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**Datasheet for the decision  
of 12 September 2008**

**Case Number:** T 0478/08 - 3.3.04

**Application Number:** 99100197.5

**Publication Number:** 0911033

**IPC:** A61K 38/21

**Language of the proceedings:** EN

**Title of invention:**

Use of consensus interferon for reducing the side effects of  
interferon treatment in viral hepatitis

**Patentee:**

Amgen Inc.

**Opponents:**

MAXYGEN INC.

F.Hoffmann-La Roche AG

**Headword:**

Use of consensus interferon/AMGEN INC.

**Relevant legal provisions:**

EPC Art. 108

EPC R. 101(1)

**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 0478/08 - 3.3.04

**DECISION**  
of the Technical Board of Appeal 3.3.04  
of 12 September 2008

**Appellant:** MAXYGEN INC.  
(Opponent) 515 Galveston Drive  
Redwood City CA 94063 (US)

**Representative:** Hallybone, Huw George  
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**Respondent:** Amgen Inc.  
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**Representative:** Brown, John D.  
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(Opponent) F.Hoffmann-La Roche AG  
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CH-4070 Basel (CH)

**Representative:** Jaenichen, Hans-Rainer  
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**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
27 December 2007 concerning maintenance of  
European patent No. 0911033 in amended form.

**Composition of the Board:**

**Chair:** U. Kinkeldey  
**Members:** R. Gramaglia  
R. Moufang

## **Summary of Facts and Submissions**

- I. The appeal concerns the interlocutory decision of the opposition division of the European Patent Office posted on 23 December 2007 according to which the European patent No. 0 911 033 in amended form complies with the requirements of the EPC.
- II. The appellant (opponent) filed a notice of appeal on 6 March 2008 and paid the fee for appeal on the same day.
- III. 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.
- IV. By communication dated 25 June 2008 and 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.
- V. The appellant, by letter dated 19 June 2008, confirmed that it did not intend to pursue the appeal.

## **Reasons for the Decision**

As no written statement setting out the grounds of appeal had been filed, the appeal has to be rejected as inadmissible (Rule 101(1) EPC in conjunction with Article 108 EPC).

**Order**

**For these reasons it is decided that:**

The appeal is rejected as inadmissible.

Registrar

Chair

R. Schumacher

U. Kinkeldey