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**Datasheet for the decision  
of 14 May 2018**

**Case Number:** T 2436/17 - 3.3.04

**Application Number:** 09791906.2

**Publication Number:** 2328928

**IPC:** C07K16/10, C07K14/11,  
A61K39/145, G01N33/50

**Language of the proceedings:** EN

**Title of invention:**

Conserved Influenza Hemagglutinin Epitope and Antibodies  
thereto

**Applicant:**

Dana-Farber Cancer Institute, Inc.  
Burnham Institute for Medical Research

**Headword:**

**Relevant legal provisions:**

EPC Art. 108 sentence 3  
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 2436/17 - 3.3.04

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.04**  
**of 14 May 2018**

**Appellants:** Dana-Farber Cancer Institute, Inc.  
(Applicant 1) 450 Brookline Avenue  
Boston, MA 02215 (US)

(Applicant 2) Burnham Institute for Medical Research  
10901 N. Torrey Pines Road  
La Jolla, CA 92037 (US)

**Representative:** Barker Brettell LLP  
100 Hagley Road  
Edgbaston  
Birmingham B16 8QQ (GB)

**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 4 May 2017  
refusing European patent application No.  
09791906.2 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairwoman** G. Alt  
**Members:** A. Chakravarty  
L. Bühler

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

- I. The applicants (appellants) filed an appeal against the decision of the examining division of 22 February 2017, posted on 4 May 2017, to refuse European patent application No. 09 791 906.2.
- II. The appellants filed a notice of appeal on 7 July 2017 and paid the appeal fee on the same day.
- III. By communication of 10 November 2017, received by the appellants, the Registry of the Board informed the appellants 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 appellants were 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. 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