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**Datasheet for the decision
of 17 January 2011**

Case Number: T 0871/10 - 3.3.03

Application Number: 00963125.0

Publication Number: 1234003

IPC: C08L 23/02

Language of the proceedings: EN

Title of invention:

A thermoplastic vulcanisate, the thermoplastic vulcanisate containing a foaming agent and foam of the thermoplastic vulcanisate

Patentee:

DSM IP Assessts B.V.

Opponent:

Mitsui Chemicals Inc.

Headword:

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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 0871/10 - 3.3.03

DECISION
of the Technical Board of Appeal 3.3.03
of 17 January 2011

Respondent: DSM IP Assets B.V.
(Patent Proprietor) Het Overloon 1
NL-6411 TE Heerlen (NL)

Representative: Dorrestijn, Antoon
DSM Intellectual Property
Office Geleen
P.O. Box 9
NL-6160 MA Geleen (NL)

Appellant: Mitsui Chemicals Inc.
(Opponent) 1-5-2 Higashi-Shimbashi
Minato-ku
Tokyo 105-7117 (JP)

Representative: Hansen, Bernd
Hoffmann Eitle
Patent- und Rechtsanwälte
Postfach 81 04 20
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office dated
16 December 2009 and posted 8 February 2010
concerning maintenance of European patent
No. 1234003 in amended form.

Composition of the Board:

Chairman: R. Young
Members: M. C. Gordon
C.-P. Brandt

Summary of Facts and Submissions

I. The appeal contests the decision of the Opposition Division of the European Patent Office dated 16 December 2009 and posted 8 February 2010 concerning maintenance of the European patent No. 1234003 in amended form.

The Patent Proprietor filed a Notice of Appeal on 19 April 2010 and paid the prescribed fee for appeal on the same date.

No statement of Grounds of Appeal 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 in conjunction with Rule 99(2) EPC.

II. By a communication dated 27 July 2010 sent by registered letter with advice of delivery, the Registry of the Board informed the Appellant that no Statement of Grounds of Appeal had been filed and that its appeal could be expected to be rejected as inadmissible. The Appellant was given the opportunity of filing observations within 2 months.

III. No answer to the Registry's communication has been received.

Reasons for the Decision

As no written statement setting out the grounds of appeal has been filed by the Appellant, and its Notice of Appeal contains nothing that could be regarded as a Statement of Grounds of

Appeal pursuant to Article 108 EPC in conjunction with Rule 99(2) EPC, its 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:

E. Görgmaier

R. Young