



BL O/230/04

5 August 2004

## PATENTS ACT 1977

BETWEEN

Look C Limited Claimant

and

Richard Parviz Navabi Defendant

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PROCEEDINGS

Application under section 72(1) of the Patents Act 1977 in  
respect of patent number GB 2325548

HEARING OFFICER R C Kennell

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### PRELIMINARY DECISION

- 1 This preliminary decision is given in respect of a request by the claimant to extend by four weeks the period for filing evidence in support of its case, the defendant being unwilling to allow an extension of more than two weeks. The parties are agreed that I should decide the matter on the basis of the papers on file.
- 2 The Patent Office wrote to the claimant on 29 June 2004, setting the normal six-week period for filing evidence to expire on 10 August 2004. The claimant's patent agent wrote on 30 July 2004 requesting the aforesaid extension, on the grounds that the six week period coincided with holidays by the applicant (*sic*), their preferred expert, and their agents, and pointed out that the Patent Office's delay of nearly three months in serving the statement had contributed to the response period falling within the holiday period.
- 3 The defendant's patent agent replied on 2 August 2004, submitting that the claimant's difficulties were of its own making, since they should have known the nature of the evidence they would require even before the proceedings were launched (in the light of correspondence between the parties in October and November 2003), and at the latest by 14 June 2004 when the defendant sent the claimant a copy of its counter-statement. In a telephone conversation with the Office on 4 August 2004, the claimant's agent (Mr Martin Hedges) explained that they could not proceed with the evidence until the counter-statement had been filed, in case there was an offer to amend. He also re-

iterated that the holiday absences meant that a two week extension would effectively be unusable.

- 4 Although I regret the initial delay by the Patent Office, and any difficulty which it may have caused the parties, I have to say that I do not find the claimant's request wholly satisfactory. First, it is not clear why the request was left until a month of the evidence period had passed, since it would seem reasonable to expect any difficulties over holidays to be foreseeable when the period was set by the Office. Second, the applicant is a company, not an individual, and it is not clear who it is that will be on holiday and why someone else was not available.
- 5 Nevertheless, I am prepared in all the circumstances of the case to allow the applicants a short extension beyond two weeks. I therefore extend the period for the claimant to file its evidence to **31 August 2004**. Any further extension will be allowed only for compelling reasons and will require full explanation of why it has not been possible to meet this extended deadline.

#### **Costs**

- 6 Neither side has specifically requested costs in relation to this preliminary point, and I direct that each party should bear its own costs in the matter.

#### **Appeal**

- 7 Under the Practice Direction to Part 52 of the Civil Procedure Rules, any appeal must be lodged within 28 days.

**R C KENNELL**

Deputy Director acting for the Comptroller