



PATENTS ACT 1977

John Mills Limited

Claimant

PROCEEDINGS

Application under Section 72 of the Patents Act 1977
to revoke EP(UK) Patent No. EP 1 586 259 B1

HEARING OFFICER

Phil Thorpe

DECISION

1. This decision concerns an application by John Mills Limited to revoke patent number EP 1 586 259 B1 (“the patent”). The registered proprietor of the patent, Homeland Housewares LLC, was sent a copy of the application to revoke, and was invited to file a counter-statement if they wished to oppose the application. No counter-statement has been filed, and therefore this application is unopposed. Furthermore, in accordance with rule 77(9), I must treat the registered proprietor as supporting this application to revoke.
2. The basis of the application to revoke is that the invention claimed in the patent does not involve an inventive step having regard to a number of pieces of prior art and the relevant common general knowledge and alternatively that it is not novel over the proprietor’s product placed on the market before the priority date of the patent.

The Invention

3. The invention concerns a blender system which is usable with a variety of containers, at least some of which may be used as mugs, so that blended product may be consumed directly from the container in which it was blended.

The Law

4. The Comptroller's powers to revoke a patent on the application of another person are set out in section 72(1). With respect to the validity of the claims, the relevant parts read as follows:

Power to revoke patents on application

72.-(1) Subject to the following provisions of this Act, the court or the comptroller may by order revoke a patent for an invention on the application of any person (including the proprietor of the patent) on (but only on) any of the following grounds, that is to say –

- (a) the invention is not a patentable invention;
- (b) ...

5. In relation to section 72(a) above, I must also consider section 1(1) which defines the requirements for a patentable invention. It reads:

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;

6. Section 3 is also relevant, since it defines what is meant above by 'inventive step'.

Inventive Step

3. An invention shall be taken to involve an inventive step if it is not obvious to a person skilled in the art, having regard to any matter which forms part of the state of the art by virtue only of section 2(2) above (and disregarding section 2(3) above)..

The claims

7. There are three (3) independent claims, and fifteen (15) subsidiary claims in the patent. The independent claims, claims 1,7 and 14 read as follows:
 1. A blender system, comprising:
 - a base having a means for rotating a shaft, a recessed well positioned at a top of the base, a pressure-actuated switch positioned about the periphery of the recessed well, and one or more locking grooves;
 - a container comprising an opening at one end and a base at a second end, the body being tapered at the second end; a handle coupled to an exterior of the body; one or more locking members in spaced relation about a periphery of the opening of the body, wherein the locking members are engageable with the locking grooves;

a ring selectively attachable and removable from the periphery of the opening; and

a means for agitating contents of the container, the means for agitating being selectively attachable and removable from the opening of the body.

7. A container for a blender, comprising:

a body having an opening at one end and a base at a second end, the body being tapered at the second end;

a handle coupled to an exterior of the body;

a stop ridge positioned below the opening and extending from the exterior of the body;

one or more locking members in spaced relation about a periphery of the stop ridge; and

a ring selectively attachable and removable from the periphery of the opening

14. A blender system, comprising:

a base having a means for rotating a shaft, a recessed well positioned at a top of the base, a pressure-actuated switch positioned about the periphery of the recessed well, and one or more locking grooves;

a container comprising an opening at one end and a base at a second end, the body being tapered at the second end; a handle coupled to an exterior of the body; one or more locking members in spaced relation about a periphery of the opening of the body, wherein the locking members are engageable with the locking grooves; and one or more container threads positioned about the periphery of the opening;

a ring comprising at least one ring wall and a lip, the lip coupled to a top of the at least one ring wall, the ring wall having one or more ring threads positioned on an interior portion the ring wall, the ring threads selectively attachable and removable from the container threads;

a means for agitating contents of the container, the means selectively attachable and removable from the container threads; and

a cap having a generally planar top and a cap wall coupled to a periphery of the cap, the cap having a plurality of openings, and wherein the cap is selectively attachable and removable from the container threads.

The prior art

8. The statement of case refers to a total of nineteen documents. For the purpose of considering Inventive Step, I need to consider documents 'D4' to 'D13' as follows:

D4: Chinese Design CN 3246068

- D5: Chinese Design CN 3285172
- D6: US D470050
- D7: US 3101857
- D8: US4850496
- D9: KR 20-020285 Y1
- D10: KR 20-0191160 Y1
- D11: KR 10-0263732 B1
- D12: US4487509
- D13: Documentation relating to 'KISS MIXER'

The Claimant's case - Inventive Step

9. The statement of case is extensive, but can be summarised as asserting that the invention set out in the patent lacks an inventive step having regard to the prior art blenders shown in for example D4, D5. More specifically it is claimed that the blenders in either of these two documents disclose all the features of the independent claims save for the handle and the additional ring. Documents D6 to D8 are used to illustrate that a removable lip ring was well known at the priority date, and a number of these documents also show a handle, with the applicant also observing that the addition of a handle would be a matter of routine design choice in any event. Thus, the argument may be characterised as being that there is no inventive step over documents D4, D5 and others having regard to features which were common general knowledge at the priority date.
10. Having reviewed the prior art documents, I am not completely persuaded D4 and D5 clearly disclose the '...switch positioned about the periphery...' of claim 1, but do agree that this is disclosed in D9, D10 and D11, at least, with the other features being readily discernible. I also agree that lip rings were well-known at the priority date, as were external handles for this type of blender. It follows that I accept the assertion that the independent claims lack an inventive step.
11. I also agree with the applicant's arguments that the dependent claims, individually, add no inventive step over the independent claims.

The Claimant's case – Novelty

12. Having agreed with the claimant's assessment in respect of Inventive Step, it is unnecessary for me to consider the matter of novelty.

Conclusion

13. I have concluded that the claims of the patent are invalid because they do not demonstrate an inventive step over the prior art. As there appears to be no prospect of any amendment of the patent under section 75, I therefore order that patent EP(UK) 1 586 259 B1 be revoked in accordance with Section 72(1) of the Patents Act 1977.

Appeal

14. Any appeal must be lodged within 28 days.

Phil Thorpe

Deputy Director Acting for the Comptroller