

PATENTS ACT 1977

BETWEEN

Stuart Morrison Claimant

and

Seetru Limited Defendant

PROCEEDINGS

Application under section 72 of the Patents Act 1977 for the revocation of
patent number GB2388648

HEARING OFFICER Peter Back

DECISION ON COSTS

Background

1. In my decision BL O/133/07 of 18th May 2007, I found the Claimant successful in his application to have patent number GB 2388648 revoked for lack of novelty and inventive step. The Defendant was subsequently given two months to file amendments under section 75 if it so wished. Since this was a decision on the papers and neither party had made submissions on costs in the papers before me at the time, both sides were invited to make any submission on costs within the two month period allowed for the Defendant to file amendments.
2. Two months from the date of the decision have now passed, and the Defendant has offered no amendments to the patent. The Defendant has however made submissions on the matter of costs. The Claimant for his part has made no such submissions and I understand that the Claimant's attorney has confirmed that no submissions on costs will be filed.

Revocation

3. I have found in my decision of 18 May 2007 that the patent is invalid for lack of novelty and inventive step. No amendments have been submitted and accordingly I order that the patent be revoked.

Costs

4. It is the general principle that costs will be awarded to the party that has been successful, and these are usually awarded according to a published scale. In this case the Defendant, who was the unsuccessful party, has submitted various grounds which it believes should reduce their liability to pay any such costs in their entirety.
5. However, this is a case where the successful party, the Claimant, has made no submissions on costs despite being given a clear opportunity to do so. The Patent hearings Manual at paragraph 5.36 states: "*The hearing officer should only award costs to a party if that party has requested an award, though in practice most parties make clear they are seeking costs in their statements of case. If there is any doubt as to whether a party is seeking costs, the hearing officer should check the position.*"
6. Accordingly, since the Claimant has made no submissions on costs despite being invited to do so, I make no order for costs in this case.

Appeal

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

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Divisional Director acting for the Comptroller