



BL O/130/06

25 May 2006

PATENTS ACT 1977

BETWEEN

Bestplate Limited

Claimant

and

Hills Numberplates Limited

Defendant

PROCEEDINGS

Application under section 72(1) of the Patents Act 1977 for the
revocation of patent number GB 2376437

HEARING OFFICER R C Kennell

THIRD PRELIMINARY DECISION

- 1 In these proceedings, Bestplate Limited was allowed an extension of two months to the six week period for filing its evidence which I set in my order BL O/324/05 of 20 December 2005 (allowing the substitution of Bestplate as claimant in place of the original applicant for revocation, British Numberplate Manufacturers Association, after protracted preliminary proceedings on an issue raised in the defendant's counter-statement). That extension was sought mainly on the grounds that it had become necessary to brief an alternative expert witness at a relatively late stage, and was not resisted by the defendant. The claimant accordingly filed its evidence on 31 March 2006.
- 2 The defendant's evidence was due by 15 May 2006, but its patent attorney HLLBshaw wrote on 11 May to request an extension of "one month ... say until 16 June 2006" (which date is in fact an extension of nearly five weeks). This was on the grounds that the defendant's principal (Mr Cordell) had been caught up in an urgent legal dispute which required a great deal of his attention, that Mr Cordell and another employee had had to travel on business abroad, and that the Easter break had intervened.

- 3 The claimant's patent attorney Dummett Copp wrote on 16 May refusing to agree to any extension, notwithstanding that the defendant had agreed to its own earlier request for an extension. The claimant felt that had also helped the defendant by prolonging the time for which the patent would remain on the register pending settlement of the proceedings, and allowing the defendant's request would prolong it still further. The claimant noted that the defendant must have been aware at an early stage that they would need to provide evidence, its counter-statement having been lodged in April 2004.
- 4 HLLBshaw wrote again on 19 May. The letter explained that the above-mentioned dispute involved a shareholder and an ex-employee. It also pointed out that the claimant had not always been so anxious to proceed quickly, and that the defendant was keen to clear up the uncertainty over its patent but had been content to go along with the claimant's extension request. The parties were content for me to decide the matter on the papers.
- 5 The intrusion of the Easter holidays and the need to travel abroad on business are not such unexpected intrusions as to cut any ice with me in the absence of full explanation of the extent of the disruption caused and how it has prevented the defendant from filing its evidence in time. The involvement of Mr Cordell in another dispute which the defendant regarded as having priority is in my view a more substantial reason, but again there is no explanation of just how long the disruption lasted or whether it is still continuing. (The defendant has offered to supply confidential details of the dispute if I require it, but the extent of the disruption caused by the dispute is not on the face of it confidential information.) I also note that the request for an extension was made very late in the day, only two working days before the period expired, without any explanation of why the request could not have been made sooner. If the difficulties have only just arisen (as was the case with the claimant's need to brief a new expert witness) this is not made clear.
- 6 Nevertheless I believe it would be proportionate and not unduly prejudicial to the interests of the claimant or to the administration of justice to allow the defendant an extension because of Mr Cordell's involvement in the other dispute. However, I need to consider whether the length of the extension requested is justified, bearing in mind that the six week periods ought to suffice in most cases and there is a general presumption against extending them - particularly in the present case where the defendant has been aware of the issues on which it would need to file evidence for over two years having filed a counter-statement as long ago as April 2004 in which the substantive issues have remained unchanged.

Direction

- 7 I will therefore allow the defendant an extension of three weeks. I therefore

direct that it should file its evidence by **5 June 2006**. I will be prepared to grant a further extension only for full and compelling reasons as to why the defendant will not be able to meet the extended deadline.

Costs

- 8 Neither side has asked for costs in this preliminary matter and I make no award of costs.

Appeal

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

R C KENNEL

Deputy Director acting for the Comptroller