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**Datasheet for the decision
of 30 September 2019**

Case Number: T 0772/19 - 3.3.07

Application Number: 14165008.5

Publication Number: 2799090

IPC: A61K49/10, A61K51/04

Language of the proceedings: EN

Title of invention:

Process for preparing a pharmaceutical formulation of contrast agents

Patent Proprietor:

GUERBET

Opponents:

Bracco Imaging SpA
Bayer Pharma Aktiengesellschaft

Headword:

Missing statement of grounds

Relevant legal provisions:

EPC Art. 108
EPC R. 101(1), 103(2), 126(2), 99(2)

Keyword:

Admissibility of appeal - missing statement of grounds



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 0772/19 - 3.3.07

D E C I S I O N
of Technical Board of Appeal 3.3.07
of 30 September 2019

Appellant: Bracco Imaging SpA
(Opponent 1) Intellectual Property Dept.
Via Egidio Folli, 50
20134 Milano (IT)

Representative: Macchetta, Francesco
Bracco Imaging SpA
IP Department
Via Caduti di Marcinelle 13
20134 Milano (IT)

Respondent: GUERBET
(Patent Proprietor) 15, Rue des Vanesses
93420 Villepinte (FR)

Representative: Regimbeau
20, rue de Chazelles
75847 Paris Cedex 17 (FR)

Party as of right: Bayer Pharma Aktiengesellschaft
(Opponent 2) Müllerstrasse 178
13353 Berlin (DE)

Representative: Santarelli
49, avenue des Champs-Élysées
75008 Paris (FR)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
4 January 2019 concerning maintenance of the
European Patent No. 2799090 in amended form.**

Composition of the Board:

Chairman J. Riolo
Members: S. Albrecht
 Y. Podbielski

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the Opposition Division of 6 November 2018, posted on 4 January 2019.
- II. The appellant (opponent 01) filed a notice of appeal on 14 March 2019 and paid the appeal fee on the same day.
- III. By communication of 24 June 2019, 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. On 8 July 2019 the appellant requested reimbursement of the appeal fee. In a communication dated 19 July 2019 the appellant was informed that Rule 103(2) EPC only allowed for reimbursement of the appeal fee if the appeal was withdrawn and that the request for reimbursement of the appeal fee could therefore at present not be granted. 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). The Board decided to refuse the request for reimbursement of the appeal fee for the reasons given in the communication dated 19 July 2019.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



B. Atienza Vivancos

J. Riolo

Decision electronically authenticated