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**Datasheet for the decision
of 4 March 2008**

Case Number: T 1148/07 - 3.3.08

Application Number: 00921990.8

Publication Number: 1171608

IPC: C12N 15/38

Language of the proceedings: EN

Title of invention:

Recombinant and mutant marek's disease virus

Applicant:

Schering-Plough Ltd.

Opponent:

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Headword:

-

Relevant legal provisions:

EPC Art. 108

EPC R. 101

Relevant legal provisions (EPC 1973):

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Keyword:

"Missing statement of grounds"

Decisions cited:

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Catchword:

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Case Number: T 1148/07 - 3.3.08

D E C I S I O N
of the Technical Board of Appeal 3.3.08
of 4 March 2008

Appellant: Schering-Plough Ltd.
Töpferstrasse 5
CH-6004 Lucerne (CH)

Representative: UEXKÜLL & STOLBERG
Patentanwälte
Beselerstrasse 4
D-22607 Hamburg (DE)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 15 May 2006
refusing European application No. 00921990.8
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: P. Julià
Members: T. J. H. Mennessier
C. Rennie-Smith

Summary of Facts and Submissions

- I. The applicant (appellant) filed on 12 July 2006 a notice of appeal against the decision of the examining division dated 15 May 2006 whereby the European Patent application No. 00 921 990.8 (published as International application WO 00/61736) entitled "Recombinant and Mutant Marek's Disease Virus" was refused under Article 97(1) EPC 1973 (Article 97(2) EPC 2000) for reason of non compliance with the requirement of Article 56 EPC, the basis for the refusal being the main and the auxiliary requests filed on 21 April 2006. The appeal fee was paid on 12 July 2006. No statement of grounds of appeal was filed within the time limit set by Article 108 EPC.
- II. By a communication dated 13 August 2007 sent by registered letter with advice of delivery, the Registry of the Board of Appeal informed the appellant that no statement of grounds had been filed and that therefore the appeal had to be rejected as inadmissible. The appellant was invited to file observations within two months. 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 that communication, and no request for re-establishment of rights was filed within the prescribed time limit.

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 anything 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 101(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

P. Julià