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**Datasheet for the decision
of 10 September 2018**

Case Number: T 1716/17 - 3.3.08

Application Number: 02709544.7

Publication Number: 1360287

IPC: C12N15/00

Language of the proceedings: EN

Title of invention:

METHODS OF MODIFYING EUKARYOTIC CELLS

Patent Proprietor:

REGENERON PHARMACEUTICALS, INC.

Opponents:

Kymab Limited
Merus N.V.
Novo Nordisk A/S

Headword:

VelocImmune mouse II/REGENERON

Relevant legal provisions:

EPC Art. 108
EPC R. 99(2), 101(1), 126(2)

Keyword:

Missing statement of grounds - admissibility of the appeal (no)

Decisions cited:

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 1716/17 - 3.3.08

D E C I S I O N
of Technical Board of Appeal 3.3.08
of 10 September 2018

Appellant:
(Opponent 1)
Kymab Limited
Meditrina (B206)
Babraham Research Campus
Cambridge
Cambridgeshire CB22 3AT (GB)

Representative:
Stephen, Robert John
CMS Cameron McKenna Nabarro
Olswang LLP
Cannon Place
78 Cannon Street
London EC4N 6AF (GB)

Respondent:
(Patent Proprietor)
REGENERON PHARMACEUTICALS, INC.
777 Old Saw Mill River Road
Tarrytown, NY 10591-6707 (US)

Representative:
Bentham, Andrew
J A Kemp
14 South Square
Gray's Inn
London WC1R 5JJ (GB)

Party as of right:
(Opponent 2)
Merus N.V.
Yalelaan 62
3584 CM Utrecht (NL)

Representative:
Lahrtz, Fritz
Isenbruck Bösl Hörschler LLP
Patentanwälte
Prinzregentenstrasse 68
81675 München (DE)

Party as of right: Novo Nordisk A/S
(Opponent 3) Novo Allé
DK-2880 Bagsvaerd (DK)

Representative: Potter Clarkson LLP
The Belgrave Centre
Talbot Street
Nottingham NG1 5GG (GB)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
24 July 2017 concerning maintenance of the
European Patent No. 1360287 in amended form.**

Composition of the Board:

Chairman M. Montrone
Members: M. R. Vega Laso
D. Rogers

Summary of Facts and Submissions

- I. European patent No. 1 360 287 with the title "Methods of modifying eukaryotic cells" was granted on the European patent application No. 02709544.7 filed as international application under the PCT and published as WO 02/066630.
- II. The present appeal is the second appeal filed in connection with the patent in suit. By the decision on the first appeal (T 2220/14 of 9 November 2015), this board in a different composition remitted the case to the opposition division with the order to maintain the patent on the basis of claims 1 to 6 of the main request received during the oral proceedings before the board on 9 November 2015, and a description to be adapted.
- III. In an interlocutory decision posted on 24 July 2017, the opposition division found that the patent as amended according to auxiliary request 1 and the invention to which it relates, met the requirements of the EPC.
- IV. Opponents 1 and 2 each filed a notice of appeal against the decision of the opposition division. Opponent 2 submitted a statement of grounds of appeal and requested oral proceedings if the board did not intend to set aside the decision under appeal and revoke the patent. No statement of grounds of appeal was received from opponent 1.
- V. By a communication dated 2 January 2018, the board informed opponent 1 that, since no statement of grounds of appeal had been received, it was to be expected that its appeal would be rejected as inadmissible pursuant

to Article 108, third sentence, EPC in conjunction with Rule 101(1) EPC. Neither a reply to the communication nor a request for re-establishment of rights was received.

- VI. The respondent (patent proprietor) replied to the statement of grounds of appeal of opponent 2 and requested accelerated processing, dismissal of the appeal and, as a subsidiary request, oral proceedings.
- VII. The parties were summoned to oral proceedings to be held on 13 September 2018.
- VIII. By letter dated 13 August 2018, opponent 2 requested that the decision to grant the request for accelerated processing of the appeal be reversed, and oral proceedings be cancelled and re-scheduled in the normal course of regular appeal proceedings.
- IX. The board issued a communication informing the parties that, since the sole issue to be decided was whether or not the decision by the opposition division on the adaptation of the description was correct, the processing of the appeal had been accelerated *ex officio*. The board also provided its provisional opinion on some of the issues under Rule 80 and Articles 84 and 123(2) EPC to be discussed at the oral proceedings.
- X. On 5 September 2018, opponent 2 withdrew its appeal.
- XI. The oral proceedings were cancelled.

Reasons for the Decision

1. After withdrawal of the appeal by opponent 2, opponent 1 is the sole appellant.
2. As no written statement setting out the grounds of appeal has been received from the appellant within the time limit provided by Article 108, third sentence, EPC in conjunction with Rule 126(2) EPC, and as neither its notice of appeal nor any other document filed contains anything that could be regarded as a statement of grounds of appeal according to Article 108 EPC and Rule 99(2) EPC, 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:



K. Boelicke

M. Montrone

Decision electronically authenticated