Intellectual Property Office

BL O/550/15

24 November 2015

PATENTS ACT 1977

BETWEEN

Sven Kerpe	Claimant
and	
Hans Mathea	Defendant

PROCEEDINGS

Reference under Section 37 and application under Section 13(3) and rule 10(2) in respect of EP(UK) 2 429 823 B1

HEARING OFFICER Stephen Probert

Decision off the papers

DECISION

1 Patent No. EP(UK) 2 429 823 B1proceeded to grant in the name of Hans Mathea. There was one named inventor - Hans Mathea.

2 Sven Kerpe has made an application under rule 10(2) of the Patents Rules 2007 to the effect that he should have been named as sole inventor, and an application under section 13(3) to the effect that Hans Mathea should not be mentioned as inventor. Sven Kerpe has also filed a reference under section 37 of the Patents Act 1977 requesting that he is named as sole proprietor of the patent.

3 Hans Mathea has confirmed in writing that he consents to Sven Kerpe being named as sole inventor and that Sven Kerpe should also be named as sole proprietor.

The law

4 The proceedings have been brought under section 37 and 13(1) of the Patents Act 1977 and rule 110(2) of the Patents Rules 2007, the relevant parts of which read:

Section 37

37.(1) After a patent has been granted for an invention any person having or claiming a proprietary interest in or under the patent may refer to the comptroller the question-
(a) who is or are the true proprietor or proprietors of the patent

(b)..
(c)..
and the comptroller shall determine the question and may make such order as he thinks fit to give effect to the determination.

Section 13(3)

(3) Where a person has been mentioned as sole or joint inventor in pursuance of this section, any other person who alleges that the former ought not to have been so mentioned may at any time apply to the comptroller for a certificate to that effect, and the comptroller may issue such a certificate; and if he does so, he shall accordingly rectify any undistributed copies of the patent and of any documents prescribed for the purposes of subsection (1) above.

Rule 10

10.(1) An inventor or joint inventor of an invention, if not mentioned in any published application for a patent, or in any patent granted, for the invention, must be mentioned in an addendum or an erratum to the application of patent.
(2) A person who alleges that any person ought to have been mentioned as the inventor or joint inventor of an invention may apply to the comptroller for that person to be so mentioned-
(a) In any patent granted for the invention; and
(b) If possible in any published application for a patent for the invention
and if not so mentioned, in the manner prescribed by paragraph (1).
(3)..

(4)..

Conclusion

5 In view of the consent filed by Hans Mathea, it is clear that both parties agree that Sven Kerpe should be named as sole inventor and sole proprietor. I see no reason in law why the Comptroller should not accept that this is the correct outcome.

Order

6 Accordingly I find that Sven Kerpe is entitled to be named as sole inventor and sole proprietor of patent number EP(UK) 2 429 823 B1. I direct that the patents register be updated and an addendum slip be prepared for the granted patent to reflect this finding.

Stephen Probert
Deputy Director acting for the Comptroller