



PATENTS ACT 1977

APPLICANT	William Rhodes
ISSUE	Whether patent application number GB0904777.0 complies with Section 1(1)(a), (1)(b) and 14(5)
HEARING OFFICER	Phil Thorpe

DECISION

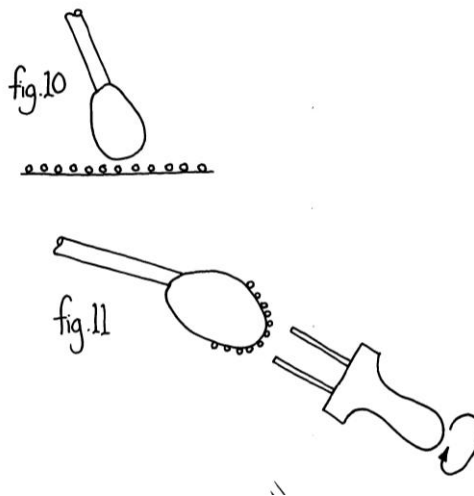
- 1 This decision concerns whether the invention set out in patent application GB0904777.0 is new and involves an inventive step and whether the claims are clear. The examiner has maintained throughout the examination of this application that the claimed invention is anticipated or rendered obvious by the disclosures in a number of prior art documents and that claim 3 is not clear. The applicant has not been able to overcome the objections, despite amendments to the application.
- 2 The matter therefore came before me at a hearing on 16th April 2015, at which Mr Rhodes appeared in person.

The Patent Application

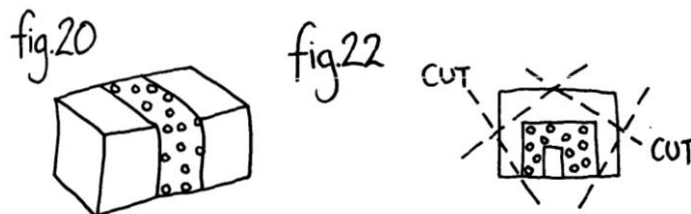
- 3 GB0904777.0 is entitled "Ashes and glass crystal". It was filed on 20th March 2009 and was published on 22nd September 2010 as GB 2468709 A. The application names William Rhodes and James Watts as both co-applicants and co-inventors.
- 4 The invention relates to a method of encasing cremated ashes within layers of glass so that it can be mounted in a piece of jewellery. The application was drafted without professional advice and comprises three pages of description and six pages of drawings. The description notes that encasing material between layers of glass is well known however whilst some materials when sandwiched by molten glass will stick to the glass other materials such as cremation ashes are merely suspended within the glass. Problems can arise when glass containing ashes needs to be cut or faceted in that because the material might crumble or flake due to the layers of "unstable" ashes which prevent the layers of glass adhering to each other.
- 5 The application seeks to solve this problem by mixing the ashes with glass first before the resultant mixture is then sandwiched between two layers of glass. This premixing of the ashes with the glass is intended to separate the particles of ashes so as to reduce or avoid having large areas of ashes suspended in the glass. The description states that this pre-mixing is done by "marvering" the ashes into the end

of a “glob” or “gather” of glass. Though not defined in the application the terms “glob” or “gather” refer to a blob of molten portion of glass gathered onto the end of a blowpipe. Marvering refers to the process of rolling the gather on a marver, which was traditionally a flat slab of marble but now is more likely to be steel. Marvering forms a cool skin on the exterior of the molten glass blob and allows the blob to be shaped. The ashes are further mixed into the molten glass blob using a two-pronged tool.

- 6 This process for mixing the ashes into the glass gather is mainly set out in figures 10-11 of the application.



- 7 Figure 10 shows how the ashes are picked up off the marver into the gather. Figure 11 shows a two-pronged tool for mixing the ashes into the glass. The description notes that the gather is continually heated to ensure that the ashes are fully dispersed in the glass.
- 8 The description then explains that the mixture of glass and ashes is then sandwiched between two further layers of glass before being cut into the final piece. The final piece could be a flat “crystal” or a faceted “crystal” – see figures 20 and 22 below.



- 9 The claims on which this decision is based are those filed 30 October 2014. These read:
1. A layer of glass and cremation ashes which is sandwiched between two layers of clear glass.

2. A layer of glass and ashes according to claim 1, in which one or more of the layers is coloured glass
3. A layer of glass and ashes according to claim 1 or 2, wherein the glass is a flat crystal
4. A layer of glass and ashes according to claim 1 and 2, in which the glass is shaped to form an inner centre of glass and ashes and an outer layer of glass wherein the outer layer is faceted.

The law

- 10 The examiner has raised an objection under sections 1(1)(a), (1)(b) and 14(5) of the Patents Act 1977. These read so far as relevant as follows:

Patentable inventions

1.-(1) A patent may be granted only for an invention in respect of which the following conditions are satisfied, that is to say –

- (a) the invention is new;
- (b) it involves an inventive step;

14(5) The claim or claims shall -

- (a) define the matter for which the applicant seeks protection;
- (b) be clear and concise;
- (c) be supported by the description;

The Relevant Prior Art

- 11 The latest examination report dated 10th February 2015 argued that the invention as claimed is not novel having regard to US2008209945 and GB2415679A.

US2008209945

- 12 US'945 discloses a method for incorporating cremation ashes within fused layers of glass. The method involves sprinkling ashes, or a mixture of ashes and glass frit onto a layer of glass. A further layer of glass is placed on top and then fusing all the layers into a single fused mass. This process is illustrated in the figures 2-4 shown below. An optional additional decorative layer (40) held in place by a further glass layer could also be incorporated before the layers are fused together.

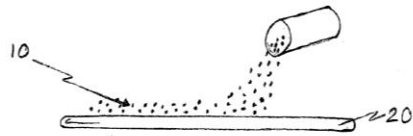


Figure 2

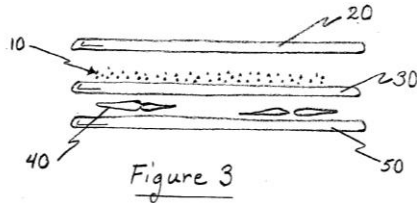


Figure 3

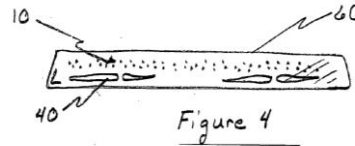
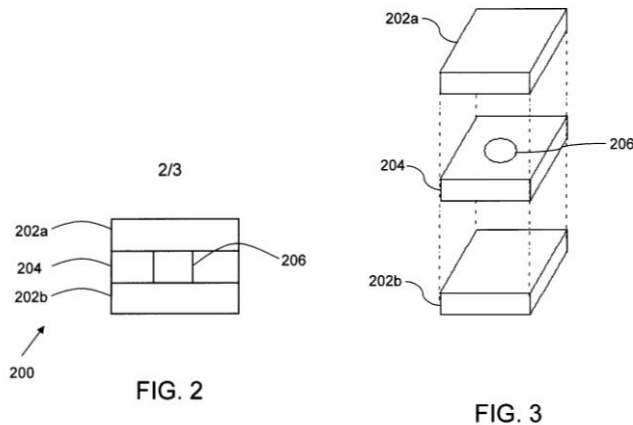


Figure 4

GB2415679A

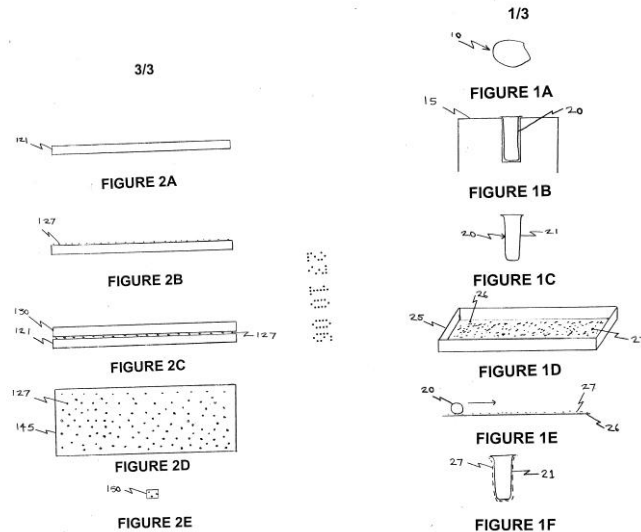
- 13 GB'679 teaches a method of fusing cremated ashes in a sandwich of three layers of glass with ashes initially contained in an opening 206 in one of the layers



- 14 I will also briefly 2 other pieces of prior art that were cited in respect of inventive step and are also relevant to the discussion later on the method set out in the application. These two documents are GB2431390 and US2005071964

GB2431390

- 15 This document discloses a method of encasing ashes in glass including forming a parison (a partially shaped mass of molten glass) and rolling it across a bed 26 on which the ashes 27 are dispersed so that the exterior surface of the first layer 21 contacts the ashes 27 as shown in Figure 1 E. Because the parison 20 is molten the ashes 27 become adsorbed and/or absorbed to the exterior surface of the parison 20 which becomes coated (embedded and/or encrusted) with ashes 27 as shown in Figure 1 F. A further layer of glass is then added to seal the ashes.



US2005071964

- 16 US'964 relates to incorporating ashes within for example a piece of jewellery. The shape may be created by "gathering" or inserting a metal rod into the molten batch of glass, extracting or gathering glass onto the rod from the batch, and rolling the glass onto cremated remains. In this method the glass and the cremated remains are worked by hand until the cremated remains are disbursed in a desired pattern.

Discussion of Claim Construction and Novelty

- 17 I asked Mr Rhodes to clarify whether if the two outer layers of glass had similar qualities to the middle layer, then would there be any discernible layers when all 3 layers had been fused together. He explained that there would not be. Mr Rhodes also explained that the term "crystal" as used in his application related merely to overall product produced rather than any particular type of glass.
- 18 After further discussion Mr Rhodes accepted that the claims as they currently stand would be anticipated by US2008209945 and GB2415679A . He did argue that the ashes in his invention were more mixed within the glass but accepted that this was not a feature of the claims as they were currently worded. He also accepted that his invention was more to the method of manufacture of the product rather than the finished product itself.
- 19 The novelty and inventiveness of the existing dependent claims was not discussed in any great detail. Mr Rhodes did not seek to argue that there was any feature in any of these that could save claim 1 as it currently stands. Having reviewed the other pieces of prior art cited by the examiner I am satisfied that the inventions set out in claims 2-4 are either known or obvious in light of the prior art.
- 20 There was more discussion about whether there was anything in the application, brief though that is, that might form the basis of an allowable claim. Mr Rhodes noted that it was the mixing of the glass and ashes with the two pronged tool that resulted in the ashes being dispersed more within the glass. None of the prior art cited by the examiner shows this particular aspect and hence it would seem that an allowable amendment based on the method including this step may be possible.

Decision

- 21 I find that the claims as currently worded lack novelty and or an inventive step. A saving amendment may be possible and therefore I will refer the case back to the examiner for further consideration.

Appeal

- 22 Any appeal must be lodged within 28 days

Phil Thorpe

Deputy Director, acting for the Comptroller