

Internal distribution code:

- (A) [] Publication in OJ
(B) [] To Chairmen and Members
(C) [X] To Chairmen

D E C I S I O N
of 17 April 1996

Case Number: T 0716/95 - 3.2.2

Application Number: 84111780.7

Publication Number: 0138147

IPC: A61J 1/00

Language of the proceedings: EN

Title of invention:
Citrate-ester plasticized PVC blood containers

Patentee:
Bayer Corporation

Opponent:
Morflex, Inc.
Baxter Deutschland GmbH

Headword:
-

Relevant legal provisions:
EPC Art. 108
EPC R. 65(1)

Keyword:
"Missing Statement of Grounds"

Decisions cited:
-

Catchword:
-



Case Number: T 0716/95 - 3.2.2

D E C I S I O N
of the Technical Board of Appeal 3.2.2
of 17 April 1996

Appellant:
(Proprietor of the patent) Bayer Corporation
One Mellon Center
500 Grant Street
Pittsburgh
PA 15219- 2502 (US)

Representative:
Burkert, Frank
Bayer AG
Konzernzentrale RP
Patente Konzern
D-51368 Leverkusen (DE)

Respondent:
(Opponent) Morflex, Inc.
Greensboro, N.C. (US)

Representative:
Keller, Günter, Dr
Lederer, Keller & Riederer
Patentanwälte
Prinzregentenstrasse 16
D-80538 München (DE)

(Opponent) Baxter Deutschland GmbH
Edisonstr. 3-4
D-85716 Unterschleissheim (DE)

Representative:
Popp, Eugen, Dr
MEISSNER, BOLTE & PARTNER
Postfach 86 06 24
D-81633 München (DE)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 4 July 1995 revoking
European patent No. 0 138 147 pursuant to
Article 102(1) EPC.

Composition of the Board:

Chairman: H. J. Seidenschwarz
Members: M. J. M. Bidet
C. Holtz

Summary of Facts and Submissions

I. The appeal contests the decision of the Opposition Division of the European Patent Office revoking the European patent No. 0 138 147. The written decision was dispatched by registered letter with advice of delivery on 4 July 1995.

On 16 August 1995 the Appellant filed a notice of appeal 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 28 December 1995 and sent by registered post, 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 possibility to file a request for re-establishment under Article 122 EPC was indicated. The Appellant was invited to file observations within two months

III. The Appellant filed no observations in response to said communication, nor has he requested re-establishment in accordance with Article 122 EPC.

Reasons for the Decision

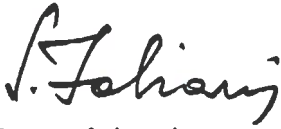
As no written statement setting out the grounds of appeal has been filed, the appeal has to be rejected as inadmissible (Article 108 EPC in conjunction with Rule 65(1) EPC).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:



S. Fabiani

The Chairman:



H. Seidenschwarz