

12th September 2011**PATENTS ACT 1977**

BETWEEN

HUA Services LLP	Claimant
and	
<u>Hedgehog Golf Company Ltd</u>	Defendant

PROCEEDINGS

Reference under section 37 of the Patents Act 1977
in respect of patent EP(UK) 1 625 027

HEARING OFFICER Stephen Probert

DECISION

- 1 This is a reference to the comptroller under section 37 to determine entitlement to patent EP(UK) 1625027 ("the patent"). Before either party formally requested that the comptroller decline to deal with the reference, both parties had indicated that they would not object to the proceedings being transferred to the court. In the event, it was the claimant who was the first to request that the comptroller decline to deal with the reference¹.
- 2 The request is made on the grounds that the defendant has commenced infringement proceedings in respect of the patent in the Patents County Court. A copy of the claim form in the Patents County Court was provided by the claimant. The claimant in these proceedings is successor in title to one of the defendants named in the infringement proceedings, and entitlement is likely to be a part of any defence.
- 3 In the circumstances of this case, I am satisfied that the comptroller should decline to deal with the reference. This will enable the parties to deal with the issue in a single forum, which not only makes good sense, but is clearly what both parties want.
- 4 Therefore, in accordance with section 37(8), the comptroller declines to deal with this reference.

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S PROBERT

Deputy Director acting for the Comptroller

¹ NB. In patent entitlement proceedings, the comptroller does not 'transfer' proceedings to the court as such. He declines to deal with a reference, thereby enabling the court to have jurisdiction in the event that the claimant initiates proceedings before the court. Proceedings before the court must be commenced within 14 days of the date of the comptroller's decision. (CPR 63.11)