



BL O/034/07

31 January 2007

## PATENTS ACT 1977

APPLICANT	James Noel Knight
ISSUE	Whether patent application number GB 0609745.5 complies with sections 1(1), 14(3) and 76(2)
HEARING OFFICER	R C Kennell

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## DECISION

***Edited version: Open to public inspection***  
*(This version omits matter at paragraphs 3,5,10 and 11)*

- 1 Application no GB 0609745.5, relating to a device for generating power, was filed on 17 May 2006 in the name of James Noel Knight. It has been substantively examined but has not yet been published.
- 2 Mr Knight has not been able to overcome the examiner's objections and the matter therefore came before me at a hearing on 11 January 2007. Mr Knight, who is not professionally represented, presented his case in person. The examiner, Mr Peter Middleton, attended by videolink.

### **The invention**

- 3 The invention as originally filed describes a device ..... An amended specification submitted by Mr Knight in response to the examiner's objections describes a somewhat different device .....

### **The examiner's objections**

- 4 **Section 1(1)(c)** requires an invention to be capable of industrial application (ie that it can be made or used in any kind of industry, including agriculture, as stated in section 4(1)). The objection is that both the original and the amended specifications disclose an invention which operates in a manner clearly contrary to well-established physical laws, and it cannot therefore be capable of industrial application in accordance with previous case law.

- 5 The examiner considers (and it is explained more fully in his letter of 10 July 2006 to Mr Knight in relation to the original device) that there can be no power output because ..... In consequence, the examiner argues that the invention purports to produce a net power output without any corresponding energy input such as fuel or heat, contrary to the law of conservation of energy. The examiner confirmed at the hearing that his analysis applied to both the original and the amended versions of the invention.
- 6 **Section 14(3)** requires the invention to be disclosed “in a manner which is clear enough and complete enough for the invention to be performed by a person skilled in the art”. The examiner objects that since the invention cannot be made to operate as described and claimed, i.e. to produce a net power output, then the description cannot be sufficiently complete. In other words something more is needed if the invention is to work, and that something is missing from the description.
- 7 In respect of the amendment, the examiner also objects that this contravenes **section 76(2)**. This prohibits any amendment to a specification which “results in the application disclosing matter extending beyond that disclosed in the application as filed”.

### **Arguments and analysis**

- 8 Mr Knight was concerned that I should be aware of the full background regarding his conception of the invention, his dealings with the Patent Office and his attempts to interest others in developing it. To that end, he had had prepared a written submission explaining all this and took me through it at the hearing. I note from this that at one stage a letter from Mr Knight, seeking assistance from the Office before embarking on filing an application, went unanswered owing to a misunderstanding. An apology for this oversight has been made by the Office, but I regret any difficulties which this may have caused Mr Knight.
- 9 I intend no discourtesy to Mr Knight and indeed I sympathise with the difficulties he appears to have faced in finding a partner to develop his invention. I also recognize his sincerity in trying to produce a renewable source of energy for the benefit of the public. However, as I explained at the hearing, my concern is to determine whether the examiner’s objections were well founded and unfortunately the submission does not shed any further light on that.
- 10 The examiner’s objections under sections 1(1)(c) and 14(3) turn on whether his analysis of the principles underlying the invention is correct. To that end I asked Mr Knight whether he had constructed a device himself or - as he had suggested in previous correspondence - obtained an independent analysis of the invention. Mr Knight said that he had only constructed crude devices himself but had spoken to a friend who was a practical man with experience of working with ....., and who thought that the invention would work.

- 11 I also asked Mr Knight whether he had overlooked any energy input that he might have needed to make to keep the device going. Mr Knight was certain that he had not, and was insistent that ..... would vastly outweigh any energy input needed. He also reminded me that a car battery is charged as it moves and the battery actually starts the engine. However, this analogy does not in my view assist Mr Knight, because it overlooks the energy input from fuel that is needed to keep the engine running.
- 12 I am afraid that having considered all of Mr Knight's submissions and arguments I cannot find anything to suggest that the examiner's analysis is incorrect. That analysis is in my view soundly based upon well-known physical laws which have not been contradicted, notwithstanding Mr Knight's suggestion in correspondence that recent studies had caused scientists to re-think the basic laws of physics.

#### Added subject matter

- 13 Mr Knight thought that the objection was not well founded since this was simply a variation on the original device. I do not agree. Even if it can be regarded as a variation, the amendment still introduces information which manifestly was not present in the specification as originally filed. For matter to be entitled to the filing date of the application it must be present on the filing date. Although Mr Knight said that this had not been explained to him, I observe that it is mentioned in the Office's explanatory booklets "Patents Application Guide" (page 26) and "Patents Essential Reading" (page 11)<sup>1</sup>, copies of which were I believe sent to him.

#### **Conclusion**

- 14 I therefore uphold the examiner's objections and refuse the application.
- 15 In consequence, the application will not be published under section 16 of the Act. So long as the invention has not otherwise been made available to the public, and subject to any agreements that he may have entered into, this will leave Mr Knight free to develop the invention as he sees fit and even to file a new patent application. Any such application would of course still have to overcome the above hurdles before a patent could be granted.

#### **Appeal**

- 16 Mr Knight has a right of appeal to the Patents Court if he disagrees with my decision. Under the Practice Direction to Part 52 of the Civil Procedure Rules, any such appeal must be lodged within 28 days of the date of the decision.

#### **R C KENNEL**

Deputy Director acting for the Comptroller

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<sup>1</sup> See the links to these at <http://www.patent.gov.uk/patent/p-applying/p-should.htm>