

**IN THE REGISTRY OF PATENTS OF
THE INTELLECTUAL PROPERTY OFFICE OF SINGAPORE
REPUBLIC OF SINGAPORE**

**Application for the Revocation of a Patent under the
Patents Act (Cap. 221) Section 80 and the Patents Rules Rule 80
In Patent P-No. 45087**

By MacDermid, Incorporated (“Applicant”)

And

In the Name of Alpha Fry Limited (“Patentee”)

*Assistant Registrar of Patents, Sandra Lynn Merinda
29 July 2009*

REGISTRAR’S DECISION

***Decision** – application to revoke a patent under section 80(1)(a), (c) and (d) of the Patents Act – patentee does not wish to take part in subsequent proceedings – applicant does not wish to provide written submissions or be heard in the matter – conclusion of the re-examination report – whether an order should be issued to revoke the patent under section 80(5).*

1. On 14 August 2001, MacDermid, Incorporated (the applicant for revocation of the patent hereinafter referred to as the “Applicant”) filed an application to revoke Patent P-No. 45087 (subject patent) entitled “Copper Coating” in the name of Alpha Fry Limited (the proprietor of the patent hereinafter referred to as the “Patentee”) with the Registrar based on the grounds under section 80(1)(a), (c) and (d) of the Patents Act.
2. The Registrar sent a copy of the application and the statement of the grounds of revocation to the Patentee on 5 September 2001 in accordance with rule 80(2) of the Patents Rules. The Patentee filed their counter-statement on 4 June 2002 and served a copy of the same on the Applicant. This was accompanied by a copy of the proposed amendments to all the claims.
3. On 4 December 2002, the Applicant filed evidence in support of their case. The Patentee proceeded to file their evidence in support on 4 June 2003. Both the Applicant and the Patentee served a copy of their respective evidence on each other.
4. After the evidence round, the Registrar conducted a Pre-Hearing Review with both the Applicant and the Patentee on 27 February 2004 wherein both the Applicant and the Patentee agreed to stay the Singapore proceedings until the European proceedings relating to the corresponding European patent was resolved whilst at the same time also working on settlement terms. This was recorded by way of a letter from the Registrar dated 11 March 2004 that was served on both the Applicant and the Patentee.
5. Thereafter, the Registrar corresponded with the Applicant and the Patentee on the progress of the European proceedings as well as on the settlement negotiations. On 3 January 2005, the Registrar received a letter from the Patentee informing that they do not wish to take part in subsequent proceedings relating to the revocation matter. A copy of this letter was also served on the Applicant.
6. The Applicant responded in their letter of 10 March 2005 that they still intend to pursue with the revocation action. A copy of this letter was also served on the Patentee.
7. The Registrar asked both the Applicant and the Patentee in a letter of 8 December 2005 if any party wanted to provide written submissions or be heard in the revocation matter. The Patentee maintained in a letter of 12 December 2005 that as earlier indicated on 3 January 2005, they do not wish to take part in subsequent proceedings relating to the revocation matter. The Applicant responded in a letter of 8 February 2006 that they do not wish to provide written submissions or be heard in the matter.
8. As both the Applicant and the Patentee had failed to settle, the Registrar invoked section 80(2) and caused the patent together with the proposed amendments to the claims to be re-examined by an Examiner.
9. On 14 July 2006, the Applicant filed the relevant form, Patents Form 36 and fee as required under rule 81(1)(a) and on 30 August 2006 the Registrar sent the re-examination request to the Examiner. The re-examination report was issued on 22 August 2007 and as required under rule 82, on 31 August 2007, the Registrar sent a copy of the report to both the Applicant and the Patentee.

10. On 23 June 2009, the Registrar issued a letter informing both the Applicant and the Patentee that a decision will be made on the revocation matter under section 80 unless the Registrar heard from either the Applicant or the Patentee by 6 July 2009 on whether they intended to make any further application or submission on the matter. Neither the Applicant nor the Patentee responded by the deadline.

Held, ordering the unconditional revocation of the patent.

11. As required under rule 82 of the Patents Rules, the Registrar shall take into consideration the conclusions of the re-examination report in making his determination on the patent or the patent as amended.
12. The conclusions of the re-examination report issued on 22 August 2007 are:
 - a. The invention as claimed is not novel and does not involve an inventive step. Since these are grounds specified under section 80 of the Patents Act for revocation, the Patent P-No. 45087 should therefore be revoked.
 - b. Although the amendments proposed by the Patentee are allowable, nonetheless the proposed amendments would not overcome the issues. Thus, the proposed amendments that would be allowable under section 84, if allowed, would not remove any ground of revocation. The Patent P-No. 45087 should therefore be revoked.
13. The Registrar concurs with the conclusions in the re-examination report issued on 22 August 2007.
14. Accordingly, the Registrar orders the unconditional revocation of Patent P-No. 45087 in accordance with section 80(5)(a) of the Patents Act.

Legislation References

- Patents Act (Cap. 221), Section 80
- Patents Rules, Rules 80, 81 and 82

Representation

- M/s Ella Cheong Spruson & Ferguson (S) Pte Ltd for the Applicant
- M/s Drew & Napier LLC for the Patentee