

PATENTS ACT 1977

IN THE MATTER of patent applications numbers.GB9706427.3, GB9805045.3, PCT/GB98/00803 and EP98913892.0 in the name of David Pearson; Patent Applications numbers GB9905434.8 and PCT/GB99/00624 in the name of Decalite Limited and a reference under sections 8(1)(a) and 12(1)(a) and an application under sections 13(1) and 13(3) by Howard Anthony Quinn

PRELIMINARY DECISION

1. The statement and counter-statement having been filed, the referrer was given until 12 January 2001 to file his evidence in chief.
2. On 11 January 2001, however, a letter was received (dated 10 January) enclosing five witness statements but requesting a two month extension of time for filing a sixth witness statement. The grounds given were (a) that the witness is currently working abroad and will not be available until some time in February; and (b) that the effective term for filing the evidence had been foreshortened by the intervention of the Christmas and New Year period.
3. On 12 January 2001, the opponents' Agent was contacted by telephone to see if the referrer's request for extension of was acceptable to him. He said he would have to discuss the matter with his clients and agreed to call the Office back after he had done so. No response having been received by 22 January 2001, the Agent was telephoned again by the Office to chase the matter up.
4. The opponents' Agent finally telephoned the Office on the 25 January 2001 to say that the opponents did not agree to the request.

5. Agreement thus not being reached on whether or not the referrer's request should be allowed, both sides have said that they are agreeable to the matter being decided on the papers.

6. The referrer's arguments are not quite consistent with one another (ie if the witness is working abroad and therefore will not be available until February then it seems irrelevant that Christmas and New Year intervened in the time period set) and they could have requested the extension of time earlier so that it would be possible to have considered it before the end of the set period. On the other hand, the opponents might have acted more speedily to raise objection (objection was not raised until late on 25 January 2001 in response to an initial telephone call on 12 January 2001).

7. Accordingly, I have decided to allow the referrer some extension of time to file the additional witness statement, but not the full two months they have requested. They have, therefore, until 16 February 2001 to file the sixth witness statement.

Costs

8. Neither party has asked for costs and I make no award.

Appeal

9. This being a matter of procedure, the period for appeal is fourteen days.

Dated this 29th day of January 2001

G M BRIDGES

Divisional Director, acting for the Comptroller

THE PATENT OFFICE