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**Datasheet for the decision
of 1 July 2009**

Case Number: T 2353/08 - 3.3.04
Application Number: 00126114.8
Publication Number: 1111067
IPC: C12P 23/00, C12N 9/08,
C12N 9/02
Language of the proceedings: EN

Title of invention:

Recombinant production of carotenoids, particularly staxanthin

Applicant:

DSM IP Assets B.V.

Headword:

Carotenoids/DSM IP

Relevant legal provisions:

EPC Art. 108
EPC R. 101(1)

Keyword:

"Missing statement of grounds"

Decisions cited:

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Catchword:

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Case Number: T 2353/08 - 3.3.04

D E C I S I O N
of the Technical Board of Appeal 3.3.04
of 1 July 2009

Appellant: DSM IP Assets B.V.
(Applicant) Het Overloon 1
NL-6411 TE Heerlen (NL)

Representative: Schwander, Kuno
DSM Nutritional Products Ltd
Patent Department VMD
Bau 241/636
P.O. Box 3255
CH-4002 Basel (CH)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 5 June 2008
refusing European patent application
No. 00126114.8 pursuant to Article 97(2) EPC.

Composition of the Board:

Chair: U. Kinkeldey
Members: B. Claes
D. S. Rogers

Summary of Facts and Submissions

- I. The appeal contests the decision of the Examining Division of the European Patent Office dated 5 June 2008 concerning refusal of the European Patent application No. 00 126 114.8.
- II. The appellant (applicant) filed a notice of appeal on 6 August 2008 and paid the appeal fee on the same day.
- III. No statement of grounds was filed by the appellant. The notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC.
- IV. By communication dated 30 December 2008, 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. The appellant was invited to file observations within two months.
- V. No observations were filed in response to the communication dated 30 December 2008.

Reasons for the Decision

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

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

Registrar:

Chair:

P. Cremona

U. Kinkeldey