

## **PATENTS ACT 1977**

IN THE MATTER OF an application  
by Intel Corporation to amend  
European Patent (UK) No EP0804763  
and opposition thereto by Via  
Technologies Inc.

### **PROCEDURAL DECISION**

- 1 These proceedings relate to an opposition by Via Technologies Inc (“Via”) to an application by Intel Corporation (“Intel”) to amend European Patent (UK) No EP0804763. The parties have, very commendably, agreed that they will dispense with an oral hearing on the substantive issues. Instead, it was agreed that they would exchange written submissions on a first appointed date and exchange any written responses thereto on a second appointed date. Thereafter I would consider the submissions and make my decision.
- 2 The first appointed date was set at 29 November 2002, ie tomorrow. Yesterday, the opponents asked for the first appointed date to be set back by 14 days, with a consequential change to the second appointed date too. Today the patentees have responded, objecting to the request. I must now decide whether or not to alter the first appointed date.
- 3 The exchanges of correspondence over the last two days have involved argument about the whereabouts and involvement of a lawyer who works for the opponents, Nancy Chang. I do not intend to go into these arguments because I have been able to reach my decision on the basis of the reasons advanced by the opponents for requesting the date to be set back. The only reason given in the letter faxed by the opponents yesterday was:

“We apologise for the need for this extension of time. This will ensure that we have sufficient time to obtain the necessary instructions from our client in Taiwan.”

In another letter today they have submitted that granting the extension will not prejudice the patentee, incur additional costs or jeopardise a hearing date. They have not, however, advanced any further reasons for granting the extension

- 4 I am being asked to exercise my discretion. It is a well established principle that I must have some material on which to base my discretion, because otherwise I would be exercising it on an arbitrary basis. In the present context, that means I must have before me some explanation as to why the extension is needed. In my view I have no such explanation. The opponents say they want time to consult their clients, but that is not an explanation of the need for the extension because it has not been accompanied by any explanation as to why they have been unable to consult their clients in the time that both sides were given to prepare their submissions. I recognise that the extension requested is relatively short, and I also accept that where the other side agrees to a

short extension, the comptroller will sometimes be a little generous in her assessment of the adequacy of the reasons given. However here the other side have not agreed, and in those circumstances, absent any reason for the extension, I am not prepared to grant it.

- 5 Accordingly, the date on which the parties should exchange their written submissions remains unchanged at 29 November, ie tomorrow.
- 6 As this is a matter of procedure, any appeal should be filed within 14 days of the date of this decision.

Dated this 28<sup>th</sup> day of November 2002

**P HAYWARD**

Divisional Director, acting for the comptroller

**THE PATENT OFFICE**