

PATENTS ACT 1977

BETWEEN

Look C Limited Claimant

and

Richard P Nabavi Defendant

PROCEEDINGS

Application for revocation under section 72 for of the Patents Act 1977 in
respect of patent number GB 2325548

HEARING OFFICER A Bartlett

DECISION

- 1 The applicants for revocation now state that they no longer wish to pursue the application. However, in such circumstances, the Comptroller has the power to consider whether to pursue revocation in the public interest as confirmed in *R v Comptroller General of Patents, ex parte Ash & Lacey Building Products Limited [2002] RPC 46*.
- 2 Paragraph 72.27 of the Manual of Patent Practice states that:

"Normally only clear cases of lack of novelty or inventive step based on prior documentary disclosure should be pursued by the comptroller. Only exceptionally should some other ground of revocation be continued with after withdrawal of the applicant".
- 3 In the present case, there is conflicting expert evidence on file on the issue of whether the invention was obvious. The only way to resolve that difference of opinion would be by cross examination of the witnesses, an option which is of course not now available. In those circumstances, I do not consider it possible to

say that there is a clear lack of novelty or inventive step. Nor do I think the circumstances in this case are exceptional.

- 4 Thus I do not consider the conditions set out in paragraph 72.27 of the Manual of Patent Practice are satisfied such that the comptroller should continue the revocation action.
- 5 I therefore decide to make no order for revocation of the patent.

A BARTLETT

Deputy Director acting for the Comptroller