

## **PATENTS ACT 1977**

IN THE MATTER OF references under section 8  
by Markem Corporation Inc in respect of patent  
application numbers GB 2370249 and GB 2370532  
in the name of Zipher Limited, and a reference under section 37  
by Markem Technologies Ltd in respect of patent  
number GB 2369326 also in the name of Zipher Limited

### **DECISION**

1. These three references were filed on 1 November 2002. In a letter dated 19 November 2002 however the defendants requested under sections 8(7) and 37(8) that the comptroller decline to deal with the references in view of related proceedings it had launched in the High Court on 14 November 2002, claim number HC 02 3397.
2. In a letter dated 2 December 2002, the claimants indicated that they would have no objection to the comptroller's granting this request.
3. 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. On these grounds therefore, I grant the request and under sections 8(7) and 37(8) and I decline to deal with the references.
4. 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.
5. This being a decision on a matter of procedure, the period for appeal is two weeks from the date of the decision.

Dated this 4<sup>th</sup> day of December 2002.

D J BARFORD  
Deputy Director, acting for the Comptroller

**THE PATENT OFFICE**