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**Datasheet for the decision  
of 16 February 2009**

**Case Number:** T 2079/08 - 3.3.02

**Application Number:** 00957674.5

**Publication Number:** 1210067

**IPC:** A61K 9/16

**Language of the proceedings:** EN

**Title of invention:**

Modulation of release from dry powder formulations

**Applicant:**

Advanced Inhalation Research, Inc.

**Opponent:**

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**Headword:**

Release from dry powder formulations/ADVANCED INHALATION  
RESEARCH

**Relevant legal provisions:**

EPC Art. 108  
EPC R. 101(1)

**Relevant legal provisions (EPC 1973):**

EPC R. 65(1)

**Keyword:**

"Missing statement of grounds"

**Decisions cited:**

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**Catchword:**

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Case Number: T 2079/08 - 3.3.02

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.02  
of 16 February 2009

**Appellant:** Advanced Inhalation Research, Inc.  
840 Memorial Drive  
Cambridge MA 02139 (US)

**Representative:** Chapman, Paul William  
Kilburn & Strode  
20 Red Lion Street  
London WC1R 4PJ (GB)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 1 April 2008  
refusing European application No. 00957674.5  
pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** U. Oswald  
**Members:** H. Kellner  
J. Van Moer

## **Summary of Facts and Submissions**

I. The appeal contests the decision of the Examining Division of the European Patent Office dispatched by registered letter with advice of delivery on 1 April 2008, refusing European application No. 00957674.5.

The Appellant (Applicant) filed a Notice of Appeal by a letter received on 7 May 2008 and paid the fee for appeal on 6 May 2008. No Statement of Grounds was filed. The Notice of Appeal contains nothing that could be regarded as a Statement of Grounds pursuant to Article 108 EPC.

II. By a communication dated 6 November 2008, sent by registered post, the Registrar of the Board informed the Appellant that no Statement of Grounds has been filed and that the appeal could be expected to be rejected as inadmissible. The Appellant was invited to file observations within two months.

III. No answer has been given within the given time limit to the Registry's communication.

## **Reasons for the Decision**

As no written statement setting out the grounds of appeal has been filed, the appeal has to be rejected as inadmissible (Article 108 EPC in conjunction with Rule 101(1) EPC (formerly Rule 65(1) EPC 1973)).

**Order**

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

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

N. Maslin

U. Oswald