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**D E C I S I O N**  
**of 26 February 1998**

**Case Number:** T 0535/97 - 3.3.4

**Application Number:** 88905073.8

**Publication Number:** 0363414

**IPC:** A61K 39/155

**Language of the proceedings:** EN

**Title of invention:**

Use of a viral glycoprotein subunit vaccine for intranasal immunization against viral infection

**Patentee:**

Secrettech, Inc.

**Opponent:**

Chiron Corporation  
Connaught Laboratories Limited

**Headword:**

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**Relevant legal provisions:**

EPC Art. 108

EPC R. 65(1)

**Keyword:**

"Missing statement of grounds"

**Decisions cited:**

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**Catchword:**

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**Decision under appeal:**      **Decision of the Opposition Division of the  
European Patent Office posted 11 March 1997  
revoking European patent No. 0 363 414 pursuant  
to Article 102(1) EPC.**

**Composition of the Board:**

**Chairwoman:** U. M. Kinkeldey

**Members:**     R. E. Gramaglia

                  W. Moser

## **Summary of Facts and Submissions**

- I. The appeal contests the decision of the Opposition Division of the European Patent Office dated 11 March 1997 revoking the European patent No. 0 363 414. The decision was posted to the applicant on 11 March 1997. The Appellant filed a Notice of Appeal by letter received on 16 May 1997 and paid the fee for appeal on the same date. 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 10 October 1997, 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 and attention was drawn to Article 122 EPC (Re-establishment of rights).
- III. No answer has been given 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 Chairwoman:

D. Spigarelli

U. Kinkeldey