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Case No: HP-2023-000008

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
PATENTS COURT

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 08/03/2024

Before :

MR JUSTICE MELLOR

Between :

DR VANESSA HILL

Claimant

- and -

(1) TOUCHLIGHT GENETICS LIMITED

Defendants

(2) TOUCHLIGHT IP LIMITED

(3) TOUCHLIGHT DNA SERVICES LIMITED

Hugo Cuddigan KC (instructed by **Wiggin LLP**) for the **Claimant**
Adrian Speck KC and James Whyte (instructed by **Bristows LLP**) for the **Defendants**

Hearing date: 7th March 2024

Approved Judgment

This judgment was handed down remotely at 2pm on 8th March 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MR JUSTICE MELLOR

Mr Justice Mellor :

INTRODUCTION

1. At this second CMC in this action, the dispute was whether the Court should appoint a scientific adviser (a ‘SA’, as the Claimant contended) or order the exchange of expert evidence (as the Defendants contended), an issue which has not arisen before, so far as I am aware. The resolution of this dispute is, of course, highly fact dependent, but it also raises the issue of where the dividing line lies between the role of a SA and the role of expert evidence.
2. The dispute arises in this action between Dr Hill as Claimant and the Defendants and Counterclaimants, who I will refer to simply as Touchlight. The action is a patent entitlement dispute in the field of biotechnology.
3. Before I address the legal aspects, it is necessary to set out some of the background, in part to determine the extent to which there are likely to be disputes of technical fact between the parties.

BACKGROUND

4. The patents or applications in dispute are in the name of Touchlight and they relate to aspects of a synthetic DNA vector (termed doggybone DNA or dbDNA) and its enzymatic production. The production method is said to allow Touchlight to make synthetic DNA vectors at the speed, scale and purity necessary to support the rapid growth of genetic medicines. The technology can be applied in fields including genome editing and DNA vaccines.
5. Dr Hill is a molecular biologist. Touchlight (in the form of the First Defendant) was set up in 2007. Dr Hill was a shareholder in the First Defendant (and remains a shareholder in the Touchlight group via Touchlight Holdings Limited), and she was a director and employee under a director’s service agreement (‘the Service Agreement’) until relations broke down in 2009 when she resigned.
6. The Claimant’s case is that, before her employment, she had already made and disclosed to Touchlight the invention(s) in Touchlight’s patent filings that led to the members of the patent family now in issue. However, she says that she only assigned part of these inventions to Touchlight under the Service Agreement (namely ‘thermophilic’ or high temperature aspects), and says that she remains entitled to ownership of the other part of the inventions (namely ‘mesophilic’ or low temperature aspects). Accordingly, she says she is entitled to be a joint proprietor of the relevant patents and patent applications.
7. The claim to patent entitlement arises under section 37(1) of the Patents Act 1977 in respect of the granted patents in issue, which are UK designations of European Patents (“EP(UK)s”), and under section 12(1) in respect of the pending foreign patent applications – one in China and one in the US (“the US Application”).
8. Touchlight’s case in outline is that:

- i) The Claimant did not devise and/or disclose the invention(s) before her employment with Touchlight. The parties are agreed on what should be treated as the inventive concept of the EP(UK)s and the Chinese application, but disagree on the inventive concept of the US Application (the identity and timing of invention of which Touchlight contends are affected by US law).
- ii) Even if she did make and disclose the invention(s) before her employment, the Service Agreement transferred to Touchlight the rights to all the aspects of those inventions (including mesophilic aspects).
- iii) The Claimant was involved in the drafting of, and subsequently approved, the Priority Application, which was the foundation of the members of the patent family over which she now asserts partial ownership. She made no objections at the time that it covered inventions to which she had retained ownership, rather than subject matter which belonged to Touchlight.
- iv) In respect of the EP(UK)s, the claim exceeds the statutory limitation period by many years. Pursuant to sections 37(5) and/or 37(9) of the Patents Act 1977, the Claimant is barred from seeking the relief in respect of the EP(UK)s, as it has been over 2 years since the date of their grant, and Touchlight did not know it was not entitled at the relevant times.
- v) As set out in Touchlight's US law pleading, the Claimant is also barred by a US limitation period from seeking entitlement to the US Application.
- vi) The Claimant is estopped from making her claim.
- vii) The Claimant's claim fails for circuitry of action.
- viii) Touchlight also counterclaims for relief arising from estoppel, unjust enrichment and breach of the Claimant's duty as a director.

TECHNICAL ASPECTS

9. The development of the technical issues has taken a bit of time and is not yet complete. In my summary of the position set out in this section, I ascribe no blame or significance as to how the issues have emerged, since those aspects have nothing to do with the issue I have to decide.
10. As originally formulated, Dr Hill's case focussed on the 'Technical Innovations' (the 'TI'), summarised in four sub-paragraphs of the Particulars of Claim ('POC'). Although these TI were pleaded as disclosed in 'various documents' these documents ('the para 10 documents') were not provided either with the POC or in Initial Disclosure. Following a request, six documents were provided, including the 'Technical Plan'.
11. For present purposes, three points from the Defence & Counterclaim ('DCC') are relevant:
 - i) First, a point on the lack of specificity as to what the TI were said to be.

- ii) Second, Touchlight's denial that the para 10 documents disclosed the inventions.
 - iii) Third, Touchlight pleaded that a key aspect of the invention was not devised until Dr Hill was employed by Touchlight. It is now agreed that that was a key aspect of the inventive concept in the Priority Application and carried through to the EP(UK)s and the Chinese Application.
12. For reasons I need not go into, Dr Hill's real case (at least at that stage) only emerged in her Reply and Defence to Counterclaim ('RDC').
13. That was the state of the pleadings when the first CMC took place before Fancourt J. on 10th November 2023. Understandably, Fancourt J. considered it would be helpful for Touchlight to respond to the case set out in the RDC and to particularise the bare denials in the DCC. Hence his order that Touchlight should particularise the denials in the DCC and set out their case on the inventive concepts, with provision of a reply by Dr Hill.
14. Touchlight pointed out at that hearing the difficulty in responding to the allegation that various documents disclosed the Technical Innovations since they did not appear to do so, and the Claimant had not identified where the disclosures were said to be. In response to a query from the Judge, the Claimant confirmed that there would be no difficulty in responding to a letter to clarify what was relied upon.
15. Thus, the principal pleadings exchanged since the First CMC have been:
- i) Dr Hill's Further Information dated 18th December 2023, in response to the Defendants' Request dated 15th November 2023.
 - ii) The Further Particulars of the Re-Amended Defence and Counterclaim, served on 10th January 2024, as ordered by Fancourt J.
 - iii) The Claimant's Response to those Further Particulars, served on 7th February 2024, again as ordered by Fancourt J.
16. Touchlight say the position as to the different processes is as follows:
- i) The Priority Application and PCT Application included two inventive concepts, the "Direct-Acting Protelomerase Process" and the "dbDNA Template Process".
 - ii) A variation of the Direct-Acting Protelomerase Process is the same as the Close-Ended Process on which the Claimant relies, and for practical purposes in this action the inventive concept of the EP(UK)s and the Chinese application can be treated as being the Close-Ended Process.
 - iii) The currently-pending claims of the US Application, however, are directed to the dbDNA Template Process, and the invention of the US Application is the dbDNA Template Process.
 - iv) What the Claimant had disclosed to Touchlight before her employment was not the Close-Ended Process, but a different process termed the Cut-and-Ligate

Process. This did not involve the product of polymerase amplification being acted upon directly by the protelomerase, but instead being cut by one or more restriction enzymes to produce single units with sticky ends, which were then to be ligated to form circular DNA molecules, each containing a protelomerase target site. The action of a protelomerase on these circularised molecules would form linear closed DNA.

- v) None of the disclosures identified in the Claimant's RFI Response was a disclosure of the Close-Ended Process, and she did not disclose the dbDNA Template Process before her employment either.

17. Dr Hill's position can be summarised as follows:

- i) She disputes that the invention of the US Application is the dbDNA Template Process, instead saying it is the Close-Ended Process, but that if there is a difference, she says she also invented the dbDNA Template Process before her employment.
- ii) She denies that what she disclosed before her employment was the Cut-and-Ligate Process, and maintains that it was the Close-Ended Process.
- iii) On the disclosure of the Close-Ended Process, her case has changed from her original pleading that that process was disclosed in the para 10 documents. Now the documents are said only to disclose *aspects* of it. In this regard, I was taken to [12] of her Response to the Further Particulars, where it is admitted that the Technical Plan does not disclose direct action of protelomerase on concatemers, and that it does not disclose the Close-Ended Process.
- iv) Her case is now focussed on oral disclosures which have yet to be particularised, with the documents being merely supportive. As Touchlight put it, Dr Hill is said to have "disclosed the Close-Ended Process... by way of oral explanation and by reference to various documents that set out aspects of said processes".

18. The parties have agreed a List of Issues for determination at the trial, of which the following three are said by Touchlight to require expert evidence:

- i) Issue 2: What is the invention in the US Application? Is there any difference between the invention of the US Application and the invention of the EP(UK)s and the CN Application?
- ii) Issue 3: Did the Claimant devise the Close-Ended Process before or after the Effective Date of the Service Agreement (which date is in or around early September 2008)? If the Defendants' "db DNA Template Process" is a separate invention to the Close-Ended Process, did the Claimant devise said process before or after the Effective Date of the Service Agreement?
- iii) Issue 6: What, if any, scientific work was carried out by the Claimant, or under her supervision, during her employment by the First Defendant?

19. Some care is required here. As formulated, these are issues which the Court must decide at the trial. They are not issues to be addressed directly by any technical input

the Court may receive. Mr Speck KC for Touchlight acknowledged this point and accepted that his formulation for a direction for expert evidence ('to address Issues 2, 3 and 6') was infelicitously worded. He suggested it should be 'to address technical aspects of Issues 2, 3 and 6'.

20. To resolve these issues, the Court will need a detailed understanding of the technology and the inventive concepts in issue. It seems likely that the Court will have to assess at least (a) the likelihood of particular disclosures being made orally yet not set out in a document, (b) how a particular disclosure sits in the context of the whole development and (c) whether Dr Hill's recollection has been influenced by later events and developments. As Mr Cuddigan pointed out, 16 years has elapsed since the events in issue.
21. These and other points which may arise seem to me to foreshadow technical disputes between the parties. At the very least, it seems unrealistic to proceed on the basis that no technical disputes will arise.

LEGAL ASPECTS

22. The underlying legal principles were not in dispute:
 - i) The Court has power to appoint a SA – see s.70(3) of the Senior Courts Act 1981 and CPR r35.15.
 - ii) Mr Cuddigan KC for Dr Hill also reminded me of the 'Duty to Restrict Expert Evidence' which is indeed the heading to CPR r35.1, but it is necessary to have regard to the rule itself, which provides: 'Expert evidence shall be restricted to that which is reasonably required to resolve the proceedings.'
23. Touchlight made the following submissions regarding SAs:
 - i) The use of scientific advisers is tightly controlled in patent cases. The practice is definitely not to allow them to get involved in the issues in dispute. As Birss J (as he then was) said in *Actavis Group PTC EHF v Actavis UK Ltd* [2016] EWHC 1476 (Pat) at [21], "scientific advisers are not there to decide the issues or to give opinions on the very issues in contention in a case".
 - ii) Instead, the scientific adviser is used to provide a non-controversial scientific background to the Court. See *Electromagnetic Geoservices ASA v Petroleum Geo-Services ASA* ("EMGS") [2016] EWHC 27 (Pat), [2016] FSR 25 at [27]-[36], a decision at the CMC in that case. At [33] Birss J noted Pumfrey J's comment that "as the subject matter of patent actions becomes increasingly complex such a non-controversial introductory course for the judge seems to me to be highly desirable".
 - iii) Birss J then "decided that the right thing to do is to ask the parties to arrange for the judge hearing the trial to have a non-controversial introductory course, probably over no more than a day, before reading into the case in any depth" [35].
 - iv) As he explained (emphasis added):

‘Having had a foretaste of the issues at this hearing, I expect that a Cat.4/5 judge with that assistance would then be well equipped to handle the trial itself without a scientific adviser sitting in the trial, but simply **with the assistance of the primers, the experts and the parties’ legal teams.**’

- v) Birss J did receive such an introductory course from a Dr Weitemeyer. The case settled after trial and before judgment, but Birss J issued a short judgment on the utility and purpose of having a scientific adviser: [2016] EWHC 881 (Pat). As he made clear at [4], Dr Weitemeyer was purposely not told about the issues in the case. That was to deal with concerns about a lack of transparency and to make sure that she could not stray into giving opinions on the very issues in contention – see [31] and [34] of his EMGS CMC judgment referred to above. He explained that he had found the teach-in useful, and said the following:

‘7. Patent trials inevitably involve the court deciding what can be difficult technical issues on conflicting expert evidence. As has been said in a number of judgments, what matters is not the opinions the experts’ express as to the conclusions to be reached but the reasons they give for them. In order to be able to decide the case, the court therefore needs to be able to understand not only the experts’ opinions but also the material on which those opinions are based and the reasons for them. That is why the task of educating the judge is of such significance and time spent on it is rarely wasted. One cannot evaluate what one does not understand. In the majority of patent cases the combined efforts of the legal teams and the expert witnesses achieve that result, but experience in this case shows that sometimes the further step like this one is useful and proportionate.’

- vi) As Touchlight submitted, the scientific adviser is not a *substitute* for expert evidence but a *supplement* to it, in the most technically difficult cases. There was extensive expert evidence in EMGS from four experts.
- vii) This point also comes out clearly from the Court of Appeal’s review of the role of scientific advisers, and the overriding need for fairness, in *Halliburton* at [8]-[21]. At [18] Chadwick LJ, giving the judgment of the Court, pointed to difficulties that had been encountered with the use of assessors in an admiralty context in ensuring a fair hearing in adversarial proceedings. At [19] the CA found guidance in a Supreme Court of Canada decision (again in an admiralty context) that assessors should not be used without experts but rather that “In all cases, the parties are entitled to call expert evidence subject to the limits and procedures set out in the Evidence Act and the rules of practice”.
- viii) The Court of Appeal then went on in [20] to consider the role of a scientific adviser in patent cases, saying (emphasis added):

‘We are not, of course, concerned in the present case with the admiralty rule which prevents parties from calling expert evidence. In patent cases the parties are entitled to call expert

evidence; and they usually do so. They did so at the trial in the present proceedings...’

24. Touchlight also presented me with a spreadsheet showing all the reported cases where a SA had been appointed from Valensi (1972) up to the most recent case EMGS (2016). The picture presented was as follows, none of which was at all surprising:
 - i) First, that most SAs have been appointed to assist appeal courts, and in almost of those cases there was no SA at first instance, since the trial was conducted before one of the Cat4/Cat5 Patent Judges.
 - ii) Second, in the few cases where a SA was appointed to assist a first instance Judge, it was either because the case was complex but the Judge was not a Cat4/Cat5 Judge or because the case was especially complex, even for a Cat4/Cat5 Judge. The example of the latter was EMGS, where, as mentioned above, Birss J benefitted from a neutral teach-in from the SA, but the SA was not told about the issues in the case.
 - iii) In all cases where a SA was appointed, the role of the SA was to provide a tutorial or teach-in on the technology or to explain, in a non-partisan way, the meaning of some of the more technical material. It was not to address any issue in the proceedings. It would seem (one cannot be certain from the reports) the SA did not assist throughout the trial, but only during the Judge’s pre-reading.
 - iv) In no case was a SA appointed without there being evidence from technical experts.
25. No doubt because of that last point, although the limits on the role of a SA are clear, in none of the cases is there any discussion of having a SA but without expert evidence. However, it is readily apparent that an SA is not there to address any technical dispute, but merely to educate the Court so that it understands the technology in issue.
26. I did not understand Mr Cuddigan to dispute any of that, and I accept the submissions set out above. His point was that the issues in entitlement disputes were very different to those which arise in the traditional patent action for infringement, with the traditional counterclaim for invalidity. He also submitted that almost all entitlement disputes were decided in the UKIPO or in the High Court without technical expert evidence. Counsel for Dr Hill identified one UKIPO entitlement decision (BL O/264/21) where the Hearing Officer did receive expert evidence from each side but it is apparent he did not find it of much assistance – the technology did not appear to be at all complex. In that decision the Hearing Officer had to decide a dispute over the inventive concept but was able to do that largely or wholly on the basis of the claim, when understood in the light of the specification in the patent in question.
27. It may well be the case that most entitlement disputes can and should be decided without any expert evidence, but it must depend on what issues arise in any particular case. I now turn to consider the core submissions made on each side.

Dr Hill's Submissions

28. In his Skeleton Argument, Mr Cuddigan submitted that the technical challenge for the Court lay in comprehending the technology and the relevant technical documents. So what the Court required was an explanation of the underlying science by reference to a series of contemporaneous documents and the patents in issue. He submitted this was, in essence, '*technical translation work*' and very different from the conventional role of technical experts in a patent case where validity is in issue.
29. When explaining why the Court should direct the appointment of a SA and not any expert evidence, Mr Cuddigan was keen to stress that what mattered was Dr Hill's subjective state of mind: what did she have in mind when she devised the inventions and/or made disclosures of them to Touchlight? He posited a hypothetical example based on one of the prior art papers - Chen. He invited me to assume that Dr Hill had completely misunderstood what Chen disclosed, but conceived the invention as a result of her misunderstanding. What mattered was her subjective state of mind and an objective assessment of what Chen actually disclosed was irrelevant.
30. Mr Cuddigan further submitted that questions of an individual's subjective state of mind are not the natural province of expert evidence, which is concerned with objective questions.
31. Mr Cuddigan accepted that this case involved complex technology and that the Court will need to fully comprehend the technology. His point was that this was best done via a SA.
32. Turning to address Touchlight's justification for expert evidence, as explained in their Skeleton Argument, he submitted it was all speculative.
33. In the course of his submissions, I pressed Mr Cuddigan with two questions:
 - i) First, the question of whether he was submitting that no technical disputes would arise.
 - ii) Second, if a technical dispute arose, how would the Court resolve it.
34. To the extent he answered these questions, he appeared to say that input from an SA would suffice – it was just a question of comprehending the technology. He appeared to envisage the Court having access to the SA throughout the trial and not just at the pre-reading stage.

Touchlight's Submissions

35. Touchlight's basic submission was that the appointment of a SA, but no expert, would not only be unprecedented and inappropriate but contrary to the authorities. In support of that submission, Touchlight relied on the points which I have summarised in paragraphs 23-24 above.
36. Accordingly, Touchlight further submitted as follows:
 - i) That expert evidence is required in this case to address matters that are in dispute, and to address core issues in the case.

- ii) That is not the role of a scientific adviser in patent cases.
- iii) Fairness requires that the parties have an opportunity to present their case with evidence of an independent expert and test the other party's evidence through critical scrutiny and cross-examination. At [18] in *Halliburton* the Court of Appeal cited with approval the following from the ECHR:

‘The concept of a fair hearing . . . implies the right to adversarial proceedings, according to which the parties must have the opportunity not only to make known any evidence needed for their claims to succeed, but also to have knowledge of, and comment on, all evidence adduced or observations filed with a view to influencing the court's decision.’

- iv) That is why the Patents Court does not permit the role of experts to be usurped by a scientific adviser, whose communications with the Court take place in private and are not the subject of cross-examination.
37. Accordingly, Touchlight submitted that permission for expert evidence should be granted. With the benefit of that, Touchlight does not consider that an additional scientific adviser is warranted, particularly since a category 4/5 Judge should be able to understand the issues with the assistance of the expert evidence and the parties' submissions.
38. In response to Dr Hill's case on this point, Mr Speck pointed to the imbalance which would work against Touchlight if a SA was appointed. As a witness of fact, it seems likely that at least parts of Dr Hill's evidence may involve highly technical matters and some of these may come out during her cross-examination. He asked rhetorically, how would Touchlight be able to respond to new technical points, without the benefit of expert evidence.
39. This was a point which Mr Cuddigan brushed aside by saying it was all a matter of comprehension. No doubt it is, but that avoids the issue of how the Court should obtain the understanding necessary to comprehend and decide issues of technical fact.

Analysis

40. There are good reasons why the precise issue I have to decide in this case has not arisen before. First, because in the normal patent trial involving infringement and validity it is obvious that expert evidence is required. Second, because a SA is only appointed by way of *supplement* to the expert evidence, in those rare cases where the Judge requires some extra assistance. Third, because this is an entitlement dispute and not a normal patent trial.
41. However, these considerations raise the question as to why the Claimant's team are so resistant to the idea of having expert evidence. It cannot be due to a question of cost because this case is exempt from costs budgeting – based on representations that the case is worth more than £10m. It cannot be due to any extra time being required at trial, because a teach-in from a SA would take a day, the same time which it is estimated would be required for any cross-examination of experts. I am driven to the conclusion that Dr Hill's side are so fixed on having a SA because they perceive it will give them

a forensic advantage at trial. Any such perception is likely to be correct, in my view – see the imbalance point I mentioned above at paragraph 38 above.

42. Part of the resistance to having expert evidence in this case appeared to me to be based on the assumption that a direction for expert evidence will inevitably give rise to extensive cross-examination. But that need not always be the case, especially if the Court directs (as I will) that the experts must meet and seek to agree as many of the technical issues as possible. At this juncture, the most optimistic view is that the degree of agreement is such that no cross-examination is required. It is more realistic to assume that some cross-examination may be required, we will have to see.
43. The role of a SA and the role of technical expert evidence in patent proceedings have this in common: the purpose of both is to educate the Court in the relevant technology.
44. A SA normally provides a teach-in during pre-reading before the trial (or appeal) actually commences. A degree of transparency is ensured by any materials used during the teach-in being provided to the parties after the teach-in has occurred. But that cannot provide complete transparency because the parties never get to know what was discussed orally.
45. However, as already indicated, there is a clear distinction between those roles: a SA is not there to address any technical disputes, that is the province of expert evidence, to the extent that expert evidence is appropriate and admissible.
46. In these circumstances, I consider I should proceed on the basis that I should not appoint a SA unless I am satisfied now that no technical issues of any significance will arise at trial. In the circumstances of this case, I am not so satisfied, and in that regard, this may be a somewhat unusual entitlement dispute.
47. Based on the pleadings so far which, as I have indicated, are not yet complete, it is clear (as is common ground) that the Court will need a detailed understanding of the technology and the inventive concepts in issue.
48. I have already mentioned assessments which the trial Judge is likely to have to carry out in this case – see paragraph 20 above.
49. Overall, I consider it is highly likely that there will be technical disputes at trial and some may well only emerge in the course of Dr Hill's answers in cross-examination. If I have directed a SA and no expert evidence, what then happens? Or assume the trial Judge has identified technical points in dispute from the skeletons and written evidence, what happens? By then it is too late to direct expert evidence. The Judge will try to do the best he or she can in the circumstances, but inevitably the Judge is going to ask questions of the SA designed to assist him or her in resolving those disputes, whilst treading on eggshells so as to avoid having the SA address issues in dispute.
50. Against this backdrop, I have no hesitation in ruling that the appointment of a SA (without expert evidence) does not appear a sufficient or satisfactory way to address the technical issues in this case and that I should give permission for expert evidence. As Touchlight submitted, the appointment of a SA *without* expert evidence would be unprecedented, inappropriate and contrary to authority.

51. The final point concerns the scope of the permission for expert evidence, because it seems clear that an unbounded permission for expert evidence would be unwise. Conversely, it would probably be a mistake to confine the permission too closely, since the technical issues are still developing. I also take comfort from the fact that both sides have experienced solicitors who understand the proper role of expert evidence.
52. In the course of argument, Mr Cuddigan mentioned a fall-back position that if I was minded to direct expert evidence, it should be sequential. Bristows wrote agreeing to this course just as I was finishing the draft of this Judgment.
53. In these circumstances I propose to direct as follows:

Each party has permission to call one technical expert witness in the field of molecular biology to address technical aspects arising in the context of Issues 2, 3, and 6 from the Agreed List of Issues and to assist with educating the court on the technology and to understand what is disclosed in technical documents.

Pursuant to CPR 35.12, I will also direct a discussion between the experts for the purpose of seeking to reach agreement on the technical issues, and preparation of a statement for the Court setting out those issues on which they agree and those on which they disagree, with a summary of their reasons for disagreeing.
54. I leave the timing of the identification of experts, the dates for sequential exchange and the timing of this discussion and the date by which the statement should be filed with the Court to be agreed between the parties or in default of agreement, by the Court. I recognise also the possibility that Dr Hill may not wish to call an expert, in which case the parties are invited to agree suitable revisions to the directions set out above which, in default of agreement, will be decided by the Court. For those purposes, the parties have permission to apply.
55. I ask the parties to agree an Order giving effect to this Judgment.