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**Datasheet for the decision
of 15 October 2013**

Case Number: T 1006/13 - 3.2.02

Application Number: 10153520.1

Publication Number: 2484302

IPC: A61B 18/14

Language of the proceedings: EN

Title of invention:
Cardiac electrophysiology catheter

Applicant:
Ionescu, Bogdan Gabriel

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 108, 123(2)
EPC R. 99(2), 101(1)

Keyword:
"Admissibility of the appeal (no)"

Decisions cited:
T 0220/83, T 0809/06, T 1165/08, T 1581/08, T 1129/09

Catchword:
-



Case Number: T 1006/13 - 3.2.02

DECISION
of the Technical Board of Appeal 3.2.02
of 15 October 2013

Appellant: Ionescu, Bogdan Gabriel
(Applicant) Aleea Parva 7, D17, AP43
Bucharest (RO)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 22 January 2013
refusing European patent application
No. 10153520.1 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: E. Dufrasne
Members: D. Ceccarelli
M. Stern

Summary of Facts and Submissions

I. The appellant lodged an appeal against the decision of the Examining Division, dispatched on 22 January 2013, to refuse application No. 10 153 520.1.

II. The Examining Division in particular held that the subject-matter of claim 1 extended beyond the content of the application as originally filed, thereby infringing Article 123(2) EPC.

III. Claim 1, on which the impugned decision was based, reads as follows:

"System comprising a variable electrical resistance (VER), to either pole of cardiac electrophysiology catheters (CEC), characterised in that said resistance (VER) relies on intrinsic voltages from cardiac tissues, wherein said intrinsic voltages may be either spontaneous or stimulated."

IV. The Examining Division explained that there was no basis in the original application for a resistance which "relies on intrinsic voltages from cardiac tissues, wherein said intrinsic voltages may be either spontaneous or stimulated."

V. The notice of appeal and the statement setting out the grounds of appeal were received on 12 February 2013, the appeal fee having been paid on 8 February 2013.

VI. By communication of 8 July 2013, the Board raised an objection to the admissibility of the appeal. It appeared that, contrary to the requirements of

Article 108 and Rule 99(2) EPC, in the statement setting out the grounds of appeal the appellant had not indicated the reasons for setting aside the impugned decision.

The Board also expressed its preliminary agreement with the Examining Division's objection under Article 123(2) EPC.

VII. By letter received on 31 July 2013, the appellant replied to the Board's communication and filed remarks regarding the processing of the application during the examination proceedings.

The appellant requested a "definitive and positive resolution" of the case.

VIII. The appellant's arguments are summarised as follows.

Claim 1 as originally filed did not contain an explicit reference that the resistance relied on voltages applied to the heart from an external source.

The appellant had not been invited to define the subject-matter to be searched.

The set of claims filed with the letter dated 7 October 2012 was the only patentable set of claims derivable from the application as originally filed.

It was because of the results of the European search report and the Examining Division's reports that subject-matter had been added in the claims filed with the letter dated 7 October 2012.

Reasons for the Decision

1. Admissibility

- 1.1 Article 108 EPC (third sentence) prescribes that "Within four months of notification of the decision, a statement setting out the grounds of appeal shall be filed in accordance with the Implementing Regulations."

Rule 99(2) EPC requires that "In the statement of grounds the appellant shall indicate the reasons for setting aside the decision impugned, or the extent to which it is to be amended, and the facts and evidence on which the appeal is based."

Rule 101(1) EPC requires that "If the appeal does not comply with Article[...] 108 [...] or Rule 99, paragraph [...] 2, the Board of Appeal shall reject it as inadmissible, unless any deficiency has been remedied before the relevant period under Article 108 has expired."

- 1.2 According to the established jurisprudence of the boards of the appeal, in order for the requirements of Rule 99(2) EPC to be fulfilled the statement setting out the grounds of appeal must enable the Board to understand immediately why the decision is alleged to be incorrect and on what facts the appellant bases its arguments, without first having to make investigations of its own (T 220/83, Official Journal of the European Patent Office 1986, 249, confirmed in several more

recent decisions, for example T 809/06, T 1165/08, T 1581/08, T 1129/09).

1.3 In the present case, the only statement by the appellant, which may be seen as somehow relating to the requirements of Article 123(2) EPC, concerns the alleged lack of an explicit reference in claim 1 as originally filed, that the resistance relies on voltages applied to the heart from an external source. Said reference, however, does not relate to the subject-matter of claim 1 as decided upon by the Examining Division and is therefore not sufficient to enable the Board to understand immediately, why the appellant believes that the specific objection under Article 123(2) EPC, as formulated in the impugned decision, is incorrect. In any event, even if not decisive for the present case, the Board also sees no reason why the finding of the impugned decision should be overruled on that point.

1.4 Therefore, the statement setting out the grounds of appeal does not address the ground for refusal under Article 123(2) EPC as explained in the impugned decision.

The Board is consequently of the opinion that the above-mentioned requirements for admissibility of the appeal are not met in the present case.

Under these circumstances, the appeal is to be rejected as inadmissible pursuant to Rule 101(1) EPC.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

D. Hampe

E. Dufrasne