



## PATENTS ACT 1977

BETWEEN

Alan Tredwell Neath and Irmgard Neath

Claimant

and

Peter Neath

Defendant

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PROCEEDINGS

Reference under sections 12(1) and 37(1) of the Patents Act 1977 in respect of  
GB0902490.2 and PCT/GB2009/001121

HEARING OFFICER

Peter Slater

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## DECISION - COSTS

### Background

- 1 Patent application GB0902490.2 entitled "Tool handle" was filed in the name of Peter Neath ("the defendant") on 16 February 2009 claiming an earliest priority date of 7 May 2008. The application was subsequently published as GB2459912 on 11 November 2009 and granted with effect from 9 June 2010. The corresponding international application PCT/GB2009/001121 was filed on 6 May 2009 and was published as WO2009/136150 on 12 November 2009.
- 2 On 31 May 2013, Alan Tredwell Neath and Irmgard Neath ("the claimants") filed a reference under sections 12(1) and 37(1) of the Patents Act 1977, and an application under section 13(3) of the Act and rule 10(2) in respect of the aforementioned patents.
- 3 Proceedings were subsequently suspended as the parties entered into mediation on 29 November 2012 and an agreement of some sort was reached on 10 January 2013 albeit I have not been privy to its contents. However, the claim was not withdrawn as one might normally expect. It was therefore left for me to decide how to proceed with this reference. In my subsequent decision<sup>1</sup> of 12 September 2013, I decided to decline to deal with the claim under Sections 12(2) and 37(8) of the Act

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<sup>1</sup> BL O/371/13

on the grounds that it would seem wholly inappropriate for me to decide a matter that had potentially already been resolved by a contractually binding agreement and that any outstanding issues were likely to be of a contractual nature which would be more properly dealt with by the Court. Whilst I invited both parties to make submissions on the issue of costs, I indicated in my decision that I did not envisage a significant award if any being made on account that the matter seemed to have been resolved by mutual agreement following mediation.

- 4 The claimants have made no specific claim for costs and seem to suggest that no award should be made to either party whilst the defendants have asked for the sum of £1062 in respect of their patent attorneys fees.

### **Order**

- 5 In general costs should be awarded to whichever party was successful. However, in this case there is no clear winner as the dispute was effectively settled before having reached the substantive hearing. Given that there have been no formal evidence rounds and no hearing, I can see no compelling reason to award costs in favour of either party and therefore make no such order.

### **Appeal**

- 6 Any appeal must be lodged within 28 days

**P R SLATER**

Deputy Director acting for the Comptroller