

PATENTS ACT 1977

IN THE MATTER OF a reference under
Section 12 by Scott Bader Company Limited
in respect of European Patent application No
721959 A2 in the name of Synthite Limited

DECISION

On 28 November 1996 Scott Bader Company Limited (the "referrer") referred to the Comptroller the question of whether it, and not Synthite Limited (the "applicant") is entitled to be granted any patent in pursuance of European Patent application No 721959 A2 or would have any right in or under such patent.

At the same time, the referrer drew attention to a parallel High Court Action CH 1994-S-No.3234 and contended that, by reason of the fact that the subject of the reference was already the subject of the High Court Action, the reference would be more properly determined by the High Court pursuant to Section 12(2) of the Patents Act 1977.

The Comptroller is always mindful that it would be undesirable and wasteful for the same issue, in this case an alleged misuse of confidential information by a former employee of the referrer, to be litigated both before himself and before the Court. The applicant has, moreover, confirmed that it agrees with the referrer's application for the question of entitlement to be heard as part of the High Court proceedings.

Accordingly, as provided for under Section 12(2), I decline to deal with the reference. In the circumstances, I make no order for costs.

As this is a procedural matter, any appeal against this decision must be lodged within 14 days.

Dated this 3rd day of February 1997

G M BRIDGES

Superintending Examiner, acting for the Comptroller



THE PATENT OFFICE