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**Datasheet for the decision
of 22 January 2008**

Case Number: T 1295/07 - 3.2.02

Application Number: 98110936.6

Publication Number: 0890341

IPC: A61B 17/34

Language of the proceedings: EN

Title of invention:

Apparatus and method for percutaneously securing a working space, e.g. in lumbar discectomy

Applicant:

Olympus Corporation

Headword:

-

Relevant legal provisions:

EPC Art. 108
EPC R. 101(1)

Keyword:

"Missing statement of grounds"

Decisions cited:

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Catchword:

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Case Number: T 1295/07 - 3.2.02

DECISION
of the Technical Board of Appeal 3.2.02
of 22 January 2008

Appellant:

Olympus Corporation
43-2, Hatagaya 2-chome
Shibuya-ku, Tokyo (JP)

Representative:

Winter, Brandl, Fürniss, Hübner Röss, Kaiser,
Polte Partnerschaft Patent- und
Rechtsanwaltskanzlei
Alois-Steinecker-Strasse 22
D-85354 Freising (DE)

Decision under appeal:

Decision of the Examining Division of the
European Patent Office posted 23 January 2007
refusing European application No. 98110936.6
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: T. Kriner
Members: S. Chowdhury
A. Pignatelli

Summary of Facts and Submissions

- I. The appeal lies from the decision of the Examining Division of the European Patent Office dated 23 January 2007, refusing the European patent application No. 98 110 936.6. The decision was dispatched by registered letter with advice of delivery to the Applicant.

- II. The Appellant filed a notice of appeal by a letter received on 30 March 2007 and paid the fee for appeal on the same day.
No statement setting out the grounds of appeal was filed. The notice of appeal contains nothing that could be regarded as a statement setting out the grounds of appeal pursuant to Article 108 EPC.

- III. By a communication dated 9 August 2007, sent by registered letter with advice of delivery, the Registry of the Board informed the Appellant that no Statement setting out the grounds of appeal 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 and attention was drawn to the possibility of filing a request for re-establishment of rights under Article 122 EPC (1973) and Rule 84a EPC (1973).

- IV. No answer has been given within the given time limit to the registry's communication.

Reasons for the Decision

1. The Board draws the attention of the party to the fact that this decision is issued after the entry into force of the EPC 2000 on 13 December 2007. When Articles or Rules of the old version of the EPC (1973) are cited, the year is indicated. The transitional provisions according to Article 7 of the Act revising the EPC of 29 November 2000 and the Decisions of the Administrative Council of 28 June 2001 and of 7 December 2006, Article 2, have been applied.

2. 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 101(1) EPC)

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

V. Commare

T. Kriner