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File Number: T 519/92 - 3.4.2  
Application No.: 84 306 210.0  
Publication No.: 0 138 377  
Title of invention: Lewis blood group phenotype assay

Classification: G01N 33/80, G01N 33/577, C12N 5/00

**D E C I S I O N**  
of 1 December 1992

Applicant: The Wistar Institute

Opponent: Chembiomed Ltd.

Headword:

EPC Article 108, Rule 65(1)

Keyword: "Missing Statement of Grounds"



Case Number : T 519/92 - 3.4.2

**D E C I S I O N**  
**of the Technical Board of Appeal 3.4.2**  
**of 1 December 1992**

**Appellant :**  
(Opponent) Chembiomed Ltd.  
Edmonton Research Park  
P.O. Box 8050  
Station F  
Alberta, Edmonton T6H 4N9 (CA)

**Representative :**  
Goldin, Douglas Michael  
J.A. Kemp & Co.  
14, South Square  
Gray's Inn  
London WC1R 5EU (GB)

**Respondent :**  
(Proprietor of the patent) The Wistar Institute  
36th Street at Spruce  
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Pennsylvania 19104 (US)

**Representative :**  
Bannerman, David Gardner  
Withers & Rogers  
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**Decision under appeal :** Decision of the Opposition Division of the  
European Patent Office dated 18 February 1992,  
posted on 31 March 1992 rejecting the opposition  
filed against European patent No. 0 138 377  
pursuant to Article 102(2) EPC.

**Composition of the Board :**

**Chairman :** E. Turrini  
**Members :** C. Black  
L. Mancini

## Summary of Facts and Submissions

- I. The appeal contests the interlocutory decision of the Opposition Division of the European Patent Office dated 18 February 1992 posted on 31 March 1992, concerning maintenance of European patent No. 0 138 377 in amended form.

The Appellant (Opponent) filed a notice of appeal on 28 May 1992 and paid the fee for appeal on the same day.

No Statement of Grounds was filed. The notice of appeal contains nothing that could be regarded as a Statement of Grounds pursuant to Article 108 EPC.

- II. By a communication dated 15 September 1992, sent by registered letter with advice of delivery, the Registry of the Board informed the Appellant that no Statement of Grounds has been filed and that the appeal could be expected to be rejected as inadmissible. The Appellant was invited to file observations within two months.
- III. No answer has been given within the given time limit to the Registry's communication.

## 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 (Article 108 EPC in conjunction with Rule 65(1) EPC).

Order

For these reasons, it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

P. Martorana

E. Turrini