



BL O/064/06

10 March 2006

PATENTS ACT 1977

PROPRIETOR Sorensen Hydraulik Zweigniederlassung
 Ulfborg, Filial af Sorensen Hydraulik
 GmbH, Tyskland

ISSUE Whether patent number EP(UK)
 1106431 should be revoked under
 section 72

HEARING OFFICER R C Kennell

DECISION

- 1 An application for revocation under section 72 and reference as to entitlement under section 37 in respect of the above patent were filed on 8 June 2005 by Gerd Bar, accompanied by a statement. Following a settlement between the parties, confirmed by letters from their patent agents dated 24 and 25 October 2005, the application and reference were withdrawn before any counter-statement was filed by the proprietor.
- 2 Where an application for revocation is withdrawn, the comptroller will consider whether there are any questions remaining which should be pursued in the public interest (as explained in paragraphs 72.26 – 72.27 of the “Manual of Patent Practice”). Normally, however, only clear cases of lack of novelty or inventive step based on prior documentary disclosure will be pursued.
- 3 In a letter dated 19 December 2005, the examiner pursued objections of lack of novelty and lack of inventive step on the basis of a document “D2” which the applicant alleged to have been presented to a meeting that took place before the filing date of the application for the patent (which claims no earlier priority). The proprietor replied on 27 February 2006, contending that D2 was not presented or otherwise disclosed at the meeting, and that even if it had been the meeting was in confidence. In the absence of proof of its alleged publication, D2 had not therefore been made available to the public within the meaning of section 2(2).
- 4 Having considered document D2 and the applicant’s statement, in the absence of evidence I find nothing which points one way or the other as to whether D2 was actually made available to the public. I do not think that this matter, or any other objection raised by the applicant, should be pursued further *ex parte*. I

therefore decide to make no order for the revocation of the patent.

Appeal

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

R C KENNEL

Deputy Director acting for the Comptroller