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PATENTS ACT 1977

IN THE MATTER OF an application by
National Coal Board under Section 72(1)(a)
for the revocation of Patent No 2114085
granted to Don Valley Engineering Company Limited.

DECISION

Patent 2114085 relates to scraper conveyors and in particular to the links of the chains of such conveyors, which carry scraper bars (or flights) which engage the material to be conveyed; such links are referred to as flight links. Claim 1 reads:

A flight link for a chain or scraper conveyor, in which an attachment for a scraper flight is formed integrally with a body of said flight link, said attachment extending from a first face of said body and being in the form of a tang whose longitudinal axis is normal to the longitudinal axis of the flight link, said body having one or more strengthening ribs on a face of said body opposed to said first face.

Appendant claims 2-5 relate to further features of the flight link and claim 6 is an omnibus claim referring to the description and drawings. The patent is dated 20 January 1983 and claims priority from an earlier patent application dated 30 January 1982.

The application for revocation was made on 10 January 1986, and asserts lack of novelty and inventive step, based on prior public use and on the following documents:

- a) British Patent Specification 715900;
- b) NCB Specification No 605/1972 entitled 'Driving Strands for De Brouwer Scraper Conveyor Chain';

c) Brochure entitled 'An introduction to the Don Valley Engineering Company Limited Scraper Chain Mk I Series' dated 24 July 1981 Pages 1-4 and drawing No 5046/5 dated 22.5.81;

d) National Coal Board Mechanical Engineering Conference report reference EC(M)PROD/P(79)24, Memorandum by J W Stoker headed De-Brouwer Chain, 2 pages plus appended drawings.

The patentees have not filed a counterstatement, and are therefore taken to have admitted the facts in the applicants' statement. The patentees did however offer to surrender the patent, but, as was explained in an Official letter dated 12 August 1986, the Comptroller's practice in such a case is to reach a decision on the application for revocation before considering the offer to surrender. The basis for this practice is that a revoked patent is revoked ab initio, whereas a surrendered patent is in force until the date of its surrender.

It is convenient to start with drawing no 5046/5 mentioned above. According to the applicants' statement, this document was communicated to them without any obligation of confidence before the claimed priority date. In addition a chain supplied by the patentees and used at the Frickley Colliery Coal Preparation Plant from August 1981 until the claimed priority date of the patent was in accordance with the drawing. I am satisfied on each of these grounds that the apparatus shown in the drawing was public knowledge at the priority date.

The drawing shows a length of chain including a flight link with flight attached, and two further views of the flight link. Turning now to the patent in suit, and using the reference numerals shown in the drawings of the patent, claim 1 claims a flight link for a scraper conveyor having an attachment 6 formed integrally with a body 4 of the link and extending from a first face of the body 4, the longitudinal axis 6A of the attachment being normal to the longitudinal axis 4A of the link, and strengthening ribs 16 being provided on a face of the body 4

opposed to the first face. The brochure does not refer specifically to the features of the flight link except to refer to the attachment being forged integrally with the link from one piece of metal. However, I am satisfied that drawing 5046/5 itself shows all the features of claim 1.

The appendant claims 2-5 relate to bores 20,22 in the attachment 6 for securing the flight to the attachment, strengthening ribs 18, 18A on the attachment and strengthening bosses 8, 10 on the body 4 bored to receive intermediate links of the chain. All these features are shown in drawing 5046/5. The remaining claim, the omnibus claim, refers to the description and drawings, and I find the drawings of the patent in suit do not differ materially from drawing 5046/5.

On the basis of the disclosure of drawing 5046/5 I find the invention claimed in each of claims 1-6 is not novel and does not comply with Section 1(1)(a) of the Patents Act 1977.

Turning to the ground of lack of inventive step, the only feature of claim 1 of the patent in suit that is not disclosed in the embodiment of Figure 5 of Specification No 715900 is the provision of strengthening ribs. The use of strengthening ribs is not itself novel or inventive - they are known in many arts - and the applicants referred to the documents identified at b) and d) above to show the use of strengthening ribs on flight links for scraper conveyor chains. In the light of these disclosures, I am satisfied that the use of strengthening ribs known in the art of flight links on a particular known form of flight link does not involve an inventive step and the invention claimed in claim 1 does not comply with Section 1(1)(b) of the Patents Act 1977.

The remaining claims 2-6 of 2114085 relate to further features of flight links which are disclosed in the identified documents and it would not be inventive to include such features in the flight link of claim 1.

I find therefore that the case for revocation is made out and I accordingly revoke Patent No 2114085. This decision overrides the offer to surrender the patent, which I need not consider further.

Dated this 20th day of November 1986

W J LYON

Superintending Examiner, acting for the Comptroller



THE PATENT OFFICE