

PATENTS ACT 1977

IN THE MATTER OF an application under
Section 13(1) by Paulus Adrianus Ferdinand
Maria Goemans in respect of Patent No
EP(UK) 0295744 in the name of Kinetron BV

DECISION

European patent application number 88201180.2 was filed on 9 June 1988 in the name of Kinetron BV claiming priority from NL Application No 8701394. The application was published in English on 21 December 1988 under Serial No 0295744A. The granted patent was published in the European Patent Bulletin on 4 March 1992 and the designated states included the United Kingdom. The granted patent named Petrus Matheus Josephus Knapen as sole inventor.

Application under section 13(1) of the Patents Act 1977 was made on Patents Form 6/77 on 3 January 1995 by Petrus Matheus Josephus Knapen and Paulus Adrianus Ferdinand Maria Goemans declaring that the latter was the joint inventor of the invention which is the subject of the patent in suit and accordingly had a right to be mentioned as such in accordance with the terms of section 13(1). Additionally, part (b) of the Form had been amended in manuscript to state that Petrus Matheus Josephus Knapen ought not to have been mentioned as sole inventor of the invention.

The application was accompanied by declarations from the proprietors, Kinetron BV and Petrus Matheus Josephus Knapen, and a joint declaration by both these parties.

In accordance with rule 14(2), copies of the application under section 13(1) as originally filed and copies of the declarations by Kinetron BV and Petrus Matheus Josephus Knapen were sent to these two parties under cover of official letters dated 31 January 1995.

Following correspondence with the Office, the applicants subsequently filed an amended Patents Form 6/77 with the name of Mr Knapen deleted as applicant. In addition, part (b) of the Form was subsequently deleted in the Office on 24 March 1995 with the authority of the agents for Mr Goemans in their letter dated 23 February 1995. Mr Goemans, Mr Knapen and Kinetron were informed of this deletion in the official letters dated 24 March 1995.

Copies of the amended application were also sent with these letters dated 24 March. Additionally, in these letters the Office proposed that paragraphs 4 and 5 of the applicant's letter dated 23 February 1995 together with the joint declaration by the proprietors and named inventor dated 28 November 1994 be accepted as the statement in these proceedings.

Paragraphs 4 and 5 of the applicant's letter dated 23 February 1995 stated:

"We have now been advised by Kinetron BV that at the time the patent application was originally filed, they and their Dutch patent attorneys were under the impression that Mr Knapen was the sole inventor since Mr Goemans had not made any claim to be named as a co-inventor. It now transpires, however, that Mr Goemans has become more aware of his rights having recently become a researcher at the Eindhoven Technical University. He now places some importance on having his name mentioned as co-inventor since he has now learnt that a patent bearing his name can be added to the list of publications to his name and will add to his professional standing. This did not matter to Mr Goemans at the time that the invention was developed.

It should be appreciated that at the time the original patent application was filed, the applicants were acting in good faith in naming just Mr Knapen as the sole inventor and it is only recently, upon learning of the claim of Mr Goemans, that they have realised that in fact Mr Knapen had a co-inventor, Mr Goemans. There is of course now no dispute that this is the case."

The joint declaration by the proprietors and named inventor dated 28 November 1994 stated:

"The undersigned:

KINETRON BV, proprietors of European (GB) patent No 0295744

and

Petrus Matheus Josephus Knapen, presently named as sole inventor in European (GB) patent No 0295744

in support of their request for mentioning Mr P A F M Goemans as co-inventor in the subject European (GB) patent, jointly declare that when the application for this patent was filed, Mr Goemans - who actively worked and advised on the development of the invention covered by the patent and should indeed be considered co-inventor - did not at the time demand that he be named as such in the application.

The amiable relationship with Mr Goemans has since undergone some change and can now be described as a strictly businesslike relationship. Mr Goemans now requests to be mentioned as yet as the co-inventor. We explicitly support Mr Goeman's request."

Neither Kinetron BV or Mr Knapen has entered opposition to the application as allowed under rule 14(3). In the absence of such opposition and the declarations submitted, I am satisfied that Paulus Adrianus Ferdinand Maria Goemans is a joint inventor of the invention which is the subject of the patent in suit.

Section 77(1) of the 1977 Act provides:

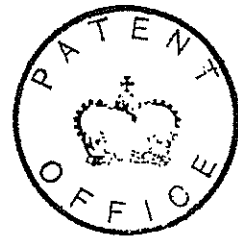
"77.-(1) Subject to the provisions of this Act, a European patent (UK) shall, as from the publication of the mention of its grant in the *European Patent Bulletin*, be treated

for the purposes of Parts I and III of this Act as if it were a patent under this Act granted in pursuance of an application made under this Act and as if notice of the grant of the patent had, on the date of that publication, been published under section 24 above in the journal; and-"

In the absence of any provisions to the contrary, I am satisfied that such relief that is available under section 13(1) in Part 1 of the 1977 Act in respect of a patent granted under that Act is also available in respect of a European patent (UK) as from the publication of the mention of its grant in the European Patent Bulletin.

I therefore decide under section 13(1) that Paulus Adrianus Ferdinand Maria Goemans should be mentioned in an addendum slip as joint inventor with Petrus Mtheus Josephus Knapen in respect of the granted specification of the EP(UK) patent.

Signed this 1 day of *August* 1995



LESLIE LEWIS

Principal Examiner, acting for the Comptroller