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**Datasheet for the decision
of 16 September 2010**

Case Number: T 2341/09 - 3.3.08

Application Number: 99972259.8

Publication Number: 1131447

IPC: C12N 15/56

Language of the proceedings: EN

Title of invention:
Thermostable xylanases

Patentee:
NATIONAL RESEARCH COUNCIL OF CANADA

Opponent:
Novozymes A/S

Headword:
Xylanases/RESEARCH COUNCIL

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 2341/09 - 3.3.08

D E C I S I O N
of the Technical Board of Appeal 3.3.08
of 16 September 2010

Appellant: Novozymes A/S
(Opponent) Patents
Krogshøjvej 36
DK-2880 Bagsvaerd (DK)

Representative: Jensen, Bo Hammer
Novozymes A/S
Patents
Krogshøjvej 36
DK-2880 Bagsvaerd (DK)

Respondent: NATIONAL RESEARCH COUNCIL OF CANADA
(Patent Proprietor) Building M-58
Rm EG-12
1200 Montreal Road
Ottawa, Ontario K1A 0R6 (CA)

Representative: Caldwell, Judith Margaret
Keltie
Fleet Place House
2 Fleet Place
London EC4M 7ET (GB)

Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
14 September 2009 concerning maintenance of the
European patent No. 1131447 in amended form.

Composition of the Board:

Chairman: L. Galligani
Members: T. J. H. Mennessier
J. Geschwind

Summary of Facts and Submissions

- I. On 13 November 2009, the opponent (appellant) filed a notice of appeal against the decision of the Opposition Division dated 14 September 2009, whereby the opposition filed against European patent No. 1 131 447 (European application No. 99 972 259.8) with the title "*Thermostable Xylanases*" was maintained in amended form. The notice of appeal was not signed. The appeal fee was electronically paid on the same day. No statement of grounds of appeal was filed within the prescribed period in accordance with Article 108 EPC.
- II. By a communication dated 1 March 2010 sent by registered letter with advice of delivery, the appellant was 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, EPC in conjunction with Rule 101(1) EPC. The Appellant was invited to file observations within two months. The appellant did not reply to said communication and no request for re-establishment of rights was filed.

Reasons for the Decision

1. Although the notice of appeal as filed on 13 November 2009 has not been signed, in view of the fact that the electronic signature of the representative who is the person referred to in the notice of appeal has been authenticated when the payment of the appeal fee was electronically made, the appeal is considered to exist.

2. As no written statement setting out the grounds of appeal has been filed and as the notice of appeal does not contain anything that could be regarded as a statement of grounds of appeal according to Article 108 EPC, the appeal must 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:

D. Sauter

L. Galligani