



PATENTS ACT 1977

BETWEEN

Medical Innovations limited

Claimant

and

INOV8 Medical Solutions Limited and Mr Daniel
Andrew Markovitch

Defendant

PROCEEDINGS

Reference under section 37 of the Patents Act 1977 in respect of GB2475948

HEARING OFFICER

P R Slater

DECISION

- 1 These proceedings relate to a reference under section 37(1) of the Patents Act 1977 and an application made under section 13(3) of the Act and rule 10(2), filed on 14 May 2012 by Medical Innovations limited (“the claimant”) in respect of GB2475948. Counterstatements were then filed by INOV8 Medical Solutions Limited and Mr Daniel Andrew Markovitch (“the defendants”) on 25 July 2012. An additional counterstatement was also received from Mr Andrew Eakins and his Company Medlogiq Ltd on 26 July 2012.
- 2 On 24 December 2012, the claimants requested the comptroller to exercise his discretion under section 37(8) of the Act, and decline to deal further with the proceedings on the basis that the reference would be more appropriately dealt with by the court. A copy of the claim form and particulars of claim relating to the corresponding court proceedings (HC12AO4625) were also supplied.
- 3 In their letter of 3 April 2013, the defendants acknowledge that the aforementioned court proceedings include the issue of entitlement and inventorship which are the subject of this reference and also request that the comptroller exercise his discretion and decline to deal further with these proceedings.
- 4 Given that both sides have requested that the comptroller decline to deal with this reference, and that it is clearly undesirable to have the same or largely similar issues litigated both before the comptroller and the court, I think it would be wholly

appropriate in these circumstances for me to accede to their request, and therefore I decline to deal with these proceedings under section 37(8).

Costs

- 5 I have not received any detailed submissions on the question of costs as such and accordingly I make no order in that respect.

Appeal

- 6 Any appeal must be lodged within 28 days

P R SLATER

Deputy Director acting for the Comptroller