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**Datasheet for the decision
of 18 September 2017**

Case Number: T 0497/17 - 3.2.02

Application Number: 11156205.4

Publication Number: 2335749

IPC: A61M1/00, A61F13/02

Language of the proceedings: EN

Title of invention:

Dressing for applying reduced pressure to and collecting and storing fluid from a tissue site

Patent Proprietor:

KCI Licensing, Inc.

Opponent:

Smith & Nephew Research Centre

Headword:

Relevant legal provisions:

EPC Art. 108
EPC R. 101(1)

Keyword:

Admissibility of appeal - missing statement of grounds

Decisions cited:

Catchword:



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Case Number: T 0497/17 - 3.2.02

D E C I S I O N
of Technical Board of Appeal 3.2.02
of 18 September 2017

Appellant: Smith & Nephew Research Centre
(Opponent) York Science Park
Heslington
York
YO10 5DF (GB)

Representative: Meissner Bolte Partnerschaft mbB
Widenmayerstrasse 47
80538 München (DE)

Respondent: KCI Licensing, Inc.
(Patent Proprietor) P.O. Box 659508
San Antonio, TX 78265 (US)

Representative: Cordina, Kevin John
CMS Cameron McKenna Nabarro
Olswang LLP
Cannon Place
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Decision under appeal: **Decision of the Opposition Division of the European Patent Office posted on 16 December 2016 rejecting the opposition filed against European patent No. 2335749 pursuant to Article 101(2) EPC.**

Composition of the Board:

Chairman E. Dufrasne
Members: P. L. P. Weber
 M. Stern

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the Opposition Division to reject the opposition posted on 16 December 2016.
- II. The appellant filed a notice of appeal on 23 February 2017 and paid the appeal fee on the same day.

In the notice of appeal the following could be read (translation from German by the Board):

"It is requested,

*1) that the decision of the Opposition Division be set aside and that the European patent EP 2 335 749 (11156205.4 - 1657) be revoked in its entirety and
2) in case the European patent EP 2 335 749 (11156205.4 - 1657) cannot already be revoked in its entirety in the written proceedings, that oral proceedings are scheduled.*

The statement setting out the grounds of appeal will be filed in due time."

- III. By communication of 9 May 2017, 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. The appellant was informed that any observations had to be filed within two months of notification of the communication.

IV. 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.
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 of appeal still to be provided.

In the absence of the filing of any detailed submissions setting out the grounds of appeal this request is therefore baseless.

There is also 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 May 2017 and it did not request oral proceedings so that the appeal can be dealt with in written proceedings only.

3. Therefore, the appeal has to be rejected as inadmissible (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

Decision electronically authenticated