

## **PATENTS ACT 1977**

IN THE MATTER OF

Patent Application no. GB 9511463.3

in the name of Robert Cameron

### **DECISION**

A hearing was held before me on 15 December 1998 at which the applicant for patent application GB 9511463.3, Mr Robert Cameron, presented his case that his application complied with the requirements of the Patents Act 1977 and the examiner's principal objections (concerning (a) whether the invention was patentably distinguished over the prior art and (b) whether subject matter had been added to the application) were not well-founded.

The period which is allowed under the terms of section 20(1) of the Act and Rule 34 of the Patents Rules 1995 for putting this application in order was to expire on 17 December 1998. I therefore undertook to issue this decision before expiry, and to issue my reasons for the decision as soon as possible thereafter. Section 20(2) of the Patents Act 1977 now comes into play as it provides that following a decision the application is reprieved from expiry for the period set by the Rules of the Supreme Court (Order 104 Rule 19) during which an appeal may be lodged at the Patents Court from the decision: this appeal period is here six weeks from the date of the decision.

My decision is that the application in its last-amended form, the version discussed at the hearing, must be refused. Since I cannot confidently say that there is no material in the application as originally filed that might form the basis of a patentable invention I must also allow Mr Cameron the option of proposing different amendments to his application with a view to meeting the statutory requirements within the time available. Given the above six-week limit it will be necessary for any proposals for amendment to be filed within four weeks of this decision to allow consideration. If no proposal for amendment is received within that time the application will be refused. If proposals are received extension of the time available beyond the six-week period may if necessary be applied for under Rules 110(4) and 110(6) of the Patents Rules 1995 but before granting such an extension I will be looking for clear evidence of constructive progress towards putting the application in order.

I do not know if the amendment option is feasible at this late stage: clearly it will require substantial re-drafting starting from a re-assessment of the original application of 6 June 1995

and selection of material there that is patentably distinctive over the prior art. Guidance on that evaluation from someone familiar with United Kingdom patent law and with practice before the United Kingdom Patent Office would clearly be advisable.

This is the final decision of the Patent Office on this matter; appeal is to the Patents Court as mentioned above. My reasons for this decision will follow.

Dated this 17th day of December 1998

H J EDWARDS

Deputy Director, acting for the Comptroller

**THE PATENT OFFICE**