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**Datasheet for the decision  
of 30 March 2009**

**Case Number:** T 1569/08 - 3.3.08

**Application Number:** 02077411.3

**Publication Number:** 1245678

**IPC:** C12N 15/48

**Language of the proceedings:** EN

**Title of invention:**

Recombinant proteins of viruses associated with lymphadenopathy syndrome and/or acquired immune deficiency syndrome

**Patentee:**

Novartis Vaccines and Diagnostics, Inc.

**Opponent:**

Institut Pasteur

**Headword:**

Lymphotropic retrovirus diagnosis/NOVARTIS

**Relevant legal provisions:**

EPC Art. 108  
EPC R. 101

**Keyword:**

"Missing statement of grounds"

**Decisions cited:**

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**Catchword:**

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Case Number: T 1569/08 - 3.3.08

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.08  
of 30 March 2009

**Appellant:** Institut Pasteur  
(Opponent) 28, Rue du Docteur Roux  
F-75724 Paris Cedex 15 (FR)

**Representative:** Desaix, Anne  
Ernest Gutmann - Yves Plasseraud S.A.S.  
3, rue Auber  
F-75009 Paris (FR)

**Respondent:** Novartis Vaccines and Diagnostics, inc.  
(Patent Proprietor) 4560 Horton Street  
Emeryville, CA 94608 (US)

**Representative:** Hallybone, Huw George  
Carpmeals & Ransford  
43-45 Bloomsbury Square  
London WC1A 2RA (GB)

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
3 June 2008 concerning maintenance of European  
patent No. 1245678 in amended form.

**Composition of the Board:**

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

## **Summary of Facts and Submissions**

I. The appellant (opponent) contests the interlocutory decision of the opposition division of the European Patent Office dated 3 June 2008 whereby the European patent No. 1 245 678 was maintained in amended form.

The appellant filed a notice of appeal on 1 August 2008 and paid the appeal fee on the same day.

A written statement setting out the grounds of appeal was not filed within the four-month time limit provided for in Article 108 EPC. Nor did the notice of appeal contain anything that might be considered as such statement.

II. In a communication dated 17 November 2008, the Board informed the appellant that no statement setting out the grounds of appeal had been received and that the appeal could be expected to be rejected as inadmissible. The appellant was informed that any observations should be filed within two months.

III. The appellant filed no observations in response to said communication.

## **Reasons for the Decision**

As no written statement setting out the grounds of appeal was filed within the time limit provided for in Article 108 EPC, the appeal is inadmissible pursuant to Rule 101(1)EPC.

**Order**

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

The appeal is rejected as inadmissible.

The Registrar

The Chairman

M. Schalow

L. Galligani