



14 October 2011

**PATENTS ACT 1977**

BETWEEN

Derek Miles

Claimant

and

Wind Dam Limited

Defendant

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PROCEEDINGS

Reference under section 13 of the Patents Act 1977 in  
respect of patent number GB 2468881A

HEARING OFFICER

Phil Thorpe

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**STATEMENT OF REASONS**

- 1 I decided on 11<sup>th</sup> October 2011 to allow the claimant, Mr Derek Miles, a 2 week extension to the period for filing Patents Form 4. This was in respect of his claim under section 13 to be named as co-inventor on patent GB 2468881 A currently in the name of Wind Dam Limited. I indicated that I would set out my reasons for this decision in due course. This is what I will now do.
- 2 Mr Miles filed his reference on 6 July 2011. He refers to Rule 10(2) of the Patent Rules 2007 though it is clear that this is a reference under section 13 for Mr Miles to be named as co-inventor on patent GB 2468881 A. The patent, which relates to a vertical wind turbine, names Mr Anthony James Mewburn-Crook as the sole inventor.
- 3 A counter-statement contesting Mr Miles claim to be named as co-inventor was filed on behalf of Wind Dam Limited and Mr Mewburn-Crook on 1 September 2011.
- 4 In a letter dated 27 September 2011 the IPO informed Mr Miles that if he wished to continue with the proceedings then he needed to file a Patent Form 4 and pay the appropriate fee of £350 by 11 October 2011.
- 5 In an email dated 5 October 2011 Mr Miles requested a one month extension to that period. He explained that he needed time to consider what to him appeared

to be a lengthy and complicated counterstatement for such a simple matter. He also noted that he [REDACTED]  
He also needed to find a patent attorney to visit him.

- 6 The defendant was not however agreeable to any extension. It noted, quite rightly in my view, that much of the content of the counterstatement was already known to Mr Miles given his previous involvement, and that of his wife, with the defendant. The defendant also noted that Mr Miles had had sufficient time already to appoint an attorney and that it was possible to instruct an attorney by phone. Again I would have to agree with defendant.
- 7 By their nature, contested proceedings even before the comptroller can be complex and demanding. The next stage assuming Mr Miles files his Form 4 will be for him to submit his evidence. He will have normally around 6 weeks to do so. The defendant will then submit its evidence and Mr Miles will then have a further opportunity to file his evidence strictly in reply to the defendant's evidence. There then may be a hearing, possibly with cross examination of the witnesses. It is particularly incumbent on the party who is bringing the case that it is adequately prepared to deal with these demands. It is possible that Mr Miles did not fully appreciate what would be involved. I obviously have the greatest sympathy for Mr Miles in respect [REDACTED] and I will endeavour so far as is possible and fair to take full account of this when managing the proceedings. I would however encourage him if possible to appoint an agent to deal with the case. His request for an extension indicated that he was now minded to do that and for that reason I decided to give him a short 2 week extension to the period for filing the Form 4. **The deadline for filing the form and paying the fee is now 25 October 2011.** If this is done then the Office will advise the parties of the timetable for filing evidence.
- 8 I will conclude by taking this opportunity to remind both sides that they have a responsibility to assist the comptroller in ensuring that this case is dealt with in a way that is proportionate to the:
- amount of money involved;
  - importance of the case;
  - the complexity of the issues;

and also in a way which does not require an inappropriate share of the resources available to the comptroller, taking into account the need to allot resources to other cases.

## **Appeal**

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

**P THORPE**

Deputy Director acting for the Comptroller