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**Datasheet for the decision  
of 27 February 2017**

**Case Number:** T 1024/16 - 3.3.04

**Application Number:** 05792085.2

**Publication Number:** 1804571

**IPC:** A01H5/08, C12Q1/68

**Language of the proceedings:** EN

**Title of invention:**  
PMMOV resistant capsicum plants

**Patent Proprietor:**  
Monsanto Invest N.V.

**Opponent:**  
Nunhems B.V.

**Headword:**  
PMMOV/Monsanto

**Relevant legal provisions:**  
EPC Art. 108  
EPC R. 101(1)

**Keyword:**  
"Missing statement of grounds"

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

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Case Number: T 1024/16 - 3.3.04

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.04**  
**of 27 February 2017**

**Appellant:** Nunhems B.V.  
(Opponent) Napoleonsweg 152  
6038 AB Nunhem (NL)

**Representative:** Majer, Dorothea  
Nunhems Netherlands B.V.  
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6080 AA Haelen (NL)

**Respondent:** Monsanto Invest N.V.  
(Patent Proprietor) Leeuwenhoekweg 52  
2661 CZ Bergschenhoek (NL)

**Representative:** V.O.  
P.O. Box 87930  
2508 DH Den Haag (NL)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
4 March 2016 concerning maintenance of the  
European Patent No. 1804571 in amended form.**

**Composition of the Board:**

**Chairwoman** G. Alt  
**Members:** B. Claes  
L. Bühler

### **Summary of Facts and Submissions**

- I. The appeal is directed against the decision of the Opposition Division of 28 January 2016, posted on 4 March 2016, holding that the European Patent No. 1804571 could be maintained in amended form.
- II. The opponent filed a notice of appeal on 27 April 2016 and paid the appeal fee on the same day.
- III. The Registry of the Board informed the opponent by a communication of 19 August 2016, which the appellant duly received, 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 opponent was informed that any observations had to be filed within two months of notification of the communication.
- IV. The opponent did not file observations in response to the communication.

### **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 Rules 126(2) and 131 EPC. In addition, neither the notice of appeal nor any other document filed contains anything that could be regarded as a statement of grounds pursuant to Article 108 EPC and 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 Chairwoman:



P. Cremona

G. Alt

Decision electronically authenticated