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**Datasheet for the decision
of 27 October 2009**

Case Number: T 0713/09 - 3.2.02

Application Number: 00114415.3

Publication Number: 1068848

IPC: A61F 5/441

Language of the proceedings: EN

Title of invention:

Pouch for collecting matter excreted by the body

Patentee:

Bristol-Myers Squibb Company

Opponents:

- 1) Hollister Incorporated
- 2) Stukenkemper, Jochen

Headword:

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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:

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Catchword:

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Case Number: T 0713/09 - 3.2.02

DECISION
of the Technical Board of Appeal 3.2.02
of 27 October 2009

Appellant: Hollister Incorporated
(Opponent 01) 2000 Hollister Drive
Libertyville
Illinois 60048-3781 (US)

Representative: Elmeros, Claus
Høiberg A/S
St. Kongensgade 59A
DK-1264 Copenhagen K (DK)

Respondent: Bristol-Myers Squibb Company
(Patent Proprietor) P.O. Box 4000
Princeton NJ 08543-4000 (US)

Representative: Holmes, Miles Keeton
First Thought IP
35 New Broad Street House
New Broad Street
London EC2M 1NH (GB)

Other Party: Stukenkemper, Jochen
(Opponent 02) Heinrich-Löwe-Weg 1
D-48167 Münster (DE)

Representative: -

Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
23 January 2009 concerning maintenance of
European patent No. 1068848 in amended form.

Composition of the Board:

Chairman: M. Noël
Members: D. Valle
M. J. Vogel

Summary of Facts and Submissions

- I. The opponent appealed against the decision of the Opposition Division dated 23 January 2009 to maintain the European Patent No. 1 068 848 in amended form.
- II. The notice of appeal was received on 31 March 2009 and the appeal fee was paid on the same day. However, no statement of grounds of appeal has been filed.
- III. In a communication dated 7 July 2009 sent by registered post with advice of delivery, the Board informed the appellant that no statement of grounds of appeal had been filed and that, as a consequence, it was to be expected that the appeal would be rejected as inadmissible. The appellant was also given a time limit of two months for filing observations starting from the date of notification of said communication.
- IV. The communication was notified on 9 July 2009. No observations were filed within the given time limit. Furthermore, in a telephone conversation of 2 October 2009 with the representative of the appellant, the Board was informed that no statement setting out the grounds of appeal was posted and never would be.

Reasons for the Decision

1. According to Article 108 EPC, a statement setting out the grounds of appeal shall be filed within four months of notification of the decision.

2. If the appeal does not comply with Article 108 EPC, the appeal must be rejected as inadmissible (Rule 101(1) EPC). In the present case, no statement of grounds has been filed and consequently the appeal is rejected as inadmissible.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar

The Chairman

D. Sauter

M. Noël