

**Internal distribution code:**

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

**Datasheet for the decision  
of 14 April 2008**

**Case Number:** T 1090/07 - 3.3.08

**Application Number:** 97914658.6

**Publication Number:** 0891552

**IPC:** G01N 33/68

**Language of the proceedings:** EN

**Title of invention:**

Method for the detection of prion diseases

**Patentee:**

Stichting Dienst Landbouwkundig Onderzoek

**Opponent:**

Prionics AG

**Headword:**

Prion diseases/STICHTING DIENST

**Relevant legal provisions:**

EPC Art. 108  
EPC R. 101(1)

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

EPC R. 65(1)

**Keyword:**

"Missing statement of grounds"

**Decisions cited:**

-

**Catchword:**

-



Case Number: T 1090/07 - 3.3.08

**D E C I S I O N**  
**of the Technical Board of Appeal 3.3.08**  
**of 14 April 2008**

**Appellant:** Stichting Dienst Landbouwkundig Onderzoek  
(Patent Proprietor) Costerweg 50  
NL-6701 BH Wageningen (NL)

**Representative:** van Dorn, S.  
VEREENIGDE  
Johan de Wittlaan 7  
NL-2508 DH Den Haag (NL)

**Respondent:** Prionics AG  
(Opponent) Wagistrasse 27a  
CH-8952 Schlieren (CH)

**Representative:** Emmel, Thomas  
Schaefer Emmel Hausfeld  
Patentanwälte  
Gehölzweg 20  
D-22043 Hamburg (DE)

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
27 April 2007 concerning maintenance of  
European patent No. 0891552 in amended form.

**Composition of the Board:**

**Chairman:** L. Galligani  
**Members:** F. Davison-Brunel  
C. Heath

## **Summary of Facts and Submissions**

- I. The appellant (patent proprietor) filed on 26 June 2007 a notice of appeal against the interlocutory decision of the opposition division dated 27 April 2007 whereby the European patent No. 0 891 552 (filed as PCT/NL97/00166) entitled "Method for the detection of prion diseases" was maintained in amended form. The appeal fee was paid on the same date.
  
- II. In the notice of appeal it was requested that the decision under appeal be set aside and that the patent be maintained as granted. As an auxiliary measure oral proceedings were requested. No statement of grounds of appeal was filed within the time limit set by Article 108 EPC.
  
- III. By a communication dated 6 November 2007 sent by registered letter with advice of delivery, the Registry of the Board of Appeal informed the appellant that no statement of grounds 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 and attention was drawn to the possibility of filing a request for re-establishment of rights under Article 122 EPC. The appellant did not reply to said communication, and no request for re-establishment of right was 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, the appeal has to be rejected as inadmissible (Article 108 EPC in conjunction with Rule 101(1) EPC 2000 (former Rule 65(1) EPC 1973)).

### **Order:**

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

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

A. Wolinski

L. Galligani