

PATENTS ACT 1977

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S. Durow
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01/17/93

IN THE MATTER of
Patent No 2217291
in the name of Norman Whitley

DECISION

Patent No 2217291 was granted to Norman Whitley and Thomas Fuller on 7 November 1990, but by virtue of an assignment dated 6 November 1990, registered on 27 December 1990, Mr Fuller ceased to be a registered proprietor of the patent. In December 1990, Mr Whitley's registered address was changed to 20 Whitworth Drive, Newton Aycliffe, County Durham, DL5 2SZ.

The examiner informed the proprietor in an official letter dated 12 June 1991 that it was considered that the invention claimed in at least some of the claims of the patent in suit had been published in GB 2201132 lying within the ambit of Section 2(3) and that, in view of the Comptroller's powers under Section 73(1), revocation of the patent was therefore under consideration. The proprietor was invited in that letter to submit observations and/or proposals for amendment within a period of three months.

The period set for response to the invitation was extended because of the illness of the proprietor, and a response was received in a letter filed at the Patent Office on 11 February 1992. The Office replied to Mr Whitley by saying that it was not treating the letter as being filed in connection with the patent because it had not been filed through his patent agent. The official letter was sent to 19 Sheraton Road, Newton Aycliffe, the address given at the top of the letter of 11 February, and was also copied to the proprietor's patent agent. On 10 April 1992, the Office was notified that Mr Whitley's patent agent was no longer acting for him, and on 2 June 1992 the registered address for service was changed to 20 Whitworth Drive, Newton Aycliffe.

However, the Office assumed that the proprietor's current address was 19 Sheraton Road and a detailed letter dated 5 June 1992 was sent making it clear that action was to be taken

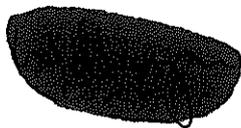
leading to the revocation of the patent. In a further letter of 28 September 1992, also sent to 19 Sheraton Road, Newton Aycliffe, the proprietor was informed that, if he wished to be heard before the Comptroller determined the matter, he should submit a request for the appointment of a hearing within six weeks.

The official letter of 28 September 1992 was returned undelivered by the Post Office indicating that the proprietor was no longer at his last known address. The Patent Office therefore made efforts to locate the proprietor via the head postmaster of the proprietor's last known postal district. In reply a letter from the Post Office dated 13 November 1992 confirmed that the proprietor had moved from 19 Sheraton Road without leaving any forwarding address. A further letter sent to Mr Whitley at his registered address (20 Whitworth Drive, Newton Aycliffe) on 21 January 1993 was returned by the Post Office marked "Gone away".

In these circumstances I am satisfied that the Patent Office has made all reasonable efforts to locate the proprietor, inform him of his statutory rights and allow time for him to exercise those rights. I have also considered the proprietor's only submission (his letter received 11 February 1992) and I am satisfied that it does not in fact contain anything relevant to the present proceedings.

I have studied the patent in suit and the disclosure of GB 2201132, and am satisfied that the invention claimed in at least some of the claims of the patent in suit has been published in the cited document and that the conditions of Section 2(3) are satisfied. Accordingly, I order the revocation of the Patent No 2217291 under Section 73(1).

Dated this 11 day of February 1993.



W J LYON

Superintending Examiner, acting for the Comptroller

THE PATENT OFFICE