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**Datasheet for the decision  
of 19 January 2015**

**Case Number:** T 0745/14 - 3.2.02

**Application Number:** 04021682.2

**Publication Number:** 1493397

**IPC:** A61B18/14, A61B18/00,  
A61B18/12, A61B18/02

**Language of the proceedings:** EN

**Title of invention:**  
Cluster ablation electrode system

**Patent Proprietor:**  
Covidien AG

**Opponent:**  
OLYMPUS WINTER & IBE GMBH

**Headword:**  
-

**Relevant legal provisions:**  
EPC Art. 108  
EPC R. 101(1)

**Keyword:**  
Admissibility of appeal - missing statement of grounds

**Decisions cited:**

**Catchword:**



**Beschwerdekammern  
Boards of Appeal  
Chambres de recours**

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Case Number: T 0745/14 - 3.2.02

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.02**  
**of 19 January 2015**

**Appellant:** OLYMPUS WINTER & IBE GMBH  
(Opponent) Kuehnstrasse 61  
22045 Hamburg (DE)

**Representative:** Eisenführ Speiser  
Patentanwälte Rechtsanwälte PartGmbH  
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**Respondent:** Covidien AG  
(Patent Proprietor) Victor von Bruns-Strasse 19  
8212 Neuhausen am Rheinfall (CH)

**Representative:** Stanners, David Ralph  
Urquhart-Dykes & Lord LLP  
The Podium  
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**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
17 February 2014 concerning maintenance of the  
European Patent No. 1493397 in amended form.**

**Composition of the Board:**

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

## **Summary of Facts and Submissions**

- I. The appeal is directed against the decision of the Opposition Division of 28 January 2014, posted on 17 February 2014.
- II. The appellant (opponent) filed a notice of appeal on 24 March 2014 and paid the appeal fee on the same day. As an auxiliary measure oral proceedings were requested in case the Board did not intend to revoke the opposed patent.
- III. By communication of 9 July 2014, received by the appellant, the Registry of the Board informed the appellant that it appeared from the file that the written statement of grounds of appeal had not been filed and that it was therefore to be expected that the appeal would be rejected as inadmissible pursuant to Article 108, third sentence, EPC in conjunction with Rule 101(1) EPC.
- IV. The appellant was informed that any observations had to be filed within two months of notification of the communication.
- V. No reply was received.

## **Reasons for the Decision**

1. No written statement setting out the grounds of appeal was filed within the time limit provided by Article 108, third sentence, EPC in conjunction with Rule 126(2) EPC. In addition, neither the notice of appeal nor any other document filed contains anything that

could be regarded as a statement of grounds pursuant to Article 108 EPC and Rule 99(2) EPC.

Therefore, the appeal has to be rejected as inadmissible (Rule 101(1) EPC).

2. In the notice of appeal the appellant requested oral proceedings as an auxiliary measure. This means that oral proceedings were requested in case the decision of the opposition division could not be set aside on the basis of the grounds still to be provided.

There is no room for interpreting this request as relating to the question of the admissibility of the appeal, which is a new procedural situation.

The attention of the appellant was drawn to this new procedural situation in the communication dated 9 July 2014 and it did not request oral proceedings in relation to the admissibility of the appeal.

Therefore, the Board considers that the appeal can be dealt with in written proceedings only.

**Order**

**For these reasons it is decided that:**

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



D. Hampe

E. Dufrasne

Decision electronically authenticated