



PATENTS ACT 1977

BETWEEN

Jansen Betonwaren B.V.

Claimant

And

Ian Robbie Christie

Defendant

PROCEEDINGS

Reference under section 72 of the Patents Act 1977 in respect of GB2414745 B

HEARING OFFICER

P R Slater

COSTS DECISION

- 1 These proceedings relate to a reference under section 72 of the Patents Act 1977 filed on 22 March 2013 by Jansen Betonwaren B.V. (“the claimant”) in respect of GB2414745 B (“the patent”). The patent was filed in the name of Ian Robbie Christie (“the defendant”) on 4 June 2004 and was granted on 15 August 2007.
- 2 The invention relates to the so-called “*EUROBLOCK*”, a self-interlocking building block manufactured primarily from a mix of concrete sand and cement, as well as elastomer and thermoplastics for use in creating flood prevention barriers.
- 3 The claimant’s original statement of grounds filed 22 March 2013 was subsequently amended on 30 May 2013 to take account of post grant amendments which had been made to the specification. The defendant’s counterstatement was filed on 16 August 2013.
- 4 On 18 December 2013, the claimant filed a further amended statement of grounds (“*the re-amended statement*”) together with their evidence-in-chief. The re-amended statement introduced a further ground for revocation that of prior public use of a building block called the “*Legioblock*” which had allegedly been manufactured and sold by Jansen Betonwaren B.V. prior to the filing of the patent in June 2004.

5 In my decision¹ of 21 October 2015, I found the patent to be invalid for lack of novelty or alternatively due to a lack of a sufficiency in its disclosure and ordered that the patent be revoked. I deferred the question of costs pending further written submissions from the parties. These have now been provided and form the basis on which my decision has been made.

Costs before the comptroller

6 It is long-established practice for costs awarded in proceedings before the Intellectual Property Office (IPO) to be guided by a standard published scale. The scale costs are not intended to compensate parties for the expense to which they may have been put, but merely represent a contribution to that expense. This policy reflects the fact that the IPO ought to be a low cost tribunal for litigants, and builds in a degree of predictability as to how much, proceedings before the IPO may cost them. Tribunal Practice Notice 4/2007² sets out the standard scale and explains how costs are to be determined. The Tribunal Practice Notice also states that a Hearing Officer may depart from the published scale of costs and even award costs approaching full compensation to deal proportionately with wider breaches of rules, delaying tactics or other unreasonable behaviour.

7 The claimants in their letter dated 30 October 2015 have requested a payment of circa £24,908 (which they say amounts to just 60% of their alleged costs which total £41,514) on the basis that the defendants acted unreasonably in seeking to maintain a patent which they ought to have known, on the basis of the evidence, was invalid and that they were not entitled to.

8 The defendant disagrees saying that he acted in good faith believing the patent to be valid. His arguments are laid out in his letter dated 18 November 2015.

Conclusion and Order

9 The claimants having been successful in their application for the comptroller to have GB2414745 B revoked are entitled to ask for an award of costs in their favour. The sum they have requested goes well beyond that which would normally be awarded should I follow the standard scale, and it is clear to me, that if I am to award costs which are off the scale, I must be certain that the defendant's behaviour has been unreasonable. Whilst I think these proceedings could perhaps have been drawn to a conclusion much earlier, I certainly do not think that the defendant's behaviour can be described as obstructive, or that it was intended to create uncertainty and deliberately delay proceedings. I therefore do not think this warrants an award beyond the standard scale.

10 I therefore order the defendant (Ian Robbie Christie) to pay the claimants (Jansen Betonwaren B.V.) the sum of £2000 as a contribution to their costs. This sum should be paid within seven days of expiry of the appeal period below. Payment may be suspended in the event of an appeal.

Appeal

¹ BL O/496/15

² <http://www.ipo.gov.uk/p-tpn-42007.htm>

11 Any appeal must be lodged within 28 days after the date of this decision.

P R SLATER

Deputy Director acting for the Comptroller