



### **PATENTS ACT 1977**

PROPRIETOR Mega Bloks International, S.A.R.L (successor in title to Michael Kretzschmar)

ISSUE Whether Patent Number EP1399230 should be revoked under Section 72

HEARING OFFICER B Westerman

### **DECISION**

#### Introduction

- Patent number EP1399230, designating the UK, was granted by the European Patent Office on 10 November 2004, in the name of Michael Kretzschmar. By virtue of an assignment dated 4 April 2005, the Proprietor of the EP(UK) patent is now Mega Bloks International S. A. R. L.
- An application for revocation of the EP(UK) patent was filed on 3 June 2005 by Rose Art Industries Inc., accompanied by a Statement of Grounds. Then, by a letter dated 1 August 2005, the applicants for revocation stated that they no longer wished to pursue the application.
- In the circumstances of a withdrawn application for revocation, it is the comptroller's normal practice to consider whether the grounds for revocation should be pursued in the public interest. The proprietor was informed of this in an Office letter dated 5 August 2005, which also stated that the requirement for filing a counterstatement was stayed pending this consideration.

### Assessment

- The grounds for revocation set out in the statement are that the invention claimed is not new in the light of DE 39 10 304 A1 and WO 02/055168 A1; and/or that it is not inventive in the light of these two documents and/or US 242821.
- It is clear to me from a perusal of the case file (as available electronically via the internet) at the European Patent Office that the first two of these three documents were cited as relevant prior art in the International search report under the PCT, and subsequently were considered in the International Preliminary Examination report. All three of the documents referred to are also acknowledged, and their content discussed, in the opening part of the specification of the patent. It is therefore clear to me that all of these documents must have been considered during examination prior to grant

before the EPO. In the circumstances, I do not see any merit in my attempting to reexamine these issues *ex parte* yet again.

I therefore make no order for revocation of the patent. This terminates the proceedings for revocation, and there is thus no need for the proprietor to file a counter-statement.

# **Appeal**

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

# **B WESTERMAN**

Deputy Director acting for the Comptroller