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**Datasheet for the decision  
of 16 April 2010**

**Case Number:** T 2047/09 - 3.3.04

**Application Number:** 04775986.5

**Publication Number:** 1624886

**IPC:** A61K 38/17

**Language of the proceedings:** EN

**Title of invention:**

Methods for increasing cell and tissue viability

**Applicant:**

ECI Biotech Inc.

**Headword:**

Cell and tissue viability/ECI Biotech

**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 2047/09 - 3.3.04

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.04  
of 16 April 2010

**Appellant:**  
(Applicant)

ECI Biotech Inc.  
85 Prescott Street  
Worcester  
MA 01605 (US)

**Representative:**

Kirkham, Nicholas Andrew  
Graham Watt & Co LLP  
St Botolph's House  
7-9 St Botolph's Road  
Sevenoaks  
Kent TN13 3AJ (GB)

**Decision under appeal:**

Decision of the Examining Division of the  
European Patent Office posted 28 April 2009  
refusing European patent application  
No. 04775986.5 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman:** C. Rennie-Smith  
**Members:** G. Alt  
B. Claes

## **Summary of Facts and Submissions**

- I. The appeal is against the decision of the Examining Division of the European Patent Office dated 28 April 2009 concerning refusal of the European Patent application No. 04 775 986.5.
- II. The appellant (applicant) filed a notice of appeal on 30 June 2009 and paid the appeal fee on 8 July 2009.
- III. No statement of grounds was filed by the appellant. The notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC.
- IV. By communication dated 20 October 2009, sent by registered letter with advice of delivery, the Registry of the board informed the appellant that no statement of grounds had been filed and that the appeal could be expected to be rejected as inadmissible. The appellant was invited to file observations within two months; further, the appellant was requested to make clear if the auxiliary request for oral proceedings was not intended to apply to the question of inadmissibility of the appeal as a consequence of the fact that a written statement of grounds of appeal had not been filed.
- V. The appellant, by letter dated 5 November 2009, confirmed that oral proceedings were not required regarding the question of inadmissibility of the appeal.

## **Reasons for the Decision**

As no written statement setting out the grounds of appeal has been filed, the appeal has to be rejected as inadmissible (Rule 101(1) EPC in conjunction with Article 108 EPC).

## **Order**

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

The appeal is rejected as inadmissible.

Registrar:

Chairman:

P. Cremona

C. Rennie-Smith