PATENTS ACT 1977   Mrs Wilson
                                                         1R32

IN THE MATTER OF a reference under

Section 37(1) by Henkel Kommanditgesellschaft auf Aktien

in respect of granted European Patent (UK) No 0624211

in the names of Henkel Kommanditgesellschaft auf Aktien and Peter Daute

DECISION

On 14 May 1996, Henkel KGaA ("the referrer") referred to the Comptroller under section 37(1) the question of entitlement to the patent in suit. The referrers say that Peter Daute should not be a co-proprietor of the patent, but should be an inventor.

The reference under section 37(1) was accompanied by a statement under rule 54(1) in which it was stated:

"The application in question was originally filed as a PCT application at the European Patent Office (EPO), Munich, designating EP, CA, AU, FI, JP and USA. On the original application form....two of the three inventors, Dr Peter Daute and Dr Bertold Schreck, were mistakenly entered as applicants for all designated states except the United States of America....This oversight was corrected by the EPO in Dr Schreck's case but evidently not in Dr Daute's case."

On 21 June 1996, the Office sent a copy of the reference under section 37(1), and accompanying statement, to Dr Daute in accordance with rule 54(2).

In absence of a reply to the Official Letter dated 21 June 1996, the Office wrote to Dr Daute informing him that it was proposed to treat the reference as uncontested, subject to any comment within two weeks of the date of that letter.

Dr Daute has not opposed the reference under rule 54(3). In absence of any such opposition I conclude that the parties agree that Dr Daute should not have been named as an applicant, but should be named as an inventor.

Accordingly, I am satisfied that Peter Daute ought not to be mentioned as a proprietor in the granted patent but should be mentioned as an inventor. I therefore direct that an erratum slip be prepared for the granted patent.

Signed this 9th day of January 1997

HUGH EDWARDS

Principal Examiner, acting for the Comptroller

THE PATENT OFFICE