

OPINION UNDER SECTION 74A

Patent	GB2385340
Proprietor(s)	George Owen Ltd
Exclusive Licensee	
Requester	George Owen Ltd
Observer(s)	
Date Opinion issued	10 July 2014

The request

1. An opinion has been requested as to whether GB2385340 (“the patent”) is or would be infringed by a product illustrated in a number of photographs accompanying the request.

Observations

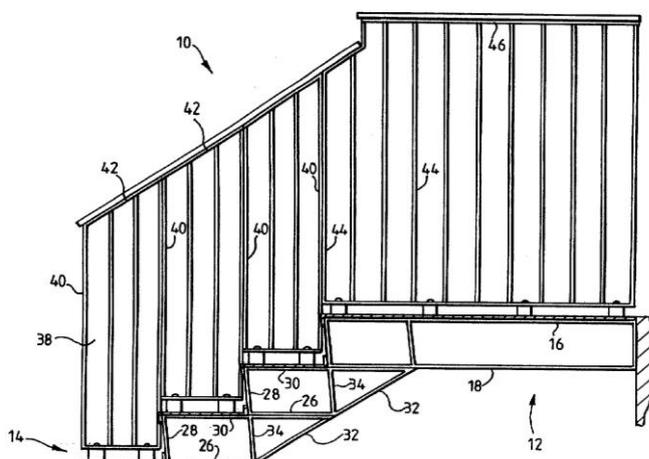
2. No observations have been received.

The patent

3. The patent was granted with effect from 20 September 2005, having been filed on 13 February 2003 claiming a priority date of 14 February 2002. It remains in force.
4. Entitled “Improvements in or relating to staircases” the patent is concerned with a staircase suitable for temporary buildings, the staircase being assembled from a number of standard units rather than using a custom-made staircase. Figures 1 to 3, below, show a staircase 10 made up of a landing 12 bolted to a side face of a building at a door way. The landing 12 includes a landing platform plate and a landing support 18. Two spaced apart support stringer assemblies 20 are bolted to the landing 12 and extend to a concrete base 22 at ground level. Each support stringer assembly 20 is assembled from a number of sections 24, in this case three. Each section 24 is made up of a base member 26, a riser support member 28 and a tread or go support member 30. The tread or go support member 30 is connected to the base member 26 by a rearwardly inclined member 32 and by a strengthening member 34. Each tread or go support member 30 extends rearwardly beneath the base member 26 of the section 24 above or beneath the landing support 18. The tread or go support members 30, base members 26 and the landing support 18 are

bolted together. A series of tread plates 36 each with a downwardly turned front edge and an upwardly turned rear edge are connected between spaced apart sections 24 of the support stringer assemblies 20.

5. A guard rail section 38 is bolted to the tread or go support member 30 of each section 24. Each guard rail section 38 includes four spindles 40 connected at their lower ends and also by a banister rail 42 at their upper ends. Spindles 40 of adjacent guard rail sections 38 are bolted together. Landing 12 also includes a guard rail section 46 with spindles 44 to which the spindles 40 of adjacent guard rail sections 38 are bolted.
6. The landing 12, sections 24, tread plates 36 and guard rail sections 38 and 46 are standard parts from which a staircase 10 can be assembled.



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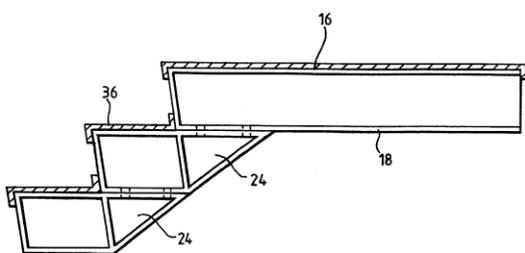


FIG. 2.

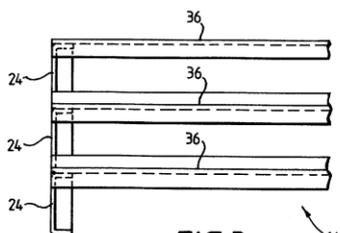


FIG. 3.

Claim construction

7. Before considering the documents put forward in the request I need to construe the claims of the patent, following the standard principles of claim construction set out in *Kirin-Amgen Inc v Hoechst Marion Roussel Ltd* [2005] RPC 9. I should put a purposive construction on the claims and follow section 125(1) of the Patents Act 1977 and the Protocol on the Interpretation of Article 69 of the European Patent Convention by interpreting the claims in the light of the description and drawings. In other words, the question is always what the person skilled in the art would have understood the patentee to be using the language of the claim to mean.

8. Section 125(1) of the Act states that:

For the purposes of this Act an invention for a patent for which an application has been made or for which a patent has been granted shall, unless the context otherwise requires, be taken to be that specified in a claim of the specification of the application or patent, as the case may be, as interpreted by the description and any drawings contained in that specification, and the extent of the protection conferred by a patent or application for a patent shall be determined accordingly.

9. And the Protocol on the Interpretation of Article 69 of the EPC (which corresponds to section 125(1)) states that:

Article 69 should not be interpreted in the sense that the extent of the protection conferred by a European patent is to be understood as that defined by the strict, literal meaning of the wording used in the claims, the description and drawings being employed only for the purpose of resolving an ambiguity found in the claims. Neither should it be interpreted in the sense that the claims serve only as a guideline and that the actual protection conferred may extend to what, from a consideration of the description and drawings by a person skilled in the art, the patentee has contemplated. On the contrary, it is to be interpreted as defining a position between these extremes which combines a fair protection for the patentee with a reasonable degree of certainty for third parties.

10. Claim 1 is the only independent claim amongst the eleven claims, although claim 11 is an omnibus claim and claim 10 is directed to a portable building have a staircase according to any of the preceding claims. Claim 1 reads as follows:

1. A staircase for providing access to a building comprising two or more spaced-apart support stringers between which treads of steps are supported wherein each support stringer is constructed from two or more stringer sections which are adapted to be connected together to form a support stringer of desired length, each of said stringer sections has a guard rail section rigidly secured thereto and each guard rail is rigidly connected to the guard rail section adjacent thereto to strengthen the stringer.

11. Notwithstanding the comments above regarding purposive construction, I believe that the claim is clear when read in light of the description (see above) and requires no interpretation.

12. The remaining claims directed to the staircase are as follows:
 2. A staircase according to claim 1, wherein each stringer section comprises a riser support member and a tread or go support member for a single step of the staircase.
 3. A staircase according to claim 2, wherein each section comprises a base member extending parallel to the tread or go support member from the lower end of the riser support member.
 4. A staircase according to claim 2 or claim 3, wherein each tread or go support member of each stringer section extends rearwardly beyond the rear end of the tread so as to extend beneath the base member of the stringer section immediately above the section concerned so as to enable the two stringer sections to be connected together.
 5. A staircase according to claim 4, wherein the rearwardly extending portion of the tread or go support member of one stringer section is bolted to the base member of the stringer section immediately thereabove.
 6. A staircase according to claim 4 or claim 5, wherein the rear end of the tread or go support member is connected to the rear end of the base member by a rearwardly inclined member.
 7. A staircase according to any one of claims 4 to 6, wherein the rear end of the base member is connected to the end of the tread or go support member at the rear end of the tread thereof by a strengthening member.
 8. A staircase according to any one of the preceding claims, wherein each guard rail section comprising one or more spindles and/or bannister or guardrail is connected to the tread or go support member of each section.
 9. A staircase according to claim 8, wherein the adjacent spindles of the guard rail sections of adjacent stringer sections are connected together at a point spaced-apart above the associated stringer section.

Infringement

13. Section 60 Patents Act 1977 governs what constitutes infringement of a patent; Section 60(1)(a) reads:

Subject to the provision of this section, a person infringes a patent for an invention if, but only if, while the patent is in force, he does any of the following things in the United Kingdom in relation to the invention without the consent of the proprietor of the patent, that is to say -

(a) where the invention is a product, he makes, disposes of, offers to dispose of, uses or imports the product or keeps it whether for disposal or otherwise;

...

14. The requester has provided photographs of a staircase and requested an opinion as

to whether the staircase shown infringes the patent. There is no further evidence provided regarding the potential infringement, such as when or where the photographs were taken or whether or not any defences or exceptions might apply, such as those found in Section 60(5). For the purposes of my opinion I have assumed that the question is simply whether the object shown in the photographs would infringe the patent were it to be the subject of any of the acts described in Section 60(1)(a).

Allegedly infringing product

15. In the words of claim 1, the photographs (not all of which are reproduced below) show a staircase suitable for providing access to a building, see photograph 1 below:



Photograph 1

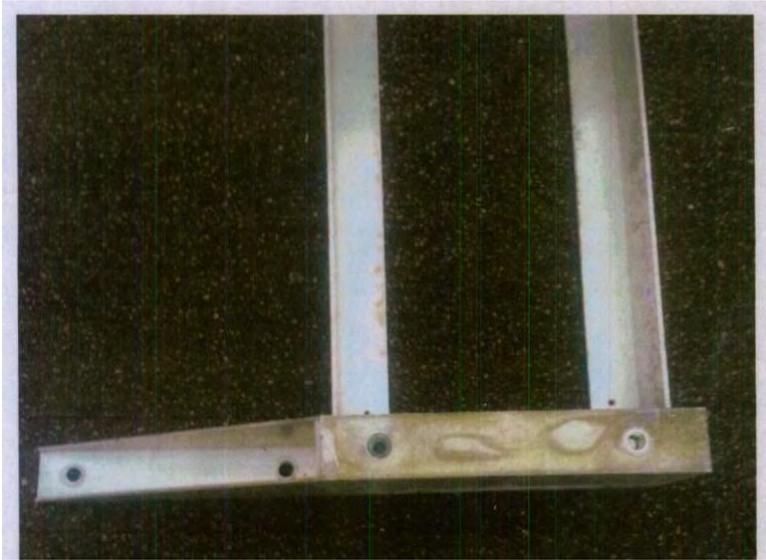
16. In photographs 2 and 3, below, the staircase is made up of two or more spaced-apart support stringers between which treads of steps are supported and each support stringer is constructed from two or more stringer sections which are adapted to be connected together to form a support stringer of desired length. The support stringers in the photographs appear to be connected by structures in addition to the treads, structures which are absent from the embodiment shown in the patent. Nevertheless in my view the photographs show two spaced-apart support stringers between which treads of steps are supported.



Photograph 2

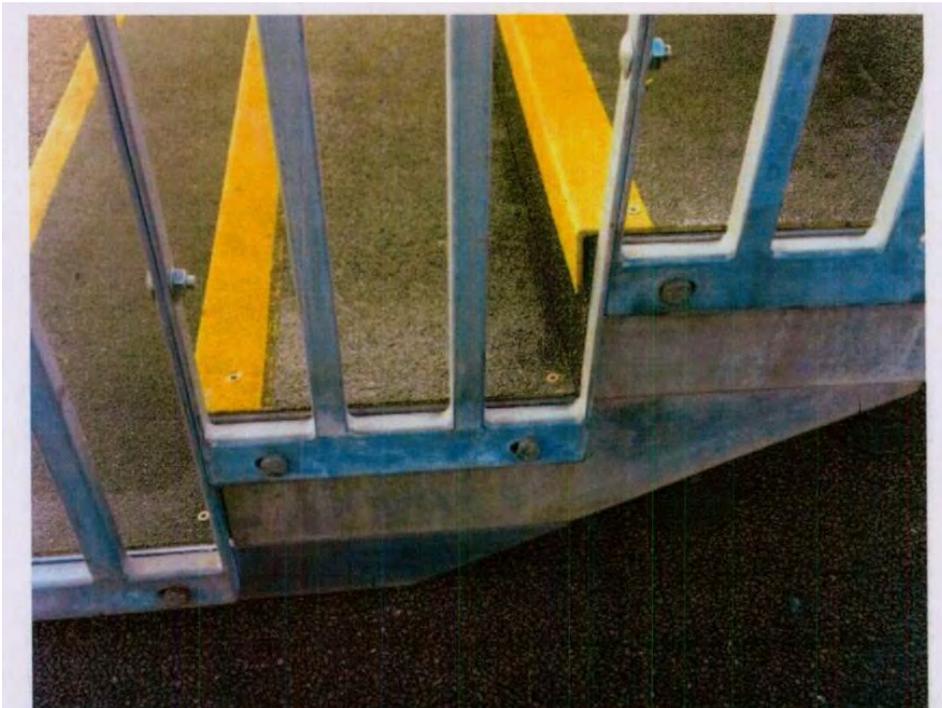


Photograph 3



Photograph 4

17. In photograph 5 (below) each of said stringer sections has a guard rail section rigidly secured thereto and each guard rail is rigidly connected to the guard rail section adjacent thereto to strengthen the stringer.



Photograph 5

18. Thus it seems to me that the staircase shown in the photographs has all of the features required by claim 1.
19. From photographs 2 and 3 above it seems that each stringer section comprises a riser support member and a tread or go support member for a single step of the staircase, as required by claim 2.

20. In photographs 2 to 4 above each section comprises a base member extending parallel to the tread or go support member from the lower end of the riser support member, as required by claim 3.
21. It is clear from photographs 2 to 4 above that each tread or go support member of each stringer section extends rearwardly beyond the rear end of the tread so as to extend beneath the base member of the stringer section immediately above the section concerned so as to enable the two stringer sections to be connected together, as required by claim 4.
22. Although a bolted connection is not explicitly shown in the photographs, judging by the holes shown in photographs 3 and 4 above, it seems most likely that the rearwardly extending portion of the tread or go support member of one stringer section is bolted to the base member of the stringer section immediately thereabove, as required by claim 5.
23. By virtue of the triangular section of the side plate shown in photograph 3 above the rear end of the tread or go support member is shown connected to the rear end of the base member by a rearwardly inclined member, as required by claim 6.
24. The side plate shown in photograph 3 above is arranged such that the rear end of the base member is connected to the end of the tread or go support member at the rear end of the tread thereof by a strengthening member, as required by claim 7.
25. It is clear from photograph 5 above that each guard rail section is not connected to the tread or go support member of each section, as required by claim 8.
26. Photograph 5 above shows adjacent spindles of guard rail sections of adjacent stringer sections connected together at a point spaced-apart above the associated stringer section, as required by claim 9.

Opinion

27. It is my opinion that claims 1 to 7 and 9 would be infringed by the staircase shown in the photographs provided with the request.

Karl Whitfield
Examiner

NOTE

This opinion is not based on the outcome of fully litigated proceedings. Rather, it is based on whatever material the persons requesting the opinion and filing observations have chosen to put before the Office.