



**PATENTS ACT 1977**

BETWEEN

Guy Jackson-Ebben

Claimant

and

(1)James Nash

Defendant

(2)Wine Innovations Ltd

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**PROCEEDINGS**

Reference under sections 8, 12 and 37 of the Patents Act 1977, and application under section 13 and rule 10(2), in respect of patent number GB 2469554 B and related patents or applications

HEARING OFFICER

Julyan Elbro

Schlich LLP for the claimant

MJP Deans for the defendant

Hearing date: Decision on the papers

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**DECISION ON CONFIDENTIALITY**

**Introduction**

- 1 In a Decision dated 30 October 2014<sup>1</sup> I concluded that the claimant's claim for entitlement to GB 2469554 B was not made out. This Decision addresses requests for confidentiality made in the proceedings. Pending this Decision, the file on this case has been not open to public inspection.
- 2 The parties each made submissions by letters of 27 November 2014 and 16 December 2014.

**The law**

- 3 Section 118(1) of the Act governs matters of confidentiality in patents matters and reads

**Information about patent applications and patents, and inspection of documents**

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<sup>1</sup> BL O/465/14 [http://www.ipo.gov.uk/pro-types/pro-patent/pro-p-os/p-challenge-decision-results-bl?BL\\_Number=O/465/14](http://www.ipo.gov.uk/pro-types/pro-patent/pro-p-os/p-challenge-decision-results-bl?BL_Number=O/465/14)

118.-(1) After publication of an application for a patent in accordance with section 16 above the comptroller shall on a request being made to him in the prescribed manner and on payment of the prescribed fee (if any) give the person making the request such information, and permit him to inspect such documents, relating to the application or to any patent granted in pursuance of the application as may be specified in the request, subject, however, to any prescribed restrictions.

4 The prescribed restrictions are set out in rule 53 of the rules which reads:

- 53** (1) Where a person files a document at the Patent Office or sends it to an examiner or the comptroller, any person may request that the document be treated as a confidential document.
- (2) The comptroller must refuse any request where it relates to—
- (a) a Patents Form; or
  - (b) any document filed in connection with a request under section 74A.
- (3) A request to treat a document as confidential must—
- (a) be made before the end of the period of 14 days beginning immediately after the date on which the document was—
    - (i) filed at the Patent Office, or
    - (ii) received by the comptroller, an examiner or the Patent Office; and
  - (b) include reasons for the request.
- (4) Where a request has been made under paragraph (1), the document must be treated as confidential until the comptroller refuses that request or gives a direction under paragraph (5).
- (5) If it appears to the comptroller that there is good reason for the document to remain confidential, he may direct that the document shall be treated as a confidential document; otherwise he must refuse the request made under paragraph (1).
- (6) But where the comptroller believes there is no longer a good reason for the direction under paragraph (5) to continue in force, he must revoke it.
- (7) In this rule references to a document include part of a document.

5 Thus far in the proceedings, the documents filed by the parties have been covered by a temporary order under this rule, pending final resolution after the end of the proceedings. That final resolution is the purpose of this Decision.

### **Requests by the parties**

6 The claimant seeks confidentiality in respect of three of the exhibits to his witness statement and in his notebook submitted in evidence at the hearing and scanned pages of that notebook. The defendant seeks confidentiality in one exhibit to a witness statement of Mr James Nash. The parties do not oppose each others' requests.

7 I find these requests to be justified in view of the potential commercial and personal sensitivity, and agree to make an order to keep these items confidential.

### **Conclusion and Order**

8 I make an order under rule 53 for exhibits GJE 06, GJE 14, GJE 07, JN 6, and the scanned pages of the notebook files 23 June 2014 to be redacted from the public file. The rest of the file is to be laid open to public inspection 28 days from the date of this Decision.

## **Appeal**

- 9 Any appeal must be lodged within 28 days

**JULYAN ELBRO**

Divisional Director acting for the Comptroller