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**D E C I S I O N**  
**of 22 February 2002**

**Case Number:** T 1210/01 - 3.2.2

**Application Number:** 94928675.1

**Publication Number:** 0746353

**IPC:** A61M 5/00

**Language of the proceedings:** EN

**Title of invention:**  
SURGICAL IRRIGATION APPARATUS

**Applicant:**  
Frankenthal, Howard M.

**Opponent:**

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**Headword:**

-

**Relevant legal provisions:**

EPC Art. 108  
EPC R. 65(1)

**Keyword:**

"No written statement of grounds"

**Decisions cited:**

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**Catchword:**

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Case Number: T 1210/01 - 3.2.2

**D E C I S I O N**  
**of the Technical Board of Appeal 3.2.2**  
**of 22 February 2002**

**Appellant:** Frankenthal, Howard M.  
Infinity Surgical Technology, Inc.  
10535 North Port Washington Road  
Mequon  
wisconsin 53092 (US)

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

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 11 May 2001  
refusing European patent application  
No. 94 928 675.1 pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** W. D. Weiß  
**Members:** M. G. Noël  
U. J. Tronser

## **Summary of Facts and Submissions**

I. The appeal contests the decision of the Examining Division of the European Patent Office dispatched by registered letter with advice of delivery to the Applicant on 11 May 2001 and concerning the refusal of the European patent application No. 94 928 675.1.

The Appellant filed a Notice of Appeal by letter received on 23 July 2001 and paid the appeal fee 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 of grounds pursuant to Article 108 EPC.

II. By a communication dated 19 November 2001, sent by registered post, the Registrar of the Board informed the Appellant that no statement setting out the grounds of appeal has been filed and that the appeal could be expected to be rejected as inadmissible. The Appellant was informed about the possibility of filing a request for re-establishment of rights under Article 122 EPC and 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:

V. Commare

W. D. Weiß