



HIGH COURT OF AUSTRALIA

Public Information Officer

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LOCKWOOD SECURITY PRODUCTS PTY LTD v DORIC PRODUCTS PTY LTD

The High Court of Australia today rejected challenges by Doric to claims made by Lockwood in its patent on a new type of door lock.

Lockwood registered the patent on the lock which it said overcame the problems of deadlocks, which have a second key-operated lock inside needing to be unlocked separately to be able to exit the house. These were designed to prevent anyone breaking into the house from being able to open the door to remove bulky goods. However if a key was left in the outside lock or misplaced without the inner lock being unlocked, occupants could be trapped during a fire or other danger. The patent was for a deadlock that could open both the outside and inside locks simultaneously.

The issue was whether the 33 claims defining the scope of the patent were fairly based in the patent specification within the meaning of section 40(3) of the *Patents Act* or whether the claims were wider. Claims 2 to 32 were built upon claim 1, so were narrower than claim 1. (Claim 33 was described by reference to drawings of the latch assembly.) The appeal to the High Court was conducted on the footing that the issue of fair basing might be determined in regard to claim 1 alone, so that if it were fairly based then all were.

In October 2000 Lockwood's lawyers accused Doric (and others) of infringing the patent. Doric commenced proceedings in the Federal Court of Australia alleging Lockwood had made unjustified threats of legal action against it and its distributors. Lockwood cross-claimed for infringement of 19 of the 33 claims. Doric in turn cross-claimed seeking revocation of the patent, alleging the patented lock was not novel, that it was obvious and involved no inventive step, that the specification did not fully describe the invention, that certain claims were unclear or not clear and succinct, and that none of the claims were fairly based on the matters described in the specification. Justice Peter Hely found Doric's products infringed 14 claims, but he found that claims 1 to 32 were not fairly based on matters described in the specification and that nine claims were not novel. The Full Court dismissed an appeal, upholding Justice Hely's conclusion that claims 1 to 32 were invalid. Lockwood appealed to the High Court.

In that Court, neither side pursued issues other than fair basis. The High Court unanimously allowed the appeal, declared that claims 1 to 32 of the patent were fairly based on matters described in the complete specification, and remitted the matter to the Full Court of the Federal Court to determine the remaining issues not fully dealt with on appeal to that Court.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*