

## **PATENTS ACT 1977**

**IN THE MATTER** of patent applications numbers GB9706427.3, GB9805045.3, PCT/GB98/00803 and EP98913892.0 in the name of David Pearson; Patent Applications numbers GB9905434.8 and PCT/GB99/00624 in the name of Decalite Limited

and

a reference under sections 8(1)(a) and 12(1)(a) and an application under sections 13(1) and 13(3) by Howard Anthony Quinn

### **SECOND PRELIMINARY DECISION**

1. In a first preliminary decision (O/044/01), I allowed the claimant some time to complete filing of his evidence in chief, although not the full two months he had requested. In the event, by a letter dated 8 February 2001 the claimant declined to file any such further evidence.
2. On 3 April 2001, however, a letter was received (dated 2 April 2001) on behalf of the defendants similarly filing partial evidence only and requesting a one month extension to complete it. They have filed a single witness statement only and request the extension with a view to filing three further witness statements. They give some reasons for not filing each of the three witness statements.
3. These reasons are contested by the claimants on the basis of an alleged conversation between the claimant and one of the witnesses. The defendants for their part deny this. Agreement thus not being reached on whether or not the defendants' request should be allowed, both sides have said that they are agreeable to the matter being decided on the papers.

4. I am not inclined to try to rule on the matter of which of the two conflicting accounts with regard to the witnesses is correct . Instead I am going to look at the practicalities of the case.
5. These are that the defendants' evidence in chief was due in by 2 April 2001. If I was to deny them any extension, then they would already be out of time. I must comment that if they had flagged earlier in the proceedings that they had difficulties in filing their evidence, then it may have been possible to resolve this issue within the set time. However be that as it may, they request an extension up to 2 May 2001, ie to somewhat less than two weeks from the present time. Clearly, at least one of the additional witnesses is important to the case since it would appear that both sides have attempted to get him to testify on their behalf and it would appear that the interests of justice may be best served by allowing his testimony.
6. In the context of these proceedings it would appear unreasonable not to allow any extension, particularly since I have already allowed a similar extension to the other side. I therefore allow the requested extension, ie to 2 May 2001, for completion of filing of the defendants' evidence in chief. Further extension is unlikely to be granted.

#### **Costs**

7. Neither party has asked for costs and I make no award.

#### **Appeal**

8. This being a matter of procedure, the period for appeal is fourteen days.

Dated this 20<sup>th</sup> day of April 2001

**G M BRIDGES**

Divisional Director, acting for the Comptroller

**THE PATENT OFFICE**