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**Datasheet for the decision
of 12 March 2019**

Case Number: T 2335/14 - 3.3.01

Application Number: 06743894.5

Publication Number: 1901712

IPC: A61K31/08, A61K9/12, A61P9/10,
A61P25/28

Language of the proceedings: EN

Title of invention:
Therapeutic sclerosing foam made preferably from xenon

Patent Proprietor:
BTG International Limited

Opponent:
CHEMISCHE FABRIK KREUSSLER & CO. GMBH

Headword:
Therapeutic foam/BTG

Relevant legal provisions:
EPC Art. 108
EPC R. 101(1)

Keyword:
Admissibility of appeal - missing statement of grounds



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 2335/14 - 3.3.01

D E C I S I O N
of Technical Board of Appeal 3.3.01
of 12 March 2019

Appellant: CHEMISCHE FABRIK KREUSSLER & CO. GMBH
(Opponent) Rheingaustrasse 87-93
D-65203 Wiesbaden (DE)

Representative: dompatent von Kreisler Selting Werner -
Partnerschaft von Patent- und Rechtsanwälten mbB
Deichmannhaus am Dom
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50667 Köln (DE)

Respondent: BTG International Limited
(Patent Proprietor) 5 Fleet Place
London EC4M 7RD (GB)

Representative: BTG plc Intellectual Property Group
5 Fleet Place
London EC4M 7RD (GB)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 13 October 2014
rejecting the opposition filed against European
patent No. 1901712 pursuant to
Article 101(2) EPC.**

Composition of the Board:

Chairman A. Lindner
Members: J. Molina de Alba
M. Blasi

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the opposition division rejecting the opposition, posted on 13 October 2014.
- II. The opponent (appellant) filed a notice of appeal on 18 December 2014 and paid the appeal fee on the same day. It requested that the decision of the opposition division be set aside and the patent be revoked. As an auxiliary measure, oral proceedings were requested.
- III. By its communication of 19 December 2018, the board informed the appellant that it appeared from the file that the written statement of grounds of appeal had not been filed, and that it was therefore 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 informed that any observations had to be filed within two months of notification of the communication and was asked to clarify its request for oral proceedings.
- IV. In reply to the board's communication, the appellant withdrew its request for oral proceedings.

Reasons for the Decision

No written statement setting out the grounds of appeal was filed within the time limit provided by Article 108, third sentence, EPC in conjunction with Rule 126(2) and Rule 131(2), (4) EPC. In addition, neither the notice of appeal nor any other document

filed contains anything that could be regarded as a statement of grounds pursuant to Article 108 EPC and Rule 99(2) EPC. Therefore, the appeal has to be rejected as inadmissible (Rule 101(1) EPC).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



M. Schalow

A. Lindner

Decision electronically authenticated