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**Datasheet for the decision
of 15 January 2016**

Case Number: T 1071/15 - 3.2.04

Application Number: 07106875.3

Publication Number: 1985213

IPC: A47J31/00, B65D85/804

Language of the proceedings: EN

Title of invention:

Method for preparation of a creamy milk based beverage from a capsule and kit for such preparation

Patent Proprietor:

Nestec S.A.

Opponent:

Kraft Foods Group, Inc.

Headword:

Relevant legal provisions:

Keyword:

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

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Case Number: T 1071/15 - 3.2.04

**D E C I S I O N
of Technical Board of Appeal 3.2.04
of 15 January 2016**

Appellant: Kraft Foods Group, Inc.
(Opponent) Three Lakes Drives
Northfield, IL 60093 (US)

Representative: Boulton Wade Tennant
Verulam Gardens
70 Gray's Inn Road
London WC1X 8BT (GB)

Respondent: Nestec S.A.
(Patent Proprietor) IP Department
Avenue Nestlé 55
1800 Vevey (CH)

Representative: Rupp, Christian
Mitscherlich PartmbB
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 8 April 2015
rejecting the opposition filed against European
patent No. 1985213 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman A. de Vries
Members: J. Wright
C. Schmidt

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the Opposition Division of 27 March 2015, posted on 8 April 2015. The appellant filed the notice of appeal on 22 May 2015 and paid the appeal fee on the same day.

- II. By communication of 31 August 2015, received by the appellant, the Registry of the Board informed the appellant that it appeared from the file that the written statement of grounds of appeal had not been filed, and that it was therefore to be expected that the appeal would be rejected as inadmissible pursuant to Article 108, third sentence, EPC in conjunction with Rule 101(1) EPC. The appellant was informed that any observations had to be filed within two months of notification of the communication.

- III. No reply was received.

Reasons for the Decision

No written statement setting out the grounds of appeal was filed within the time limit provided by Article 108, third sentence, EPC in conjunction with Rule 126(2) EPC. In addition, neither the notice of appeal nor any other document filed contains anything that could be regarded as a statement of grounds indicating the reasons for setting the decision aside, the extent to which it is to be amended, or the facts and evidence relied on, as is required Article 108 EPC in conjunction with Rule 99(2) EPC. Therefore, the appeal has to be rejected as inadmissible (Rule 101(1) EPC).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



G. Magouliotis

A. de Vries

Decision electronically authenticated