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

Case Number: T 1547/10 - 3.3.08

Application Number: 04075919.3

Publication Number: 1433851

IPC: C12N 15/49

Language of the proceedings: EN

Title of invention:

Improved expression of HIV polypeptides and production of virus-like particles

Applicant:

Novartis Vaccines and Diagnostics, Inc.

Headword:

HIV polypeptides/NOVARTIS

Relevant legal provisions:

EPC Art. 108

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 1547/10 - 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.
4560 Horton Street
Emeryville, CA 94608 (US)

Representative: Hallybone, Huw George
Carpmaels & Ransford
One Southampton Row
London WC1B 5HA (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 11 January 2010
refusing European patent application
No. 04075919.3 pursuant to Article 97(2) EPC.

Composition of the Board:

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

Summary of Facts and Submissions

- I. The applicant (appellant) filed on 18 March 2010 a notice of appeal against the decision of the examining division dated 11 January 2010 whereby the European Patent application No. 04 075 919.3 (published as EP-A-1433851) entitled "Improved expression of HIV polypeptides and production of virus-like particles" was refused according to Article 97(2) EPC in relation with Articles 52(1) and 56 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 23 July 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 statement 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