

the hearing. Even then the pleadings had to be amended during the hearing and I had to order that allegations of dishonesty made in an affidavit should be struck out and the original affidavit removed from the file to be replaced by an affidavit with the offending matter omitted. People should realise that not only is it the case that a charge of fraud must be properly framed if it is to be made at all, but that if such a charge having been made is to be withdrawn it should be properly withdrawn. Bits of the charge should not remain lying around in court files or pleadings.

I turn back to what happened. The patent agent did not re-submit A1 to the Stamp Office, as he could have done explaining that the valuation he had reached and why. What he did was to prepare a fresh assignment, A2. His reason for doing this was explained in a letter to Stena of 13th February 1990:

“The most straightforward way of proceeding on the UK cases would be to replace the existing formal assignment with a new one placing reasonable estimates of value on the UK patent rights, and pay Stamp Duty on those values.”

I have explained how he made that estimate, reaching a figure of £54,000. The parties considered this and were prepared to enter into A2 on that basis. Moreover I have express evidence from an officer of Stena that he thought the valuation “about right.” Thus it is that the operative part of A2 came to read:

“NOW THEREFORE in consideration of £54,000 the receipt whereof is hereby acknowledged by the Assignor as beneficial owner and hereby assigns to the Assignee completely all right title and interest in and to the Patent Rights together with the right to sue in respect of infringements of the Patent Rights both before and after the date hereof.”

The “Patent Rights” included the patents included in A1. A2 recited the original agreement to assign but made no mention of A1.

A2 was in due course signed by both parties, thus complying with s. 30(6). The second party to sign did so on 1st September 1992. The document was presented to the Stamp Office for adjudication. There was no formal adjudication though the Stamp Office could have required that procedure. The Office accepted the valuation of £54,000. This led to a duty of £540 which was paid and the document was stamped accordingly. It was then presented (with some delay, irrelevant in this application) to the Patent Office with the relevant forms by letter of 1st October 1992. The Patent Office recorded A2 on the register. In the