

of a patent or application for a patent or any document filed in connection with a patent or such an application.

Analysis

- 5 From inspection of the case file, it is clear that Mr Melling's request is the latest round in a long running dispute stretching back to 2005 over who owns the patent. Furthermore, it is equally clear that Mr Melling is firmly of the view that his request relates to correction of an administrative error and is non-contentious. I also note that he has filed no evidence to support his request.
- 6 It is true that section 117 is concerned with the correction of errors in specifications and in other documents filed in connection with patents and applications. However, the essential point is that this section deals with **clerical** errors or mistakes. For example, section 117 may be used to correct a spelling mistake in a name and the Register of Patents will be updated accordingly if the correction is allowed.
- 7 Contrary to Mr Melling's belief, section 117 cannot be used as the way to substitute one named inventor or proprietor for another as this goes far beyond what is meant by a correction of a clerical or "administrative" error (to use Mr Melling's word). If I were to allow his request, the effect of my decision would be to deprive Mr Birkett and Mr Butler of their rights as named inventors without giving them an opportunity to challenge Mr Melling's assertions. To do so would be contrary to natural justice. I therefore refuse the request.
- 8 In my view, this request is essentially about who is entitled to be named as the inventor in patent GB 2383533B. If so, then the proper course for Mr Melling, if he wishes to pursue that issue, is for him to file proceedings under section 13(3) which is the section of the Patents Act concerned with the removal of an inventor mentioned in a patent. I should add that, in the event I have misunderstood Mr Melling's request and he is seeking also to be named as the sole proprietor of the patent, I would also refuse that request under section 117. The proper course of redress in that instance is for him to file proceedings under section 37 as he is already aware.

Decision

- 9 I refuse Mr Melling's request under section 117 to correct the Register of Patents to name him as the sole inventor in respect of patent GB 2383533B.

Appeal

- 10 Under the Practice Direction to Part 52 of the Civil Procedure Rules, any appeal must be lodged within 28 days. I would strongly urge Mr Melling to think carefully before pursuing this course of action as the costs are likely to be high should he be unsuccessful.

MRS S E CHALMERS

Deputy Director acting for the Comptroller