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**Datasheet for the decision
of 7 June 2018**

Case Number: T 1217/12 - 3.3.01
Application Number: 01976536.1
Publication Number: 1339398
IPC: A61K31/00, A61K31/136,
A61K31/353, A61K31/495,
A61P25/16
Language of the proceedings: EN

Title of invention:

TREATMENT OF MOTOR FLUCTUATIONS WITH 5-HYDROXYTRYPTAMINE 1A
RECEPTOR ACTIVITY ENHANCING COMPOUNDS

Patent Proprietor:

Motac Neuroscience Limited

Opponents:

Abbott Healthcare Products B.V.
Merz Pharma GmbH & Co. KGaA

Headword:

Extending the duration of on-time in dopamin replacement
therapy/MOTAC

Relevant legal provisions:

EPC R. 84(1), 100(1)

Keyword:

Lapse of patent in all designated states - continuation of appeal proceedings (no)

Decisions cited:

T 0708/01

Catchword:



Beschwerdekammern
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Chambres de recours

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Case Number: T 1217/12 - 3.3.01

D E C I S I O N
of Technical Board of Appeal 3.3.01
of 7 June 2018

Appellant:
(Patent Proprietor)

Motac Neuroscience Limited
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Representative:

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Respondent 1:
(Opponent 1)

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Representative:

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Patentanwälte · Rechtsanwälte
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Respondent 2:
(Opponent 2)

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Representative:

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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted on
13 March 2012 concerning maintenance of the
European Patent No. 1339398 in amended form.

Composition of the Board:

Chairman A. Lindner
Members: G. Seufert
P. de Heij

Summary of Facts and Submissions

- I. The patent proprietor (appellant) lodged an appeal against the interlocutory decision of the opposition division on the amended form in which European patent No. 1 339 398 could be maintained.
- II. By communication of the board of 6 March 2018, sent by registered letter with advice of delivery to the appellant, the parties' attention was drawn to the fact that the patent had lapsed in all designated contracting states. The appellant was asked to inform the board within a time limit of two months whether it requested a continuation of the appeal proceedings.
- III. The appellant, who received the communication, did not reply within the given time limit.

Reasons for the Decision

1. If a European patent has lapsed in all designated contracting states, opposition proceedings may be continued at the request of the opponent (Rule 84(1) EPC). Pursuant to Rule 100(1) EPC, this also applies in appeal proceedings following opposition proceedings. However, if, as in the present case, the patent proprietor is the appellant, it would be inappropriate to allow the opponent (respondent) to decide whether the appeal proceedings shall be continued. For this reason, Rule 84(1) EPC has to be applied *mutatis mutandis* in such opposition appeal proceedings, so that it is the patent proprietor who can request that appeal proceedings be continued (see T 708/01, point 1 of the Reasons).

2. The appellant did not file any request with respect to the continuation of appeal proceedings within the given time limit. This is interpreted as meaning that the appellant did not wish to request continuation. In these circumstances, the board sees no reason to continue the appeal proceedings of its own motion. Therefore, the appeal proceedings are terminated.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



M. Schalow

A. Lindner

Decision electronically authenticated