

THE PATENTS ACT 1977

IN THE MATTER of an application by
Infra Computers Ltd for the revocation of
Patent No 2128783 in the name of
Grid Systems Corporation.

DECISION

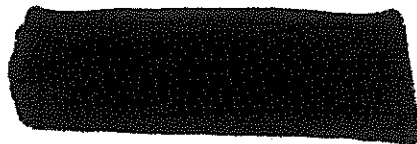
On 9 October 1989 Infra Computers Limited (the applicant) applied for the revocation of patent number 2128783 granted to Grid Systems Corporation (the patentee) under section 72(1) on a number of grounds, including the ground that the invention is not a patentable invention by virtue of section 1(1)(a) and (b) having regard to certain specified United States patents and design patents, together with an extract from a published encyclopedia and common general knowledge in the relevant art. The application was later confined to this ground and a number of additional documents were cited. The patentee's original and amended counterstatements denied that the patent was invalid but subsequently, after the filing of evidence by the applicant, the patentee's agent wrote to the comptroller admitting that the patent was invalid by virtue of the public disclosure of the invention before its priority date. Although this letter which was received on 21 October 1991 expressly did not admit any of the arguments put by the applicant, it did offer to surrender the patent under section 29.

This offer was advertised in the Official Journal and no opposition to the offer was lodged within the prescribed period of two months. Subsequently in a letter dated 27 February 1992, both parties were informed that because at least one ground for revocation available under section 72 had been made out because of the admitted public disclosure of the invention, the comptroller proposed not to accept the patentee's offer to surrender the patent but to issue a formal decision revoking the patent unless within one month either party opposed this course of action. The applicant's agent has written agreeing that the comptroller should revoke the patent and the patentee has not opposed this action.

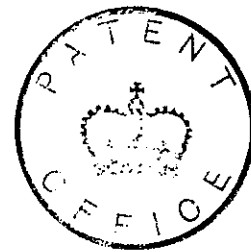
Consequently, since there has been an application to revoke the patent under section 72(1)(a) on the ground that the invention is not a patentable invention and since, from the patentee's admission that the invention was publicly disclosed before its priority date, it is clear that the invention is not a patentable invention and that one of the grounds mentioned in section 72(1) has therefore been established, I order that patent number 2128783 is to be unconditionally revoked under section 72(4).

On the question of costs, although the patent has been found to be invalid this has been on the basis of the patentee's admission of prior disclosure and not on the basis of the arguments put by the applicant. On the other hand, had the applicant not made his application it may well be that an invalid patent would not have been revoked. Having considered these matters and also certain representations from the applicant's agent urging that a high level of costs should be awarded because of the behaviour of the patentee, I order the patentee to pay the sum of £300 to the applicant for revocation as a contribution to costs.

Dated the 14 day of may 1992



K E PANCHEN
Superintending Examiner, acting for the Comptroller



PATENT OFFICE