Datasheet for the decision of 18 September 2013

Case Number: T 0287/13 - 3.3.02
Application Number: 05777087.7
Publication Number: 1785137
Language of the proceedings: EN
Title of invention: Remedy for hyperlipemia
Opponent: Merck Sharp & Dohme Corp.
Headword: -
Relevant legal provisions: EPC Art. -
Keyword: -
Decisions cited: -
Catchword: -

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Case Number: T 0287/13 – 3.3.02

DECISION
of the Technical Board of Appeal 3.3.02
of 18 September 2013

Appellants: Kowa Company, Ltd.
(Patent Proprietor 1)
6–29, Nishiki 3–chome,
Naka-ku,
Nagoya-shi, Aichi–ken 460–8625   (JP)

(Patent Proprietor 2) Nissan Chemical Industries, Ltd.
7–1, Kanda Nishiki–cho 3–chome
Chiyoda-ku,
Tokyo 101–0054   (JP)

Representative: Hartz, Nikolai
Wachtershauser & Hartz
Patentanwaltspartnerschaft
Ottostrasse 4
D–80333 München   (DE)

Respondent: Merck Sharp & Dohme Corp.
(Opponent)
126 East Lincoln Avenue
Rahway, NJ 07065–0907   (US)

Representative: Jaap, David Robert
Merck & Co., Inc.
Hertford Road
Hoddesdon, Herts EN11 9BU   (GB)

Decision under appeal: Decision of the Opposition Division of the European Patent Office posted 3 December 2012 revoking European patent No. 1785137 pursuant to Article 101(3)(b) EPC.

Composition of the Board:
Chairman: U. Oswald
Members: M. C. Ortega Plaza
D. Prietzel-Funk
Summary of Facts and Submissions

I. The appeal is directed against the decision of the Opposition Division of 3 December 2012, posted on 3 December 2012.

II. The appellants (patent proprietors) filed a notice of appeal on 1 February 2013 and paid the appeal fee on the same day.

III. By communication of 8 May 2013, received by the appellant, the Registry of 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.

IV. No reply was received.

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) 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:

N. Maslin  

U. Oswald