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**Datasheet for the decision
of 19 September 2013**

Case Number: T 1068/13 - 3.3.08
Application Number: 07017208.5
Publication Number: 1870461
IPC: C12N 15/09, C12N 15/10,
C12Q 1/68
Language of the proceedings: EN

Title of invention:

Method of identifying within a mammal a DNA encoding
physiologically active polypeptide

Applicant:

CHUGAI SEIYAKU KABUSHIKI KAISHA

Headword:

Antibodies multiple antigenic polypeptides/CHUGAI

Relevant legal provisions:

EPC Art. 108

Keyword:

"Missing statement of grounds"

"Appeal inadmissible (yes)"

Decisions cited:

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Catchword:

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Case Number: T 1068/13 - 3.3.08

D E C I S I O N
of the Technical Board of Appeal 3.3.08
of 19 September 2013

Appellant:
(Applicant)

CHUGAI SEIYAKU KABUSHIKI KAISHA
5-1, Ukima 5-chome,
Kita-ku
Tokyo, 115-8543 (JP)

Representative:

Bassil, Nicholas Charles
Kilburn & Strode LLP
20 Red Lion Street
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Decision under appeal:

**Decision of the Examining Division of the
European Patent Office posted on
23 November 2012 refusing European patent
application No. 07017208.5 pursuant to Article
97(2) EPC.**

Composition of the Board:

Chairman: M. Wieser
Members: P. Julià
D. S. Rogers

Summary of Facts and Submissions

- I. The appeal lies against the decision of the Examining Division of the European Patent Office of 23 November 2012 whereby the European Patent application No. 07 017 208.5, published as EP-A-1 870 461 with the title "Method of identifying within a mammal a DNA encoding physiologically active polypeptide", was refused.
- II. The appellant filed a notice of appeal on 21 January 2013 and paid the appeal fee on the same day. No statement of grounds of appeal was filed within the time limit set by Article 108 EPC.
- III. By communication of 14 May 2013 sent by registered letter with advice of delivery, the EPO informed the appellant 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 reestablishment of rights was filed.
- IV. On 10 September 2013, the Board's registrar telephoned the appellant's representative who then confirmed that the appellant did not wish to proceed with the appeal and that the appeal procedure could be terminated.

Reasons for the Decision

1. 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).

2. Since the appellant has not provided any statement as to the substantive merits of its appeal, has not given any explanation or comments as to why no statement of grounds had been filed, has not reacted to the Board's notification of an impending rejection of the appeal as inadmissible and, after the Board's inquiry, it has stated it wish to terminate the appeal proceedings, the Board considers that the initial auxiliary request in its notice of appeal for oral proceedings is obsolete and/or abandoned by the appellant.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar

The Chairman

A. Wolinski

M. Wieser