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**Datasheet for the decision
of 4 February 2010**

Case Number: T 1638/09 - 3.3.08

Application Number: 98918904.8

Publication Number: 0980428

IPC: C12N 15/12

Language of the proceedings: EN

Title of invention:

Techniques and compositions for treating heart failure and ventricular remodeling by in vivo delivery of angiogenic transgenes

Applicants:

The Regents of the University of California et al

Opponent:

-

Headword:

Angiogenic transgenes/CALIFORNIA

Relevant legal provisions:

EPC Art. 108

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 1638/09 - 3.3.08

D E C I S I O N
of the Technical Board of Appeal 3.3.08
of 4 February 2010

Appellants:

The Regents of The University of California
12th Floor
1111 Franklin Street
Oakland
CA 94607-5200 (US)

Collateral Therapeutics
11622 El Camino Real
San Diego
CA 92130 (US)

Representative:

Campbell, Patrick John Henry
J.A. Kemp & Co.
14 South Square
Gray's Inn
London WC1R 5JJ (GB)

Decision under appeal:

**Decision of the Examining Division of the
European Patent Office posted 16 February 2009
refusing European application No. 98918904.8
pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: L. Galligani
Members: T. J. H. Mennessier
C. Heath

Summary of Facts and Submissions

- I. The applicants (appellants) filed a notice of appeal dated 16 April 2009 against the decision of the examining division of 16 February 2009, whereby the European patent application No. 98 918 904.8 (published as the international application WO 98/50079) with the title "*Techniques and compositions for treating heart failure and ventricular remodeling by in vivo delivery of angiogenic transgenes*", was refused under Article 97(2) EPC on the basis of the request (claims 1 to 27) filed with the letter of 19 November 1999. The appeal fee was paid on 17 April 2009. No statement of grounds of appeal was filed within the time limit set by Article 108 EPC.
- II. By a communication dated 14 September 2009 sent by registered letter with advice of delivery, the appellants were informed that no statement of grounds of appeal had been filed and that, therefore, it was to be expected that the appeal would be rejected as inadmissible pursuant to Article 108, third sentence, and Rule 101(1) EPC. The appellants were invited to file observations within two months.
- III. The appellants did not reply to said communication, and no request for re-establishment of rights was filed.

Reasons for the Decision

As no written statement setting out the grounds of appeal has been filed, and as the notice of appeal does not contain any statement that could be regarded as a statement of grounds of

appeal pursuant to Article 108 EPC, the appeal has to be rejected as inadmissible (Article 108 EPC in conjunction with Rule 101(1) EPC). Since the appeal is inadmissible, none of the requests in the notice of appeal, including the request for oral proceedings, can be considered.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar

The Chairman

A. Wolinski

L. Galligani