

## **PATENTS ACT 1977**

IN THE MATTER OF an application  
under section 72 by Edward Evans Barker  
for the revocation of patent No GB  
2314392 in the name of Oystertec plc

### **DECISION**

- 1 This decision concerns a request to extend the period of 14 days for lodging an appeal against my decision of 25 July 2002. Under paragraph 16.5 of the High Court's Practice Direction 49E, made in respect of part 49 of the Civil Procedure Rules 1998, the comptroller may allow an extension if it is requested before the period expires.
- 2 In my earlier decision I found against Oystertec plc ("Oystertec"), who had objected to filing a counter-statement in revocation proceedings brought by Edward Evans Barker ("EEB"). I ordered Oystertec to file a counter-statement within 21 days. I also gave both parties a period of 14 days to make observations on costs.
- 3 In a letter dated 26 July 2002, Mr M R Harrison of Harrison Goddard Foote, Oystertec's patent agents, asked for an extension of 14 days to the appeal on the grounds that it would not be possible to prepare an appropriate notice of appeal in time. He explained that the solicitor conducting the proceedings would be on holiday for two weeks after 26 July, counsel handling the case had only limited availability for the next two weeks, and the person at Oystertec who had been handling the matter would be away throughout the week beginning 5 August. Mr Harrison pointed out that he had to date had no involvement with this stage of the proceedings.
- 4 The Patent Office wrote on 29 July 2002 asking EEB for their comments, and also inviting both parties to comment on whether the periods for Oystertec to file their counter-statement and for the parties to make observations on costs should also be extended.
- 5 In subsequent correspondence, Oystertec said that, for the same reasons as outlined above, they requested a 14 day extension of the period to make observations on costs, and of the period to file their counter-statement, and EEB said that they had no objection to an extension of 14 days to any of the periods.
- 6 I am satisfied that the lack of key advisers in the holiday season justifies the extensions which have been requested. I therefore extend to 22 August 2002 the period for lodging an appeal and the period for making observations on costs, and to 29 August

2002 the period for Oystertec to file their counter-statement.

- 7 This decision has its own period for appeal, which, since it relates to a procedural matter, is 14 days.

Dated this 5th day of August 2002

**R C KENNEL**

Deputy Director acting for the Comptroller

**THE PATENT OFFICE**