

PATENTS ACT 1977

IN THE MATTER OF an application under
Section 72 by Minnesota Mining and Manufacturing
Company for revocation of Patent No 2260995 in the
name of Trichromatic Carpet Inc.

DECISION

1. Revocation of Patent No. 2260995 was applied for on the primary ground that the invention was not new when compared to the disclosure in United States Patent No. 4822373. Following the filing of the counterstatement by the Patentee the Applicants for revocation, in a letter dated 25 March 1997, said that they were prepared to withdraw their application on the understanding that the Patentee would surrender the patent. The offer to surrender the patent was filed by the Patentee on 3 April 1997.
2. Since an offer to surrender takes effect from the date on which it is formally accepted by the Office, whilst revocation takes effect retrospectively, I have to consider whether it is appropriate to accept the offer to surrender or to order the revocation of the patent. In such circumstances it is the practice to consider the matter as if no counterstatement had been filed, that is, as if each specific fact set out in the statement has been conceded except insofar as it is contradicted by other documents before the Office.
3. I have considered the grounds for revocation, in particular the relationship of the claims in the patent to the disclosure in US 4822373, and have come to the conclusion that the alleged invention was not new. There being no response to the advertisement of the surrender offer in the Official Journal, the parties were informed in letters dated 11 November 1998 that it was proposed not to accept the offer to surrender but instead to revoke the patent, subject to any objection which either side might raise.

4. No reply has been received from either party and I accordingly revoke this patent.

5. In the letter dated 25 March 1997, from the Applicants for revocation, it is stated that each side has agreed to bear its own costs so no request for costs will be submitted. I therefore make no award of costs in this case.

Dated this 8th day of January 1999

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Superintending Examiner, acting for the Comptroller

THE PATENT OFFICE