

cut

PATENTS ACT 1977

IN THE MATTER OF

an application under section 71
by Sure-Grip Broom Clamp Co
for a declaration of non-infringement of
Patent No 2213758 in the name of John William Peake

16/8/93

DECISION

This application was filed on 7 May 1993, with a statement of facts. The proprietor does not oppose the application, and has filed no counterstatement in response to the applicant's statement of facts. The facts that are pleaded in the statement are therefore unchallenged, appear to me to be credible, and I accept them.

The applicant's agents first wrote to the patentee, Mr Peake, on 11 March 1993 asking for a written acknowledgement of non-infringement of his patent in respect of a sample broom clamp, a further example of which is on file in the box accompanying this case. Mr Peake's agents acknowledged receipt of the letter on 22 March, and raised the question of copyright in a drawing alleged to have been filed at Mr Peake's bank on 10 December 1987. The applicant's agents then sent a further letter on 23 March asking for a response to their first letter, and also commenting on the copyright question. This evoked another letter from Mr Peake's agents which did not refer to the infringement question but only to the matter of copyright. In a further letter of 11 June, that is, after the filing of the present application, Mr Peake's agents indicate that he does not wish to contest the present application.

UK patent No. 2213758 relates to a device for securing a broom handle to a broom head, with a body portion 14 (Fig 1), formed from a sheet metal blank, and comprising a tubular socket 17 with a bolt and wing nut for securing the socket to the end of a broom handle, a tongue 15 with an inturned edge 16 to engage over the forward edge of a broom head in use, and a pair of laterally spaced side plates which are shaped to provide a pair of spaced pressure pads 21 to engage the upper surface of the head. The device also includes a hooked rod 22, screw threaded at one end, passing through an aperture in the body portion 14, and

having a wing nut which can be tightened to secure the broom head between the edge 16 of the tongue and the hooked end of the rod.

Claim 1 of the granted patent reads :-

A device for securing a broom handle to a broom head, comprising a body portion, said body portion defining a tongue portion which in use extends forwardly over the stock of the broom head, the tongue portion having an inturned edge portion which in use engages beneath the leading edge of the stock, the body portion also defining an integral tubular socket portion which in use is secured to the broom handle, the body portion defining a pair of laterally spaced side plates which in use, extend towards the upper surface of the stock, the side plates being shaped to define pressure pads respectively which engage in use, with the upper surface of the stock at spaced positions along the length thereof and intermediate the leading and trailing edges thereof, the edges of the side plates between said pressure pads and the tongue portion being spaced from the upper surface of the stock, the device also including a shaped attachment member having a hooked end which in use is engaged beneath the trailing edge of the stock, the attachment member having a screw threaded portion which passes through an elongated aperture formed in the body portion adjacent the end of the socket portion, the screw threaded portion being engaged by a nut which in use is tightened to secure the device to the broom head.

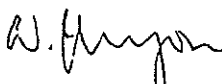
There is no description in writing of the applicant's sample clamp but this is in my view acceptable in view of the procedure followed in *A C Edwards Ltd v Acme Signs & Displays Ltd* [1990] RPC 621, wherein models were used in the determination in infringement proceedings. Moreover the features of the sample are I believe sufficiently straightforward for me to be able to identify them in this decision.

The sample comprises a broom handle receiving socket with a bolt and wing nut for securing a handle therein, this being welded to a curved plate with an inturned forward edge for engaging over the edge of a broom head, the device being completed by a hooked rod, screw threaded at one end, and passing through an aperture in the socket, similar to the arrangement of the rod 22 shown in UK patent No. 2213758. The applicant's sample clamp

does not include a pair of spaced side plates defining pressure pads intended to engage spaced portions on the upper surface of a broom head. These features form an essential part of the construction claimed in claim 1 of the patent, because they were introduced into the claim during examination to distinguish the invention from the disclosures of the cited British patent specifications Nos 817281, 796567, and 382510, which all show arrangements similar to that of the sample except that the hooked rod is replaced by a separate curved plate with an inturned edge to engage the broom head.

In these circumstances, I am satisfied that the sample does not infringe the claims of UK patent No 2213758, and I so certify.

Dated this 16 day of August 1993


W J LYON

Superintending Examiner, acting for the Comptroller



THE PATENT OFFICE