Datasheet for the decision of 6 November 2008

Case Number: T 0914/06 - 3.3.01
Application Number: 96924367.4
Publication Number: 0848704
IPC: C07D 207/34
Language of the proceedings: EN

Title of invention:
Form III Crystalline R-(R*,R*)
-2-(4-fluorophenyl)-beta-delta-dihydroxy-5-(1-methyl-ethyl)-3-
phenyl-4-(phenylamino)carbonyl-1H-pyrrole-1-heptanoic acid
hemi calcium salt (atorvastatin)

Patentee: Warner-Lambert Company LLC

Opponent: Teva Pharmaceutical Industries Ltd.
LEK Pharmaceutical and Chemical Company d.d.

Headword: -

Relevant legal provisions: -

Relevant legal provisions (EPC 1973): EPC Art. 108
EPC R. 65(1)

Keyword: "Missing Statement of Grounds"

Decisions cited: -

Catchword: -
Decision under appeal:

Composition of the Board:

Chairman: P. Ranguis
Members: J.-B. Ousset
          D. S. Rogers
Summary of Facts and Submissions

I. The appeal is against the decision of the Opposition Division of the European Patent Office posted 31 March 2006 maintaining the European patent No. 0 848 704 in amended form.

The appellant (patent proprietor) filed a notice of appeal on 12 June 2006 and paid the fee for appeal on the same date. No statement setting out the grounds of appeal was filed. The notice of appeal contains nothing that could be regarded as a statement within the meaning of Article 108 EPC 1973, third sentence.

II. By a communication sent by registered letter with advice of delivery on 14 September 2006 and received by the appellant on 18 September 2006 the Registry of the Board informed the appellant that no statement of grounds had been filed and that the appeal could be expected to be rejected as inadmissible. The appellant was invited to file observations within two months. The attention of the appellant was also drawn to Rule 84a EPC 1973 and to Article 122 EPC 1973.

III. No answer has been given to the Registry's communication.

Reasons for the Decision

No written statement setting out the grounds of appeal has been filed, and the notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC 1973. Thus the appeal has to be rejected as
inadmissible pursuant to Rule 65(1) EPC 1973 in conjunction with Article 108 EPC 1973, third sentence.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar: The Chairman:

M. Schalow P. Ranguis