

**PATENTS ACT 1977**

IN THE MATTER OF Patent Application

No 8900291.9 by Joseph Petch

**DECISION**

The application was filed on 6 January 1989 by the applicant without the assistance of a patent agent. In an official letter dated 20 April 1989, acknowledging receipt of the application and giving guidance on procedural requirements, the applicant was advised as follows:

"The apparatus described in your patent specification appears to contemplate an electric power generating system that operates without there being any input of energy and it thus operates contrary to the law of conservation of energy. Any arrangement that operates in a manner clearly contrary to established physical laws is considered not to be capable of industrial application and thus cannot meet the criteria of Section 1(1)(c) of the Patents Act 1977. Before you proceed further you should consider this matter, as it seems unlikely that a patent could be granted on this application for the above reason."

In due course, the applicant requested both search and substantive examination. At the substantive examination stage, in the official letter dated 13 October 1992, the examiner reported that, inter alia, the invention did not meet the requirement of being capable of industrial application. The objection was also discussed when the applicant telephoned the examiner on 23 February 1993.

After receiving an official letter (dated 31 July 1993), advising him of the expiry of the reply period, the applicant appointed a patent agent, Mr Graham Jones, who filed a revised specification.

In exchanges of correspondence and a telephone conversation with Mr Jones, the examiner pursued the industrial application objection and, finally, in view of the imminent expiry of the Rule 34 period, offered a hearing. Mr Jones, in his letter dated 8 October 1993, indicated that he would not attend a hearing but submitted observations for consideration by the Hearing Officer. I shall therefore decide the matter on the basis of the documents at present on file.

The applicant's specification, as originally filed, describes an electric power generating system comprising an electric generator driven by an air turbine located in a duct connected to an enclosure in which a high voltage device operates to reduce the air pressure so that air is drawn past the turbine to drive it. Two embodiments are described, both having a coil in the enclosure charged to a high voltage "to ionise the air and to create a vacuum in the enclosure" thereby creating an airflow in the duct to drive the turbine. The following statements are made on pages 4 and 5 of the original description:

"I claim that this method of energy exchange will produce some five times more electric power than is needed to run the generator. This generator needs only to be started for a few minutes by a mains or battery lead and once it reaches full power the input power supply is transferred to the generator. Thus the generator using one fifth of its power to run itself leaves the other four fifths to be used for domestic or industrial use."

As pointed out above, the examiner, prior to the search stage and at the substantive examination stage, reported that the operation of the power generating system as described was contrary to established physical laws and therefore the invention was not capable of industrial application.

In his letter dated 17 September 1993 accompanying the revised specification, Mr Jones stated that he had "removed those parts of the description which the examiner was objecting to ..... and tried very hard to make it clear that this invention is not contrary to the generally accepted laws of conservation of energy." In a further letter dated 23 September 1993, Mr Jones referred to the revised specification as "providing a description which could be

said to describe workable apparatus to a man skilled in the art." Finally, referring to a further revision of the specification filed with his letter dated 6 October 1993, Mr Jones, in a letter dated 8 October 1993, made the following observations for my consideration:

"Our position is basically simple and it is as follows:

1. The specification as amended and filed with our letter of 6 October 1993 does not include any added subject matter.
2. The specification is clear and understandable and a man skilled in the art could produce apparatus as claimed in claim 1 without the need for any inventive skill.
3. If the specification does not include added subject matter, and if the specification contains a sufficient description for a man skilled in the art to produce the apparatus of the invention, then the patent application should be accepted.
4. The applicant should not be prevented from correcting inconsistencies in his originally filed patent specification. We say this especially in the light that it is believed that we have been able to correct these inconsistencies without adding subject matter.
5. We believe that in cases of doubt the Patent Office always endeavours to resolve matters in favour of the applicant."

Turning to the specification in its finally-revised form, although the above-quoted passages originally on pages 4 and 5 have been removed, the invention disclosed remains the same, namely, an enclosure containing a high-voltage coil, a turbine in a duct connected to the enclosure and a generator driven by the turbine and supplying power to the coil, energisation of the coil being stated to cause ionisation of the air in the enclosure to create a reduction in pressure and hence air movement to drive the turbine. In my view, as a physicist, such pressure reduction would not occur and, in the absence of a working example of the invention to prove such operation, I am in no doubt that the relevant established physical

laws apply to rule out such a mode of operation. Therefore, I am satisfied that the invention cannot function in the manner described under established physical laws and consequently is not capable of industrial application.

As the issue under consideration is industrial applicability, the question of whether a man skilled in the art could produce the apparatus would not seem to be relevant. Many so-called perpetual motion machines have been built but none has been shown to be workable, due to their proposed mode of operation being in conflict with established physical laws. In consequence, such machines have not been patentable because of their failure to meet the industrial applicability requirement.

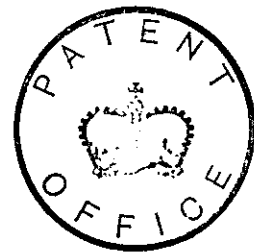
In the result, I find that the application fails to comply with the industrial applicability requirement of Section 1(1)(c) of the Act and, since I can see no possibility of any amendment to meet my finding, I refuse the application under Section 18(3) of the Act.

Dated this 25 day of October 1993



K C THOMAS

Principal Examiner, acting for the Comptroller



**THE PATENT OFFICE**