

PATENTS ACT 1977

IN THE MATTER OF

an application by ARISTOCAST ORIGINALS LTD
for the revocation of Patent No 2,192,411
in the name of HIGHSPIRE LTD

DECISION

Patent number 2,192,411 was based on an application filed on 4 April 1987 without claiming any earlier priority, and was granted on 28 December 1989. An application for revocation was first made by Aristocast Originals Ltd on 22 February 1990 alleging that the invention lacked novelty and/or an inventive step because of prior use and contained added subject matter. I issued a decision on 25 March 1991 in which I declined to revoke the patent and allowed the applicants to withdraw because they had failed to file evidence of prior use within the set time.

The applicants filed a fresh application together with evidence on 6 February 1991, alleging that the invention lacks novelty and/or an inventive step because of prior use but no longer asserting added subject matter.

The patentees failed to file a counterstatement by the due date and stated in their agent's letter dated 23 April 1991 that they have decided not to contest the application and have allowed the patent to lapse. Both sides have agreed in respective letters dated 14 May 1991 that the matter should be decided on the basis of the papers already filed.

The patent is concerned with tray-like self supporting roof modules, primarily for flat roofed buildings, which comprise a foam core sandwiched between fibre-reinforced plastics layers with a peripheral upstanding wall which serves both as a means for connection to adjacent modules and as structural support for the modules. The patent contains independent claims 1 and 7 as follows:-

1. A roof structure made up from a plurality of modules, wherein each module is moulded from fibre reinforced plastics and comprises a platform area of foam sandwich construction surrounded by peripheral upstanding walls, at least one of the walls of each module being a connection wall for connection to adjacent modules, the connection walls being substantially at right angles to the plane of the platform area and the modules being mounted in the roof structure with their connection walls in abutting relationship and with the connection walls forming structural supports for the platform areas.

7. A module for a roof structure, the module being moulded of fibre reinforced plastics (frp) and comprising a platform area of foam sandwich construction surrounded by peripheral upstanding walls, at least one of the walls being a connection wall for connection to further modules, the or each connection wall being substantially at right angles to the plane of the platform area so that modules can be mounted in a roof structure with their connection walls in abutting relationship and with the connection walls forming structural supports for the platform areas, and the sandwich

construction comprising a lower frp layer, a foam layer and an upper frp layer, the lower layer being moulded integrally with the lower edge of the upstanding walls and the upper layer meeting the connection wall or walls between their lower and upper edges and being moulded integrally with the connection walls.

The applicant's evidence consists of the statutory declarations and accompanying exhibits of Messrs R T Billson and P W Siddons. Mr Billson's evidence is that a modular conservatory roof was installed by Banbury Windows Ltd before the priority date of the patent in suit. It demonstrates that the modules are tray-like having a generally similar appearance to those of patent 2,192,411, but Mr Billson does not give evidence that they have a foam core sandwiched between fibre-reinforced plastics.

However, Mr Siddons states in paragraph 8 of his statutory declaration that he was responsible for the techniques used in making the roof photographed in Mr Billson's exhibit RTB1. He describes the structure of the modules in paragraphs 7 and 8 of his declaration and includes as exhibit PWS4 a drawing showing inter alia their cross-section. This shows a roof made of two tray-like modules each having a foam core sandwiched between fibre-reinforced plastics layers with peripheral upstanding walls which serve to join the modules together. It is clear from the sentence bridging the penultimate and last pages of Mr Siddon's declaration that the walls provide structural support for the modules. Also it is clear from the drawing and the description in paragraph 8 that the upper and lower layer of fibre-reinforced plastics are arranged as in the last five lines of claim 7.

Mr Billson's and Mr Siddons' evidence is in my opinion credible, and in the absence of any counterstatement or contrary evidence, I accept it as establishing lack of novelty of the invention claimed in claims 1 and 7. Further, it is plain from an inspection of exhibits RTB1 and PWS4 together with the description thereof in the two declarations that the features of claims 2-6, 8, 9, 11-18, 21 and 22 are used in the prior modular roof.

The features of the remaining claims seem are in my view mere matters of design or known in the art. As the patent is undefended I see no point in inviting the patentee to submit amendments. I therefore direct that the patent should be revoked.

I also award the applicants the sum of £200 as a contribution to their costs and direct that this sum be paid to them by the patentees.

Dated this 16 day of July 1991



W J LYON
Superintending Examiner, acting for the Comptroller



THE PATENT OFFICE