

**Internal distribution code:**

- (A)  Publication in OJ  
(B)  To Chairmen and Members  
(C)  To Chairmen  
(D)  No distribution

**Datasheet for the decision  
of 10 March 2010**

**Case Number:** T 2320/09 - 3.3.02

**Application Number:** 00940733.9

**Publication Number:** 1267864

**IPC:** A61K 31/335

**Language of the proceedings:** EN

**Title of invention:**

A synergistic anti-malarial formulation

**Applicant:**

COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH

**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 2320/09 - 3.3.02

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.02  
of 10 March 2010

**Appellant:**  
(Applicant) COUNCIL OF SCIENTIFIC &  
INDUSTRIAL RESEARCH  
Rafi Marg  
New Delhi 110001 (IN)

**Representative:** Schwarz, Albin  
Schwarz & Partner  
Patentanwälte  
Wipplingerstraße 30  
A-1010 Wien (AT)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 26 May 2009  
refusing European patent application  
No. 00940733.9 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman:** U. Oswald  
**Members:** M. C. Ortega Plaza  
T. Karamanli

## **Summary of Facts and Submissions**

- I. The appeal contests the decision of the examining division posted on 26 May 2009, refusing European patent application No. 00940733.9.

The appellant (applicant) filed a notice of appeal received on 27 July 2009 and paid the fee for appeal on the same day. No statement of grounds was filed.

- II. In a communication dated 10 December 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 it was to be expected that the appeal would be rejected as inadmissible. The appellant 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