

BLO/119/81

## PATENTS ACTS, 1949 AND 1977

IN THE MATTER OF Patent No 1527418  
in the name of Wellworthy Limited

and

IN THE MATTER OF an application  
for revocation thereof by  
Karl Schmidt GmbH

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## DECISION

Revocation of the patent is sought on the grounds of lack of novelty, obviousness and insufficiency.

The patentees have not filed a Counterstatement, and by their Agents' letter dated 5 March 1981 indicated that they do not intend to contest the application and furthermore propose to allow the patent to lapse by non-payment of the renewal fee due on 27 July 1981. Subsequently, the patentees have formally offered to surrender their patent, and no opposition to the surrender has been entered.

Under the provisions of Section 29 of the Patents Act, 1977, the acceptance by the Comptroller of an offer to surrender a patent does not result in the automatic termination of any revocation proceedings that may be in being, although it is clear that the rights existing prior to the date of acceptance of the offer are considerably impaired by the surrender.

In the present case, it is manifest that the revocation is to be treated as undefended and accordingly, in dealing with the issues raised, I must assume that the truth of every statement made by the applicants in their statement of case has been conceded, unless it is contradicted by facts elsewhere in the documents filed.

Having reviewed the matter, I am satisfied that the applicants' case at least in respect of prior publication and obviousness is of undoubted substance, and since in the circumstances the question of amendment does not arise, I therefore direct that the patent be revoked. It follows that no further action is necessary in relation to the offer to surrender the patent.

There remains the question of costs, and having carefully considered the written submissions made by both parties, I award the applicants for revocation, Karl Schmidt GmbH, the sum of sixty pounds (£60) as a contribution towards their costs and direct that the said sum be paid to them by the patentees, Wellworthy Limited.

Dated this 25<sup>th</sup> day of November 1981

[Redacted signature]

N B DEAN

Superintending Examiner, acting for the Comptroller



PATENT OFFICE