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**Datasheet for the decision
of 30 October 2012**

Case Number: T 0253/12 - 3.2.02

Application Number: 04258082.9

Publication Number: 1550409

IPC: A61B 17/072

Language of the proceedings: EN

Title of invention:

Replaceable cartridge module for a surgical stapling and cutting instrument

Patent Proprietor:

ETHICON ENDO-SURGERY, INC.

Opponent:

Covidien

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:

-

Catchword:

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Case Number: T 0253/12 - 3.2.02

D E C I S I O N
of the Technical Board of Appeal 3.2.02
of 30 October 2012

Appellant: Covidien
(Opponent) 60 Middletown Avenue
North Haven CT 06473 (US)

Representative: Maschio, Antonio
Maschio & Soames LLP
20 Carlton Crescent
Southampton, SO15 2ET (GB)

Respondent: ETHICON ENDO-SURGERY, INC.
(Patent Proprietor) 4545 Creek Road
Cincinnati, Ohio 45242 (US)

Representative: Tunstall, Christopher Stephen
Carpmaels & Ransford
One Southampton Row
London WC1B 5HA (GB)

Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
13 December 2011 concerning maintenance of
European patent No. 1550409 in amended form.

Composition of the Board:

Chairman: E. Dufrasne
Members: M. Stern
C. Körber

Summary of Facts and Submissions

I. The appellant (opponent) contests the interlocutory decision of the Opposition Division posted on 13 December 2011 concerning maintenance of the European Patent No. 1 550 409 in amended form.

II. The notice of appeal was received on 7 February 2012 and the appeal fee was paid on the same day.

No statement of grounds of appeal has been filed.

III. By a communication dated 9 May 2012 sent by registered letter with advice of delivery, the Registry of 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.

IV. No answer has been given to this communication.

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 written statement setting out the grounds of appeal has been filed and the notice

of appeal contains nothing that could be regarded as such.

Consequently the appeal has to be rejected as inadmissible.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

D. Hampe

E. Dufrasne