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**Datasheet for the decision
of 4 August 2009**

Case Number: T 2133/08 - 3.3.09

Application Number: 01911559.1

Publication Number: 1255452

IPC: A23J 3/34

Language of the proceedings: EN

Title of invention:

A method for maintaining or improving the synthesis of mucins

Patentee:

SOCIETE DES PRODUITS NESTLE S.A.

Opponent:

N.V. Nutricia

Headword:

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Relevant legal provisions:

EPC Art. 108

EPC R. 99(2), 101(1)

Relevant legal provisions (EPC 1973):

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Keyword:

"No statement of grounds filed - appeal inadmissible"

Decisions cited:

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Catchword:

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Case Number: T 2133/08 - 3.3.09

D E C I S I O N
of the Technical Board of Appeal 3.3.09
of 4 August 2009

Appellant: N.V. Nutricia
(Opponent) Erste Stationsstraat 186
NL-2712 HM Zoetermeer (NL)

Representative: van Westenbrugge, Andries
Nederlandsch Octrooibureau
Postbus 29720
NL-2502 LS Den Haag (NL)

Respondent: SOCIETE DES PRODUITS NESTLE S.A.
(Patent Proprietor) 55, avenue Nestlé, B.P. 353
CH-1800 Vevey (CH)

Representative: Thomas, Alain
55, avenue Nestlé
CH-1800 Vevey (CH)

Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
22 August 2008 concerning maintenance of
European patent No. 1255452 in amended form.

Composition of the Board:

Chairman: P. Kitzmantel
Members: W. Ehrenreich
M-B. Tardo-Dino

Summary of Facts and Submissions

I. This case relates to the interlocutory decision of the Opposition Division dated 22 August 2008 concerning the maintenance of European Patent No. 1 255 452 in amended form.

The Appellant (Opponent) filed a notice of appeal on 31 October 2008 and paid the appeal fee on the same day.

No statement of grounds was filed within the time-limit set by Art. 108 EPC.

II. By a communication dated 10 March 2009, sent by registered letter with advice of delivery, the Registry of the Board informed the Appellant that no statement of grounds had been filed and that the appeal could be expected to be rejected as inadmissible. Attention was also drawn to Rule 101(1) EPC and to Art. 108 EPC. The Appellant was invited to file observations within two months.

III. No reply was received within this time-limit.

Reasons for the Decision

As no written statement setting out the grounds of appeal has been filed and the Appellant has not reacted within the time-limit given in the communication issued by the Registry, the appeal is inadmissible pursuant to Art. 108 EPC in conjunction with Rules 99(2) and 101(1) EPC.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

G. Röhn

P. Kitzmantel