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**Datasheet for the decision  
of 29 April 2010**

**Case Number:** T 1705/09 - 3.3.08

**Application Number:** 95931798.3

**Publication Number:** 0781329

**IPC:** C12N 15/09

**Language of the proceedings:** EN

**Title of invention:**

Overexpression of mammalian and viral proteins

**Patentee:**

THE GENERAL HOSPITAL CORPORATION

**Opponent:**

GENEART AG

**Headword:**

Overexpression proteins/GENERAL HOSPITAL

**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:**

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**Catchword:**

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Case Number: T 1705/09 - 3.3.08

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.08  
of 29 April 2010

**Appellant:** GENEART AG  
(Opponent) Josef-Engert-Strasse 9  
D-93053 Regensburg (DE)

**Representative:** Weiss, Wolfgang  
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**Respondent:** THE GENERAL HOSPITAL CORPORATION  
(Patent Proprietor) 55 Fruit Street  
Boston, MA 02114 (US)

**Representative:** Lee, Nicholas John  
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20 Red Lion Street  
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**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
30 June 2009 concerning maintenance of European  
patent No. 0781329 in amended form.

**Composition of the Board:**

**Chairman:** L. Galligani  
**Members:** P. Julià  
B. Günzel

## **Summary of Facts and Submissions**

- I. The appeal contests the interlocutory decision of the Opposition Division of the European Patent Office dated 30 June 2009 concerning maintenance of European patent No. 0 781 329 entitled "Overexpression of mammalian and viral proteins" in amended form. The appellant (opponent 02) filed a notice of appeal on 11 August 2009 and paid the fee for appeal on the same day. No statement of grounds of appeal was filed.
- II. By a communication dated 15 December 2009 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, and 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 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). Since the appeal is inadmissible, none of the requests in the notice of appeal, including the request for oral proceedings, can be considered.

**Order**

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

The appeal is rejected as inadmissible.

The Registrar

The Chairman

A. Wolinski

L. Galligani