

## **PATENTS ACT 1977**

IN THE MATTER OF a reference under section 12 by The Thrombosis Research Institute and Trigen Limited in respect of international patent application number PCT/GB98/03511 in the name of West Pharmaceutical Services Drug Delivery and Clinical Research Centre Limited (formerly Danbiosyst UK Limited) or, in the case of the USA, in the name of Peter Watts

### **DECISION**

1. This reference under section 12 was filed on 10 September 2001. However, in letters dated 12 and 20 September 2001, the claimant requested under section 12(2) that the comptroller decline to deal with the reference in view of the complexity of the issues.
2. In letters dated 24 October and 14 November 2001, West Pharmaceutical Services Drug Delivery and Clinical Research Centre Limited indicated its consent to the claimant's request, but on different grounds, namely that there are substantially identical proceedings before the High Court. Mr Peter Watts, the applicant in respect of the USA, has been given the opportunity to comment but has not responded, from which I conclude that he does not resist the request.
3. It has not normally been the practice for the comptroller to decline to deal simply because the issues are complex and I see no reason to depart from that approach in this case. Accordingly I refuse to grant the request on these grounds.
4. However the High Court proceedings, which were launched on 7 September 2001 as claim number HC01 CO3870, relate to issues which are essentially the same as those that would have been before the comptroller. 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 both parties (or, in respect of Mr Watts, not resisted). On these grounds therefore, I grant the request and under section 12(2) I decline to deal with the reference.
5. 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.
6. This being a decision on a matter of procedure, the period for appeal is two weeks from the date of the decision.

Dated this 6<sup>th</sup> day of February 2002.

D J BARFORD  
Deputy Director, acting for the Comptroller

**THE PATENT OFFICE**