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**Datasheet for the decision
of 14 November 2012**

Case Number: T 1695/08 - 3.3.04

Application Number: 99968115.8

Publication Number: 1140173

IPC: A61K 39/395, A61K 38/17,
A61P 7/10, C07K 19/00,
C07K 14/71

Language of the proceedings: EN

Title of invention:
Vascular endothelial cell growth factor antagonists and uses thereof

Patentee:
Genentech, Inc.

Opponents:
PFIZER LIMITED
OSI Pharmaceuticals, Inc.

Headword:
Vascular endothelial cell growth factor antagonists/GENENTECH

Relevant legal provisions:
EPC Art. 108
EPC R. 101(1)

Keyword:
"Missing statement of grounds of appeal"

Decisions cited:
-

Catchword:
-



Case Number: T 1695/08

D E C I S I O N
of the Technical Board of Appeal 3.3.04
of 14 November 2012

Respondent: Genentech, Inc.
(Patent Proprietor) 1 DNA Way
(Former Appellant I) South San Francisco CA 94080-4990 (US)

Representative: Denison, Christopher Marcus
Mewburn Ellis LLP
33 Gutter Lane
London EC2V 8AS (GB)

Appellant II: PFIZER LIMITED
(Opponent 1) Ramsgate Road
Sandwich, Kent CT13 9NJ (GB)

Representative: von Menges, Albrecht
Uexküll & Stolberg
Patentanwälte
Beselerstrasse 4
D-22607 Hamburg (DE)

Party as of right: OSI Pharmaceuticals, Inc.
(Opponent 2) 41 Pinelawn Road
Melville NY 11747 (US)

Representative: Rands, Peter David
Mintz Levin Cohn Ferris Glovsky and
Popeo Intellectual Property LLP
Alder Castle
10 Noble Street
London EC2V 7JX (GB)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted
4 July 2008 concerning maintenance of European
patent No. 1140173 in amended form.**

Composition of the Board:

Chairman: C. Rennie-Smith
Members: M. Montrone
R. Morawetz

Summary of Facts and Submissions

- I. The appeal is against the decision of the opposition division of the European Patent Office dated 4 July 2008 to maintain the European patent No. 1140173 amended pursuant to Articles 101(3) (a) and 106(2) EPC.
- II. Appellant I (patent proprietor) filed a notice of appeal on 15 September 2008 and paid the fee for appeal on the same day.
- III. Appellant II (opponent 01) filed a notice of appeal on 1 September 2008 and paid the fee for appeal on the same day.
- IV. No statement of grounds was filed by the appellant II (opponent 01). The notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC.
- V. By communication dated 10 December 2008, sent by registered letter with advice of delivery, the registry of the board informed appellant II that no statement of grounds had been filed and that the appeal could be expected to be rejected as inadmissible. Appellant II was invited to file observations within two months.
- VI. Appellant II filed no observations in response to said communication.
- VII. Appellant I (patent proprietor) withdrew its appeal on 13 November 2012.

Reasons for the Decision

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

Order

For these reasons it is decided that:

The appeal of appellant II is rejected as inadmissible.

The Registrar:

The Chairman:

P. Cremona

C. Rennie-Smith