

PATENTS ACT 1977

IN THE MATTER OF a reference by Gary Weston under Section 8(1) in respect of Patent Application 8819169 in the name of Coleman Moore Associates Limited

DECISION

Patent application 8819169 was filed by Coleman Moore Associates Limited ("Coleman") on 12 August 1988. The application was published on 28 February 1990 under Serial Number 2222145. The sole inventor was identified as Gary H Weston.

On 14 August 1989 Mr Weston filed a reference under section 8(1) in respect of this application, accompanied by a statement of case. Mr Weston alleged, inter alia, that the invention of the application was made by him in 1973 when he was not under any obligation, either by employment or otherwise, to any person to assign his alleged rights thereto. He stated that he had been employed by Coleman from 1987 to 1989, during which time he disclosed the invention confidentially to his employers and gave permission for them to file a patent application with, he alleged, a view to his receiving some reward for making the invention. He stated that he had been dismissed from Coleman's employment, and was in dispute with them over his dismissal. He referred to the Comptroller the question of whether the application should proceed in his sole name, and sought specified relief.

On 30 October 1989 Coleman filed a counter-statement in which, inter alia, they stated that their involvement in the project culminating in the application began after the commencement of the employment of Mr Weston by them. They alleged that he was involved in, and acquiesced to, the preparation of the patent application, but that he made no claim to entitlement until after his dismissal from their employment.

There followed a series of requests from Mr Weston for extensions of time for filing of evidence, associated in part with the stated existence of parallel proceedings for wrongful

dismissal. These were at first acceded to by Coleman, but in their patent agents' letter dated 20 February 1991 they strongly opposed any further extensions and asked for dismissal of the reference with costs in their favour. An Official letter dated 22 March 1991 set a final period for submission of Mr Weston's evidence-in-chief, which was not, in the event filed. Coleman's agents, in their letter dated 22 April 1991, repeated their request that, in the absence of Mr Weston's evidence-in-chief, the matter be dismissed, relying upon the derivation of title as expressed on Form 7/77 on the file of the application. An opportunity was given to Coleman to file evidence, but this was not taken up.

An Official letter dated 25 October 1991 to both parties stated that, in the absence of evidence, it was proposed to issue a formal decision dismissing the reference. Each party was invited to request a hearing or to make written submissions. Neither party availed themselves of this opportunity.

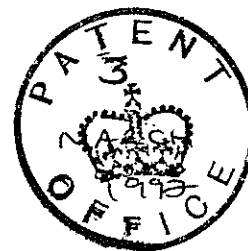
Therefore, in the absence of evidence to support Mr Weston's statement, I find that he has not established his case. Accordingly, I make no order in respect of the reference under section 8.

Turning to the matter of costs, first requested by Coleman in their agents' letter dated 20 February 1991, and taking into account both the early stage that these proceedings have reached and the substantial delays introduced by the referrer, I award Coleman Moore Associates Limited the sum of £150 as a contribution towards their costs, and direct that this sum be paid to them by the referrer, Gary Weston.

Dated this 3 day of March 1992

[Redacted signature]

DR P FERDINANDO
Superintending Examiner, acting for the Comptroller



THE PATENT OFFICE