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**Datasheet for the decision  
of 6 March 2018**

**Case Number:** T 2288/17 - 3.3.07

**Application Number:** 09817294.3

**Publication Number:** 2331073

**IPC:** A61K9/14, A61K47/12

**Language of the proceedings:** EN

**Title of invention:**

NEW CONTROLLED RELEASE ACTIVE AGENT CARRIER

**Applicant:**

Omya International AG

**Relevant legal provisions:**

EPC Art. 108  
EPC R. 101(2)

**Keyword:**

Admissibility of appeal - missing statement of grounds



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

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Case Number: T 2288/17 - 3.3.07

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.07**  
**of 6 March 2018**

**Appellant:** Omya International AG  
(Applicant) Baslerstrasse 42  
4665 Oftringen (CH)

**Representative:** Tiefbrunner, Vera  
Maiwald Patentanwalts GmbH  
Elisenhof  
Elisenstrasse 3  
80335 München (DE)

**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 12 April 2017  
refusing European patent application No.  
09817294.3 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** J. Riolo  
**Members:** A. Usuelli  
P. Schmitz

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

- I. The appeal is directed against the decision of the Examining Division to refuse the European patent application 09 817 294.3. The decision was posted on 12 April 2017.
- II. The appellant filed a notice of appeal on 7 June 2017 and paid the appeal fee on the same day.
- III. By communication of 18 October 2017 , 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**

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. 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:



S. Fabiani

J. Riolo

Decision electronically authenticated