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**Datasheet for the interlocutory decision  
of 15 September 2021**

**Case Number:** T 1609/20 - 3.2.02

**Application Number:** 10759220.6

**Publication Number:** 2413784

**IPC:** A61B5/00

**Language of the proceedings:** EN

**Title of invention:**

OPTICAL SPECTROSCOPY DEVICE FOR NON-INVASIVE BLOOD GLUCOSE  
DETECTION AND ASSOCIATED METHOD OF USE

**Applicant:**

St. Louis Medical Devices, Inc.

**Headword:**

**Relevant legal provisions:**

EPC R. 112(2)

**Keyword:**

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
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Case Number: T 1609/20 - 3.2.02

**I N T E R L O C U T O R Y   D E C I S I O N**  
**of Technical Board of Appeal 3.2.02**  
**of 15 September 2021**

**Appellant:**  
(Applicant)

St. Louis Medical Devices, Inc.  
1754 Technology Drive, Ste. 126  
San Jose, CA 95110 (US)

**Representative:**

D Young & Co LLP  
120 Holborn  
London EC1N 2DY (GB)

**Decision under appeal:**

**Decision of the Examining Division of the  
European Patent Office posted on 13 February  
2020 refusing European patent application No.  
10759220.6 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman**            M. Alvazzi Delfrate  
**Members:**         A. Martinez Möller  
                             C. Schmidt

## **Summary of Facts and Submissions**

During the appeal proceedings the European Patent Office issued a noting of loss of rights pursuant to Rule 112(1) EPC stating that the renewal fee for the eleventh year and the additional fee have not been paid in due time.

The applicant / appellant requested to confirm that the renewal fee for the eleventh year and the additional fee were paid in due time.

As a auxiliary measure it requested re-establishment in the time-limit to pay these fees and paid the fee for re-establishment. Finally it requested that fee for re-establishment be reimbursed if the renewal fee and the additional fee were considered to be paid in due time.

## **Reasons for the Decision**

According to Rule 112(2) EPC if the party concerned considers that the finding of the European Patent Office is inaccurate, it may, within two months of the communication under Rule 112(1) EPC, apply for a decision on the matter. The European Patent Office shall take such decision only if it does not share the opinion of the party requesting it; otherwise, it shall inform that party. In this case the Board shares its opinion.

Since a decision on re-establishment was not to be taken, the fee for re-establishment has to be reimbursed.

## Order

### For these reasons it is decided that:

1. The appellant is informed that the renewal fee for the eleventh year and the additional fee were paid in due time.
2. The fee for re-establishment is reimbursed.

The Registrar:

The Chairman:



D. Hampe

M. Alvazzi Delfrate

Decision electronically authenticated