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GB2267412  
5 February 2008

Dear Mr Hall,

1 I am writing in response to your application received on 19 December 2007 for correction of the Patents Register in respect of patent GB2267412. You requested deletion of the entry made on 20 September 2004 showing assignment of the patent from Sense-Sonic Ltd to Tonewear Ltd (now Conversor Products Ltd).

2 On reflection we have decided that we should address your request now and not defer the matter until the revocation proceedings are concluded.

3 I am also responding to your letter of 10 January 2008 to Ian Fletcher, in which you sought a similar correction to the Designs Register in respect of designs 2022759 and 2027609.

4 Your request for correction of an error in the Patents Register has been considered under Rule 50 of the Patents Rules 2007. Rule 50 specifies:

**50.** (1) Subject to rule 49, any person may request the correction of an error in the register or in any document filed at the Patent Office in connection with registration.

(2) The request must be—

(a) made in writing; and

(b) accompanied by sufficient information to identify the nature of the error and the correction requested.

(3) If the comptroller has reasonable doubts about whether there is an error—

(a) he shall inform the person making the request of the reason for his doubts; and

(b) he may require that person to furnish a written explanation of the nature of the error or evidence in support of the request.

(4) If the comptroller has no doubts (or no longer has doubts) about whether an error has been made he shall make such correction as he may agree with the proprietor of the patent (or, as the case may be, the applicant).

5 We have already accepted that we should have queried the discrepancy between the form 21/77 for this entry which described the transaction as an assignment, and the accompanying document which referred to a sale agreement (Ian Fletcher's letter of 12 November 2007 refers).

6 However, accepting that we made a procedural mistake is not the same as having no doubt that there is an error on the Register. Whilst we accept that the agreement submitted by Wilson Gunn M'Caw is not an assignment, it is an agreement that records the sale of intellectual property (including patent GB2267412) by Sense-Sonic Limited to Tonewear Limited and clause 4.5 requires Sense-Sonic Limited to assign this patent to Tonewear Limited. If we had asked Wilson Gunn M'Caw for more evidence to confirm the nature of the transaction we cannot know what they would have said. Consequently we cannot know what entry should have been made in respect of the transaction. It is possible that they would have provided evidence to show that the transaction was an assignment, in which case our registration as an assignment would be correct. It is therefore possible that, despite our procedural error, the correct entry was made on the register.

7 Given the evidence before me I cannot say that there are no doubts about whether an error has been made. Nor can I say with certainty what, if an error had been made, the correct entry should be. Consequently, it is my view that the conditions set out in Rule 50(4) are not satisfied and the requested change to the Register cannot be made.

8 Correction of the Register is normally used only to put right minor errors such as typographical mistakes, for example spelling or other mistakes where it is readily apparent that a mistake has been made and what the correct entry should be. The usual route for resolving matters relating to entitlement in or under a patent is through entitlement proceedings. I understand that you have previously initiated such proceedings in relation to patent GB2267412.

9 I understand that a similar or identical question relating to an entry on the Trade Marks Register in respect of the agreement dated 15 September 2003 is currently the subject of inter partes proceedings, and that the preliminary view in those proceedings is that the case be referred to the courts because it raises complex issues which would be better dealt with in that forum.

10 If you are dissatisfied with my conclusion you may ask for it to be reviewed by a senior officer within the UK Intellectual Property Office. Please let me know within 28 days of the date of this letter if you wish for such a review.

11 Turning to your request for a similar correction to the Designs Register in respect of designs [2022759](#) and [2027609](#). I have considered your request under section 21 of the Registered [Designs Act 1949](#) which says:

21 Power to correct clerical errors

(1) The registrar may, in accordance with the provisions of this section, correct any error in an application for the registration or in the representation of a design, or any error in the register of designs.

(2) A correction may be made in pursuance of this section either upon a request in writing made by any person interested and accompanied by the prescribed fee, or without such a request.

(3) Where the registrar proposes to make any such correction as aforesaid otherwise than in pursuance of a request made under this section, he shall give notice of the proposal to the registered proprietor or the applicant for registration of the design, as the case may be, and to any other person who appears to him to be concerned, and shall give them an opportunity to be heard before making the correction.

12 In [my judgement](#), the arguments in relation to your request to change the Patents Register apply equally to this request. While we may have made a procedural error in dealing with the transaction between Sense-Sonic and Conversor Products, it is not clear that this has [resulted](#) in an error on the [Designs Register](#) (see paragraph 4 above).

13 Similarly, section 21 is usually used only to correct typographical errors where it is clear that a mistake has been made and what the correct entry should have been. It is not normally used to resolve entitlement matters. The usual route for resolving disputes about entitlement is through section 20, [Rectification of the register](#). Section 20 proceedings are before the court, not before the Office. The relevant court for such an action would be the High Court or a patent county court having jurisdiction by virtue of an order under section 287 of the Copyright, Designs and Patents Act 1988.

14 Consequently, [my judgement](#) is that we should not make the change to the Designs Register which you have requested.

15 If you are dissatisfied with [my conclusion](#) in relation to the Designs Register you may ask for it to be reviewed by a senior officer within the UK Intellectual Property Office. Please let me know [within 28 days](#) of the date of this letter if you wish for such a review.

16 I am copying this letter to the addresses for service for Conversor Products Limited, the registered proprietors of patent GB2267412 and of registered designs 2022759 and 2027609. A copy will also be placed on the patent file.

Yours sincerely

~~Debbie Cooke (Mrs)~~ Registers Manager see the Word Document Properties for the author-decision-maker (Paul Twyman)