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**Datasheet for the decision
of 8 September 2017**

Case Number: T 1117/17 - 3.3.05

Application Number: 07865266.6

Publication Number: 2125222

IPC: B01L3/00, G01N33/487

Language of the proceedings: EN

Title of invention:
ANALYTE SENSORS AND METHODS OF USE

Applicant:
Abbott Diabetes Care Inc.

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

European Patent Office
D-80298 MUNICH
GERMANY
Tel. +49 (0) 89 2399-0
Fax +49 (0) 89 2399-4465

Case Number: T 1117/17 - 3.3.05

D E C I S I O N
of Technical Board of Appeal 3.3.05
of 8 September 2017

Appellant: Abbott Diabetes Care Inc.
(Applicant) 1420 Harbor Bay Parkway, Suite 290
Alameda, CA 94502 (US)

Representative: Tollett, Ian
Williams Powell
Staple Court
11 Staple Inn Buildings
London, WC1V 7QH (GB)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 2 December 2016
refusing European patent application No.
07865266.6 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman E. Bendl
Members: G. Glod
P. Guntz

Summary of Facts and Submissions

- I. The applicant (hereinafter "the appellant") filed on 6 February 2017 an appeal against the decision of the examining division taken on 22 November 2016, posted on 2 December 2016, refusing the European patent application EP 07 865 266.6. The appeal fee was paid on the same day.

- II. By communication dated 17 May 2017, sent by registered letter with advice of delivery and 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 invited to file observations within two months. Within this period of time the appellant filed no observations.

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. Since the notice of appeal of 6 February 2017 does not contain any reasoning within the meaning of Rule 99(2) EPC or anything that could be regarded as a statement of grounds of appeal pursuant to Article 108 EPC, a statement of grounds is missing so that the appeal is inadmissible (Article 108 EPC in conjunction with Rule 101(1) EPC).

2. Moreover no request for re-establishment of rights under Article 122 EPC in combination with Rule 136(1)

EPC was filed by the appellant within two months of receipt of the communication dated 17 May 2017.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



C. Vodz

E. Bendl

Decision electronically authenticated