

**Internal distribution code:**

- (A)  Publication in OJ  
(B)  To Chairmen and Members  
(C)  To Chairmen  
(D)  No distribution

**Datasheet for the decision  
of 13 March 2008**

**Case Number:** T 0759/07 - 3.3.08

**Application Number:** 96914993.9

**Publication Number:** 0827534

**IPC:** C12N 9/42

**Language of the proceedings:** EN

**Title of invention:**

Detergents comprising cellulases

**Patentee:**

Henkel Kommanditgesellschaft auf Aktien

**Opponent:**

NOVOZYMES A/S

**Headword:**

Detergent cellulases/HENKEL

**Relevant legal provisions:**

EPC Art. 108

EPC R. 99(2), 101(1)

**Relevant legal provisions (EPC 1973):**

-

**Keyword:**

"Missing statement of grounds"

**Decisions cited:**

-

**Catchword:**

-



Case Number: T 0759/07 - 3.3.08

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.08  
of 13 March 2008

**Appellant:** NOVOZYMES A/S  
(Opponent) Krogshøjvej 36  
DK-2880 Bagsvaerd (DK)

**Representative:** Wichmann, Hendrik  
Patentanwälte  
Isenbruck Bösl Hörschler Wichmann Huhn  
Postfach 86 08 80  
D-81635 München (DE)

**Respondent:** Henkel Kommanditgesellschaft auf Aktien  
(Patent Proprietor) D-40191 Düsseldorf (DE)

**Representative:** -

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
19 March 2007 concerning maintenance of  
European patent No. 0827534 in amended form.

**Composition of the Board:**

**Chairman:** L. Galligani  
**Members:** P. Julià  
C. Heath

## Summary of Facts and Submissions

- I. The opponent (appellant) on 3 May 2007 filed a notice of appeal against the interlocutory decision of the opposition division dated 19 March 2007, whereby the European patent No. 0 827 534 - based on the European patent application No. 96 914 993.9 (published as WO 96/34092) and entitled "Detergents comprising cellulases" - was maintained on the basis of a fourth auxiliary request filed on 30 November 2006 at the oral proceedings before the opposition division. The appeal fee was also paid on 3 May 2007.
  
- II. In the notice of appeal it was requested that the impugned decision be set aside and that the patent be revoked in its entirety. No statement of grounds of appeal was filed within the time limit set by Article 108 EPC.
  
- III. By a communication dated 5 November 2007 sent by registered letter with advice of delivery, the appellant was informed by the Registry of the board that no statement of grounds of appeal had been filed and that, therefore, it was to be expected that the appeal would be rejected as inadmissible. The appellant was invited to file observations within two months. Attention was also drawn to Article 122 EPC. The appellant did not reply to said communication, and no request for re-establishment of rights was filed.
  
- IV. In a telephone conversation held on 12 March 2007 between the appellant's representative and the registrar of the board, the representative confirmed

that no request for re-establishment of rights had been filed.

### **Reasons for the Decision**

As no written statement setting out the grounds of appeal has been filed, and as the notice of appeal does not contain any statements that could be regarded as a statement of grounds of appeal pursuant to Article 108 EPC and to Rule 99(2) EPC, the appeal has to be rejected as inadmissible (Article 108 EPC in conjunction with Rule 101(1) EPC).

### **Order**

**For these reasons it is decided that:**

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

A. Wolinski

L. Galligani