

BLO/105/90

PATENTS ACT 1977

IN THE MATTER OF an application  
by Vereinigte Deutsche Metallwerke AG  
for the revocation of Patent No 2080332  
in the name of Haynes International Inc

SUPPLEMENTARY DECISION

In my decision dated 29 March 1990 I dismissed this application for revocation, but at the request of counsel for both parties, reserved the question of costs for further consideration.

The patentees have been entirely successful in resisting the application and now apply for costs based on the upper limit of the Comptroller's normal scale. In addition they produced for cross-examination, at the applicants' request, three witnesses from the United States, Dr Paul E Manning, Dr Asphahani and Mr Joseph Phillips, although in the event none of them were called for cross-examination. The patentees ask for a special award of costs in respect of the attendance of these witnesses, and have supplied a note of their expenses. I have considered these matters and now award the patentees the sum of £2500 as a contribution to their costs; I direct that this be paid to them by the applicants for revocation.

The patentees have requested that under the provisions of section 65(1) they be provided with a certificate of contested validity. In view of my findings in respect of the application for revocation it seems to me appropriate that I should accede to this request. I therefore certify that the validity of the patent has been contested and that the patent has been found valid in respect of the grounds pleaded under section 72. The applicants ask that any certificate in respect of the patent should be restricted to a contest of

validity based only on US Patent No 3203792. I do not consider such a restriction appropriate however. The grounds on which the validity of the patent has been contested are given in my earlier decision, and can be taken account of when discretion has to be exercised under section 65(2) in any subsequent proceedings.

Dated this 4 day of September 1990



W J LYON

Superintending Examiner, acting for the Comptroller

THE PATENT OFFICE

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