

PATENTS ACT 1977

IN THE MATTER of a reference under
Section 37(1) by Mr Alan Griffiths in
respect of granted European Patent (UK) No 0515476
in the names of Mr Alfred Atha and Mr Alan Griffiths

Pat / Linda
3Y60

DECISION

On 11 November 1996, Mr Alan Griffiths referred to the Comptroller under Section 37(1) the question of the entitlement to the patent in suit. Mr Griffiths says that Mr Atha's name should be removed as co-proprietor of the patent.

The reference under Section 37(1) was accompanied by a statement under Rule 54(1). From the statement it is clear that at the time of filing the patent application Mr Atha and Mr Griffiths were in partnership. Jointly they had paid the filing fees for the application without Mr Griffiths, who claims to be the inventor of the invention covered by the patent, realising what rights this gave to Mr Atha who is described in the statement as being the administrator of Mr Griffiths' affairs.

Unfortunately, Mr Atha died during the prosecution of the application and it seems that despite Mr Griffiths' best endeavours he was unable to obtain any instructions about the further prosecution of the application from Mr Atha's estate. Thus, from the time of Mr Atha's death it appears that Mr Griffiths has paid all the prosecution fees and subsequent renewal fees without any contribution from Mr Atha's estate.

In line with Rule 54(2) it is normal for the Office to send a copy of the reference and statement to, inter alia, any person who is alleged in the reference to be entitled to a right in or under the patent. In this case Mr Griffiths was asked to provide the Office with the name and address of Mr Atha's estate so that the normal procedure could be followed. All that Mr Griffiths could provide was the name and address of the person Mr Atha lived with prior to his death. Letters were sent by the Office on 27 February 1997 to the person named and to Mr Griffiths' agents, Bailey Walsh & Co., in an endeavour to find

out more about Mr Atha's estate with a view to giving the estate the opportunity to oppose the reference.

Replies to both letters have yielded no further information and I have come to the opinion that there is nothing further the Office can reasonably do in pursuit of the situation.

I therefore conclude that the reference should be treated as uncontested and that Mr Alfred Atha should not be mentioned as a proprietor of the granted patent. As a consequence I direct that an erratum slip be prepared for the granted patent.

Dated this 18^m day of April 1997

D L WOOD

Superintending Examiner, acting for the Comptroller

THE PATENT OFFICE

