DE)

Decision under appeal:

**Decision of the Opposition Division of the
European Patent Office posted 29 September 2006
revoking European patent No. 0618976 pursuant
to Article 102(1) EPC.**

Composition of the Board:

Chairman: L. Galligani
Members: P. Julià
T. Karamanli

Summary of Facts and Submissions

- I. The proprietor (appellant) filed on 7 December 2006 a notice of appeal against the decision of the opposition division dated 29 September 2006, whereby the European patent No. 0 618 976 was revoked. The appeal fee was paid on the same day. No statement setting out the grounds of appeal was filed.
- II. By a communication dated 16 March 2007 sent by registered letter with advice of delivery, the Registrar of the Board of Appeal informed the appellant that no written statement of grounds of appeal had been filed and that therefore the appeal was expected to be rejected as inadmissible. The appellant was invited to file observations within two months and attention was drawn to the possibility of filing a request for re-establishment of rights under 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).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

A. Wolinski

L. Galligani