



BL O/270/05

4 October 2005

PATENTS ACT 1977

BETWEEN

Systema Management Research Co Ltd

Claimant

and

Acorto, Inc

Defendant

PROCEEDINGS Application under section 72 for revocation of
patent number EP(UK) 0472272

HEARING OFFICER D J Barford

DECISION

Introduction

- 1 Patent number EP(UK) 0472272 (“the patent”) was granted on 11 September 1996; amended on 8 March 2000 in response to opposition proceedings before the European Patent Office; and ceased on 24 June 2003 due to non-payment of the renewal fee.
- 2 An application for revocation was filed by the claimant on 30 November 2004 on the following grounds:
 - (i) under section 72(1)(a), that the invention is not patentable because it is not new and/or does not involve an inventive step having regard to certain specified prior art
 - (ii) under section 72(1)(c), that the specification does not disclose the invention clearly and completely enough for it to be performed by a skilled person
 - (iii) under section 72(1)(d), that the matter disclosed in the specification extends beyond that disclosed in the application for the patent as filed.
- 3 The claimant seeks revocation of the patent and costs.

- 4 The claim was served on the defendant on 13 December 2004, and the defendant informed that, if it wished to contest the application for revocation, it should file a counter-statement within six weeks in accordance with rule 75(3).
- 5 No counter-statement having been received, the defendant was informed in an official letter dated 9 February 2005 that it was proposed to treat the claim as unopposed; subject to comment from either party within fourteen days.

Conclusions and order

- 6 No response having been received to that letter either, I take the allegations made in the statement to be admitted and hereby revoke the patent on the grounds set out in the claim. Although the patent has ceased, this order still has force in that revocation has effect *ex tunc*, that is to say the patent is deemed never to have been granted.

Costs

- 7 The claimant also asks for costs, and having succeeded in this action is in principle entitled to a contribution towards its costs. The defendant was invited in an official letter dated 2 September 2005 to put in submissions on costs, but has not responded. In accordance with the standard published scale, I award the claimant the sum of £350, to be paid by the defendant not later than 7 days after the expiry of the appeal period. If an appeal is lodged, payment will be automatically suspended pending the outcome of the appeal.

Appeal

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

DAVID BARFORD

Deputy Director acting for the Comptroller