



PATENTS ACT 1977

BETWEEN

Tim Jarvis

Proprietor

and

Ticknall Solar Ltd

Opponent

PROCEEDINGS

Application under section 74B for
review of Opinion 17/16 in respect of
GB 2423145B

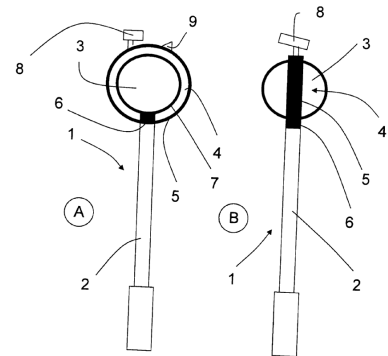
HEARING OFFICER

Stephen Probert

DECISION

Introduction

1. Tim Jarvis is the registered proprietor of UK patent GB 2423145B, which concerns a beacon lighting unit for a pedestrian road crossing. Opinion 17/16 was requested by Ticknall Solar Ltd. (“the potential infringer”) to help determine whether a proposed new Belisha beacon would infringe claim 1 of the patent. The examiner’s opinion was that the proposed new Belisha beacon would not infringe. The registered proprietor has requested a review of the opinion under section 74B.
2. In addition to the statement and counter statement, the registered proprietor also provided written submissions. In conducting this review, I have considered these, and all the other documents on the official file; neither side requested an oral hearing.
3. The crux of the issue is whether the examiner correctly construed one particular term in the claim - ie. ‘a ring-shaped member’. As the registered proprietor summarised it:-



FIGURES 1

“It should be noted that the only reason why the Examiner concluded that there would be no infringement of claim 1 relation to his opinion that the central member did not constitute a ring-shaped member.”

4. The statement and the written submissions also raise a few other criticisms of the examiner’s opinion - eg. whether he was entitled to consider the prosecution history of the application in order to determine the scope of the granted claim. These are

interesting questions in themselves, but I have not needed to resolve them in order to complete this review so any comment I might have made would be obiter.

5. Claim 1 of the patent (with my emphasis) reads:-

1. A beacon lighting unit suitable for use in a pedestrian road crossing area as part of a pedestrian crossing road sign, comprising a light source located in a globe for illuminating a pedestrian crossing area; characterised in that the lighting unit further comprises a **ring-shaped member** located around said globe which incorporates both a further light source illuminating, in use, "face on" towards approaching vehicle traffic and an integral opaque region blocking, in use, emitted light in a lateral direction of said road.

6. The examiner agreed with the registered proprietor that 'ring-shaped' means circular, but he added that it also meant something encircling or surrounding and thus an annular body rather than a disc. (See paragraph 10 of the opinion.)

7. This is important because the proposed new Belisha beacon represented by the requester appeared to the examiner to be constructed using a solid central region (ie. a disc) with two hemispheres attached to the opposing faces of the disc to produce the globe of the Belisha beacon. The examiner considered that such an arrangement could not constitute a ring-shaped member located around a globe. I think this was a reasonable conclusion to reach on the basis of the words found in the claim.

8. I also note that claim 5 of the patent refers to "*said ring-shaped member's inner diameter*", which in my view lends further support (if it were needed) to the examiner's interpretation of 'ring-shaped' - ie. that it means annular rather than disc-shaped. The solid central region of the proposed Belisha beacon (the disc) does not have an inner diameter.

Conclusion

9. I conclude that the examiner did not make an error of principle or reach a conclusion that is clearly wrong. Consequently I make no order to set the opinion aside.

Appeal

10. Any appeal must be lodged within 28 days after the date of this decision.

Stephen Probert

Deputy Director, acting for the Comptroller