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**Datasheet for the decision
of 23 February 2009**

Case Number: T 1191/08 - 3.3.08

Application Number: 98930081.9

Publication Number: 1002233

IPC: G01N 33/53

Language of the proceedings: EN

Title of invention:
High-throughput assay

Patentee:
PHARMACOPEIA, INC.

Opponent:
Evotec Technologies GmbH

Headword:
High-throughput assay/PHARMACOPEIA

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 1191/08 - 3.3.08

D E C I S I O N
of the Technical Board of Appeal 3.3.08
of 23 February 2009

Appellant: Evotec Technologies GmbH
(Opponent) Merowingerplatz 1a
D-40225 Düsseldorf (DE)

Representative: Meyers, Hans-Wilhelm
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Respondent: PHARMACOPEIA, INC.
(Patent Proprietor) 3000 Eastpark Boulevard
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Representative: Lock, Graham James
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
3 March 2008 concerning maintenance of European
patent No. 1002233 in amended form.

Composition of the Board:

Chairman: L. Galligani
Members: M. R. Vega Laso
C. Heath

Summary of Facts and Submissions

- I. By an interlocutory decision of the opposition division announced at the end of the oral proceedings on 27 November 2007 and posted on 3 March 2008, the European patent No. 1 002 233 (European application No. 98 930 081.9) with the title "High-throughput assay" was maintained in amended form pursuant to Article 102(3) EPC 1973.
- II. The opponent (appellant) filed on 13 May 2008 a notice of appeal. The appeal fee was paid on the same day. However, no statement of grounds of appeal was filed within the time limit specified in Article 108 EPC.
- III. By a communication dated 18 August 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, third 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).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar

The Chairman

A. Wolinski

L. Galligani