



THE PATENTS ACT 1977
(THE PATENTS RULES 2007)

CLAIMANT Sinclair IS Pharma plc

ISSUE Application under section 72 for
revocation of UK Patent GB2492900
in the name of Falah Hasan Ali

HEARING OFFICER H Jones

DECISION

Introduction

- 1 This decision relates to an application under section 72(1) by Sinclair IS Pharma plc for revocation of UK patent GB2492900 in the name of Falah Hasan Ali. The patent relates to a surgical needle for use in facial cosmetic surgery and was granted on 11 June 2013. As set out in the claimant's amended statement of case dated 5 June 2015, revocation is sought on the grounds that claims 1 to 4 of the patent lacks novelty and/or inventive step with regard to various documents identified by the International Search Authority in respect of the equivalent PCT application, WO2014/013210 A1, and on the further ground that that the specification does not disclose the invention clearly enough or completely enough for it to be performed by a person skilled in the art.
- 2 Despite the many attempts made to contact the patentee to inform him of the application for revocation and inviting counterstatement, the patentee has not filed a response to this application. Therefore, in accordance with rule 77(9), the comptroller must treat the patentee as supporting the claimant's case.

Case for revocation

- 3 The claimant notes that claims 1-4 of the patent are identical to those of WO2014/013210 and argues that the opinion of the International Preliminary Examiner in relation to these claims, as set out in the International Preliminary Report on Patentability dated 20 January 2015, are equally valid in respect of claims 1-4 of the patent. The International Preliminary Report cites three pieces of prior art: WO2007/053812 A2 (D1), WO2010/062743 A2 (D2) and CN201883279 U (D3).
- 4 The claimant argues that the wording of claim 1 is extremely unclear and that a purely literal reading of the claim is inappropriate. Even though the claim is directed to a modified surgical suture, the characterising aspects of claim 1 relate instead to features of the long needle used in applying the suture i.e. the curved slit near the

blunt lower end and the bifid upper end. The claimant says that reference to the term “silhouette” in claim 1 relates to a trade name for various types of suture assemblies available in the marketplace, and notes that the specification does not explain how the suture assembly is to be modified in any way. The claimant argues that the only logical, purposive construction of claim 1 is one that requires only a needle having all the features referred to in the claim. I agree with this assessment – when construed correctly, claim 1 defines a needle having a curved slit near its blunt lower end and a bifid upper end.

- 5 The International Preliminary Report points to figures 11 and 12a of document D1, figure 3 of document D2 and figures 1-3 of document D3 as disclosing the subject-matter of claim 1. I am satisfied that document D2 discloses a long needle having a curved slit towards the blunt lower end and a bifid/channel at the upper end such that a suture can be stretched and fixed over the long needle for proper surgical insertion. In the absence of any comment to the contrary from the patentee, I find that at least one ground for revocation of the patent has been made out and that this is sufficient for revocation to proceed.

Order

- 6 I order that UK patent GB2492900 be revoked.

H Jones

Deputy Director, acting for the Comptroller