



BL O/098/04

14th April 2004

PATENTS ACT 1977

BETWEEN

Tecnikon Limited Claimant

and

Holland Heating UK Ltd Defendant

PROCEEDINGS

Reference under sections 8 and 12 of the Patents Act 1977 in respect of patent application number GB 0207382.3 and any international, foreign or convention patents derived therefrom

HEARING OFFICER D J Barford

DECISION

- 1 Patent application number GB 0207382.3 entitled “Computer cabinet” (hereafter “the GB application”) was filed on 28 March 2002 in the name of Holland Heating UK Ltd.
- 2 This reference was filed on 27 March 2003 on Patents Form 2/77 together with a statement of case. Although reference is made on the Form 2/77 to both sections 8 and 12, only the GB application is referred to. However in the statement the relief sought under section 12 includes a reference to “patents .. whether pursuant to the Patent Cooperation Treaty or otherwise” and I take the reference to have been properly made under both sections 8 and 12.
- 3 The claimant’s case is that it made the invention which is the subject of the GB application, that it disclosed the invention to the defendant during the course of negotiations (commenced in January 2002) for the defendant to supply parts to the claimant, that the defendant filed the GB application without the claimant’s knowledge, and that the claimant did not discover this until March 2003, whereupon it filed this reference.
- 4 The reference was served on the defendant in an official letter dated 10 April 2003. In a letter dated 24 April 2003, the defendant’s solicitors stated that the defendant did not intend to file a counterstatement or to oppose the relief sought. Enclosed with this letter was a copy of a Deed of Assignment and Waiver signed by both parties and assigning to the claimant the rights in the GB application and the right to claim priority

therefrom. In a letter dated 7 January 2004, the claimant made a request to register this assignment under rule 46 accompanied by confirmation that, irrespective of that, it wished to maintain this reference. In a letter dated 15 January 2004, the defendant again confirmed that it did not oppose the reference.

- 5 Accordingly, in accordance with the relief requested, I hereby declare under section 8 that Tecnikon Limited are solely entitled to patent application number GB 0207382.3 and to any patent resulting therefrom and were so entitled when the application was filed on 28 March 2002; and under section 12 that Tecnikon Limited are solely entitled to any international application - or other application falling within the terms of section 12(1) - claiming priority from GB 0207382.3. This declaration may if necessary be used in support of any request to the International Bureau or other appropriate authority to amend ownership details in respect of any such application.
- 6 In its statement the claimant asks for costs “to the limit of the Comptroller’s discretion in view of bad faith exhibited by Holland Heating which has necessitated this Referral”. The request for costs is repeated in the claimant’s letter of 7 January 2004 and remains unopposed by the defendant in its letter of 15 January 2004.
- 7 It is long established practice for costs awarded in proceedings before the comptroller to be guided by a published scale, and to contribute to rather than to compensate for expenses incurred. In the present case it seems to me that the defendant’s conduct has not added to the cost of these proceedings; on the contrary the defendant has not opposed the reference and it has signed a Deed of Assignment. In consequence I am not convinced that I should depart from the scale. Accordingly I direct that Holland Heating UK Ltd pay Tecnikon Limited the sum of £350, to be paid by Holland Heating UK Ltd not later than seven days after the expiry of the appeal period.
- 8 Any appeal against this decision must be lodged within 28 days.

DAVID BARFORD

Deputy Director, acting for the Comptroller