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**Datasheet for the decision
of 09 October 2008**

Case Number: T 0300/08 - 3.3.02

Application Number: 97302763.4

Publication Number: 0800823

IPC: A61K 31/047

Language of the proceedings: EN

Title of invention:

Anti-cariogenic activity of erythritol and oral compositions comprising it

Patentee:

CERESTAR HOLDING BV

Opponent:

ROQUETTE FRERES, S.A.

Headword:

Anti-cariogenic erythritol/CERESTAR

Relevant legal provisions:

EPC Art. 108
EPC R. 101(1)

Relevant legal provisions (EPC 1973):

EPC R. 65(1)

Keyword:

"Missing statement of grounds"

Decisions cited:

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Catchword:

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Case Number: T 0300/08 - 3.3.02

DECISION
of the Technical Board of Appeal 3.3.02
of 09 October 2008

(Opponent)

ROQUETTE FRERES, S.A.
F-62136 Lestrem (FR)

Representative:

Boulinguez, Didier
Cabinet Plasseraud
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Respondent:

(Patent Proprietor)

CERESTAR HOLDING BV
Nijverheidsstraat 1
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Representative:

Wilkinson, Stephen John
Stevens, Hewlett & Perkins
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Decision under appeal:

Interlocutory decision of the Opposition
Division of the European Patent Office posted
30 November 2007 concerning maintenance of
European patent No. 0800823 in amended form.

Composition of the Board:

Chairman: U. Oswald
Members: H. Kellner
J. Van Moer

Summary of Facts and Submissions

I. The appeal contests the decision of the Opposition Division of the European Patent Office dispatched by registered letter with advice of delivery on 30 November 2007, and concerning maintenance of the European patent No. 0800823 in amended form.

The Appellant (Proprietor) filed a Notice of Appeal by a letter received on 8 February 2008 and paid the fee for appeal on the same day. No Statement of Grounds was filed. 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 27 May 2008, sent by registered post, the Registrar of the Board informed the Appellant that no Statement of Grounds has been filed and that the appeal could be expected to be rejected as inadmissible. The Appellant was invited to file observations within two months.

III. No answer has been given within the given time limit to the Registry's communication.

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 101(1) EPC (formerly Rule 65(1) EPC 1973)).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

N. Maslin

U. Oswald