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**Datasheet for the decision
of 23 February 2009**

Case Number: T 1445/08 - 3.3.08

Application Number: 96926574.3

Publication Number: 0846164

IPC: C12N 9/50

Language of the proceedings: EN

Title of invention:

Method for assaying in vitro the proteolytic activity of polypeptides having HCV NS3 protease activity and peptide substrates to be used in this method

Patentee:

ISTITUTO DI RICERCHE DI BIOLOGIA MOLECOLARE P. ANGELETTI S.P.A.

Opponent:

Tibotec BVBA

Headword:

NS3 protease assay/ISTITUTO P. ANGELETTI S.P.A.

Relevant legal provisions:

EPC Art. 108
EPC R. 101(1)

Relevant legal provisions (EPC 1973):

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Keyword:

"Missing statement of grounds"

Decisions cited:

-

Catchword:

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Case Number: T 1445/08 - 3.3.08

D E C I S I O N
of the Technical Board of Appeal 3.3.08
of 23 February 2009

Appellant: ISTITUTO DI RICERCHE DI BIOLOGIA MOLECOLARE P.
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Respondent: Tibotec BVBA
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 26 May 2008
revoking European patent No. 0846164 pursuant
to Article 101(2)(3)(b) EPC.

Composition of the Board:

Chairman: L. Galligani
Members: M. R. Vega Laso
C. Heath

Summary of Facts and Submissions

I. The patent proprietor (appellant) filed on 24 July 2008 a notice of appeal against the decision of the opposition division dated 26 May 2008, whereby the European patent No. 0 846 164 (European application No. 96 926 574.3) with the title "Method for assaying in vitro the proteolytic activity of polypeptides having HCV NS3 protease activity and peptide substrates to be used in this method" was revoked pursuant to Article 101(2)(3)(b) EPC. The appeal fee was paid on the same day. No statement of grounds of appeal was filed within the time limit specified in Article 108 EPC.

II. By a communication dated 7 November 2008 sent by registered letter with advice of delivery, the appellant was informed 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 pursuant to Article 108, third sentence, EPC in conjunction with Rule 101(1) EPC. The appellant was invited to file observations within two months. The appellant did not reply to said communication, and no request for re-establishment of rights 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 anything that could be regarded as a statement of grounds of appeal according to Article 108 EPC, the appeal must 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