

BL O/290/04

PATENTS ACT 1977

22nd September 2004

APPLICANT Neuralab Limited

ISSUE Whether patent application GB 0417096.5 is to be ante-dated to the date of filing of patent

application GB 0130969.9 under section 15(4)

HEARING OFFICER R J Walker

DECISION

- Patent application GB 0417096.5 ("the new application") was filed on 30 July 2004 with a request that it be treated as a divisional application having, as its date of filing, the date of filing of patent application GB 0130969.9 ("the earlier application"). In a letter dated 23 August 2004 the examiner informed the applicant that the new application had been filed out of time and that in his opinion there were no exceptional circumstances to justify the exercise of the Comptroller's discretion to allow the filing of the new application as a divisional application. The examiner gave the applicant until 3 September 2004 to request a hearing to decide the matter.
- No reply to this letter was received by the date specified. The examiner then contacted the applicant's patent agent, Carpmaels & Ransford, by telephone on 6 September 2004 and gave the applicant a further opportunity to request a hearing. The applicant was given until 10 September 2004 to make such a request. This deadline has now passed and the applicant has not asked to be heard.
- In the absence of any argument to the contrary I refuse to exercise the Comptroller's discretion to extend under rule 110 of the Patents Rules 1995 ("the Patents Rules") the period ascertained under rule 34 of the Patents Rules in relation to the earlier application so that the new application may be filed in accordance with section 15(4) under rule 24 of the Patents Rules. Therefore, the new application must proceed on the basis of its actual filing date, namely 30 July 2004.

Appeal

4 Under the Practice Direction to Part 52 of the Civil Procedure Rules, any appeal must be lodged within 28 days.

R J WALKER

Deputy Director acting for the Comptroller