



22 December 2008

PATENTS ACT 1977

PARTIES

Derek Reginald Palmer,
Maes Anturio Limited and
Robert Michael Henry Courtauld

PROCEEDINGS

Reference under section 8 of the Patents
Act 1977 in respect of patent application
number GB 0719924.3

HEARING OFFICER

S M WILLIAMS

DECISION

- 1 Patent application number GB 0719924.3 was filed on 11 October 2007. The current applicants are Maes Anturio Limited and Robert Michael Henry Courtauld. Derek Reginald Palmer and Robert Michael Henry Courtauld are named as inventors.
- 2 Derek Reginald Palmer filed these proceedings on 30 September 2008. Dr Palmer is seeking an order for patent application number GB 0719924.3 to proceed jointly in his name and that of Robert Michael Henry Courtauld.

The law

- 3 The proceedings have been brought under section 8 of the Act, relevant parts of which read:

Section 8

8.(1) At any time before a patent has been granted for an invention (whether or not an application has been made for it) –

(a) any person may refer to the comptroller the question whether he is entitled to be granted (alone or with any other persons) a patent for that invention or has or would have any right in or under any patent so granted or any application for such a patent;

(b) ..

and the comptroller shall determine the question so far as he is able to and may make such order as he thinks fit to give effect to the determination.

(2) ...

3 Also relevant is section 7, which reads:

Section 7

7. (1) *Any person may make an application for a patent either alone or jointly with another.*

(2) *A patent for an invention may be granted –*

(a) *primarily to the inventor or joint inventors;*

(b) *In preference to the foregoing, to any person or persons who, by virtue of any enactment or rule of law, or any foreign law or treaty or international convention, or by virtue of an enforceable term of any agreement entered into with the inventor before the making of the invention, was or were at the time of the making of the invention entitled to the whole of the property in it (other than equitable interests) in the United Kingdom;*

(c)

(3) *In this Act "inventor" in relation to an invention means the actual deviser of the invention and "joint inventor" shall be construed accordingly.*

(4) *Except so far as the contrary is established, a person who makes an application for a patent shall be taken to be the person who is entitled under subsection (2) above to be granted a patent and two or more persons who make such an application jointly shall be taken to be the persons so entitled.*

The reference

4 Derek Reginald Palmer, John Derek Jones and Jennifer Margaret Palmer, Directors of Maes Anturio Limited acting on behalf of the company, have filed written consent to the reference under section 8. All agree that Derek Reginald Palmer and Robert Michael Henry Courtauld should be named as joint patent applicants and that Maes Anturio Limited should not have been named as a joint applicant. Derek Reginald Palmer and Robert Michael Henry Courtauld have also filed a Statement of Inventorship in which they claim to derive the right to be named as joint patent applicants by virtue of being joint inventors.

Findings and order

5 In the absence of any evidence to the contrary and in view of the consent and the Statement of Inventorship filed, I therefore conclude that all the relevant parties agree that Derek Reginald Palmer and Robert Michael Henry Courtauld should be named as joint patent applicants by virtue of being joint inventors.

6 I therefore order that the patent application should proceed in the names of Derek Reginald Palmer and Robert Michael Henry Courtauld as joint patent applicants, and that Maes Anturio Limited should not be named as a joint applicant.

7 The co-applicants will need to agree on how to take forward the further prosecution of this application through the Office. In the event that they are unable to agree, either may make a reference to the Comptroller under Section 10 of the Act for him to direct appropriate action to enable the application to proceed.

Appeal

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

S M WILLIAMS

B3 Head of Litigation Section, acting for Comptroller