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**Datasheet for the decision
of 23 October 2014**

Case Number: T 0418/14 - 3.2.02

Application Number: 03808414.1

Publication Number: 1560517

IPC: A61B5/15

Language of the proceedings: EN

Title of invention:

CAP FOR A DERMAL TISSUE LANCING DEVICE

Patent Proprietor:

LifeScan, Inc.

Opponent:

Roche Diagnostics GmbH

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 0418/14 - 3.2.02

**D E C I S I O N
of Technical Board of Appeal 3.2.02
of 23 October 2014**

Appellant: Roche Diagnostics GmbH
(Opponent) Sandhoferstr. 116
68305 Mannheim (DE)

Representative: Stöbel, Matthias
Herzog Fiesser & Partner Patentanwälte PartG mbB
Dudenstrasse 46
68167 Mannheim (DE)

Respondent: LifeScan, Inc.
(Patent Proprietor) 1000 Gibraltar Drive
Milpitas, CA 95035-6312 (US)

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

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
5 December 2013 concerning maintenance of
European Patent No. 1560517 in amended form.**

Composition of the Board:

Chairman E. Dufrasne
Members: P. L. P. Weber
D. Ceccarelli

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the Opposition Division posted on 5 December 2013.
- II. The appellant (opponent) filed a notice of appeal on 14 February 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 7 May 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 7 May 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