

THE PATENTS ACT 1977

IN THE MATTER OF

Patent application number GB9903088.4

in the name of Mr Jacob Ezra.

DECISION

1. The applicant (Mr Ezra) filed the present application on 8 February 1999 requesting under section 15(4) of the Patents Act 1977 that it be treated as a divisional on the earlier application GB9525056.9. The examiner, in two letters dated 18 & 23 March 1999, informed Mr Ezra that the new application could not be permitted to proceed as a divisional because it had not been filed by the latest allowable date calculated according to rule 24 of The Patents Rules 1995, namely 12 December 1998, unless he submitted a statement explaining the late filing and requesting that the comptroller's discretion be applied to allow the late filing. A latest date for filing a response was set but no response was forthcoming by that date.

2. A final letter was sent to Mr Ezra further explaining that the application would be refused if a statement justifying the late filing was not forthcoming, and also explaining that the end of the rule 34 period was fast approaching. A hearing was offered and the latest date for filing a response was extended to 10 June 1999. No response was received.

3. In the absence of any reasons whatsoever explaining the late filing of the divisional application I therefore find that the application fails to meet the requirements of section 15(4) because it was not filed in accordance with rule 24.

4. The applicant having made no attempt to amend the application so as to comply

with the requirements of the Act and the Rules, I therefore refuse this application under section 18(3). No search or substantive examination has been carried out on this application so I also direct that the fees paid on Forms 9/77 and 10/77 be repaid.

Appeal

5. As this decision relates to a substantive matter, any appeal should be lodged within six weeks of the date of this decision.

Dated this 3rd day of August 1999.

STEPHEN PROBERT

(Deputy Director acting for the Comptroller)