

OPINION UNDER SECTION 74A

Patent	EP 3344843 B1
Proprietor(s)	ASSA ABLOY (SCHWEIZ) AG
Exclusive Licensee	
Requester	Swindell & Pearson Limited
Observer(s)	Mewburn Ellis LLP on behalf of ASSA ABLOY (SCHWEIZ) AG
Date Opinion issued	01 October 2024

The request

1. The comptroller has been requested to issue an opinion in relation to the validity of patent EP 3344843 B1 (the patent). The request asks whether the invention for which the patent has been granted is not new, does not involve an inventive step and/or lacks sufficiency. The requester cites the following documents in their request:

- Document D1 - US 2018/245400 A1 (ASSA ABLOY (SCHWEIZ) AG, published 30 August 2018
- Document D2 - CN 201170043 Y (HUI ZHU), published 24 December 2008
- Document D3 - Machine translation of CN 201170043 Y
- Document D4 - Silent Gliss Roller Blind and Dim-Out Systems information booklet
https://cms.esi.info/Media/documents/52974_1405687149096.pdf, published April 2014
- Document D5 - DE 202008016094 U1 (ATHMER OHG F), published 26 February 2009
- Document D6 - Machine translation of DE 202008016094 U1
- Document D7 - DE 3716654 A1 (ATHMER FA F), Published 8 December 1988
- Document D8 - Machine translation of DE 3716654 A1

- Document D9 - GB 2268562 A (HARRISON CHRISTOPHER JOHN), published 12 January 1994
- Document D10 - DE 3219492 A1 (HARNISCH KLAUS), published 24 February 1983
- Document D11 - Machine translation of DE 3219492 A1
- Document D12 - GB 2164690 A (DEAN EDWARD), published 26 March 1986
- Document D13 - NL 8401100 A (BERNARDUS PETRUS MARIA KET.), published 1 November 1985
- Document D14 - Machine translation of NL 8401100 A
- Document D15 - “Design Principles of Slotted Holes”, Xiangyu et al Proceedings of the International MultiConference of Engineers and Computer Scientists 2015 Vol II, IMECS 2015, March 18-20, 2015
- Document D16 - Strand Hardware Limited FP400 Finger Protector installation instructions
https://www.strandhardware.co.uk/images/PDF/FP400_-_2019.pdf, published April 2013

Observations

2. Observations were received on 19 August 2024 and the observer cited two further documents:

- Document D17 - English translation of the description of the patent
- Document D18 - Screenshot of the Collins online translator translating German term “einhängbar” into English, accessed at <https://www.collinsdictionary.com/translator>

3. Observations in reply were received on 2 September 2024.

Matters to be considered by this Opinion

4. Section 74A of the Patents Act provides for the procedure where the Comptroller can issue, on request, non-binding opinions on questions of validity relating to novelty and inventive step, and on questions of infringement.
5. Section 74A(3) of the Patents Act states:

The comptroller shall issue an opinion if requested to do so under subsection (1) above, but shall not do so –

- (a) in such circumstances as may be prescribed, or*
- (b) if for any reason he considers it inappropriate in all the circumstances to do so.*

6. It is the practice of the IPO to not issue an opinion in the circumstance where the request relies on a document that has been considered during the examination of the patent and therefore where the opinion request does not raise a new question. Documents D5, D7, D9 and D13 were cited by the European Patent Office (EPO) as International Searching Authority (ISA) for the proprietor's original PCT application published under number WO 2017/036679 A1, which subsequently entered the regional phase and was granted as the patent. The European Patent Register confirms that the International Search Report and Written Opinion of the ISA were available to the EPO Examiner and so these documents were considered during pre-grant examination of the patent. Therefore, I consider that the question of novelty and inventiveness of the patent in the light of Documents D5, D7, D9 and D13 has already been considered in the pre-grant proceedings of the EPO. Hence, in this opinion, I will only consider these documents in the light of the other newly cited documents, if required.

The patent

7. The patent is entitled "Finger guard for a winged door" and was filed on 26 July 2016 with an earlier declaration of priority of 31 August 2015. The patent was granted on 22 April 2020 and remains in force in the UK.
8. The patent relates to a finger protection device or guard with a roller blind for a leaf door, which provides protection against inadvertent trapping of fingers in the gap between a door frame (R) and a door leaf (F). Figures 2 and 3 of the patent are reproduced below.
9. The European patent application was filed and published in German. The granted patent includes a single independent claim, the English translation of this claim reads:
1. *(a) A finger protection device (S) with a roller blind for a leaf door,*
 - (b) wherein the roller blind has a housing (2), a first fastening means (4) and a web (1),*
 - (c) wherein the roller blind can be fastened to a door frame (R) and to a door leaf (F) of the leaf door by means of the housing (2) and the first fastening means (4),*
 - (d) with the result that, when the device is used as intended, the web (1) covers a gap between the door leaf (F) and the door frame (R),*
 - (e) wherein the web (1) has at its free edge an end strip (11) which is held in a second fastening means (3),*
 - (f) wherein the second fastening means (3) can be connected to the first fastening means (4) in order to tension the web (1) between the*

housing (2) and the first fastening means (4),

(g) characterized in that the second fastening means (3) is a suspension unit which can be suspended in the first fastening means (4) in order to tension the web (1),

(h) whereby the fastening of the second fastening means (3) to the first fastening means (4) is able to be released again without the use of tools and in a non-destructive manner.

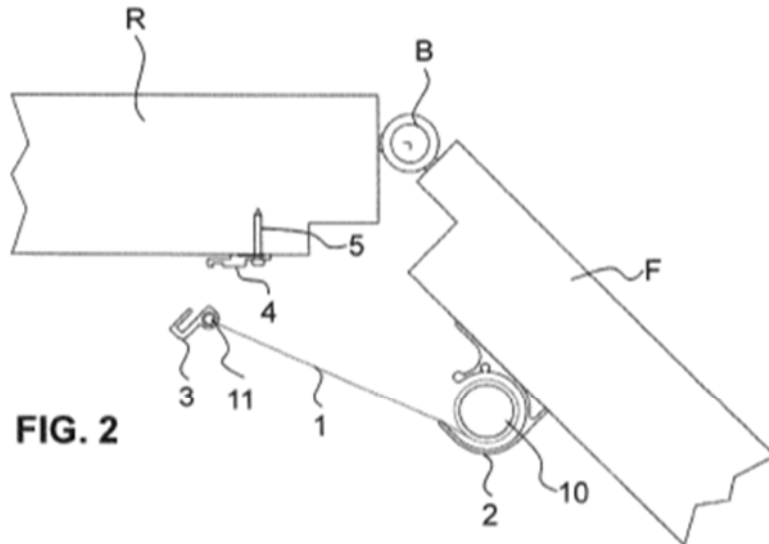


FIG. 2

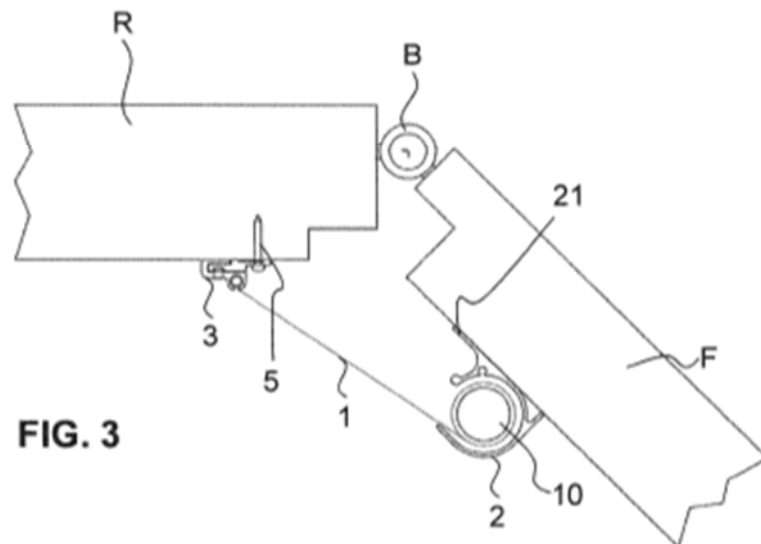


FIG. 3

Claim construction and sufficiency

10. Before I can determine an opinion as to the validity of the patent, I must first construe the claims. This means interpreting the claims in light of the description and

drawings as instructed by section 125(1) of the Patents Act:

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.

11. I must interpret the claims in context through the eyes of the person skilled in the art. Ultimately, the question is what the person skilled in the art would have understood the patentee to be using the language of the claims to mean. This approach has been confirmed in the decisions of the High Court in *Mylan v Yeda*¹ and the Court of Appeal in *Actavis v ICOS*².

12. Additionally, section 14(3) of the Patents Act reads:

The specification of an application shall disclose the invention in a manner which is clear enough and complete enough for the invention to be performed by a person skilled in the art.

13. The requester has submitted that the notional person skilled in the art would be someone well versed in finger protection devices for doors. The relevant common general knowledge of that person would include the various materials and configurations typically employed in such finger protection devices. According to the requester, they would also be aware of other well-known household products such as roller blinds for windows. I think that this fairly reflects the characteristics of the relevant skilled person.

14. There is some disagreement about the meaning of the term “*einhängbar*”, which appears in feature (g) of claim 1 in the original German text of the patent. The requester has proposed that this term means “*can be hung*” or “*attachable*” whereas the observer suggests that a correct translation is “*hookable*” or “*suspendable*”, providing document D18 in support of this translation. I note that feature (g) in the English translation of the claims of the patent uses the expression “*can be suspended*” to represent the German expression “*einhängbar ist*” and the expression “*suspension unit*” to represent the related German term “*Einhängeeinheit*”.

15. The observer has objected to the use of Document D1 as an English-language equivalent of the description of the patent, instead filing Document D17 as an English translation of the original German text. However, it appears to me that the two texts are substantially identical, particularly in the description of the preferred embodiments that provide basis for properly construing the claims. I note, for example, that both the text of D1 and the text of D17 repeatedly use the expression “*suspension strip 3*” for the “*second fastening means (3)*” of claim 1, which is “*suspended in the first fastening means*” (par.0047 of D1 and page 9 lines 9 to 10).

16. Therefore, I consider that the term “*einhängbar*” would be understood by the skilled person to mean “*suspendable*” or “*hangable*”, which I believe is narrower in scope

¹ *Generics UK Ltd (t/a Mylan) v Yeda Research and Dev. Co. Ltd & Others* [2017] EWHC 2629 (Pat)

² *Actavis Group PTC EHF v ICOS Corporation & Ors* [2017] EWCA Civ 1671

than merely being “attachable”.

17. The requester also argues that feature (h) of claim 1 is insufficient by excessive breadth and is also classically insufficient. In particular, the requester objects that the expressions “without the use of tools” and “non-destructive” are insufficiently disclosed in the application as originally filed.
18. The English-language translation of the patent discloses (paragraph 0056 of D1; page 11 lines 18-21 of D17):

“The suspended suspension strip 3 [i.e. “second fastening means (3)” of claim 1] may be fixed in its vertical position by means of one or more second screws 33. The at least one second screw 33 is preferably a setscrew which is pressed onto the suspension plate 42 by the second limb of the fastening strip 3.”

19. Figures 5 and 6 illustrate this “setscrew” (or grub screw) as having a hexagonal head and I agree with the requester’s conclusion that the hexagonal head is presumably for receiving a hex key tool. Figure 5 is reproduced below.

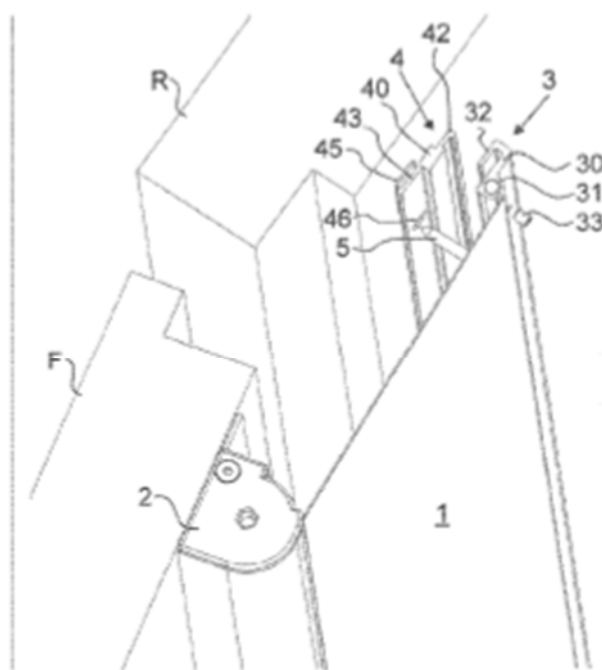


FIG. 5

20. The description of the patent continues (paragraphs 0057-0058 of D1; page 11 lines 23-30 of D17):

“The web 1 may be unhooked easily by this second screw 33 being slightly released...”

...Since the web 1 is not able to be unhooked easily without releasing the second screw 33, the fastening screws 22 and 5 are well protected from tampering.”

21. The requester contends, therefore, that the patent discloses an embodiment in which

the “*second fastening means (3)*” is released initially with the use of a tool (e.g. hex key) to slightly loosen the “*screw 33*” and then without use of the tool while the “*screw 33*” is ‘finger-tight’ or never fully tightened to begin with so that a tool is never required. The requester then proposes that feature (*h*) must cover a broad range of options for the “*second fastening means (3)*” that is either completely devoid of any fastener through to the use of a fastener that does require a tool to loosen to a ‘finger-tight’ state such that feature (*h*) is all-encompassing and non-limiting.

22. I do not agree with the requester’s reasoning, and I believe that the requester is taking feature (*h*) out of context within claim 1 and these passages of the description out of context within the description as a whole.
23. Feature (*h*) of claim 1 follows feature (*g*), which defines “*the second fastening means (3)*” as “*a suspension unit which can be suspended in the first fastening means (4) in order to tension the web (1)*”. Thus, I believe a skilled person would understand that it is this ‘suspending’ or hanging of “*the second fastening means (3)*” in “*the first fastening means (4)*” and the ‘tensioning of the web (1)’ that achieves “*the fastening*” defined in feature (*h*) that is “*able to be released again without the use of tools and in a non-destructive manner.*” This is confirmed in figures 2 and 3 of the patent specification (reproduced above) and the associated passages of the description. For example, in paragraph 0047 of D1 (page 9 lines 9-12 of D17):

“The suspension strip 3 forms a second fastening means which may be suspended in the first fastening means... Due to the restoring force of the roller blind, in the suspended state the web 1 is tensioned in every position of the door leaf F.”

And, in paragraph 0009 of D1 (page 2 line 33-page 3 line 4 of D17):

“The second fastening means is a suspension unit which can be suspended in the first fastening means in order to tension the web, whereby the fastening of the second fastening means to the first fastening means is able to be released again without the use of tools and in a non-destructive manner.”

24. I believe that a skilled person would understand that the passages of the description relating to the “*screw 33*” are not related to “*the fastening*” of feature (*h*) but, rather, serve a different purpose. The passage of the description preceding paragraphs 0056-0058 of D1 (page 11 lines 18-30 of D17) describes “*the suspension strip 3*” being “*suspended at different heights and the angle of the roller blind web 1, therefore, may be easily varied. This is clearly identifiable in FIGS. 6 and 7*” (see paragraph 0055 of D1; page 11 lines 11-13 of D17). Then, “*the suspended suspension strip 3 may be fixed in its vertical position by means of one or more second screws 33*” (paragraph 0056 of D1; page 11 lines 18-19 of D17).
25. Therefore, I believe that a skilled person would understand that the “*screw 33*” is (i) optional and not required to achieve “*the fastening*” of feature (*h*) and (ii), when it is used, achieves ‘*fixing [the suspended suspension strip (3)] in its vertical position*’, i.e. “*at different heights*” to vary “*the angle of the roller blind web 1*”.
26. A skilled person would recognise from paragraph 0058 of D1 (page 11 lines 28-30 of D17) that the “*screw 33*”, when used, also assists in ‘*protecting [the fastening screws*

22 and 5] from tampering' because *"the web 1 is not able to be unhooked easily without releasing the second screw 33."* But, again, I believe that a skilled person would recognise that this is not related to *"the fastening"* of feature (h) either because, as already indicated above, *"the fastening"* of feature (h) is achieved by feature (g) and *"the fastening"* of feature (h) *"is able to be released again without the use of tools"* (i.e. *"unhooked easily"*).

27. Therefore, in my opinion, the patent specification does disclose feature (h) of claim 1 in a manner which is clear enough and complete enough for the invention to be performed by a person skilled in the art. In particular, the skilled person would understand how *"the fastening"* of feature (h) *"is able to be released again without the use of tools and in a non-destructive manner"* since it does not require the "screw 33".

Validity – novelty and inventive step

28. Section 1(1) of the Patents Act reads:

A patent may be granted only for an invention in respect of the following conditions are satisfied, that is to say –

(a) the invention is new;

(b) it involves an inventive step...

29. The requester has argued that independent claim 1 is not novel over each of document D2 and document D5. However, as indicated above, the novelty of the patent over document D5 has already been sufficiently considered during the pre-grant examination of the patent application.
30. Document D2 is a Chinese language patent application published before the priority date of the patent. Document D3 is a machine translation of D2 into English and the accuracy of the translation has not been questioned by the observer. Hence, in the following discussion, I will use the terminology used in document D3 when referring to features of document D2.
31. Document D2 discloses a hand clamping prevention safety door having a door frame 3 connected to a door leaf 6 through a telescopic curtain roll 1. When the door is opened, the curtain is drawn out of the curtain roll 1 and blocks off a door slot to prevent fingers from being clamped. Figures 1 and 2 is reproduced below.
32. The requester and observer disagree about whether features (e) and (h) are disclosed in D2.

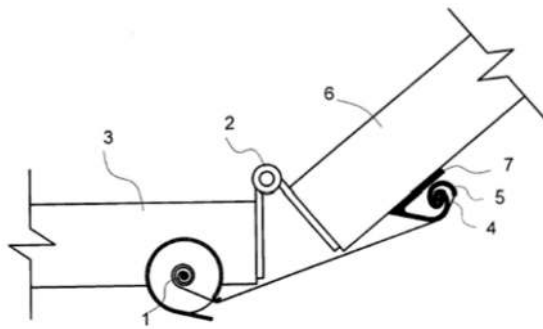


图 1

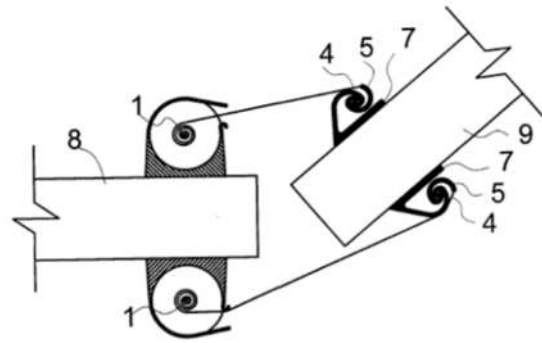


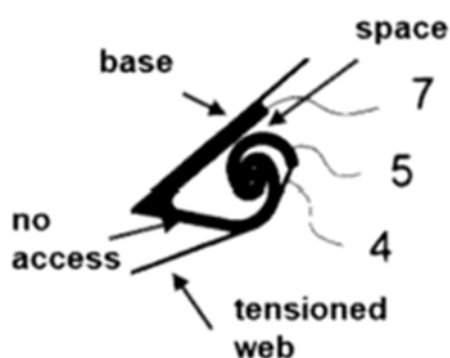
图 2

33. Regarding feature (e), D2 discloses a “curtain starting end 4” (i.e. “free edge” of “the web (1)”), which is provided with “a slot hook 5” (i.e. “a second fastening means (3)”). However, D2 does not explicitly disclose an “end strip (11)” at the “free edge” of “the web (1)... which is held in a second fastening means (3)”. The requester suggests that this is implicitly disclosed since some form of end attachment is required to attach the “curtain starting end 4” to the “slot hook 5” and this would need to be an elongate attachment (i.e. a “strip”) extending upwardly along the door frame for the hand clamping prevention structure to work as intended.
34. However, the observer contends that D2 is silent about the connection of the “curtain” to the “slot hook 5” and no “end strip (11)” is described or shown in the figures. And, they argue, the skilled person would find no teaching in D2, nor in their common general knowledge, that would lead them to modify D2 to include an “end strip (11)”.
35. I note that, in D2, “the curtain is made of canvas or nylon cloth” (see claim 5 of D2). On the other hand, whilst not explicitly disclosed in D2, a skilled person would recognise that the “slot hook 5” must be made of a more rigid material, such as plastic or metal. Therefore, in my opinion, a skilled person would understand that some sort of connection between the flexible “curtain” and the more rigid “slot hook 5” would be necessary.
36. I also note that the “end strip (11)” of the patent may be implemented “by thickening the web 1 itself” or could be “a metal or plastic strip” (see paragraph 0046 of D1; page 9 lines 1-3 of D17). There is very little further detail about the “end strip (11)” in the patent. To me, this gives the term “end strip (11)” a relatively broad meaning.
37. Hence, I agree with the requester regarding the “end strip (11)”. I believe that a skilled person would consider this to be implicitly disclosed in document D2 and, even if it were not implicit, I believe that it would certainly be obvious. The requester has suggested that, as exemplified in documents D5 (see “piping 150” in figure 2), D7 (see figure 2), D9 (see figures 1, 3 and 4), D10 (see figure 1), D12 (see “rigid strip 4” in figure 4) and D13 (see figure 6), finger protection devices that utilize webs with an “end strip” would have been considered a commonplace feature by the person skilled in the art (N.B. in this context, I believe that it is acceptable to consider documents D5, D7, D9 and D13 in the light of newly cited document D2). This seems reasonable to me.
38. Regarding feature (h), D2 discloses “the slot hook 5” ((i.e. “a second fastening

means (3)”) being “installed on a slot seat 7” (i.e. “first fastening means (4)”). In particular, D2 discloses:

*“the slot hook 5 is installed on a slot seat 7 on the door leaf 6 for mutual hooking.
The slot hook 5 is hung on the hook seat 7,”*

39. The observer argues that D2 does not describe that “the slot hook 5” can be released from “the hook seat 7”. They note that, in figure 1 of D2, “the slot hook 5” and “the hook seat 7” are intertwined spirals that, according to the observer, appear to be a snap closure that cannot be released “without the use of tools and in a non-destructive manner”. Furthermore, the observer provides an annotated copy of an enlarged view of figure 1 of D2 (see below) that, they say, shows the space between “the slot hook 5” and the base of “the hook seat 7” to be such that the spiral of “the slot hook 5” cannot be pivoted out of the linkage with the spiral of “the hook seat 7” once the connection is made.



40. I do not believe that a skilled person is taught that the connection between “the slot hook 5” and “the hook seat 7” in D2 is a snap closure or lock. The description of this interaction is “mutual hooking” such that the “slot hook 5 is hung on the hook seat 7”. There is no suggestion in D2 that this connection locks in place so that it becomes difficult to release without tools. In fact, I believe that the description of this connection is comparable to feature (g) of claim 1 of the patent where “the second fastening means (3)” is defined as “a suspension unit which can be suspended [i.e. “hung”] in the first fastening means (4) in order to tension the web (1),” and, as discussed above, I believe that “the fastening” of feature (h) is achieved by feature (g) such that “the fastening” of feature (h) “is able to be released again without the use of tools”.
41. The requester makes a useful reference to the Manual of Patent Practice section 2.08.1, which indicates that care should be taken when relying on dimensions derived from drawings. The Hearing Officer in *Zebra Technologies Corporation*³ clarified:

“there is a distinction between: a) reading specific dimensions from a drawing where no such dimensions are given and attempting to use that information to derive a technical teaching, and b) deriving general information from drawings about components and their shape, function etc. The former is unlikely to be appropriate as per T204/83, whereas there is nothing wrong in principle with the skilled person doing the latter.”

42. In this case, I do not believe that it is right to conclude from figure 1 of D2 that there is insufficient space to allow “*the slot hook 5*” to be pivoted out of “*the hook seat 7*”. Figure 1 of D2 merely provides “*general information*” about the “*shape, function*” of “*the slot hook 5*” and “*the hook seat 7*” and I do not think that a skilled person would conclude that these are in a locked configuration that would be difficult to release without the use of tools.
43. Therefore, in my opinion, feature (*h*) of claim 1 is disclosed in document D2 and feature (*e*) is either implicit or would be obvious to a skilled person in the light of D2. Hence, in my opinion, claim 1 of the patent is not new or, at the very least, lacks an inventive step over document D2.

Dependent claims

44. Claim 2 of the patent defines:

“the first fastening means (4) comprises a hook receiver and the second fastening means (3) comprises a suspension hook (32) or vice versa.”

45. I believe that the “*the slot hook 5*” and “*the hook seat 7*” of D2 meet this definition such that the subject matter of claim 2 is not new or, at the very least, lacks an inventive step.

46. Claim 3 of the patent defines:

“the first fastening means (4) comprises a fastening surface for fastening the first fastening means (4) to the door frame (R) or to the door leaf (F), wherein the second fastening means (3) is able to be suspended approximately in the direction parallel to this fastening surface.”

47. I do not believe that D2 discloses this feature since “*the slot hook 5*” is a spiral shape and, in my view, cannot be said to be “*suspended approximately in the direction parallel*” to the “*fastening surface*” of “*the hook seat 7*”.

48. Claims 4 to 6 of the patent define (abridged):

“the second fastening means is a hook-shaped, curved suspension strip (3)”,

“the first fastening means is a fastening strip (4)”,

“the first fastening means” and “the second fastening means” ‘extend in length approximately over the entire width of the web (1)’ and “the second fastening means (3) is suspended over approximately its entire length in the first fastening means (4).”

49. For similar reasons as discussed above in relation to the “*end strip (11)*” of the patent, I believe that these features are either implicit or would be obvious to a skilled person. I think that these “*entire width*” / “*entire length*” features are suggested in D2 by use of the term “*telescopic curtain roll*” (i.e. a “*curtain*” is generally full in length), which is “*arranged to block the door slot between the door leaf and the door frame, thereby*

effectively preventing the finger of the old and the young from being clamped.” Hence, I believe that claims 4 to 6 are either implicitly disclosed or obvious in the light of D2 such that they are not new or, at the very least, lack an inventive step.

50. Claims 7 and 8 of the patent define:

“the first fastening means (4) is able to be fastened by at least one first fastening element (5) to the door leaf (F) or to the door frame (R), and wherein in the tensioned state, when used as intended, the web (1) covers the at least one first fastening element (5), and wherein in the suspended state the suspension unit is laterally spaced apart from the first fastening means (5).”

“the first fastening means (4) has a slot (46) extending at least transversely to the longitudinal direction of the first fastening means (4), and wherein the first fastening element (5) is at least one screw (5) which is able to be passed through the at least one slot (46) for fastening the first fastening means (4) to the door leaf (F) or to the door frame (R).”

51. Document D2 discloses and illustrates in the figures the “slot seat 7 on the door leaf 6” without explicitly disclosing how it is fastened in place. In context, “the scroll part 1 of the telescopic curtain roll” is described as being “installed in a position of the door frame 3 near the hinge 2 in a concealed manner and fixed by a screw.” Hence, a skilled person may consider that it would be obvious that the “slot seat 7” is also fixed by a screw. The requester has provided document D15, which makes the statement that “slotted holes are widely deployed in mechanical design”. Whilst, to me, this single reference would be insufficient to be categorised as part of the common general knowledge of the skilled person, I would agree with the sentiment of the statement. The person skilled in the art as defined in paragraph 13 above would be well-aware of this common means of mechanical fastening. Furthermore, as illustrated in the figures of D2, the “curtain starting end 4” does extend over the “slot seat 7” and thus any means of fastening is ‘covered’. Finally, the “slot hook 5” is also “laterally spaced apart” from the fastening means. Hence, I am of the opinion that claims 7 and 8 lack an inventive step over document D2.

52. Claim 9 of the patent defines:

“the housing (2) has a base body (20) for receiving the web (1) and a projection (21) protruding laterally from the base body (20), wherein the projection (21) serves for fastening the housing (2) to the door leaf (F) or to the door frame (R), and wherein the web (1) when used as intended covers the projection (21) in the tensioned state.”

53. I don’t believe that D2 discloses “a projection protruding laterally” from “the scroll part 1” and there appears to be nothing in D2 that would motivate a skilled person to seek out alternative arrangements for fastening “the scroll part 1” to “the door frame 3”.

54. Claims 10 and 12 of the patent define:

“the second fastening means (3) is able to be altered in its position relative to the first fastening means (4), preferably also in the suspended state.”

“the second fastening means (3) is able to be adjusted in its vertical position relative to the first fastening means (4).”

55. As I have already concluded that the disclosure in D2 that the “slot hook 5 is hung [i.e. “suspended”] on the hook seat 7” is comparable to feature (g) of claim 1 of the patent and this, in turn, achieves “the fastening” of feature (h) of claim 1 of the patent, it seems to me that a skilled person would consider this “mutual hooking” to be ‘alterable’ and ‘adjustable in its vertical position’ such that claims 10 and 12 lack an inventive step over document D2.

56. Claim 11 of the patent defines:

“at least one second fastening element (33) is present, the second fastening means (3) being able to be fixed thereby in its position relative to the first fastening means (4).”

57. As discussed above, this “second fastening element (33)” is illustrated in the embodiment of figures 5 and 6 as the “second screw 33” or “setscrew” (or grub screw). I don’t believe there is anything in document D2 that anticipates this feature. Furthermore, the mechanism of “mutual hooking” or ‘hanging’ between the “slot hook 5” and “the hook seat 7” of D2 is complete in itself, so I don’t believe that there is any motivation for the skilled person to make this modification without requiring an inventive step, even taking into account the prior art references of documents D7, D9, D13 and D16.

58. Claim 13 of the patent defines:

“the second fastening means (3) is able to be fixed in its vertical position relative to the first fastening means.”

59. I believe that this feature is implicit in the disclosure of document D2. As I have concluded that document D2 discloses a “fastening” of the “slot hook 5” to “the hook seat 7” (i.e. feature (h) of claim 1), I believe that this “fastening” will inherently achieve a ‘fixing in its vertical position’. Otherwise, the “slot hook 5” and “curtain” of document D2 would not stay in place and, thus, would not “block the door slot between the door leaf and the door frame”. Hence, I believe that claim 13 is not new or, at the very least, lacks an inventive step.

60. Claims 14 and 15 of the patent defines:

“the second fastening means (3) has a substantially U-shaped cross section with a first limb, a second limb and a web connecting the two limbs, wherein the first limb serves for the suspension and the second limb is lengthened relative to the first limb and has an outwardly oriented groove (31) in which the end strip (11) is inserted.”

“the first fastening means (4) is configured to be substantially plate-shaped and has an undercut for receiving the suspension unit.”

61. I do not believe that the “slot hook 5” of document D2 has the features defined in claim 14 and that the “hook seat 7” of document D2 has the features defined in claim 15 and I see no reason why the skilled person would be motivated to modify either of them to

include these features.

Opinion

62. I am of the opinion that the patent specification does disclose the invention in a manner which is sufficiently clear and complete for the invention to be performed by a person skilled in the art.
63. I consider that independent claim 1 is invalid as the invention defined by it is either not novel or lacks an inventive step in the light of document D2.
64. I am also of the opinion that dependent claims 2, 4 to 8, 10, 12 and 13 are invalid as the invention defined by them is either not new or lacks an inventive step over document D2.

Application for review

65. Under section 74B and rule 98, the proprietor may, within three months of the date of issue of this opinion, apply to the comptroller for a review of the opinion.

Dan Hickery
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.