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

Case Number: T 0231/09 - 3.3.02

Application Number: 98947741.9

Publication Number: 1037616

IPC: A61K 31/495

Language of the proceedings: EN

Title of invention:

Combination of alpha-1-adrenergic antagonists and a CGMP PDEv inhibitor for the treatment of impotence

Patentee:

Pfizer Products Inc.

Opponent:

Sanofi-Aventis
ELI LILLY AND COMPANY

Headword:

Treatment of Impotence/PFIZER PRODUCTS. INC.

Relevant legal provisions:

EPC Art. 108
EPC R. 101(1)

Relevant legal provisions (EPC 1973):

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Keyword:

"Missing statement of grounds"

Decisions cited:

-

Catchword:

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Case Number: T 0231/09 - 3.3.02

D E C I S I O N
of the Technical Board of Appeal 3.3.02
of 30 July 2009

Appellant:
(Opponent 1)

Sanofi-Aventis
174, avenue de France
F-75013 Paris (FR)

Representative:

Kugel, Dominique
Sanofi-Aventis
Département Brevets
174 avenue de France
F-75013 Paris (FR)

Party as of right:
(Opponent 2)

ELI LILLY AND COMPANY
Lilly Corporate Center
Indianapolis IN 46285 (US)

Representative:

Burnside, Ivan John
Eli Lilly and Company Limited
Lilly Research Centre
Erl Wood Manor
Windlesham, Surrey GU20 6PH (GB)

Respondent:
(Patent Proprietor)

Pfizer Products Inc.
Eastern Point Road
Groton, CT 06340 (US)

Representative:

Rudge, Andrew John
Pfizer Limited
European Patent Department
Ramsgate Road
Sandwich CT13 9NJ (GB)

Decision under appeal:

Interlocutory decision of the Opposition
Division of the European Patent Office posted
7 November 2008 concerning maintenance of the
European patent No. 1037616 in amended form.

Composition of the Board:

Chairman: U. Oswald
Members: A. Lindner
J. Van Moer

Summary of Facts and Submissions

- I. The appeal contests the decision of the opposition division dispatched by registered letter with advice of delivery to the opponent 1 on 7 November 2008, concerning maintenance of the European patent No. 1 037 616 in amended form.

The appellant (opponent 1) filed a notice of appeal received on 19 January 2009 and paid the fee for appeal on the same day. No statement of grounds of appeal was filed.

- II. In a communication dated 28 April 2009, sent by registered post with advice of delivery, the registrar of the board informed the appellant that no statement of grounds of appeal had been filed and that the appeal could be expected to be rejected as inadmissible. The appellant was informed about the possibility of filing a request for re-establishment of rights under Article 122 EPC and was invited to file observations within two months.

- III. No reply was filed to said communication.

Reasons for the Decision

1. Article 108 EPC requires that a statement setting out the grounds of appeal shall be filed within four months of notification of the decision. Pursuant to Rule 101(1) EPC the appeal shall be rejected as inadmissible if it does not comply with Article 108 EPC.

2. In the present case no document was filed by the appellant which could be regarded as a statement setting out the grounds of appeal. Consequently, the appeal has to be rejected as inadmissible.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

N. Maslin

U. Oswald