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**Datasheet for the decision
of 4 March 2013**

Case Number: T 2508/11 - 3.3.08
Application Number: 02737017.0
Publication Number: 1392868
IPC: C12Q 1/68, C07H 21/04,
C12N 15/11, C07H 19/00
Language of the proceedings: EN

Title of invention:

Method for the synthesis of DNA sequences using photo-labile linkers

Patent Proprietor:

Wisconsin Alumni Research Foundation

Opponent:

febit holding GmbH

Headword:

Synthesis of DNA/WISCONSIN

Relevant legal provisions:

EPC Art. 108
EPC R. 101(1)

Keyword:

"Missing statement of grounds of appeal"
"Appeal inadmissible (yes)"

Decisions cited:

T 1042/07

Catchword:

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Case Number: T 2508/11 - 3.3.08

DECISION
of the Technical Board of Appeal 3.3.08
of 4 March 2013

Appellant: Wisconsin Alumni Research Foundation
(Patent Proprietor) 614 North Walnut Street
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Representative: Graf von Stosch, Andreas
Graf von Stosch
Patentanwaltsgesellschaft mbH
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Respondent: febit holding GmbH
(Opponent) Im Neuenheimer Feld (INF) 519
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Representative: Zwicker, Jörk
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
19 September 2011 concerning maintenance of
European patent No. 1392868 in amended form.

Composition of the Board:

Chairman: M. Wieser
Members: T. J. H. Mennessier
R. Moufang

Summary of Facts and Submissions

- I. The patent proprietor (appellant) filed on 28 November 2011 a notice of appeal against the decision of the opposition division dated 19 September 2011, whereby the European patent No. 1 392 868 (European application No. 02737017.0) entitled "Methods for the synthesis of DNA sequences using photo-labile linkers" was maintained in amended form on the basis of auxiliary request 3 filed at the oral proceedings of 21 July 2011. 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 20 February 2012 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 appellant has not provided any statement as to the substantive merits of its appeal, has not given any explanation or comments as to why no statement of grounds had been filed, and has not reacted to the Board's notification of an impending rejection of the appeal as inadmissible, the Board considers the initial auxiliary request for oral proceedings to have become obsolete as a consequence of the subsequent course of action taken. The lack of any response to the Board's notification is considered to be equivalent to an abandonment of the request for oral proceedings (see T 1042/07 of 22 August 2008, point 3 of the Reasons).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar

The Chairman

A. Wolinski

M. Wieser