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**Datasheet for the decision  
of 16 December 2016**

**Case Number:** T 1602/16 - 3.2.02

**Application Number:** 03711322.2

**Publication Number:** 1487519

**IPC:** A61M5/158, A61M5/32

**Language of the proceedings:** EN

**Title of invention:**

INSERTION DEVICE FOR AN INSERTION SET AND METHOD OF USING THE  
SAME

**Patent Proprietor:**

TecPharma Licensing AG

**Opponent:**

Jackson, Robert Patrick

**Headword:**

**Relevant legal provisions:**

EPC Art. 108  
EPC R. 101(1)

**Keyword:**

Admissibility of appeal - missing statement of grounds

**Decisions cited:**

**Catchword:**



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

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Case Number: T 1602/16 - 3.2.02

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.02**  
**of 16 December 2016**

**Appellant:** Jackson, Robert Patrick  
(Opponent) Dehns  
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**Representative:** Kazi, Ilya  
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**Respondent:** TecPharma Licensing AG  
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**Representative:** Schwabe - Sandmair - Marx  
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**Decision under appeal:** **Interlocutory decision of the Opposition**  
**Division of the European Patent Office posted on**  
**21 April 2016 concerning maintenance of the**  
**European Patent No. 1487519 in amended form.**

**Composition of the Board:**

**Chairman**            E. Dufrasne  
**Members:**            P. L. P. Weber  
                             M. Stern

## **Summary of Facts and Submissions**

- I. The appeal is directed against the decision of the Opposition Division of 8 March 2016, posted on 21 April 2016.
- II. The appellant (opponent) filed a notice of appeal on 1 July 2016 and paid the appeal fee on the same day. In the notice of appeal the following could be read:

*"[...] It is requested that the Decision be set aside and the patent be revoked in its entirety for at least the reasons submitted during the Opposition proceedings.*

*[...] In the event that the Board of Appeal is minded to uphold the patent in any form, we hereby request Oral Proceedings.*

*Detailed submissions setting out the Grounds of Appeal will follow in due course."*

- III. By communication of 14 September 2016, 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.
- IV. No reply was received.

## **Reasons for the Decision**

1. 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 pursuant to Article 108 EPC and Rule 99(2) EPC. In particular, according to established case law, the simple reference in the notice of appeal to the reasons submitted during the Opposition proceedings cannot be regarded as a proper substantiation of the appeal.
  
2. In the notice of appeal the appellant requested oral proceedings as an auxiliary measure. This means that oral proceedings were requested in case the decision of the Opposition Division could not be set aside on the basis of the grounds still to be provided.

In the absence of the filing of any detailed submissions setting out the grounds of appeal this request is therefore baseless.

There is also no room for interpreting this request as being contingent on the question of the admissibility of the appeal, which is a different procedural situation.

Moreover, the attention of the appellant had been drawn to this different procedural situation in the communication dated 14 September 2016. As no reply was received, the appeal is hereby decided.

3. 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:



D. Hampe

E. Dufrasne

Decision electronically authenticated