

PATENTS ACT 1977

IN THE MATTER OF patent application
GB9815478.4 in the name of
Duncan Morriss Butlin

DECISION

- 1 Application number GB9815478.4 entitled "Number plate for the public display of the sex of vehicle drivers" was filed by Mr Duncan Morriss Butlin on 17th July 1998. A search under section 17 of the Patents Act 1977 was duly carried out and in a letter to the applicant dated 30th October 1998, the examiner noted that the only difference between the invention as outlined in the specification and the documents found appeared to be the nature of the information displayed, e.g. the sex of the driver. The examiner warned Mr Butlin that this difference might not be regarded as being patentable by virtue of section 1(2)(d).
- 2 The applicant filed a request for substantive examination on 27th October 2000. In the first examination report under section 18(3) the examiner objected that the invention claimed related to nothing more than the presentation of information and was thus not patentable under section 1(2)(d). In support of this objection, the examiner cited GB256122, GB2275808, US4631516 and US4574269, amongst others, to show that the invention made no technical contribution to the art. The applicant was given six months to respond.
- 3 In his response, Mr Butlin sought to convince the examiner of the benefits his invention would have on society, his perceptions on how society should be organised and how inventions should be recognised. Mr Butlin did nothing to address the substantive issue of patentability nor the relevance of the cited documents. The examiner re-stated his objection in a further examination report dated 4th December 2002 and offered a hearing to resolve the matter. Mr Butlin maintained his original arguments and requested the matter be dealt with at a hearing, although neither he nor a representative would be able to attend. This decision is therefore made on the basis of the papers already on file.
- 4 The invention concerns a two-sided display, e.g. a vehicle number plate, where the background colour of the display makes the sex, age or marital status of the driver immediately apparent to other road users. This, it is stated, will lead to a change in the way road users behave towards one another and result in lower stress levels, increased politeness and a reduction in the number of accidents. A quick-release mechanism ensures that the display can be easily reversed to present a different coloured background when a driver of the opposite sex takes control of the vehicle, the mechanism being disarmed while the vehicle is in motion. Display reversal can be by way of remote control, either from within the vehicle or from an independent device.

- 5 The application has one independent claim, claim 1, as follows:
1. A convenient and prominent symbol displaying driver sex on the exterior of a vehicle, comprising a reversible, dual-background-colour number plate, and an appropriate fixing arrangement allowing for quick, yet secure reversal.
- 6 GB256122, in particular figure 5, discloses a reversible two-sided number plate having a different coloured background on each side and two projections to allow the number plate to be locked in position. I agree with the examiner that there is no material difference between this number plate and the technical features of the invention as defined in claim 1, thereby leaving the display of information relating to the sex of the driver as the only distinguishing feature.
- 7 Section 1(2) of the Act lists certain categories of inventions which, for the purposes of the Act, are not regarded as being patentable:
- (2) It is hereby declared that the following (among other things) are not inventions for the purposes of the Act, that is to say, anything which consists of-*
- (a) a discovery, scientific theory or mathematical method;*
(b) a literary, dramatic, musical or artistic work or any other aesthetic creation whatsoever;
(c) a scheme, rule or method of performing a mental act, playing a game or doing business, or a program for a computer;
(d) the presentation of information;
- but the foregoing provision shall prevent anything from being treated as an invention for the purposes of this Act only to the extent that a patent or application for a patent relates to that thing as such.*
- 8 In interpreting section 1(2)(d) of the Act, the Courts have held that presentation of information can be patentable provided that the presentation serves a technical, rather than merely an intellectual, purpose. In this case, I consider that displaying the sex of the driver to another road user serves no technical purpose whatsoever and, as such, the invention defined by claim 1 is excluded from patentability by virtue of section 1(2)(d) of the Patents Act 1977.
- 9 Claim 6, which provides for the display of "other socially relevant information such as age and marital status", is similarly excluded from patentability under section 1(2)(d).
- 10 Claims 2 and 3 seek to limit the invention to displays where the information is changed under remote control and where the information is prevented from changing while the vehicle is in motion. Claim 4 requires the change in background colour to be achieved by liquid crystal or electro-reflective panels. Although none of this is disclosed in GB256122, the examiner argues that changing the display of a vehicle number plate by some form of variable text display is already known and that it would be obvious to a man skilled in the art, in view of GB256122, to arrive at a variable text number plate whose background colour can change.

- 11 The examiner cites GB2275808 in support of this argument, which discloses a pair of variable text LCD number plates, one for the front and one for the rear of the vehicle, where the information displayed can be changed by a remote input device when the vehicle is stationary. Claims 2 to 4 differ from GB2275808 by allowing the background colour to be changed to indicate the sex of the driver, a distinction that I do not consider to be of a technical nature, irrespective of the fact that GB256122 discloses dual coloured background displays.
- 12 Claim 5 requires that information be conveyed by means other than the vehicle number plate while claim 7 defines a display that continuously varies in order to convey real time changes in driver emotion. Displays such as this are disclosed in US4631516 and US4574269 and, as such, these features can not be regarded as being novel nor an inventive combination.
- 13 It seems to me that the invention as defined by claim 2-4, 5 and 7 relates to nothing more than the display of driver related information to other road users and, as such, is excluded from patentability by virtue of section 1(2)(d).
- 14 In summary, I find that all seven claims fail to meet the requirements for patentability and there is nothing in the description to suggest a saving amendment. I therefore refuse this application.
- 15 As this decision does not relate to a matter of procedure, under the current Practice Direction 49E to Part 49 of the Civil Procedure Rules, any appeal must be lodged within six weeks. That is a prescribed period which I do not have the power to alter of my own volition. However, on 1 April 2003 the new Part 63 to the Civil Procedure Rules will come into force and the appeal period will in consequence reduce by default to the 14 days specified in Part 52 of the Rules (rule 52.4). This will have the effect of curtailing the period for appealing the present decision, so although that nominally stands at 6 weeks now, it will effectively expire on 31 March 2003.
- 16 From 1 April 2003 the comptroller will no longer have the power to extend appeal periods. An application for extension will instead have to be made to the court. However, the Patents Court has made clear that, unless there are special circumstances, they will look sympathetically on any request to extend to its original length an appeal period which gets truncated by the coming into force of Part 63.

Dated this 15th day of March 2003

Huw Jones
Deputy Director, acting for the Comptroller

THE PATENT OFFICE