

Mrs Wilson
3942

PATENTS ACT 1977

IN THE MATTER OF an application under Sections 13 and 37 by Howard Samuel Northwood in respect of Patent No 2229114B in the names of Rupert Cholmondeley Rainsford Mann and Howard Samuel Northwood

mesly

DECISION

The original application under Section 8(1)(a) was made on 2 March 1992 but, since the patent was granted on 29 April 1992, it is now proceeding under Section 37 of the Act by virtue of the provision of Section 9.

The only issue I have to decide at this stage is the date on which the substantive hearing should be held.

In a letter dated 11 March 1994 the Patent Office informed both parties that the case was in order to be heard and, in accordance with normal practice, invited the parties within 14 days to agree upon a date for the substantive hearing and to make appropriate arrangements to be represented.

In his letter to the Office of 14 March 1994, Mr Mann explained that he is a student at Chelsea College of Art and Design and that, in order not to jeopardise his studies, he wanted the hearing to be deferred until after 30 June when the term ends.

By contrast, in his letter of 17 March 1994 to the Office, Mr Northwood disputed Mr Mann's reason for asking for a deferral and, for business reasons, repeated a previous request for an early hearing.

A further opportunity was offered by the Patent Office to enable the parties to resolve their differences, but no agreement was reached, and following the warning which had been given

to both parties that, in such circumstances, the Office would appoint the Hearing at 14 days notice, it was set down for 23 May 1994.

This date was challenged by Mr Mann and having regard to the provision of Rule 88 of the Patents Rules 1990, a hearing was appointed for 31 May 1994,

Mr Northwood advised the Office that he did not wish to attend this hearing and, although Mr Mann had indicated that he did wish to be heard, he did not appear at the appointed time and I shall therefore decide the matter on the basis of the papers on file.

Mr Northwood has pointed out in correspondence with the Office that Mr Mann has had a period of some 2 years in which to prepare his case for the substantive hearing although, of course, he has had only a matter of weeks since the reply evidence was filed and he was notified by the Office that the case was ready to be heard.

I have to say that, in all of the circumstances, I am not persuaded that it was unreasonable to expect Mr Mann to be able to present his case on the original date set down for the Hearing of 23 May 1994.

Nevertheless, he did challenge that date and, because of the requirements imposed by the Patent Rules, the earliest date on which the Hearing can now take place is during the second half of June.

In my view it would be unreasonable to appoint the Hearing during a period when Mr Mann is concerned with important examinations and, in view of the fact that he intends to represent himself, against the interests of justice.

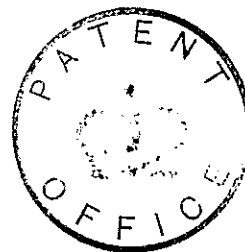
Having regard to Mr Northwood's interests, however, the Hearing should take place as soon as Mr Mann's examinations have finished and I have decided that it will take place on Friday 8 July 1994 at 10.30 am in the Courtroom at 25 Southampton Buildings.

Since this is a procedural matter, any appeal from my decision must be lodged within 14 days.

Dated this 9th day of June 1994



P J Herbert
Superintending Examiner, acting for the Comptroller



THE PATENT OFFICE