

PATENTS ACT 1977

IN THE MATTER OF an application under Sections 13(1) and 13(3) by Michael Offley in respect of Patent No 2213576 in the name of Michael Andrew Cunningham

DECISION

Patent Application No 8828775.0 was filed on 9 December 1988 in the name of Michael Andrew Cunningham, claiming priority from Applications 8728963 and 8811898. The application was published on 16 August 1989 under Serial No GB 2213576A. The granted patent was published on 25 September 1991. Both the published application and the granted patent named Michael Andrew Cunningham as sole inventor.

Application under sections 13(1) and 13(3) of the Patents Act 1977 was made on 7 October 1993 by Michael Offley. He declared that he is the inventor of the invention which is the subject of the patent in suit and accordingly has a right to be mentioned as such in accordance with the terms of section 13(1). He also declared that Michael Andrew Cunningham ought not to have been mentioned as inventor of the invention and applied for a certificate to that effect in accordance with section 13(3).

The application was accompanied by a letter from the agent for the applicant dated 6 October 1993 which was treated as a statement under rule 14(1) of the Patents Rules 1990. This letter states:

"... we now submit a patents form 6/77 requesting under Section 13(1) the inclusion of Michael Offley as the inventor of the invention claimed in this patent, and under Section 13(3) the Comptroller's certificate to the effect that Michael Andrew Cunningham should not have been so mentioned.

It was as a result of an error in the writer's office when this application and its two predecessors were filed that Michael Offley was not named as the inventor and that Michael Andrew Cunningham should be the applicant by virtue of an inventor's assignment from Michael Offley to Michael Andrew Cunningham dated 24th November, 1987. The writer had acknowledged and witnessed that assignment but had overlooked this fact when completing the applications."

In accordance with rule 14(2), copies of the application under sections 13(1) and 13(3) and the accompanying statement were sent to Michael Andrew Cunningham under cover of an official letter dated 10 November 1993.

In a letter dated 16 November 1993, the agent for Michael Andrew Cunningham stated that Mr Cunningham did not wish to contest the application or file a counterstatement. In the absence then, of any opposition, I am satisfied that Michael Offley is the sole inventor of the invention which is the subject of the patent in suit and therefore has a right to be mentioned as such in accordance with the terms of section 13(1). I am also satisfied that Michael Andrew Cunningham ought not to have been mentioned as inventor.

I accordingly direct under rule 14(5) that erratum slips mentioning Michael Offley as the sole inventor be prepared for the published application of the patent and the granted specification of the patent.

This decision also serves as a certificate, issued in accordance with section 13(3), to the effect that Michael Andrew Cunningham ought not to have been mentioned as an inventor and I further direct that this be stated on the aforementioned erratum slips prepared for the published application of the patent and the granted specification of the patent.

Signed this 3 day of FEBRUARY 1994



LESLIE LEWIS
Superintending Examiner, acting for the Comptroller
THE PATENT OFFICE

