

Internal distribution code:

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

**Datasheet for the decision
of 14 December 2010**

Case Number: T 1233/10 - 3.3.08

Application Number: 98943527.6

Publication Number: 1012326

IPC: C12Q 1/00

Language of the proceedings: EN

Title of invention:

Electrode with thin working layer

Patentee:

ABBOTT LABORATORIES

Opponents:

Roche Diagnostics GmbH
LifeScan, Inc.

Headword:

Electrode/ABBOTT

Relevant legal provisions:

EPC Art. 108
EPC R. 101

Relevant legal provisions (EPC 1973):

-

Keyword:

"Missing statement of grounds"

Decisions cited:

-

Catchword:

-



Case Number: T 1233/10 - 3.3.08

D E C I S I O N
of the Technical Board of Appeal 3.3.08
of 14 December 2010

Appellant: ABBOTT LABORATORIES
(Patent Proprietor) CHAD 0377/AP6D-2
100 Abbott Park Road
Abbott Park IL 60064-3500 (US)

Representative: Duxbury, Stephen
Arnold & Siedsma
Pettenkoferstrasse 37
D-80336 München (DE)

Respondents: Roche Diagnostics GmbH
(Opponent 01) Sandhofer Strasse 116
D-68305 Mannheim (DE)

Representative: -

(Opponent 02) LifeScan, Inc.
1000 Gibraltar Drive
Milpitas, CA 95035-6312 (US)

Representative: Tunstall, Christopher Stephen
Carpmaels & Ransford
One Southampton Row
London WC1B 5HA (GB)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 7 April 2010
revoking European patent No. 1012326 pursuant
to Article 101(3)(b) EPC.

Composition of the Board:

Chairman: L. Galligani
Members: P. Julià
J. Geschwind

Summary of Facts and Submissions

- I. The patentee (appellant) filed on 7 June 2010 a notice of appeal against the decision of the opposition division dated 7 April 2010 whereby the European patent No. 1 012 326 was revoked under Article 101(3)(b) EPC. In its notice of appeal, oral proceedings were also requested (Article 116 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 21 September 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, in conjunction with Rule 101(1) EPC. The appellant was invited to file observations within two months but 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 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). 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