

PATENTS ACT 1977

IN THE MATTER OF an application under
Section 72 by Crompton Lighting Limited
for revocation of UK Patent No 2059196 in the
name of Emergi-Lite Safety Systems Limited

DECISION

1. On 19 May 1999, Crompton Lighting Ltd applied to the Comptroller for revocation of UK Patent m 2059196 on the grounds that the invention was not new and did not involve an inventive step having regard to the disclosure of GB 1576506, and also on the ground that the specification of the patent does not disclose the invention in a manner clearly enough and completely enough for it to be performed by a person skilled in the art. The Patentee filed a counterstatement on 9 July 1999, but before any evidence was filed, the parties agreed to settle their dispute and the Applicant for revocation withdrew unconditionally from the proceedings.

2. Where, as in this case, an Applicant serves notice of withdrawal from revocation proceedings before the Comptroller which have been properly launched, an examiner considers whether the Comptroller should accept the notice of withdrawal without qualification or whether there are questions remaining that the Comptroller should further consider in the public interest. This long-standing practice was reaffirmed in *Abbott Laboratories (Chu's) Patent [1992] RPC 487*, following *General Motors (Tunney & Barr's Application) [1976] RPC 659* decided under the 1949 Act.

3. On this occasion the examiner felt that there remained issues raised in the application for revocation that should be pursued in the public interest — specifically that the prior art mentioned in the application (GB 1576506) anticipated the invention, at least as claimed in claim 1. The examiner's concerns were conveyed to the Patentee in an official letter dated 17 December 1999, and the Patentee was invited to file amendments or make observations within a period of one month. At the Patentee's request, this period was subsequently extended by a further two weeks.

4. Other than the request for a two week extension, the Patentee did not respond to the official letter of 17 December 1999. Consequently the Office wrote again to the Patentee on 7 March 2000, advising that the Comptroller was minded to revoke the patent for the reasons indicated in the official letter of 17 December 1999. The Patentee was invited to request a hearing if they wished to be heard before the decision was confirmed. The official letter made it clear that if no hearing was requested in the following two weeks (ie by 21 March 2000), the patent would be revoked.

5. The Patentee has not requested a hearing, and accordingly I hereby revoke patent m 2059196.

Costs

6. Both sides had originally sought an award of costs. However, as the parties have settled their dispute privately, neither side now seems to be seeking costs and accordingly I make no award.

Appeal

7. As this decision does not relate to a matter of procedure, any appeal from this decision must be filed within six weeks.

Dated this 18th day of May 2000

P HAYWARD

Divisional Director, acting for the Comptroller

THE PATENT OFFICE