

0/195/97

Mr P Hayward
3Y46

PATENTS ACT 1977

IN THE MATTER OF

an application under Section 72

by Anthony Malcolm Morgan

for the revocation of European Patent (UK) No 0329959

in the name of Hans-Gerd Kaiser

Dennehey 10/10/97
Extension of appeal period
(by agreement)

DECISION

1. In an interim decision in these revocation proceedings dated 29 August 1997, I found that claims 1 to 5 of patent no EP(UK) 0329959 do not involve an inventive step in the light of JP 62-176817 (Mitsui), and that claims 6 to 9 lack novelty in the light of common general knowledge, and in doing so I noted that the wording of claim 1 in relation to the use of the expression "preferably as a solution" is not clear. Having found that grounds for revocation of the patent had been made out, I considered it appropriate, in the circumstances of this case, to allow the proprietor a period of two months from the date of that decision within which to submit to the Patent Office proposals for amendment with a view to placing the patent in a condition in which the need for revocation may be avoided. I also specified the subsequent timetable for these proceedings. I further stated that the period for appeal against that decision was six weeks after the date of the decision, this being as provided under Order 104, rule 19(2) of the Rules of the Supreme Court.

2. On 10 October 1997, the last day of the appeal period, the applicant for revocation faxed a letter to the Office seeking an extension of two months to the appeal period. Its reasons, in short, were so that it could take advice on the national and international implications of an appeal, and to make a decision following that advice. The international dimension arises from proceedings under the same European patent in Germany.

3. In a faxed letter of the same date, the proprietor expressed a willingness to agree to the requested extension, provided an identical extension of the period in which to file amendments

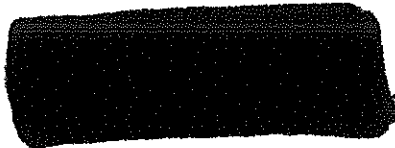
to the patent is also available to it. In a further faxed letter that day, the applicant agreed not to object to that request to extend the period for filing amendments.

4. Thus, I am faced with agreement between the parties to an extension of two months to both the appeal period and the period for the proprietor to file proposed amendments. In these circumstances, and given the unusual international dimension to this case, I am prepared to exercise the Comptroller's discretion on both counts.

5. Accordingly, I order that the period for appeal against my interim decision of 29 August 1997, as set out in paragraph 54 of that decision, shall be extended by two months, and that the period specified in paragraph 52 of that decision within which the proprietor might submit to the Patent Office proposals for amendment of the patent shall also be extended by two months.

6. This being a decision on a matter of procedure, any appeal against this decision shall be filed within fourteen days after the date of this decision.

Dated this 10th day of October 1997



S N DENNEHEY

Superintending Examiner, acting for the comptroller



THE PATENT OFFICE