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**Datasheet for the decision  
of 23 February 2010**

**Case Number:** T 1601/09 - 3.3.09

**Application Number:** 01910035.3

**Publication Number:** 1261259

**IPC:** A23K 1/14

**Language of the proceedings:** EN

**Title of invention:**  
Treatment of infection in animals

**Patentee:**  
MARS UK LIMITED

**Opponent:**  
Cargill, Inc.

**Headword:**  
-

**Relevant legal provisions:**  
EPC Art. 108  
EPC R. 101(1)

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

**Keyword:**  
"Missing Statement of Grounds"

**Decisions cited:**  
-

**Catchword:**  
-



Case Number: T 1601/09 - 3.3.09

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.09  
of 23 February 2010

**Appellant:**  
(Patent Proprietor)

MARS UK LIMITED  
3D Dundee Road  
Slough  
Berkshire SL1 4LG (GB)

**Representative:**

Cornish, Kristina Victoria Joy  
Kilburn & Strode LLP  
20 Red Lion Street  
London WC1R 4PJ (GB)

**Respondent:**  
(Opponent)

Cargill, Inc.  
15407 McGinty Road West  
Wayzata  
Minnesota  
MN 55391-5624 (US)

**Representative:**

Wibbelmann, Jobst  
Wuesthoff & Wuesthoff  
Patent- und Rechtsanwälte  
Schweigerstrasse 2  
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**Decision under appeal:**

Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
13 May 2009 concerning maintenance of European  
patent No. 1261259 in amended form.

**Composition of the Board:**

**Chairman:** W. Sieber  
**Members:** J. Jardón Álvarez  
M-B. Tardo-Dino

## **Summary of Facts and Submissions**

I. This appeal is against the interlocutory decision of the opposition division dated 13 May 2009 concerning the maintenance of European patent No. 1 261 259 in amended form.

The appellant (patentee), Mars UK Limited, filed a notice of appeal on 23 July 2009 having paid the appeal fee on the day before. In the notice of appeal the appellant announced that detailed arguments in support of the appeal would follow in due course.

However, no statement setting out the grounds of appeal was filed.

II. By a communication dated 29 October 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 Article 108 EPC. The appellant was invited to file observations within two months.

III. No answer to the registry's communication 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 notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to

Article 108 EPC, the appeal has to be rejected as inadmissible (Article 108 EPC in conjunction with Rule 101(1) EPC).

**Order**

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

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

G. Röhn

W. Sieber