

14th November 2007

PATENTS ACT 1977

BETWEEN

Vibriant Technology Services Ltd

Claimant

and

Protex Healthcare UK Ltd

Respondent

PROCEEDINGS

Application under section 72 of the Patents Act 1977 for
revocation of patent N^o GB2356145 B

HEARING OFFICER Stephen Probert

DECISION

- 1 This is an application for revocation of patent N^o GB 2356145 B (“the Protex patent”). The Protex patent has an earliest date of 10 November 1999; it concerns a wound dressing for transporting exudates and other fluids away from a wound, and a method of manufacturing such a dressing. In these proceedings, the dressing was referred to synonymously as “Vacutex” or “Protex”. To avoid confusion with the name of the Respondent (“Protex”) and/or their patent, I shall refer to the wound dressing as the “Vacutex” wound dressing in this decision.

- 2 I have found this case to be unusual in one particular respect — the claimant’s main evidence in support of revocation of the Protex patent is a witness statement from the inventor, Mr William (Bill) Ancell. The claimant (“Vibriant”) alleges that the Protex patent is invalid because it lacks novelty (as a result of prior use) and/or lacks an inventive step.

Background

- 3 Many of the facts of the case are not in dispute. Mr Johannes Mouton, a South African, is the inventor of a wound dressing, called “Drawtex” which was the subject of international patent application WO 00/18343A1 - referred to as D15 in these proceedings. D15 has an earliest date of 28 September 1998 (before the Protex patent), but, importantly, was not published until 6 April 2000 (after the filing date of the Protex patent). Therefore, as far as the Protex patent is concerned, it only forms part of the state of the art by virtue of section 2(3) and consequently cannot be considered in relation to inventive step.

- 4 It is agreed by both sides that Mr Ancell distributed samples of the “Drawtex” wound dressing as part of a trial before the priority date of the Protex patent. At the time, he was looking to enter into a partnership agreement with the South African company that held the Drawtex patent rights, with a view to importing and marketing the Drawtex wound dressing in Europe.
- 5 Subsequently, Mr Ancell (working for Medical Agency Services Ltd at the time) pursued the possibility of using alternative manufacturers to supply the Drawtex dressing. It appears that Mr Ancell approached a number of textile manufacturers in the Far East and Europe, including Marlings Industrial Felts Limited and Webron Limited (separate companies at that stage, but later amalgamated as Webron). The evidence shows that Mr Ancell took them a piece of Drawtex and said (in effect) “How would you replicate this to come up with the product?” It is not clear whether this was done with the knowledge of the South African owner of the Drawtex patent rights, which (at that time) was a company called Dispersion Technology (Pty), part of the MACMED group in South Africa.
- 6 However, MACMED went into liquidation, in circumstances that need not concern me, before any formal agreement could be signed. By this time, Mr Ancell and his colleagues at Medical Agency Services Ltd had invested a lot of time and money on the wound dressing product. They thought that the Drawtex patent (D15) would not now be granted, and so they decided to take the product that Mr Ancell had had manufactured, which was known as Vacutex, and apply for a patent of their own. This is the Protex patent which is now the subject of this application for revocation. With the sole exception of a process called ‘calendering’ (see below), everything that is disclosed in the Protex patent is also disclosed in the earlier filed Drawtex patent (D15).
- 7 To complete the background, I need only add that Medical Agency Services Ltd eventually became Protex Healthcare Ltd. Mr Ancell left the company in 2005, and joined Vibrant Technology Services Ltd, the applicant for revocation. This explains how Mr Ancell came to be giving evidence in support of revocation of the patent that bears his name (as inventor).

The claims

- 8 The Protex patent has two independent claims; one to a dressing, and the other to a method of manufacturing a dressing. They are as follows:
 1. A dressing for transporting exudates and other fluids away from a wound, the dressing comprising a plurality of synthetic fibres and an absorbent fabric; wherein
 - the plurality of synthetic fibres comprise directional fibres arranged to provide a wicking path along the directional fibres from an outer surface of the dressing to a surface of the absorbent fabric, such that fluids contacting the outer surface are wicked away from the outer surface along the synthetic fibres towards the absorbent fabric;
 - at least a part of an outer surface of the dressing constituted by a surface of the plurality of directional synthetic fibres is heat treated to hinder individual fibres from extending out of that part of the surface, giving a glazed effect to that part of the outer surface; wherein
 - the outer surface is a first outer surface, and the dressing further comprises a

plurality of synthetic fibres arranged to provide a wicking path from a second outer surface of the dressing to a further surface of the absorbent fabric, wherein the second outer surface faces away from the first outer surface;

at least a portion of the second outer surface is heat-treated to hinder the synthetic fibres from extending out of the surface, giving a glazed effect to the second outer surface; and

the plurality of synthetic fibres are attached to both surfaces of said absorbent fabric by needle punching.

16. A method of manufacturing a dressing, the method comprising attaching a plurality of synthetic fibres to both surfaces of an absorbent central support fabric, such that the synthetic fibres are arranged directionally to form a wicking path between both outer surfaces of the dressing constituted by surfaces of the plurality of synthetic fibres and the absorbent support fabric; heating at least a part of both of the outer surfaces to impede individual fibres from extending out of that part of the surfaces, giving a glazed effect to that part of the surfaces; wherein

the attaching step comprising pushing the synthetic fibres through the surfaces of the absorbent central support fabric using needle punching to attach them to the absorbent support fabric.

- 9 Despite the impression that might be given by the layout of these claims, “needle punching” was not a new method of bonding several layers of a multi-layer wound dressing. This appears (now) to be recognised by both parties. Needle punching involves driving a barbed needle through the layers of a multi-layer fabric so that, for example, some of the fibres of the outermost layer are carried through the other layers, thereby holding the layers together.
- 10 The other technical process that figures heavily in this case is a form of heat treatment called “calendering”. This involves compressing a fabric between two heated rollers to increase the lustre by flattening the yarns to make the fabric surface smoother and better able to reflect light. There is no dispute between the parties that calendering is a process that has been used for decades in textile manufacture for improving the appearance of a fabric.
- 11 The Protex patent lists three advantages that are achieved by calendering the wound dressing. The first is that it produces a smooth porous surface that reduces adhesion to the wound. The second is that it anchors the fibres within the dressing, reducing the risk of them becoming detached from the dressing and remaining in the wound. And finally, it impedes exudates within the dressing from returning to the wound face.

Matters in dispute

- 12 There are two significant areas of dispute between the parties, one or both of which I will need to resolve in order to determine the outcome of this revocation action.
- i) Vibrant maintains that Drawtex and Vacutex are (or were) the same product. Protex argues that they were different products; in particular they say that there is no evidence that the Drawtex dressing was heat-treated (calendered) during manufacture. If I were to conclude that Drawtex and Vacutex were the same product, then the only question that would remain is whether the admitted prior use was sufficient to

have made the invention available to the public. If so, then the patent would be invalid for want of novelty.

- ii) Vibrant claims that even if the Drawtex dressing was not calendered, it was such a well known process in the textile field that it would have been obvious to apply it to an existing wound dressing such as Drawtex. On the other hand, Protex says that while calendering was used in textile manufacture to improve the appearance of a fabric, there is no teaching in the cited art that it could be applied to the surfaces of a wound dressing. If I find that the applicant is right, then the patent would be invalid for want of inventive step.

- 13 When the application came before me at a hearing on 18 September 2007, Vibrant (claimant) was represented by Mr Ken McMaster and Protex (respondent) was represented by Ms Julia Mills of D Young & Co.

The Law

- 14 The Comptroller's powers to revoke a patent on the application of another person are set out in section 72(1). With respect to the validity of the claims, the relevant parts read as follows:

Power to revoke patents on application

72.-(1) Subject to the following provisions of this Act, the court or the comptroller may by order revoke a patent for an invention on the application of any person (including the proprietor of the patent) on (but only on) any of the following grounds, that is to say –

- (a) the invention is not a patentable invention;
- (b) ...

- 15 In relation to section 72(a) above, I must also consider section 1(1) which defines the requirements for a patentable invention. It reads:

Patentable Inventions

1.-(1) A patent may be granted only for an invention in respect of which the following conditions are satisfied, that is to say –

- (a) the invention is new;
- (b) it involves an inventive step;
- (c)

and references in this Act to a patentable invention shall be construed accordingly.

- 16 The following parts of sections 2 and 3 are also relevant, since they define what is meant above by 'new' and 'inventive step'.

Novelty

2.-(1) An invention shall be taken to be new if it does not form part of the state of the art.

(2) The state of the art in the case of an invention shall be taken to comprise all matter (whether a product, a process, information about

either, or anything else) which has at any time before the priority date of that invention been made available to the public (whether in the United Kingdom or elsewhere) by written or oral description, by use or in any other way.

(3) The state of the art in the case of an invention to which an application for a patent or a patent relates shall be taken also to comprise matter contained in an application for another patent which was published on or after the priority date of that invention, if the following conditions are satisfied, that is to say -

(a) that matter was contained in the application for that other patent both as filed and as published; and

(b) the priority date of that matter is earlier than that of the invention.

(4) ...

Inventive Step

3. An invention shall be taken to involve an inventive step if it is not obvious to a person skilled in the art, having regard to any matter which forms part of the state of the art by virtue only of section 2(2) above (and disregarding section 2(3) above).

The Evidence

- 17 Vibriant provided written evidence from the inventor, Mr William Ancell. (Mr Ancell was not available for cross-examination because, sadly, he passed away before the hearing.) Protex in turn filed evidence from Dr David Webster (a medical expert in the field of wound management), Mr Andrew Morpeth and Mr Andrew Gay. Vibriant then filed evidence-in-reply from Mrs Jayne Ancell, Mr Ken McMaster, Mr Michael Goodman and Mr Theunis Jacobus van Heerden Lochner. Mr Goodman's witness statement also exhibited a witness statement by Professor Anand (a textiles expert).
- 18 The precise status of Professor Anand's evidence in these proceedings was never fully determined. His witness statement says that calendering is a well known process in the textiles industry. As indicated above, this is not disputed by Protex. Professor Anand also says that he has tested and analysed a Drawtex dressing and it is "similar" to the one described in the Protex patent. Again, no-one disputes that Drawtex and Vacutex were similar. What needs to be established is whether they were the same, and in particular whether the Drawtex dressing was calendered. Consequently Professor Anand's evidence does not tell me anything that the parties have not already agreed.
- 19 At the hearing on 18 September 2007, four of the witnesses were cross-examined:
- Mr McMaster (for Vibriant)
Dr Webster, Mr Morpeth and Mr Gay (for Protex)
- 20 Dr Webster's evidence was particularly clear and helpful. During cross-examination, as expected of an "expert witness", he did not come across as partisan; he readily acknowledged when he was being asked to express an

opinion on an issue that was outside his expertise. While Dr Webster's view was that the Vacutex dressing (as defined in the Protex patent) was new and not obvious in November 1999, he was honest enough to say (under re-examination) that he did not necessarily think the Protex patent addressed the problem of wound adherence in the best way.

21 In relation to calendaring, Dr Webster says:

“While it is known that calendaring (the application of heat and pressure by passing a textile material through heated rollers where the gap between the rollers is fixed) can be used in the production of some wound dressings, I understand this has always been used either as a means to entangle and anchor (or bond) different fibre layers or to modify or create a wound facing barrier layer separate from the absorbent bulk of the dressing.”

22 The other witnesses who were cross-examined appeared to be doing their best to recall events that happened around a decade ago. However, the matters on which they were giving evidence (and being cross-examined) were mostly not relevant to the issues that I have to decide. Between the three of them (and Mr Goodman, who was present at the hearing but was not cross-examined), they clearly knew a lot about the business side of things - ie. how various companies had been set up, and/or become involved in the development of the Vacutex wound dressing. Unfortunately, none of them had much direct, first-hand knowledge of what Mr Ancell (or anyone else) contributed to the earlier Drawtex product in order to 'invent' Vacutex.

23 At first sight, Mr Ancell's written evidence appears to be contradictory in one important respect. On the one hand he says that there was only ever one product — ie. that Drawtex and Vacutex were the same product. But then he also says that in the process of replicating the Drawtex dressing, he “created a novelty”. More specifically, Mr Ancell says that the product that he arranged to have manufactured by Webron was “as detailed in the Vacutex patent application and included calendaring (heat sealing) which I considered a novelty but have since discovered is a long-standing practice in textile needle punching operation.” (My emphasis)

24 Mr McMaster, for Vibrant, submitted that any apparent contradiction in Mr Ancell's evidence melts away if one accepts that the original Drawtex dressing (as received from South Africa) was also calendered — even if Mr Ancell was not aware of that at the time the Protex patent was filed. For example, the Drawtex patent (D15) does not mention calendaring at all, and therefore, according to Mr McMaster, it would be reasonable for Mr Ancell to believe that he had “created a ‘novelty’” by including this ‘new’ stage in the manufacturing process. Six years later, when Mr Ancell came to provide his witness statement in these proceedings, he now knows that calendaring is a long-standing practice in the textile industry and he therefore concludes that the original Drawtex dressing samples that he received from South Africa must also have been calendered. This, as I understand it, is how Mr McMaster invited me to interpret Mr Ancell's evidence.

25 Vibrant's statement of case was accompanied by seventeen (17) documents in support of its application for revocation. Although both parties have, at one time or another, addressed each of these citations, only two or three have

been the subject of particular attention. I have already mentioned one of them, D15, in paragraph 3 above. D16 is an article by Linda Russell and Amanda Evans that appeared in the British Journal of Nursing in 1999¹. The article is entitled “Drawtex: a unique dressing that can be tailor-made to fit wounds”. This article, combined with the written testimony of Mr Ancell, provides overwhelming evidence that the Drawtex dressing was in use prior to the earliest date of the Protex patent.

British Journal of Nursing article (D16)

- 26 The article from this journal was published on 12 August 1999, and describes Drawtex in the following terms:

“Drawtex is a hydrocellular, non-woven 3-layer, non-adherent dressing, which consists of 100% polyester outer layer and 80% polyester inner layer with 20% cotton fibres. The non-woven outer layers transport, lift and hold exudate by capillary action, The woven inner layer prevents ‘strike-through’ by allowing the exudate to move across the fabric rather than straight through (dispersion technology).”

- 27 Further into the article, there is the following section that describes the operation of the dressing:

“How Drawtex works

The specific mode of action of Drawtex, ‘dispersion technology’, allows the wound exudate to circulate around the fibres of the inner layer of the fabric. These fibres connect creating a capillary action which allows the exudate to travel across the fibres in the middle layer and transudate across the middle dressing, thus being dispersed away from the wound interface. The outer layer of the dressing is highly absorbent and the dispersal and transudation reduce strike through. This allows the Drawtex to draw away infection and harmful bacteria that may be in the wound.”

- 28 Although the article does not say that the three layers of the Drawtex wound dressing were held together by needle-punching, this is not questioned by either party. The article is also silent on the subject of heat treatment (calendering). It does say that the product “does not allow fibres to shred into the wound” - which is stated in the Protex patent to be one of the advantages of calendering. However, Dr Webster was highly sceptical of this claim. In his experience, lots of products shed fibres, despite being marketed as having low fibre shed or no fibre shed. I also note that in a case study described towards the end of the article, the authors state that:

“... there was a problem of the dressing sticking to the wound bed and requiring heavy soaking to remove it.”

- 29 If I understood Dr Webster correctly, his view was that it is impossible to tell from the article whether the wound dressing concerned had been calendered or not. That is certainly the conclusion I have reached in relation to D16.

¹ “Drawtex: a unique dressing that can be tailor-made to fit wounds”, British Journal of Nursing, 1999, Vol. 8, No. 15. (pp 1022 - 1026)

The Drawtex Brochure

- 30 This a product specification for the South African Drawtex wound dressing. The document is not dated. It is annexed to Dr Webster's witness statement as exhibit DW3. In addition to describing the three layer Drawtex wound dressing, it also describes a similar dressing called "Drawtex Plus" which has four layers. It says:

"Drawtex Plus is identical to Drawtex with the exception of an additional outer layer. This additional outer layer is heat-bonded with a non-adhesive, non-adherent, perforated film layer. The reason for this film is to prevent the dressing from adhering to the wound face and to prevent lint and fluff from entering the wound."

- 31 Mr McMaster confirmed under cross-examination that he had never seen a four layer Drawtex dressing (ie. Drawtex Plus) and that he was not aware that Mr Ancell had ever been involved with a four layer dressing either. I think Ms Mills accepted this, although she reminded me on several occasions that the original South African Drawtex patent application (ZA 98/8838) related to a four layer dressing. (A later South African patent application, ZA 99/6151, and the corresponding international patent application — referred to in these proceedings as D15 — both describe and claim a three layer wound dressing.)

Patent GB 1,130,857 (D3)

- 32 Apart from D15, D16 and the Drawtex product specification, the most relevant document provided by Vibrant in support of its application to revoke is GB 1130857. Referred to as D3 in these proceedings, this patent was filed in 1965 and published in 1968. As it happens, D3 describes a three layer wound dressing, but that is not why it stands out from the other documents cited. The specification describes a wound dressing constructed using needle-punching to hold the layers together, and also teaches the use of calendering to produce a relatively smooth feel to the surface of the dressing.
- 33 The dressing described in D3 is not intended to be a reversible dressing, and therefore only one of the two external surfaces is calendered. The patent specifically states that the contact layer is calendered to achieve a smooth surface for "non-adherent body contact", and to eliminate any fibres which extend from the surface of the contact layer and would become embedded in the wound. The layer of the dressing that is subjected to the heat treatment is hydrophobic (non-absorbent), and its only purpose appears to be to function as a non-adherent contact layer.

The First Issue - Novelty

- 34 There is no doubt in my mind on the basis of the evidence presented in these proceedings that samples of a three layer wound dressing known as Drawtex were distributed in the UK before the earliest date of the patent in suit. As far as the wound dressings supplied in the first instance by the South African company are concerned, it is not impossible that they were calendered but I have come to the conclusion, on the balance of probabilities, that they were not.

- 35 I have formed this conclusion largely because the Drawtex brochure shows that there was a four layer version of the Drawtex wound dressing (Drawtex Plus) which was available as an alternative product specifically to address the problems of adherence to the wound and shedding of fibres into the wound. As far as I can see, there would be no need to add a fourth layer (in this case, a perforated non-adhesive film) if the three layer product already provided the advantages said to be achieved by calendering. So the original samples distributed by Mr Ancell do not, in my view, amount to prior use of the Protex patent.
- 36 However, I have come to a different conclusion in respect of the wound dressings that Mr Ancell arranged to have manufactured, eg. by Webron. The evidence is not as conclusive as I would have liked, but on the balance of probabilities, I think it is significantly more likely that the wound dressings manufactured by Webron were calendered than that they were not. It is not relevant to my decision, but I think it quite likely that the suggestion of calendering was made in the first place by someone at Webron or one of the other textile manufacturers that Mr Ancell consulted with a view to manufacturing the Drawtex wound dressing. According to Mr McMaster, Mr Ancell himself “had no medical or wound care training or qualifications and came from a creative marketing background”. But neither party disputes the fact that calendering is a known and well established process in the textiles industry, and therefore it seems likely to me that a manufacturer such as Webron would be well aware of it, even if they were not used to manufacturing wound dressings.
- 37 Mr Ancell says that he distributed the proto-types manufactured in the UK (eg. by Webron) as samples without any obligation of confidentiality, before applying for the Protex patent. In Mr Ancell’s words, he “unwittingly placed the product in the public domain” believing that it was “covered by the Drawtex patent application”.
- 38 I appreciate that Protex has not had the opportunity to challenge Mr Ancell’s evidence through cross-examination, but I have not simply accepted his evidence on this point unquestioningly, or as it were, in isolation. The account of events given by Mr Ancell appears to me to be reliable when considered in the wider context of all the evidence that has been put before me. For example, according to Mr McMaster, the proto-types that Mr Ancell arranged to have manufactured (eg. by Webron) were made in late 1998 or early 1999.
- 39 Furthermore, it is clear that Mr Ancell (while part of Protex) did not apply for the Protex patent until after the collapse of the South African end of the operation, and according to Mr McMaster, the suggestion of looking for alternative (more local) manufacturers in Europe came from the South African inventor at a time when the South African company appears to have been still firmly in control.
- 40 Other parts of Mr Ancell’s evidence are also suitably corroborated by other witnesses. It is on this basis that I have come to the conclusion that Mr Ancell probably did make samples of the (calendered) Vacutex wound dressing available to the public prior to the filing date of the Protex patent.

41 However, that is not the end of the matter. I also need to consider whether, in distributing these samples without any obligations as to confidentiality, Mr Ancell made the invention available to the public (in the words of section 2(2)). Neither side specifically addressed me on this subject, but I don't think there is any great difficulty with it. If samples of the (calendered) Vacutex wound dressing were made available to the public, as I have found to be more likely than not, then I cannot see why the skilled person, having had an opportunity to examine the dressing, would not be able to write down a clear description of the invention. There is nothing about the invention that is hidden or concealed within the dressing, and I therefore conclude that it was made available to the public before November 1999.

42 These considerations apply with equal force to all the claims of the patent. Neither party sought to distinguish between the product and method claims at the hearing — it was understood that they stand or fall together. Therefore, for the reasons I have given, I believe that the patent is invalid for want of novelty.

The Second Issue - Inventive Step

43 In addition to alleging lack of novelty, Vibriant also claim that the Protex patent is obvious in the light of Linda Russell's article in the British Journal of Nursing (D16), and common general knowledge as demonstrated by a range of earlier published documents.

44 The significance of D16 to Vibriant's case is that, to all intents and purposes, it brings the teaching of the Drawtex patent (D15) within the definition of "state of the art" in section 2(2) — because there is no disagreement between the parties that the Drawtex patent described in D15 was made available to the public before the earliest date of the Protex patent. Consequently the disclosure of the Drawtex wound dressing as described in D15 can be considered in relation to inventive step.

45 I have not had any submissions from the parties regarding the correct test for inventive step, but I don't think there can be any doubt that the appropriate test is the one found in *Windsurfing*² — with the elaborations made by the Court of Appeal in *Pozzoli*³.

Step 1a — The person skilled in the art in this case

46 Protex say that in this case the notional person skilled in the art is someone who works in the field of wound dressings (eg. a bio-scientist). Dr Webster says that although the main work of designing a dressing would normally be performed by a team of bio-scientists, they would normally involve material scientists to assist with the construction of the dressing. (It is well established that the notional person may in fact be a team of people.)

47 Vibriant would perhaps go slightly wider, and include someone who works in the textile industry. In this case, the evidence shows that Mr Ancell went to

² *Windsurfing International Inc. v Tabur Marine (Great Britain) Ltd*, [1985] RPC 59

³ *Pozzoli SPA v BDMO SA* [2007] EWCA Civ 588

several textiles companies because the dressing he wanted to manufacture was essentially a fabric product. That seems a perfectly sensible and rational thing to do. But I am not persuaded that it means I should 'add' a textiles manufacturer to the notional skilled person 'team'. Therefore I consider that the notional person skilled in the art would comprise a team of perhaps two people: a bio-scientist with knowledge of wound management techniques, and a material scientist with a basic knowledge of textile manufacturing processes.

Step 1(b) — The common general knowledge

- 48 I have to some extent started to identify the relevant common general knowledge of the skilled person(s) in order to identify them. There is no doubt that the common general knowledge would include wound management techniques. I believe it would also include an understanding of needle punching as a means of holding several layers of a dressing together, and also an awareness of calendering. Dr Webster was certainly familiar with the process of calendering; and he was aware that it had been used in relation to dressings, although not in the same way as described in the Protex patent.

Step 2 — The inventive concept of the patent

- 49 The inventive concept of the claim(s) in question is the idea of using heat treatment (calendering) on the surface of a [reversible] wound dressing to i) improve the non-adherence characteristics of the dressing, and ii) to reduce the tendency of the dressing to shed fibres into a wound.

Step 3 — Differences over the prior art

- 50 Clearly if I am correct about the invention not being new then there will be no difference between the state of the art and the inventive concept because the inventive concept will have become part of the state of the art. So in order to make sense of the test, I am approaching the issue of inventive step on the assumption that my decision in relation to novelty (above) was wrong. In that case, the difference between the state of the art and the inventive concept is the idea of calendering the surface of a wound dressing rather than applying an additional non-adherent (film) layer.

Step 4 — Was it obvious over the differences?

- 51 I think probably not. There does appear to have been a strong prejudice in favour of using an additional layer to improve non-adherence and to reduce fibre shedding. So much so that even if the skilled person were to consider calendering, for example in light of the teaching of D3, I think they would instinctively have applied an additional layer to one or both surfaces of the dressing first, rather than heat treat the bulk absorbent fibres of the dressing itself. Consequently, I reject this line of attack.

Summary and Order

- 52 After consideration of the evidence, and for the reasons set out above, I have found that the patent is invalid for want of novelty. I therefore order that the patent be revoked in accordance with Section 72(1) of the Patents Act 1977.

Appeal

- 53 Under the Practice Direction to Part 52 of the Civil Procedure Rules, any appeal must be lodged within 28 days of the date of this decision.

S PROBERT

Deputy Director acting for the Comptroller