



BL O/236/04

09 August 2004

PATENTS ACT 1977

BETWEEN

Spears Limited

Claimant

and

Skerra Pty Limited

Defendant

PROCEEDINGS

Application under section 72(1)(a) for the revocation of
patent number GB 2331295 B

HEARING OFFICER P Back

ORDER

- 1 The action for the revocation of Patent number GB 2331295 B (“the patent”) came to a hearing before me on 4th August 2004. At that hearing I ordered an adjournment of the proceedings in order to allow the claimant to amend their Statement of Case to introduce new pleadings. They wish to put inventive step in relation to the invention of claim 1 at issue, as well as the currently pleaded issue of novelty. The adjournment will also allow the applicant to introduce new evidence consisting of a physical example of prior art.
- 2 The considerations in ordering the adjournment were set out in my oral decision at the hearing. This order is to confirm the timetable for the forthcoming rounds of pleadings and evidence which was proposed by the parties and which I agreed to at the hearing. The timings are as follows:
 - a. Claimant’s second amended Statement of Case to be filed by 13 August 2004.
 - b. Defendant’s second amended Counterstatement within a further three weeks, that is by 3 September 2004. This takes account of Mr Davis’ absence from 16 August to about 25 August.
 - c. Claimant’s evidence relevant to the new pleadings to be filed two weeks thereafter if possible, but Mr Simpson’s unavailability for the first half of

September means that this may take four weeks. This results in a deadline of 1 October 2004.

d. Defendant's further evidence to be filed within a further six weeks, that is by 12 November 2004.

e. Claimant's evidence in reply to be filed within a further three weeks, by 3 December 2004.

3 In the event that the claimant's evidence can be filed one or two weeks before 1 October 2004, the six week and three week periods for the succeeding rounds will still apply, so that their deadlines will also be brought forward by a corresponding one or two weeks.

4 The parties must also immediately agree a new date for the substantive hearing which will take place at a date convenient to the parties and the Office soon after the evidence rounds are completed.

Appeal

5 Any appeal must be lodged within 28 days of the date of this order, which was originally made at the hearing on 4 August 2004.

P BACK

Divisional Director acting for the Comptroller