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**Datasheet for the decision
of 11 December 2008**

Case Number: T 0590/08 - 3.3.08

Application Number: 97933347.3

Publication Number: 0941323

IPC: C12N 15/12

Language of the proceedings: EN

Title of invention:

Bone morphogenetic protein-16 (BMP-16) compositions

Applicant:

Genetics Institute, LLC

Opponent:

-

Headword:

Morphogenetic protein/GENETICS INSTITUTE

Relevant legal provisions:

EPC Art. 108, 97(1), 56, 57

Relevant legal provisions (EPC 1973):

EPC R. 23(e) (3)

Keyword:

"Missing statement of grounds"

Decisions cited:

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Catchword:

-



Case Number: T 0590/08 - 3.3.08

D E C I S I O N
of the Technical Board of Appeal 3.3.08
of 11 December 2008

Appellant: Genetics Institute, LLC
87 Cambridge Park Drive
Cambridge
MA 02140 (US)

Representative: Denholm, Anna Marie
Wyeth Pharmaceuticals
Patents & Trade Marks Department
Huntercombe Lane South
Taplow
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Berkshire SL6 0PH (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 11 October 2007
refusing European application No. 97933347.3
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: L. Galligani
Members: P. Julià
C. Rennie-Smith

Summary of Facts and Submissions

- I. The applicant (appellant) filed on 19 December 2007 a notice of appeal against the decision of the examining division dated 11 October 2007, whereby the European patent application No. 97 933 347.3 (published as WO 98/12322 on 26 March 1998) entitled "Bone morphogenetic protein-16 (BMP-16) compositions" was refused pursuant to Article 97(1) EPC on the grounds of lack of inventive step (Art. 56 EPC) and lack of industrial application (Art. 57 EPC in conjunction with Rule 23(e)(3) EPC 1973). The appeal fee was paid on the same day. No statement of grounds of appeal was filed within the time limit set by Article 108 EPC.
- II. By a communication dated 26 May 2008 sent by registered letter with advice of delivery, the appellant was informed that no statement of grounds of appeal had been filed and that, therefore, it was to be expected that the appeal would be rejected as inadmissible pursuant to Article 108, 3rd sentence EPC in conjunction with Rule 101(1) EPC. The appellant was invited to file observations within two months. 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 anything that could be regarded as a statement of grounds of appeal according 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

L. Galligani