

THE HONOURABLE MR JUSTICE JACOB

26 March 1996

25        Stena advance three answers in law, failing which they appeal to discretion. Before turning to these I must mention a general observation made by Mr Miller QC for Stena. He submitted that if McDermotts were right, there could be very serious commercial consequences arising under s.68. He said it frequently happens that there are global sale and purchase agreements which happen to include British Patents. Such agreements may include

30        not only intellectual property of all kinds in many countries but also physical assets. Moreover many (probably most) such agreements are entered into by foreign companies, generally on both sides and indeed very often the agreement will not even be governed by English law. The authors would be unaware of the trap laid for them by s.68. So if any such agreement was

8

followed by a short form of assignment, only the latter being submitted for stamping and then registration at the Patent Office then the patentee would be caught by the arguments he had to meet. Furthermore he said, even if the parties were aware of the problem and had to bring the original international sale agreement into the country for stamping there would be substantial

5        practical difficulties.

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