

PATENTS ACT 1977

IN THE MATTER OF

Patent application GB 0008475.6

in the name of Arthur Stephen Boardman

DECISION

1. Patent application number GB 0008475.6 entitled "Depth marker" was filed on 7 April 2000 in the name of Arthur Stephen Boardman. A request for combined search and examination of the application was filed on 3 April 2001.
2. On 31 August 2001 the examiner issued a report under section 18(3) of the Patents Act 1977 stating that it was the examiner's opinion that the application should be refused as it merely provided a means of presenting information and as such was not an invention for the purposes of the Act as stated in section 1(2)(d). The report specified a reply period of 30 November 2001 by which the applicant should submit observations on the matter. Because the examiner was of the opinion that the application was not patentable, he considered that a search of the application would serve no useful purpose.
3. On 2 October 2001 the examiner and the applicant discussed the matter over the telephone. During this discussion the examiner stated that it was still his opinion that the application was not patentable but that the applicant still had the opportunity to file observations on the matter. The deadline for receipt of these observations was 30 November 2001 (the original deadline stated in the examination report issued on 31 August 2001).
4. On 12 November 2001 the Patent Office received a letter from the applicant. In this letter the applicant stated that he would like the application to be searched. He also stated that the invention as disclosed does not present information but that the information is stored mentally by the user of the invention. His argument therefore was that the invention was there to store the information and not to present it.
5. On 26 November 2001 the examiner issued a further report under Section 18(3) of the Act. In this report the examiner stated that he had considered the applicant's arguments put forward in his letter of 12 November 2001 but he could not accept them. The examiner stated that when using the invention it was the user who performed the mental act of storing the information and re-iterated that the invention presented the information for the user. The examiner stated that it was still his opinion that the application was not patentable and that he was minded to refuse the application. The examiner offered the applicant the opportunity to be heard in this matter and stated that the applicant should request a hearing before 27 December 2001 or the application would be refused.
6. Since no reply has been received from the applicant, either in response to the

opportunity to be heard or by way of providing further observations, it falls to me to decide the matter.

7. Like the examiner, I am of the opinion that the application merely relates to a means of presenting information. Since the presentation of information is excluded from patentability under the Act by virtue of section 1(2)(d) and the applicant has failed to satisfy the comptroller otherwise, I therefore refuse the application under section 18(3) of the Patents Act 1977.
8. As this is not a matter of procedure, an appeal may be made to the Patents Court within 6 weeks of the date of this decision.

Dated this day of February 2002.

D J JERREAT

Deputy Director acting for the Comptroller

THE PATENT OFFICE