

**OPINION UNDER SECTION 74A**

Patent	GB 2527541 B
Proprietor(s)	Saint-Gobain Construction Products UK Limited
Exclusive Licensee	-
Requester	Swindell & Pearson Limited
Observer(s)	-
Date Opinion issued	11 June 2025

**The request**

1. The Comptroller has been requested by Swindell & Pearson (the Requester) to issue an Opinion on whether GB 2527541 B (the Patent) is valid regarding novelty and inventive step in light of the following documents;

A1: US 6371687 B1 **Heintz**

A2: US2004/0071508 **Nadasde**

A3: **Gatic** Access Covers Installation Guide (published April 2011)

2. No observations have been filed.

**Preliminary matters**

3. The Requester, in addition to A1-3, has provided a copy of a correspondence dated 8<sup>th</sup> February 2019 between Potter Clarkson, representing the Patentee in the prosecution of the Patent, and the IPO. The Requester relies on this document to evidence what the Patentee considered to be a distinguishing feature between the previously cited prior art and the Patent. I have considered this correspondence in issuance of the opinion.

4. The opinion service is intended to be a relatively quick and simple procedure; however it requires the Requester to fully set out the facts that they wish to be considered. In this instance the Requester, beyond simply stating that the Patent does not involve an inventive step, does not provide any further argument. Furthermore, the Requesters arguments in regard to novelty are restricted exclusively to Heintz and omits any discussion of the dependent claims.

5. A letter was issued 21<sup>st</sup> March 2025 alerting the Requester that consideration of their request may be limited, and no amended statement was forthcoming.

6. I have therefore set aside any consideration of inventive step. Furthermore, I have set aside any consideration of the dependent claims.

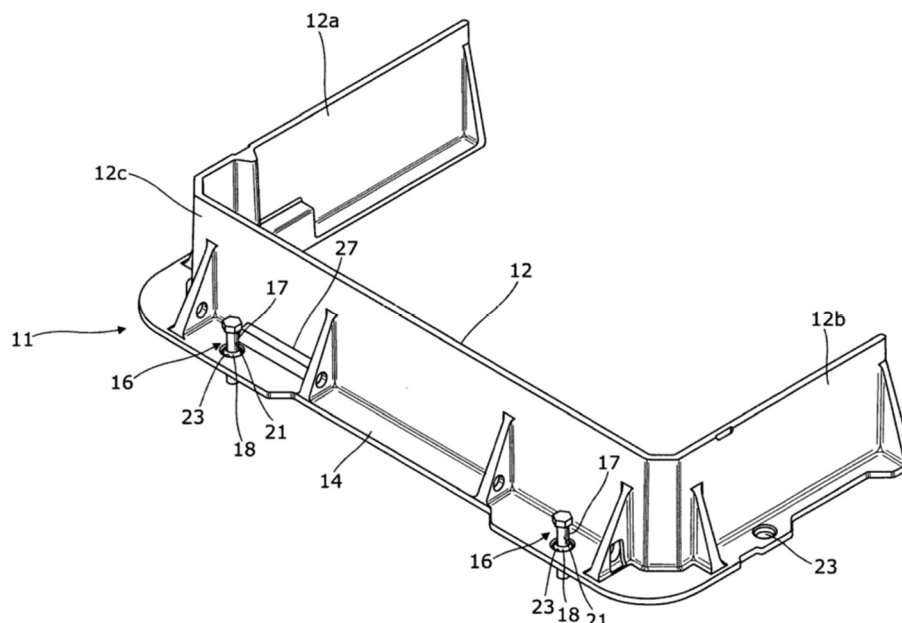
### The Patent

7. The Patent was filed 25<sup>th</sup> June 2014 and was granted 15<sup>th</sup> May 2019. The Patent is in force with renewal date 25<sup>th</sup> June 2025.

8. The Patent is entitled ‘An access cover assembly and methods of its installation and manufacture’ and specifically relates to a frame for supporting an access cover of a utility chamber typically installed in a roadway construction wherein the access cover provides access to underground cables or pipes.

9. The Patent alleges that access cover frames are typically anchored in a mortar or other binding materials that are poured into a recess formed at the top of the chamber surrounding the opening. A particular problem that arises during installation concerns the specific installation technique employed for levelling the frame; in some instances shims or packing is used, however these often result in inadequate levelling or obstruct the flow of motor thereby creating voids and compromising a bond between the frame and the chamber.

10. The Patent, illustrated in the figure below, comprises a frame 11 having an upstanding peripheral wall and a flange 14 extending outwardly from the wall wherein a nut 18 and bolt 17 are coupled to the flange.



11. The nut and bolt facilitate levelling of the frame with respect to a structure on which it is mounted; this is achieved in one of two ways. In the first embodiment the nut is fixed in relation to the flange and the bolt is received in the nut and turned such that its lower end, in use, bears against the surface on which the frame is to be mounted thereby raising and

lowering the frame with respect to the surface. In the second embodiment the nut is captive in respect to the flange but is able to turn; the bolt is received in the nut and the nut is moved linearly when the nut is turned such that its lower end, in use, bears against the surface on which the frame is to be mounted.

12. The Patent has two independent claims relating to the first and second embodiment described above as set out in claim 1 and 2, respectively. There are a further 14 dependent claims including a method of installing the apparatus of claim 1 as set out in claim 11, a method of installing the apparatus of claim 2 as set out in claim 13, and a method of manufacturing the apparatus of claims 1 and 2 as set out in claim 14.

13. Claim 1 reads;

*1. A frame, for supporting an access cover, comprising an upstanding peripheral wall and an outer flange extending outwardly from at least a part of the wall for anchoring the frame; and at least one nut and bolt arrangement coupled to the outer flange, wherein the bolt extends from the outer flange in an in-use downward direction, the nut receives the bolt, and the bolt is rotatable relative to the nut for adjusting the extent of protrusion of the bolt.*

14. Claim 2 reads;

*2. A frame, for supporting an access cover, comprising an upstanding peripheral wall and an outer flange extending outwardly from at least a part of the wall for anchoring the frame; and at least one nut and bolt arrangement coupled to the outer flange, wherein the nut extends from the outer flange in an in-use downward direction, the nut receives the bolt, and the nut is rotatable relative to the bolt for adjusting the extent of protrusion of the nut.*

### **Novelty and inventive step – the law**

15. The Requester argues that claim 1 and claim 2 lacks novelty and/or an inventive step in light of evidence provided by the Requester. Section 1(1)(a) of the Act reads:

*1(1) A patent may be granted only for an invention in respect of which the following conditions are satisfied, that is to say*

*(a) the invention is new;*

*(b) it involves an inventive step;*

16. The relevant provisions in relation to novelty are found in section 2(1) and section 2(2) which read:

*2(1) An invention shall be taken to be new if it does not form part of the state of the art.*

*2(2) The state of the art in the case of an invention shall be taken to comprise all matter (whether a product, a process, information about either, or anything else)*

*which has at any time before the priority date of that invention been made available to the public (whether in the United Kingdom or elsewhere) by written or oral description, by use or in any other way.*

### **Claim construction**

17. Before I can determine whether the claims of the Patent are not novel, I must first construe them. This means interpreting the claims in light of the description and drawings as instructed by section 125(1) which reads:

*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.*

18. In doing so, 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 claim to mean. This approach has been confirmed in the decisions of the High Court in *Mylan v Yeda*<sup>1</sup> and the Court of Appeal in *Actavis v ICOS*<sup>2</sup>.

19. The Requestor has provided no direction on how the claims ought to be construed, however the language used in the claims is simple and, on the most part, claims 1 and 2 are straightforward. The single aspect which I think warrants discussion is in regard to the nut and bolt arrangement being ‘coupled’ to the outer flange.

20. In my mind the term ‘coupled’, when used in relation to two physical features, infers a level of interaction between these features that goes beyond simply being connected or in contact with one another. However, it is not clear from reading the claim alone what level of interaction is intended and therefore I will refer to the Patent in order to ascertain the intended level of interaction the outer flange and the nut and bolt arrangement.

21. The Patent describes an embodiment wherein an aperture is cast into the outer flange and receives the nut, which is coupled by an interference fit, or an adhesive compound. The Patent suggests that other means of securing the nut and bolt arrangement to the outer flange could be employed and further stipulates that manufacture of the frame could include providing the frame with either an integral or separate nut and bolt arrangement.

22. There are several other instances in the description wherein the bolt, or an equivalent feature, such as a spigot 26, may be coupled to the outer flange by welding. Therefore, it is arguable that the patentee may have intended the term ‘coupled’ to be interpreted as the bolt and nut arrangement is secured to the outer flange such that it may be retained by the outer flange prior to installation. However, I am minded that the language of the claim is deliberate

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<sup>1</sup> Generics UK Ltd (t/a Mylan) v Yeda Research and Development Co. Ltd & Anor [2017] EWHC 2629 (Pat)

<sup>2</sup> Actavis Group & Ors v ICOS Corp & Eli Lilly & Co. [2017] EWCA Civ 1671

and that a broader meaning, than where the nut and bolt arrangement are strictly secured (releasably or otherwise) to the outer flange, is meant. That said, it is clear to me from my understanding of the Patent that some engagement between the nut and bolt arrangement and the outer flange is necessary and this is what appears to be intended by the term ‘coupled’.

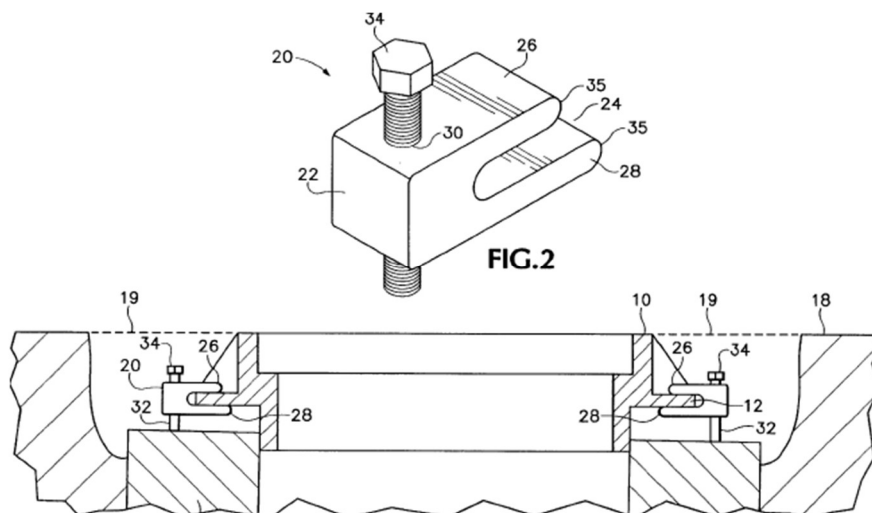
23. Therefore, particularly in light of the absence of any contention, I understand the term ‘coupled’ to relate to any interaction between the nut and bolt arrangement and the outer flange wherein the nut and bolt arrangement has appropriate features that would allow engagement or mating between the two components.

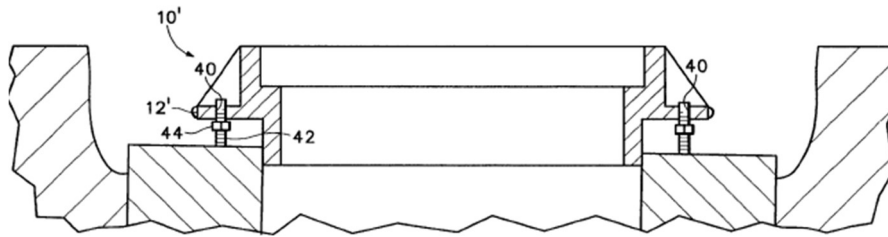
### The prior art

24. Heintz discloses a system and method for levelling an access cover frame. The frame is illustrated below which is an extract from Heintz. The frame comprises an upstanding peripheral wall and a peripheral flange 12. The frame is mounted to a substrate 14 and a levelling system positions the frame with respect to the substrate, and grout is used to retain the frame in a final position.

25. In a first embodiment a levelling clip 20 and associated bolt 32 are used wherein the levelling clip and bolt are coupled to the flange as shown in the figure below. In the first embodiment the frame is raised/lowered with respect to the substrate by rotation of the bolt with respect to the levelling clip main body.

26. In a second embodiment the flange is provided with a hole that receives a threaded bolt 42, and a nut 44 is wound around the bolt to engage an underside of the flange to raise or lower the frame with respect to the substrate. Heintz discloses a further alternative to the second embodiment wherein the hole is threaded; in this instance it is implied that the bolt is turned with respect to the threaded hole and its engagement with the substrate raises or lowers the frame.





27. Nadasde discloses a system for levelling an access cover frame as disclosed in Heintz. Nadasde discloses a system comprising a riser 10 which is mounted with respect to a substrate, for example a spacer ring 12 or a seating ring 24 which is then mounted to a substrate as shown in the figures below which is an extract from Nadasde. The riser comprises an upstanding peripheral wall and a flange 18 extending outwardly from the wall. The flange comprises a plurality of threaded bores 16 which are configured to receive a bolt 14 wherein rotation of the bolt with respect to the bore raises or lowers the riser with respect to the substrate or spacer/seating ring.

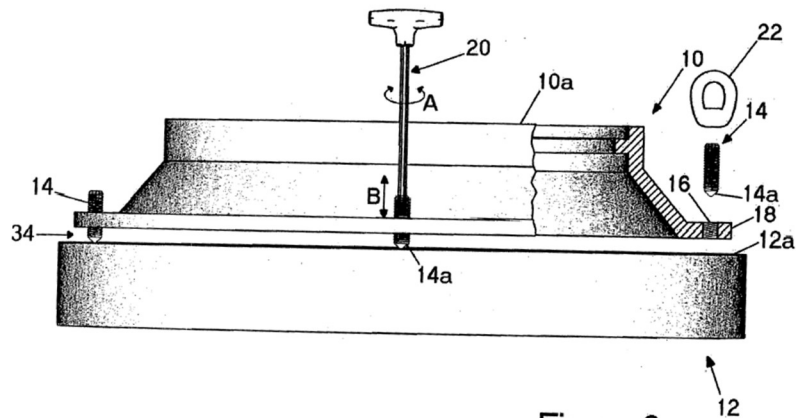


Figure 2

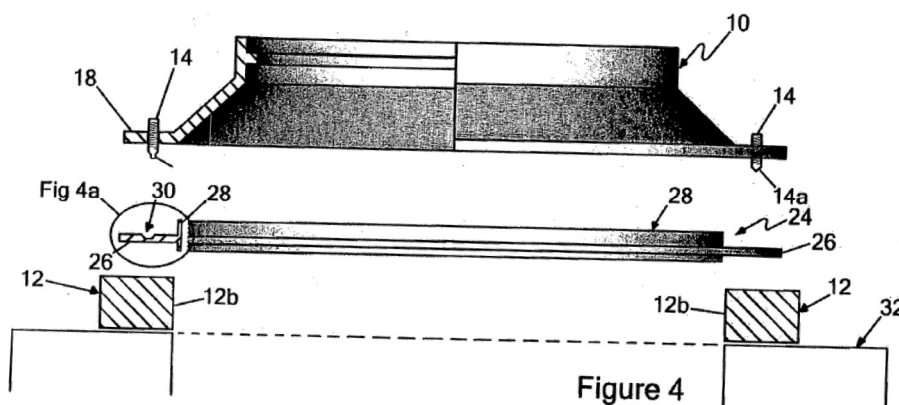
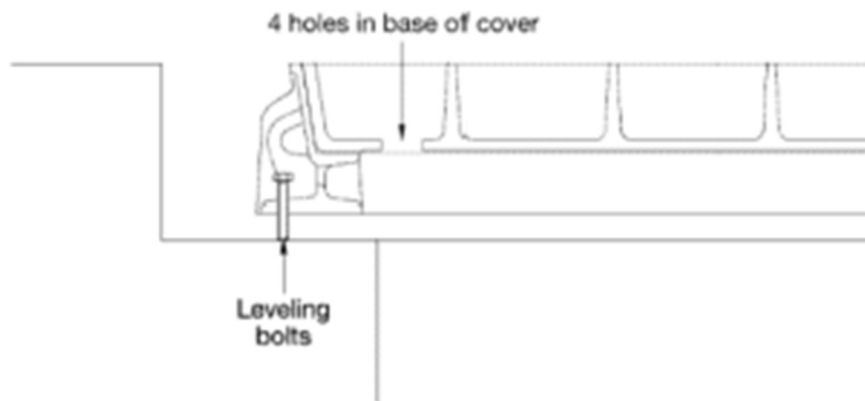


Figure 4

28. Gatic is an access cover installation guide. The installation guide is brief however it discloses an access cover comprising a frame which is placed over a cavity and levelled using levelling bolts until a desired height is achieved, as shown in the figure below. The system of

Gatic works in a similar manner to that disclosed in Nadasde wherein an access cover frame is provided with a flange having a threaded aperture for receiving a levelling bolt.



### Arguments and analysis

29. The Requester asserts that the Patent is not novel in regard to the disclosure of Heintz, and in particular figures 3 and 4 which have been reproduced above, and column 3 line 48 to 56 which reads;

*In still a further embodiment, as illustrated in FIG. 4, the manhole cover frame 10' has an opening 40 defined in flange 12', the opening being suitably not threaded and of sufficient diameter so that a threaded rod 42 freely passes therethrough. The rod has a nut 44 threaded thereon and the top surface of the nut bears against the bottom surface of the flange 12' so as to support the frame 10'. The nut is threaded upwardly or downwardly along the length of the rod 42 to enable adjustment of the frame 10' as desired.*

30. It is clear to me that Heintz discloses many of the features required by claim 1 and 2 of the Patent, including the frame for supporting an access cover and an upstanding peripheral wall having an outer flange. Furthermore, in relation to the embodiment shown in figure 4 and discussed at column 3 line 48 to 56, Heinz clearly discloses a nut and bolt arrangement wherein the bolt extends from the outer flange in a downward direction and the extent of protrusion of the bolt is adjusted by relative rotation of the nut.

31. Furthermore, again in relation to the embodiment shown in figure 4 and discussed at column 3 line 48 to 56, Heinz clearly discusses an opening 40 through which the bolt freely passes. It is my understanding that the opening provides an engagement feature that interacts with the bolt, it is inconsequential that the bolt passes freely through the opening as when installed it is clear that the frame is at least laterally secured with respect to the nut and bolt arrangement as required by claim 1 of the Patent.

32. Therefore, it is in my opinion that claim 1 of the patent lacks novelty in light of Heintz, A1 in the request.

33. Claim 2 is distinct from claim 1 in so much as claim 2 requires the nut to extend from the outer flange in an in-use direction, wherein the nut receives the bolt, and the nut is rotatable relative to the bolt for adjusting the extent of the protrusion of the nut. The Requester argues, in regard to figure 4 of Heinz, that the nut 44 is rotatable relative to the threaded rod 42. However, claim 2 requires the nut to extend from the outer flange, and for the protrusion of the nut to be adjusted by rotation of the nut relative to the bolt. Therefore, whilst I agree with the Requester that in regard to Heinz, the nut is rotatable relative to threaded bar this would not adjust the protrusion of the nut from the outer flange, as the outer flange bears on the nut and would move up or down with the nut.

34. I am unable to identify any embodiment disclosed in Heintz wherein the nut is rotatable relative to the bolt to adjust the extent of the protrusion of the nut , whilst the nut and bolt arrangement is coupled to the outer flange.

35. Therefore, it is in my opinion that claim 2 of the patent is novel in light of Heintz, A1 in the request.

36. The Requester has provided no additional arguments based on Nadasde or Gatic. Furthermore, having considered Nadasde and Gatic I am unable to identify a nut and bolt arrangement, and outer flange as required by either claims 1 or 2. Therefore, it is my opinion that claim 1 and claim 2 of the Patent is novel in light of Nadasde and Gatic.

37. Furthermore, based on the request before me, I am unable to establish an opinion on the validity of the dependent claims.

### **Opinion**

38. In my opinion, on the basis of the evidence put forward, claim 1 is invalid with respect to Section 2 of the Act.

39. It is also my opinion, on the basis of the evidence put forward, that claim 2 is valid with respect to Section 2 of the Act.

### **Application for review**

40. 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.

Sean O'Connor  
Examiner

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**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.*