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**Datasheet for the decision
of 1 December 2010**

Case Number: T 0293/10 - 3.3.08

Application Number: 90302866.0

Publication Number: 0388232

IPC: C12N 15/51

Language of the proceedings: EN

Title of invention:
NANBV diagnostics and vaccines

Patentee:
Novartis Vaccines and Diagnostics, Inc.

Opponents:
BIOMERIEUX SA
Mikrogen Molekularbiologische Entwicklungs-GmbH
Innogenetics N.V.

Headword:
NANBV/NOVARTIS

Relevant legal provisions:
EPC Art. 108

Relevant legal provisions (EPC 1973):
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Keyword:
"Missing statement of grounds"

Decisions cited:
-

Catchword:
-



Case Number: T 0293/10 - 3.3.08

D E C I S I O N
of the Technical Board of Appeal 3.3.08
of 1 December 2010

Appellant: Novartis Vaccines and Diagnostics, Inc.
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Respondent I: BIOMERIEUX SA
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Decision under appeal: Decision of the Opposition Division of the European Patent Office posted 9 December 2009 revoking European patent No. 0388232 pursuant to Article 101(2) EPC.

Composition of the Board:

Chairman: L. Galligani
Members: T. J. H. Mennessier
D. S. Rogers

Summary of Facts and Submissions

- I. The patent proprietor (appellant) filed on 9 February 2010 a notice of appeal against the decision of the opposition division dated 9 December 2009, whereby the European patent No. 0 388 232 (European application No. 90 302 866.0) entitled "NANBV diagnostics and vaccines" was revoked under Article 123(2) EPC. The appeal fee was paid on the same day. No statement of grounds of appeal was filed within the time limit set by Article 108 EPC.
- II. By a communication dated 25 May 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, and 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. As no written statement setting out the grounds of appeal has been filed, and as the notice of appeal does not contain any statements 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).

2. 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