



PATENTS ACT 1977

BETWEEN

BL 0/028/07
23 January 2007

Withers & Rogers

Claimant

and

Jon Henry Dobson

Defendant

PROCEEDINGS

A request for a certificate of contested validity under section 65(1), supplementary to an application under section 72(1)(a) for the revocation of patent number GB2312386.

HEARING OFFICER

Mr Peter Back

SUPPLEMENTARY DECISION

The Request

1. Withers and Rogers brought a revocation action against the Defendant on the behalf of an anonymous client on the grounds that the invention claimed in patent number GB2312386 ("the patent") would have been obvious to a person skilled in the art at the priority date.
2. In an earlier decision, BL O/331/06, dated 23 November 2006, I found that the patent should not be revoked having decided that all the claims were valid after considering the Claimant's arguments in the light of certain prior disclosures they had brought to my attention.
3. On 1 December 2006 the Defendant requested a certificate of contested validity under section 65(1) of the Patents Act 1977. The Defendant suggests that, in the circumstances, the issuing of a certificate would discourage further unnecessary litigation from other parties.
4. Section 65(1) reads as follows:

If in any proceedings before the court or the comptroller the validity of a patent to any extent is contested and that patent is found by the court or the comptroller to be wholly or partially valid, the court or the

comptroller may certify the finding and the fact that the validity of the patent was so contested.

5. Regardless of their reasons, the Defendant's request is allowable simply because the Patent has been unsuccessfully challenged the in revocation proceedings before the Comptroller referred to above.

Order

6. I certify that the validity of patent number GB2312386 was contested on the grounds of a lack of inventive step and I have found the patent, as granted, to be valid in respect of claim 1 and its appendant claims.

PETER BACK

Divisional Director acting for the Comptroller