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**Datasheet for the decision
of 12 November 2009**

Case Number: T 1976/09 - 3.3.07

Application Number: 03255007.1

Publication Number: 1396260

IPC: A61K 7/075

Language of the proceedings: EN

Title of invention:

Compositions and method for targeted controlled delivery of active ingredients and sensory markers onto hair, skin and fabric

Applicant:

Salvona L.L.C.

Opponent:

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Headword:

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Relevant legal provisions:

EPC Art. 97(2), 108
EPC R. 103(1)(a)(b), 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 1976/09 - 3.3.07

D E C I S I O N
of the Technical Board of Appeal 3.3.07
of 12 November 2009

Appellant: Salvona L.L.C.
65 Stults Road
Dayton
NJ 08810 (US)

Representative: Lawrence, John
Barker Brettell LLP
138 Hagley Road
Edgbaston
Birmingham B16 9PW (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 22 April 2009
refusing European application No. 03255007.1
pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: S. Perryman
Members: B. ter Laan
G. Santavicca

Summary of Facts and Submissions

- I. The appellant contests the decision of the examining division of the European Patent Office dated 22 April 2009 refusing European patent application No. 03255007.1.

The appellant filed a notice of appeal on 19 June 2009 and paid the appeal fee on the same day.

A written statement setting out the grounds of appeal was not filed within the four-month time limit provided for in Article 108 EPC. Nor did the notice of appeal contain anything that might be considered as such statement.

- II. In a communication dated 9 October 2009, the Board informed the appellant that no statement setting out the grounds of appeal had been received and that the appeal could be expected to be rejected as inadmissible. The appellant was informed that any observations should be filed within two months.

- III. In response to said communication the appellant by a letter dated 19 October 2009 confirmed that the grounds of appeal were not filed and mentioned that a refund of the appeal fee paid may be appropriate.

- IV. In a communication of the registrar dated 30 October 2009 the appellant was informed that according to Rule 103(b) EPC, the appeal fee can be reimbursed only when the appeal is withdrawn before the filing of the statement of grounds and before the period for filing that statement has expired.

Reasons for the Decision

1. As no written statement setting out the grounds of appeal was filed within the time limit provided for in Article 108 EPC, the appeal is inadmissible pursuant to Rule 101(1) EPC.

2. The appeal fee can be reimbursed only under a provision of the EPC providing for such reimbursement. The only relevant provision of the EPC is now Rule 103 EPC. But in this case neither the conditions of Rule 103(1)(a) EPC that there has been an interlocutory revision or that the Board of Appeal deems the appeal to be allowable, nor the condition of Rule 103(1)(b) EPC that the appeal is withdrawn before filing the statement of grounds and before the period for filing that statement has expired, have been met, so reimbursement under this Rule is not appropriate.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

S. Fabiani

S. Perryman