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**Datasheet for the decision
of 16 March 2011**

Case Number: T 1382/10 - 3.2.02

Application Number: 02738460.1

Publication Number: 1399204

IPC: A61M 1/36

Language of the proceedings: EN

Title of invention:

Method and device for detecting the detachment of the venous
needle from a patient during dialysis

Patentee:

Gambro Lundia AB

Opponent:

Fresenius Medical Care Deutschland GmbH

Headword:

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Relevant legal provisions:

EPC Art. 108
EPC R. 101(1)

Relevant legal provisions (EPC 1973):

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Keyword:

"Missing statement of grounds"

Decisions cited:

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Catchword:

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Case Number: T 1382/10 - 3.2.02

D E C I S I O N
of the Technical Board of Appeal 3.2.02
of 16 March 2011

Appellant: Fresenius Medical Care Deutschland GmbH
(Opponent) Else-Kröner-Strasse 1
D-61352 Bad Homburg (DE)

Representative: Bobbert, Cornelius
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Respondent: Gambro Lundia AB
(Patent Proprietor) Magistratsvägen 16
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Representative: Lejeune, Daniel
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 15 April 2010
rejecting the opposition filed against European
patent No. 1399204 pursuant to Article 102(2)
EPC.

Composition of the Board:

Chairman: M. Noël
Members: P. L. P. Weber
A. Pignatelli

Summary of Facts and Submissions

- I. The appellant (opponent) appealed against the decision of the Opposition Division of the European Patent Office dated 15 April 2010 rejecting the opposition filed against European Patent No. 1 399 204.

- II. The notice of appeal was received on 24 June 2010 and the appeal fee was paid on the same day. The appellant requested that the decision be set aside and that the patent be revoked. As an auxiliary request the appellant requested oral proceedings in case the above requests could not be granted. The appellant further mentioned that a statement setting out the grounds of appeal will be filed later on. However, no statement of grounds of appeal has been filed within the time limit for doing so, nor did the notice of appeal contain anything that might be considered as such statement.

- III. In a communication dated 4 October 2010 sent by registered post with advice of delivery, the Board informed the appellant that no statement of grounds of appeal had been filed and that, as a consequence, it was to be expected that the appeal would be rejected as inadmissible. The appellant was also given a time limit of two months for filing observations starting from the date of notification of said communication.

- IV. The communication was notified on 6 October 2010. No observations were filed within the given time limit.

Reasons for the Decision

1. According to Article 108 EPC, a statement setting out the grounds of appeal shall be filed within four months of notification of the decision.

2. If the appeal does not comply with Article 108 EPC, the appeal must be rejected as inadmissible (Rule 101(1) EPC). In the present case, no statement setting out the grounds of appeal has been filed and consequently the appeal is rejected as inadmissible.

3. In the notice of appeal oral proceedings were requested as an auxiliary measure in case the patent could not be revoked. As no statement of the grounds of appeal was filed, this auxiliary request is without object.

No request for oral proceedings was formulated after the communication dated 4 October 2010. The appeal can thus be rejected as inadmissible in a written procedure.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar

The Chairman

D. Sauter

M. Noël