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**Datasheet for the decision
of 31 January 2017**

Case Number: T 2152/15 - 3.2.08

Application Number: 10184636.8

Publication Number: 2311412

IPC: A61F2/915

Language of the proceedings: EN

Title of invention:
Stent having helical elements

Patent Proprietor:
OrbusNeich Medical, Inc.

Opponents:
Terumo Kabushiki Kaisha
Boston Scientific Corporation

Headword:

Relevant legal provisions:
EPC Art. 108
EPC R. 99(2), 101(1), 126(2)

Keyword:
Admissibility of appeal - missing statement of grounds

Decisions cited:

Catchword:



Beschwerdekammern
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European Patent Office
D-80298 MUNICH
GERMANY
Tel. +49 (0) 89 2399-0
Fax +49 (0) 89 2399-4465

Case Number: T 2152/15 - 3.2.08

D E C I S I O N
of Technical Board of Appeal 3.2.08
of 31 January 2017

Appellant: OrbusNeich Medical, Inc.
(Patent Proprietor) 5363 N.W. 35th Avenue
Ft Lauderdale, FL 33309 (US)

Representative: Jilderda, Anne Ayolt
Octrooibureau LIOC B.V.
Postbus 13363
3507 LJ Utrecht (NL)

Appellant: Terumo Kabushiki Kaisha
(Opponent 1) 44-1, Hatagaya 2-Chome
Shibuya-ku
Tokyo 151-0072 (JP)

Representative: Prüfer & Partner mbB
Patentanwälte · Rechtsanwälte
Sohnckestraße 12
81479 München (DE)

Party as of right: Boston Scientific Corporation
(Opponent 2) One Scimed Place
Maple Grove, MN 55311 (US)

Representative: Vossius & Partner
Patentanwälte Rechtsanwälte mbB
Siebertstrasse 3
81675 München (DE)

Decision under appeal: **Interlocutory decision of the Opposition**
Division of the European Patent Office posted on
23 November 2015 concerning maintenance of the
European Patent No. 2311412 in amended form.

Composition of the Board:

Chairwoman	P. Acton
Members:	C. Herberhold
	Y. Podbielski

Summary of Facts and Submissions

- I. The appeals are directed against the decision of the Opposition Division of 30 September 2015, posted on 23 November 2015.
- II. Appellant 1 (opponent) filed a notice of appeal on 15 October 2015 and paid the appeal fee on the same day. The appeal of appellant 1 was withdrawn on 8 February 2016. With letter dated 10 February 2016 appellant 1 also withdrew the opposition.
- III. Appellant 2 (patent proprietor) filed a notice of appeal on 3 February 2016 and paid the appeal fee on the same day.
- IV. By communication of 17 May 2016, received by appellant 2, the Registry of the Board informed appellant 2 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. Appellant 2 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 by appellant 2 within the time limit provided by Article 108, third sentence, EPC in conjunction with Rule 126(2) EPC.

2. 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.
3. Therefore, the appeal of appellant 2 has to be rejected as inadmissible (Rule 101(1) EPC).

Order

For these reasons it is decided that:

The appeal of appellant 2 (proprietor) is rejected as inadmissible.

The Registrar:

The Chairwoman:



C. Moser

P. Acton

Decision electronically authenticated