

OPINION UNDER SECTION 74A

Patent	GB 2622414 B
Proprietor(s)	Kohler Mira Limited
Exclusive Licensee	
Requester	Spencer Bothwell
Observer(s)	MERLYN Showering; Barker Brettell LLP on behalf of Kohler Mira Limited
Date Opinion issued	04 June 2026

The request

1. The comptroller has been requested to issue an opinion in relation to both the validity of patent GB 2622414 B (the patent) and theoretical infringement of the patent. The request asks whether the invention for which the patent has been granted, as defined in claims 1 and 11, is not new and/or lacks sufficiency, and whether the patent would be infringed by theoretical products described in the request. The requester cites the following documents in their request:

- Document D1 - MERLYN The Collection brochure;
<https://globaltiles.ie/brochures/2022/MERLYN-2022-Brochure-Global-Tiles-Donegal.pdf>
- Document D2 - MERLYN MB1 Single Curved Bath Screen;
<https://www.merlynshowering.com/mb1-single-curved-bath-screen.html>
- Document D3 - Photographs of MERLYN MB1 screen
- Document D4 - MERLYN series brochure;
https://mrbathroomspaisley.co.uk/wp-content/uploads/2021/04/SeriesBrochure_UK_2020_LR-compressed.pdf

Observations

2. Observations were received on 7 April 2026 and observations in reply were received on 24 April 2026.

Matters to be considered by this Opinion

3. 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.

4. 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. Document D2 above was considered by the Examiner in pre-grant examination of the patent after it was referenced in third party observations dated 8 May 2024 under Section 21 of the Patents Act (I also note that document D2 is a transient webpage, rather than a disclosure with a fixed date before the filing date of the patent application, so its use for novelty considerations appears to be limited). Therefore, I consider that the question of novelty of the patent in the light of Document D2 alone has already been considered in pre-grant proceedings and so, in this opinion, I will only consider this document in the light of the other newly cited documents, if required.
5. In addition, observations and observations in reply must be confined to the issues raised in the request. This means that observations filed are not allowed to broaden the scope of the opinion by raising unrelated new issues and observations in reply must strictly be in reply to issues raised in the observations. If new issues are raised, a further opinion would need to be requested if they are to be considered.
6. The observations in reply include references to further websites and question the validity of the patent claims due to a lack of inventive step, none of which were raised in the original request. As such, the observer has not had opportunity to respond to these further references and questions of obviousness, and so these have not been considered in this opinion. If an opinion on these additional issues is required then a further, separate request for an opinion should be made.

The patent

7. The patent is entitled “Enclosure for an ablutionary setting” and was filed on 15 September 2022. The patent was granted on 11 September 2024 and remains in force in the UK.
8. The patent relates to a shower enclosure having a movable panel, or panel door, and an associated hinge assembly. Panel doors are often secured to a fixed panel of the shower enclosure by one or more hinges. Hinges are known to provide a passage for fluid to flow between the interior and exterior of the enclosure. This is known as a ‘leak path’ and it is undesirable as it may result in damage to surroundings of the shower enclosure. Fluid ingress can also result in water becoming trapped within the hinge and between panels of the enclosure, which can cause difficulties with cleaning.

9. The granted patent includes two independent claims, which read:

1. *An enclosure for an ablutionary setting comprising:*

a panel door hingedly connected along a first edge to a static component;

a gasket positioned along a second edge of the panel door, the gasket extending away from the second edge of the panel door and being configured to contact a surface in the ablutionary setting when the panel door is closed, thereby providing, in use, a seal to prevent fluid from flowing between the second edge of the panel door and the surface; and

(a) a connecting device comprising:

a first part directly connected to a hinge connecting the panel door to the static component; and

a second part directly connected to the first part;

(b) wherein at least one of the first part and the second part are directly connected to the gasket;

wherein at least a portion of the second part projects beyond the first part in a direction away from the second edge of the panel door; and

(c) wherein, when the panel door is closed, in use, the portion of the second part projecting beyond the first part contacts the surface such that both the first part and the second part are in compression between the panel door and the surface.

11. *A hinge assembly for an enclosure for an ablutionary setting, the ablutionary setting comprising a panel door hingedly connected along a first edge to a static component and a gasket positioned along a second edge of the panel door, the gasket extending away from the second edge of the panel door and being configured to contact a surface in the ablutionary setting when the panel door is closed, thereby providing, in use, a seal to prevent fluid from flowing between the second edge of the panel door and the surface, the hinge assembly comprising:*

(a) a connecting device comprising:

a first part directly connected to a hinge configured to connect the panel door to the static component; and

a second part directly connected to the first part;

(b) wherein at least one of the first part and the second part is configured to be directly connected to the gasket;

wherein, in use, at least a portion of the second part projects beyond the first part in a direction away from the second edge of the panel door; and

(c) wherein, when the panel door is closed, in use, the portion of the second part projecting beyond the first part contacts the surface such that both the first part and the second part are in compression between the panel door and the surface.

10. This arrangement is illustrated in figures 1 and 3 of the patent, which are reproduced below.

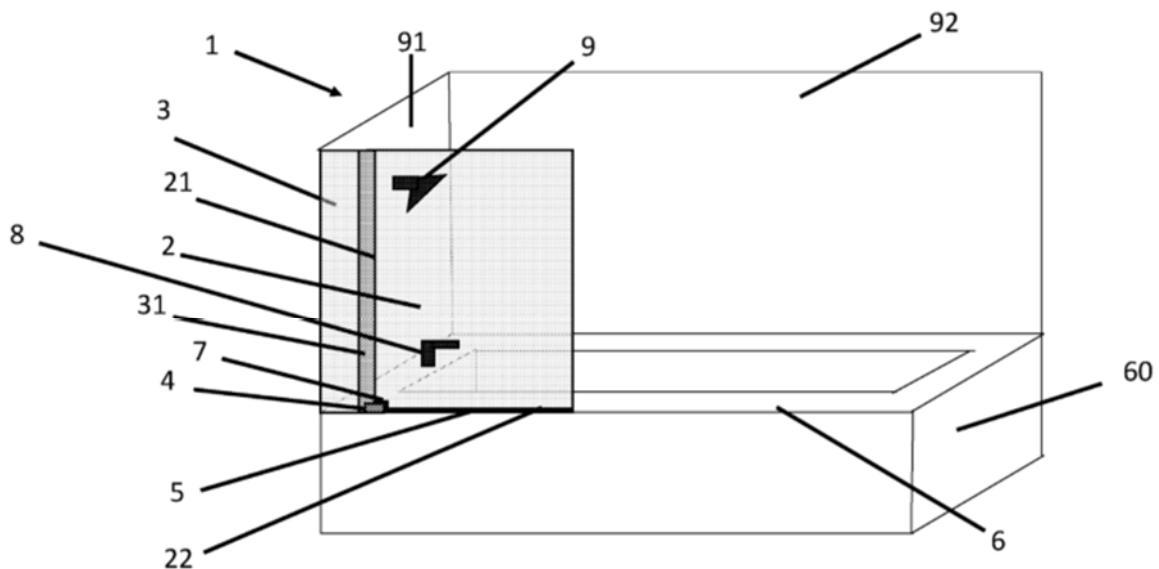
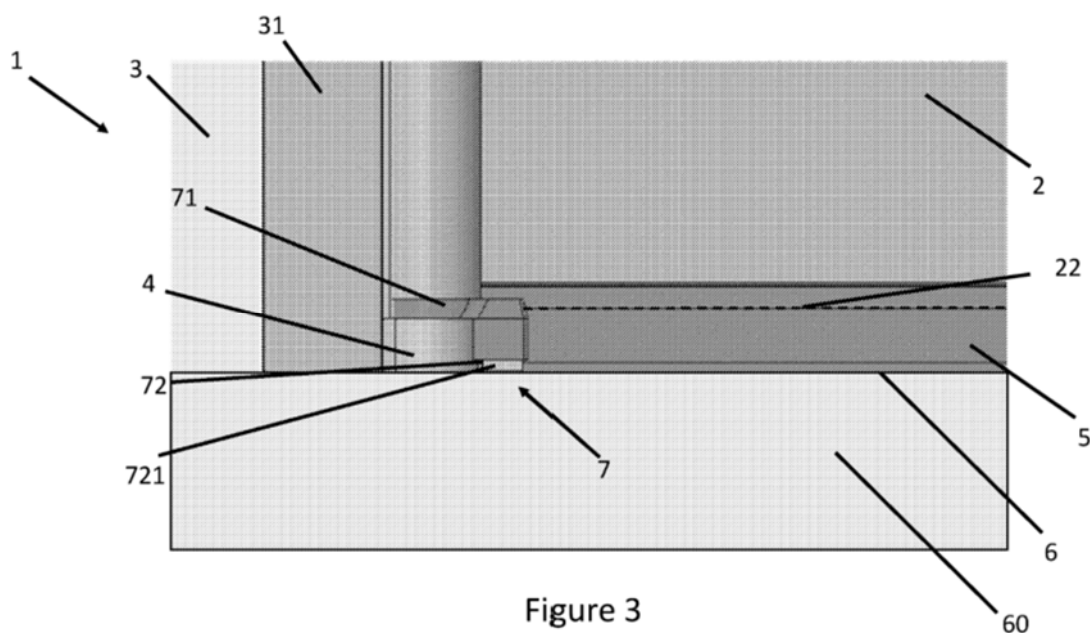


Figure 1

11. Firstly, as shown in figure 1 above, a panel door 2 is hinged along a first edge 21 to a frame member 31 of a fixed panel 3 by a hinge 4. A gasket 5 is positioned along a second edge 22 of the panel door 2 and provides a seal to prevent fluid from flowing between the second edge 22 of the panel door 2 and the rim 6 of the bath 60.
12. As shown in greater detail in figure 3 below, a connecting device 7 has a first part 71 that directly connects to the hinge 4 and a second part 72 which directly connects to the first part 71. In this example, the first part 71 is further directly connected to the gasket 5. In use, when the connecting device 7 is assembled, at least a portion 721 of the second part 72 projects beyond the first part 71 in a direction away from the second edge 22 of the panel door 2. In use, when the panel door 2 is closed, the portion 721 of the second part 72 projecting beyond the first part 71 contacts the rim 6 of the bath 60 such that both the first part 71 and the second part 72 are in compression between the rim 6 and the panel door 2.



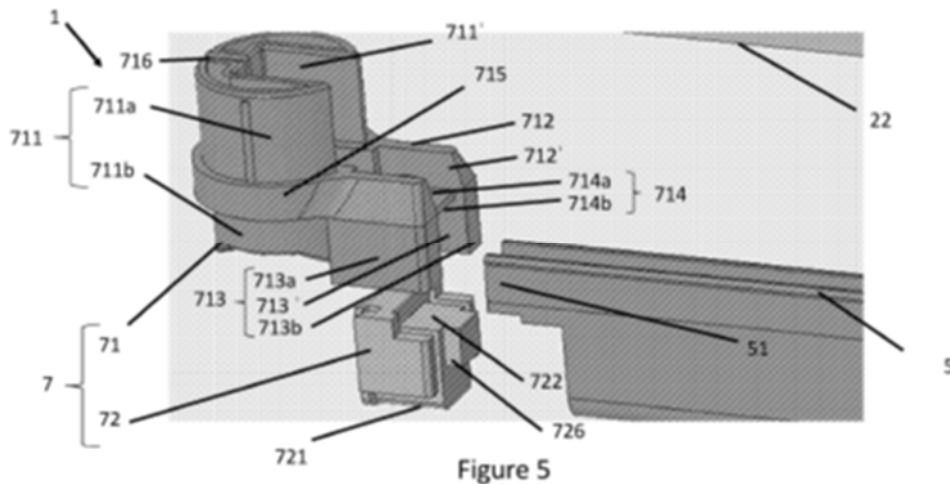
Claim construction

13. Before I can determine an opinion as to the validity and theoretical infringement 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. 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.
14. The notional person skilled in the art would be a manufacturer and designer of shower enclosures. Their common general knowledge would include common configurations of shower enclosures comprising one or more fixed panels and a moveable panel door secured to a fixed panel by one or more hinges. They would also be aware of the undesirable “leak path” provided by hinges allowing a passage for fluid to flow between the interior and exterior of the enclosure.
15. Feature (c) identified above in the independent claims requires that “*both the first part and the second part are in compression between the panel door and the surface*” when the “*panel door is closed*”. The expression “*in compression*” has been discussed by both the proprietor and the requester. In their request for an opinion regarding theoretical infringement, the requester suggests that the most common interpretation of “*compression*” is to deform or reduce in volume and notes that the only suggested material for “*the first part*” is “*a thermoplastic material such as acrylonitrile butadiene styrene (ABS) or the like*” (page 8 lines 27 to 28) as opposed to a metal material (e.g. aluminium or zinc) having a higher Youngs modulus. I note that the suggested material for “*the second part*” is “*a rubber or a thermoplastic elastomer (TPE) such as a thermoplastic polyamide (TPA)*” (page 8 lines 29 to 30).
16. The proprietor has suggested that the expression “*in compression*” simply means

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

that a compressive force path exists and a component is “*in compression*” whenever it is subjected to a compressive stress, irrespective of whether the resulting strain is large or small and not limited to materials that undergo a certain level of deformation.

17. I am inclined to agree with the proprietor, noting that the patent description also sheds the following light on the interpretation of this feature: “The second part 72 may be formed from a material with a lower Youngs modulus than the first part 71 of the connector device 7... When the panel door 2 is closed, the first part 71 and the second part 72 are in compression. This compression may be substantially or completely accommodated by deformation of the second part 72” (page 8 lines 26 to 27 and lines 31 to 32). Therefore, I believe that a skilled person is taught that the “*compression*” in which “*both the first part and the second part*” find themselves refers to a compressive force path “*between the panel door and the surface*”, rather than an indication of the material composition and deformation of “*the first part and the second part*”.
18. The proprietor has also argued that features (a) and (b) require the “*connecting device*” to form defined mechanical connections and a sealing interface between the hinge and the gasket. They suggest that both the “*first part*” and the “*second part*” of the “*connecting device*” should participate in connecting the hinge and the gasket. However, I do not believe that a skilled person would construe the claims in this way. In particular, feature (a) requires the “*first part*” to be “*directly connected to a hinge*” and feature (b) requires that “at least one of the first part and the second part is configured to be directly connected to the gasket”. So, I do not believe that the claim teaches that the “*second part*” must participate in connecting the hinge and the gasket. In fact, whilst the description does present this as an option (i.e. at page 11 lines 23 and 24: “*The second part 72 may further comprise a gasket connector portion 725 configured to fit snugly within the lower (bubble) portion 55 of the gasket 5*”), there are also embodiments where this is not the case (i.e. at page 8 lines 9 and 10: “*In this example, the first part 71 is further directly connected to the gasket S.*”)
19. Additionally, the proprietor has proposed that the expression “*directly connected*” in feature (b) does not encompass mere proximity, accommodation or receipt of the “*gasket*” within an opening, slit or aperture but requires structural connection in which the “*gasket*” is held firmly and deliberately. For reference, figure 5 of the patent is reproduced below and I note that page 9 lines 1 and 2 of the description states that the “*connecting device 7 is configured to couple with the hinge 4 and the gasket 5*” and further, at page 9 lines 19 to 24 read: “*A width of the second recess 712' [i.e. in the “first part 71” of the “connecting device 7”] may be greater than or equal to a thickness of the portion of the panel door 2 it receives... the second recess 712' also receives an end 51 of the gasket 5 and the width of the second recess 712' is equal to or greater than a combined width of the panel door 2 and an end 51 of the gasket 5.*” Hence, there is no suggestion in this passage that the “*gasket*” must be held firmly and deliberately within the “*first part*” of the “*connecting device*” but is merely received within a suitably sized recess of the “*first part*”.



20. Having said that, I do believe that a skilled person would understand that the connections between the “*first part*” and the “*hinge*” (feature (a)), and between the “*first part*” and/or “*second part*” and the “*gasket*” (feature (b)) should be of a suitable tightness to minimise the ‘leak path’ problem that the patent is endeavouring to address.

Validity – sufficiency and clarity

21. 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.

22. Further, section 14(5)(b) of the Patents Act reads:

The claim or claims shall –

...
(b) be clear and concise;

...

23. The requester has suggested that the feature (c) of the independent claims also lacks clarity and sufficiency, proposing that this feature is defined by the result to be achieved, i.e. “*such that both the first part and the second part are in compression*” without the technical clarity of how this is achieved so as to place an undue burden on someone skilled in the art trying to reproduce the claimed invention. However, as discussed under claim construction above, I believe that this feature is clearly and sufficiently disclosed in the patent specification with particularly reference, in both the description and independent claims, to the compressive force exerted “*between the panel door and the surface*” when “*the panel door is closed*”.

Validity – novelty

24. 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...

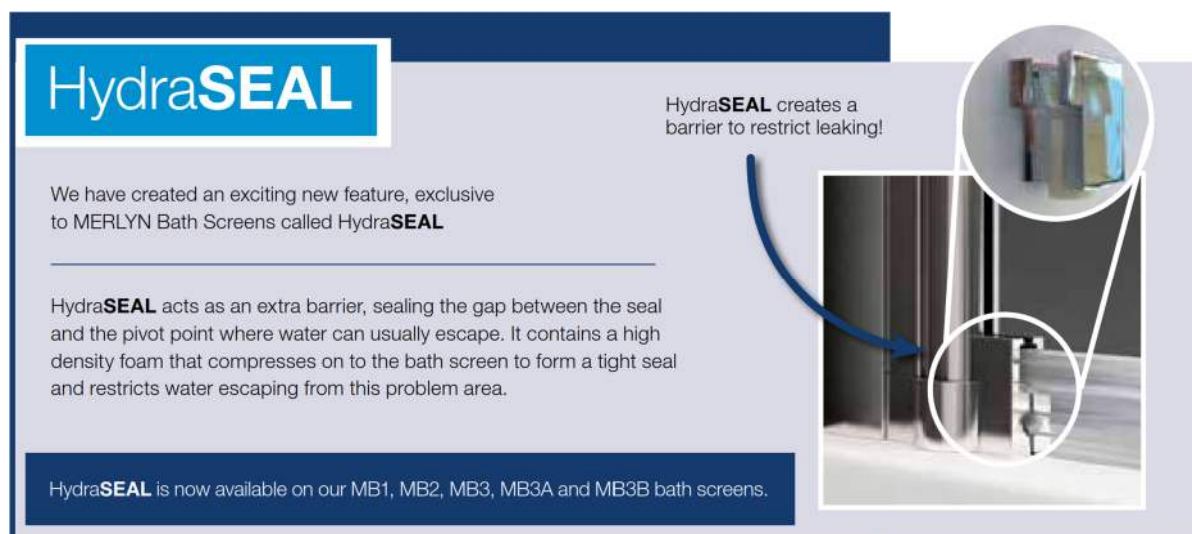
25. The requester has argued that independent claims 1 and 11 are not novel over an existing bath screen manufactured and sold in the UK by MERLYN. The requester has presented documents D1 to D4 to identify the features of the MERLYN MB1 bath screen and particularly the feature identified as “HydraSEAL”.
26. The requester has provided evidence to suggest that the bath screen in question was available before the filing date of the patent application. However, I note that this evidence only relates to some of the disclosures provided in documents D1 to D4 whilst there are doubts in my mind over the dates of disclosure for other material referred to in the request. I will try to identify the presumed dates of each disclosure, and hence their useability in this opinion request, as they are discussed below.
27. Document D1, which bears the date July 2022 (for the purpose of this opinion, and based on the evidence presented, I am content to accept that this date is correct), illustrates the MB1 bath screen and the “HydraSEAL” feature (reproduced below). I note that document D4, which bears the date April 2020 and was uploaded to the referenced website in 2021 (again, I am content to accept these dates), illustrates the same arrangement of MB1 bath screen and “HydraSEAL”.



Figure (i). MB1 Bath Screen

28. This bath screen illustrates the conventional features outlined in the opening clause of claims 1 and 11, providing “an enclosure for an ablutionary setting” and “a panel door”, i.e. the glass screen, “hingedly connected along a first edge to a static component”. There is “a gasket positioned along a second edge of the panel door”, i.e. the seal strip along the bottom edge of the glass screen, which seal strip is “configured to contact a surface in the ablutionary setting when the panel door is

closed”, i.e. the seal strip is in contact with the top of the bath.



Figure(ii). “HydraSEAL” in documents D1 and D4

29. The patent proprietor has questioned whether the stylised trade mark “HydraSEAL” can actually define a particular technical configuration since products sold under this trade mark may evolve over time. This is certainly a fair point. However, I am content that the disclosures of the “HydraSEAL” feature in documents D1 and D4 presented above do provide technical detail of this feature at that time before the filing date of the patent application. Nevertheless, I note that an exploded view (reproduced below) of the “HydraSEAL” feature is also referred to in the request but this view is not found in either document D1 or document D4.



Figure (iii). “HydraSEAL” exploded view

30. This image in figure (iii) above only appears on the transient webpage of document D2 which, as explained above, was already considered by the examiner pre-grant as part of the earlier third party observations and is not dated prior to the filing date of the application. In fact, comparing the exploded view in figure (iii) with the “HydraSEAL” feature identified in documents D1 and D4, as illustrated in figure (ii), I note differences in construction that suggest that the exploded view of figure (iii) is a different iteration of the “HydraSEAL” feature (it actually appears to be a later iteration as I note that the webpage of document D2 contains a link to a data sheet for the “HydraSEAL” feature that matches this exploded view and that data sheet bears the title “UK Collection Brochure Sept 2025.pdf” with a Created date of 28

January 2026.) Therefore, this exploded view of figure (iii) is not considered relevant to the question of novelty of claims 1 and 11.

31. Document D3 presents a series of photographs of the “HydraSEAL” feature in actual installation(s) of a bath screen reported to be the MERLYN MB1, some of which are reproduced below. Some of these photographs are dated (but, I note, that they are not all dated in a consistent or verifiable way) and it is not clear how the photographs relate to each other. Additionally, I note that the photographs of the “HydraSEAL” feature appear to match the exploded view of figure (iii) above, rather than the iteration of the “HydraSEAL” feature of documents D1 and D4 illustrated in figure (ii).

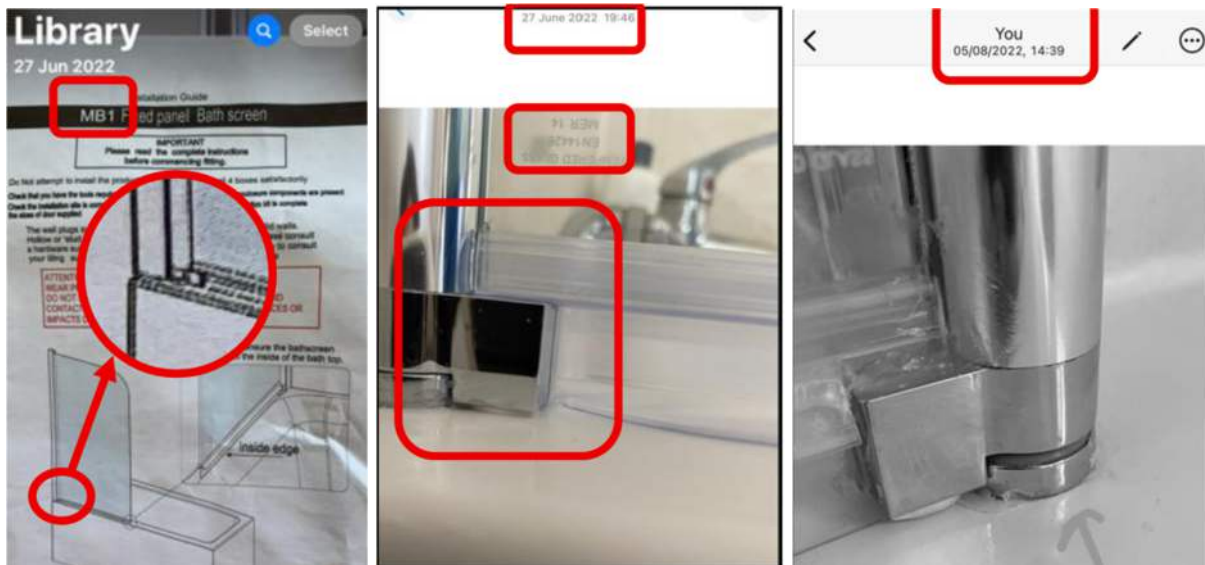


Figure (iv)

Figure (v)

Figure (vi)

32. In my opinion, there are some ambiguous elements to these photographs. For example, in figure (iv), it's not clear that the magnified part that has been added in the centre of the page matches the original image behind. In fact, although slightly obscured by the added circle in the top-left corner to emphasize “MB1”, it appears that this installation guide relates to a “Fixed panel Bath screen” rather than a hinged bath screen. Additionally, the image of figure (vi) does not clearly show a “static component” to which the “panel door” is “hingedly connected” (possibly, this image shows the arrangement in an open position with the “static component” behind and out of view?) Once again, it's not clear how the installation of figure (vi) relates to that of the other photographs.
33. There are further undated photographs of a disassembled “HydraSEAL” component. However, once again, it's not clear how these photographs relate to the other photographs supplied or when these photographs were taken. Hence, I do not believe that they provide any useful information on which to base an opinion about the validity of the patent claims.
34. Therefore, I believe that I must base this opinion on the “HydraSEAL” feature of documents D1 and D4, as illustrated in figure (ii) above, for which verifiable dates have been presented. The requester has provided a marked up figure in an attempt to identify features corresponding to those of the patent claims (reproduced below).

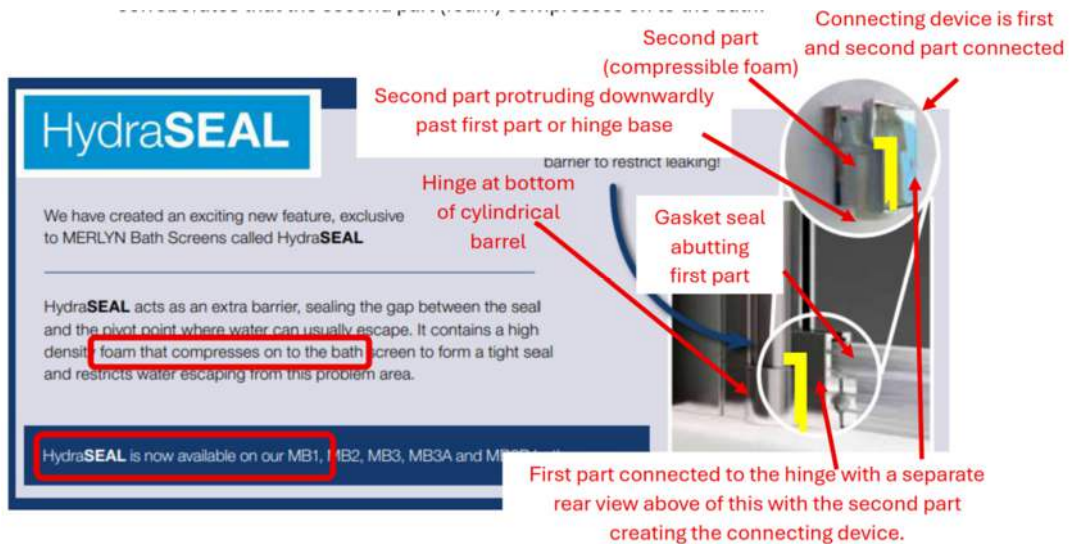


Figure (vii). Marked up “HydraSEAL” in documents D1 and D4

35. The “HydraSEAL” in this figure comprises a “*first part*” (illustrated as a metallic material) and a “*second part directly connected to the first part*” (the second part identified as high density foam). Additionally, as illustrated, “*a portion of the second part projects beyond the first part in a direction away from the second edge of the panel door*” (i.e. the high density foam is shown extending below the metallic part) and “*when the panel door is closed, in use, the portion of the second part projecting beyond the first part contacts the surface*” (i.e. the high density foam makes contact with the rim of the bath).
36. The information provided in figure (vii) also indicates that “HydraSEAL acts as an extra barrier, sealing the gap between the seal [i.e. the “*gasket*”] and the pivot point [i.e. the “*hinge*”] where water can usually escape”. I believe that this, together with the lower image on the right of the figure, teaches a skilled person that the “*first part*” (i.e. the metallic part) of the “HydraSEAL” is both “*directly connected to a hinge*” and “*directly connected to the gasket*”, as construed in the claim construction section above. Therefore, I believe that features (a) and (b) of independent claims 1 and 11 are disclosed.
37. Considering feature (c) of the claims, based on the information in figure (vii), the “high density foam [i.e. the “*second part*”]... compresses on to the bath screen to form a tight seal”. I am of the opinion that a skilled person would be taught from the lower image on the right of figure (vii) that this compression of the high density foam is due to the contact with the rim of the bath (“*the surface*”) when the bath screen is closed. Furthermore, the upper half of the metallic part (“*first part*”) of the “HydraSEAL” has an opening that receives the lower edge of the bath screen (“*panel door*”), as shown in the lower image on the right of figure (vii). This lower edge of the bath screen sits within a channel provided in the upper part of the seal (“*gasket*”). A groove is provided in the lower half of the metallic part that accommodates the thinner lower part of the seal. The top of the groove provides a ledge upon which the upper part of the seal and bath screen rests. Therefore, it seems inevitable to me that the metallic part (“*first part*”) of the “HydraSEAL” would also experience a compressive force from the lower edge of the bath screen (“*panel door*”) through to the high density foam (“*second part*”), which is in contact with the rim of the bath (“*the surface*”) when the bath screen is closed. Therefore, I am of the opinion that

feature (c) of independent claims 1 and 11 is also disclosed.

38. Therefore, at the filing date of the patent application, I believe that the MERLYN MB1 bath screen together with “HydraSEAL” feature, as described and illustrated in documents D1 and D4, discloses the invention defined in claims 1 and 11 of the patent.

Infringement

39. Section 60 of the Patents Act governs what constitutes infringement of a patent:

Subject to the provision of this section, a person infringes a patent for an invention if, but only if, while the patent is in force, he does any of the following things in the United Kingdom in relation to the invention without the consent of the proprietor of the patent, that is to say -

(a) where the invention is a product, he makes, disposes of, offers to dispose of, uses or imports the product or keeps it whether for disposal or otherwise;

(b) where the invention is a process, he uses the process or he offers it for use in the United Kingdom when he knows, or it is obvious to a reasonable person in the circumstances, that its use there without the consent of the proprietor would be an infringement of the patent;

(c) where the invention is a process, he disposes of, offers to dispose of, uses or imports any product obtained directly by means of that process or keeps any such product whether for disposal or otherwise.

40. In the Supreme Court in *Actavis v Eli Lilly*³, Lord Neuberger stated that the problem of infringement is best approached by addressing two issues, each of which is to be considered through the eyes of the notional addressee of the patent in suit, i.e. the person skilled in the relevant art. Those issues are:

(i) does the variant infringe any of the claims as a matter of normal interpretation; and, if not,

(ii) does the variant nonetheless infringe because it varies from the invention in a way or ways which is or are immaterial?

41. If the answer is “yes”, there is infringement; otherwise there is not.

42. The requester has asked two separate questions regarding theoretical infringement of the patent relating to the interpretation of feature (c) of claims 1 and 11.

43. Firstly, “if a shower screen enclosure, system or assembly that contained all

components exactly as specified in these claims was sold (in the UK), with the ‘first part’ of the ‘connecting device’ made of a metal material, could this be infringing the aforementioned patent?” Based on the interpretation of the expression “*in*

compression” as already outlined in the claim construction section above, I believe that such a shower screen enclosure, system or assembly would infringe claims 1 and 11 as a matter of normal interpretation.

44. Secondly, “if a shower screen enclosure, system or assembly that contained all components exactly as specified in these claims was sold (in the UK), whereby the ‘first part’ of the ‘connecting device’ did not touch the ‘surface’, would this be infringing the aforementioned patent?” I note that feature (c) of the claims only specifies that a “*portion of the second part projecting beyond the first part contacts the surface*”. So, based on the interpretation of the expression “*in compression*” above, I believe that a skilled person is taught that a compressive force path may exist “*between the panel door and the surface*” through “*the first part*” to “*the second part*” sequentially without requiring the “*first part*” to be in contact with the “*surface*”. Therefore, I am of the opinion that such a shower screen enclosure, system or assembly would also infringe claims 1 and 11 as a matter of normal interpretation.

Opinion

45. It is my opinion that the features of claims 1 and 11 are clearly and sufficiently disclosed in the patent specification.
46. It is also my opinion that, at the filing date of the patent application, the MERLYN MB1 bath screen together with “HydraSEAL” feature, as described and illustrated in documents D1 and D4, disclosed the invention defined in claims 1 and 11 of the patent. Accordingly, I consider the patent to be invalid.
47. And finally, it is my opinion that the patent would be infringed by the theoretical products described in the request.

Application for review

48. 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.