

PATENTS ACT 1977

IN THE MATTER OF

patent application numbers GB 9821620.3,
GB 0006432.9, GB 0006430.3, EP 99947703.7,
EP 01911935.3, EP 01911916.3, WO 00/19963,
WO 01/68452, and WO 01/68032 and
patent number GB 2359289, all in the name of
Stanelco Fibre Optics Limited; and

IN THE MATTER OF

references under sections 8, 12, 13 and 37 by
BioProgress Technology Limited and under section 13 by
BioProgress Technology Limited and Edward Nowak

DECISION

1. These references were filed on 21 October 2003. In letters dated 20 November 2003 and 21 November 2003 the parties confirmed requests under sections 8(7), 12(2) and 37(8) that the comptroller decline to deal with the references under sections 8, 12 and 37 in view of related proceedings launched in the High Court on 20 October 2003 as claim number HC 03 C03669.
2. It is clearly undesirable to have the same or largely similar issues litigated both before the comptroller and the court, and moreover the request is supported by the parties. On these grounds therefore, I grant the request under sections 8(7), 12(2) and 37(8) and I decline to deal with the references under sections 8, 12 and 37.
3. There is no provision for the comptroller to transfer section 13 proceedings to the court. However the parties, in the correspondence referred to above, have requested that the proceedings under section 13 be stayed pending decision by the court on the matters referred to above. In the light of my decision to decline to deal, I hereby order that the proceedings under section 13 be stayed pending decision by the court.
4. The question of costs to date of these proceedings before the comptroller has not been raised, and accordingly I make no order in that respect.
5. Although it would appear to be academic in the present case, any appeal against this decision must be lodged within 28 days.

Dated this 5th day of December 2003.

DAVID BARFORD

Deputy Director, acting for the Comptroller

THE PATENT OFFICE