

PATENTS ACT 1977

0/28/93

IN THE MATTER OF an application under Section 72 by Xyllyx Viewdata Terminals PTE Ltd in respect of Patent No 2184919 in the name of GPT Limited

DECISION

Application was made on 9 October 1991 under Section 72 of the Patents Act 1977 by Xyllyx Viewdata Terminals PTE Ltd (the "applicants") for revocation of UK Patent No 2184919 in the name of GEC Plessey Telecommunications Ltd (now GPT Limited) (the "proprietors"). In accordance with rule 75(1) of the Patent Rules 1990, the application was accompanied by a statement setting out the grounds of revocation, the facts on which the applicant was relying and the relief sought. In accordance with rule 75(2), a copy of the application and statement was sent to the proprietor of the patent under cover of an official letter dated 12 November 1991.

Also on 12 November 1991, the Office wrote to the applicants requesting formal notification of their address and, in the event that they neither resided nor carried on business in the UK, requiring them to give security for costs in accordance with Section 107(4)(b) of the Patents Act 1977.

On 10 January 1992, the proprietors contested the application for revocation in a counter-statement setting out the grounds on which the application was contested and requesting the comptroller to require security for costs from the applicants on the grounds that the latter were a company registered in Singapore and conducted no significant business in the United Kingdom. In accordance with rule 75(3), a copy of the counter-statement was sent to the applicants under cover of an official letter dated 27 January 1992. This letter also reminded the applicants that a response to the official letter dated 12 November 1991 with regard to providing security for costs was outstanding.

The applicants wrote to the Office on 31 March 1992 requesting an extension until 30 April 1992 in which "to reply to" the proprietors' counter-statement. The applicants also contended that, whilst they were a Singapore registered company, the question of security for costs did not arise for two reasons. First, they had a place of business within the Channel Islands. Second, the proprietors were not, at that stage, employing an external patent agent or lawyers.

In an official letter dated 26 May 1992, the applicants were informed of the Office view that an applicant company only having a place of business in the Channel Islands did not have a place of business within the United Kingdom for the purposes of Section 107(4) of the Patents Act 1977. The applicant was allowed a further period of one month in which to provide security for costs and informed that if the required security was not given the application would be treated as abandoned.

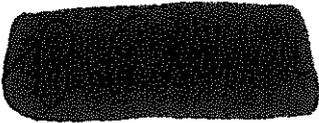
The applicants wrote to the Office on 23 June 1992 and requested reconsideration of the matter of security for costs on the grounds that, whilst not resident in the United Kingdom, they did carry on business within the United Kingdom. In an official letter to the applicants dated 6 August 1992 the Office expressed the preliminary view that the Comptroller could not proceed on the basis of a mere assertion unsupported by any evidence that the applicants, being a company registered in Singapore and having a place of business in the Channel Islands, carried on business within the United Kingdom. The applicants were accordingly allowed a period of one month from the date of the official letter in which either to file such evidence which would then be considered or to give security for costs as set out in the official letter dated 26 May 1992.

No reply to the official letter of 6 August having been received, the applicants were informed in a further official letter dated 24 September 1992 that, in absence of evidence as requested or of an undertaking to provide security for costs, it was proposed to treat the application for revocation as abandoned under Section 107(4) subject to any comments within one month of the date of the official letter.

No such comments having been received, I direct that the application for revocation be treated as abandoned pursuant to Section 107(4)(b) on the grounds that the applicants have not given the security for the costs of the proceedings as required by the comptroller.

This being a decision on a matter of procedure, a period of 14 days from the date of this decision is allowed for an appeal to be lodged.

Signed this 15 day of February 1993



B G Harden
Superintending Examiner, acting for the Comptroller



THE PATENT OFFICE