

PATENTS ACT 1977

APPLICANT Caesar Nkonge

ISSUE Whether patent application number GB
0522252.6 complies with sections 1(1)(c)
and 14(3)

HEARING OFFICER R C Kennell

DECISION

- 1 This application is directed to an engine construction. It was filed on 1 November 2005, claiming a priority of 20 April 2005, but has not yet been searched or published. The examiner has however objected that because the invention contravenes well-established physical laws, it is neither “capable of industrial application” as required by section 1(1)(c) of the 1977 Act nor disclosed “in a manner which is clear enough and complete enough to be performed by a person skilled in the art” as required by section 14(3). (Section 4 of the Act states that an invention is capable of industrial application “if it can be made or used in any kind of industry, including agriculture”.)

- 2 The applicant, who is not professionally assisted, failed to reply to the examiner’s report. The examiner therefore wrote again offering a hearing if the applicant did not wish to withdraw the application. In the continuing absence of any reply from the applicant, it falls to me to decide whether the application should proceed or be refused on the basis of the papers on file on the application.

- 3 As I understand it, the applicant’s engine is said to work in the following way. The engine is a closable container which is charged by filling it with compressed gas to close off a series of valves and compress springs. Potential energy thus generated is released by opening a nozzle which had been closed for the charging operation. However, no gas then appears to enter or leave the system; instead the unbalanced forces within the engine are said to set up an alternating cycle of compression and decompression resulting in a continuous flow of pressurized gas to drive a propeller. Thus, if the applicant is to be believed, although the overall volume and pressure, and hence the internal energy, of the gas remain constant, kinetic energy is continuously created.

- 4 Thus, even if the gas does not simply escape from the system once the nozzle is opened and so render the invention useless, what is described clearly contravenes the First Law of Thermodynamics (which holds that energy can be converted from one form to another but cannot be created or destroyed). An article which is alleged to operate contrary to well-established physical laws is not capable of industrial application, as explained in paragraph 4.05 of the Office's "Manual of Patent Practice".¹
- 5 It follows that, even though the applicant has gone into some detail as to the construction of his engine, the disclosure in the specification is insufficient to enable the person skilled in the art of engine construction to make something that functions as an engine.
- 6 I therefore agree with the examiner that the invention is neither capable of industrial application nor sufficiently disclosed. Since it is not possible to add new information to the specification in order to overcome these defects, I refuse the application under section 18(3) of the Act with the consequence under section 16(1) that it will not be published.

Appeal

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

R C KENNEL

Deputy Director acting for the Comptroller

¹ <http://www.ipo.gov.uk/practice-sec-004.pdf>