

OPINION UNDER SECTION 74A

Patent	GB 2531650 B
Proprietor(s)	Mr M A McKenzie
Exclusive Licensee	
Requester	Mr M A McKenzie
Observer(s)	
Date Opinion issued	07 August 2026

The request

1. The Comptroller has received a request from Mr McKenzie (the requester) to issue an opinion regarding possible infringement of his patent GB 2531650 B (the patent).
2. The patent has a filing date of 23 September 2015 and a claim to an earliest priority date of 23 September 2014. The patent was granted on 23 July 2019 and it remains in force.
3. The product that the requester seeks an opinion on is a range of duvet covers marketed under the Redssen (RTM)¹ brand (the product), all of which comprise a zip fastening around three sides of the cover.
4. No observations were received and consequently there were no observations in reply.

Preliminary matters

5. The statement accompanying the opinion request includes requests for *opinions* on a range of matters. The issuing of statutory opinions by the Office is governed by the Act² and Rules³. In particular, Rule 93(6) sets out the questions on which an opinion may be sought. The only relevant question is that set out in Rules 93(6)(a):

“(a) whether a particular act constitutes, or (if done) would constitute, an infringement of the patent;”

¹ Redssen is a registered trade mark (no. UK00004076528) of Shanghai Junxuanhong Trading Co. Ltd., Shanghai, China;

² Patents Act 1977 (as amended)

³ The Patents Rules 2007 (as amended)

6. Rules 93(6)(b) to (e) relate to questions on the validity of a UK or EP(UK) patent. Although the requester refers to an opinion on the validity of a Redssen patent, I can find no UK or EU patents in the name of *Redssen* or *Shanghai Junxuanhong* (the owner of the Redssen trade mark). Neither has the requester provided one. There is a relevant registered design (UK no. 6406159 in the name of *Shanghai Junxuanhong Trading Co., Ltd.*), but opinions do not cover registered designs. There is therefore no patent to which these Rules apply.
7. In accordance with the Rules, this opinion is restricted to the question of whether or not the patent is infringed by acts carried out in relation to the Redssen duvet cover.

The patent

8. The patent relates to an article of bedding in the form of a cover for a duvet that further includes a compartment for accommodating a person. It resembles a sheet sleeping bag but with a compartment for a duvet. It comprises three sheets of material, an upper sheet, an intermediate sheet and a lower sheet, which are attached around three sides to form two compartments, a lower one for a person to sleep in and an upper one to accommodate a duvet so that it also acts as a cover for the duvet. The general arrangement is shown in figures 1 and 3 of the patent reproduced below.

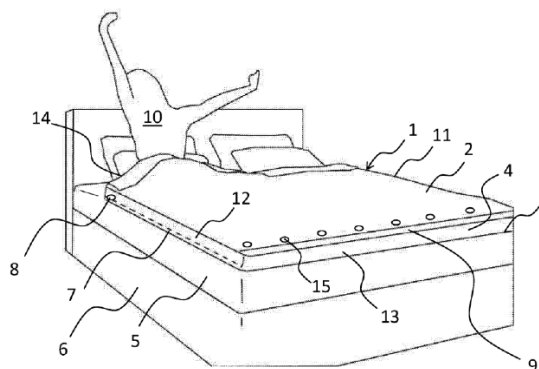


Figure 1 of the patent

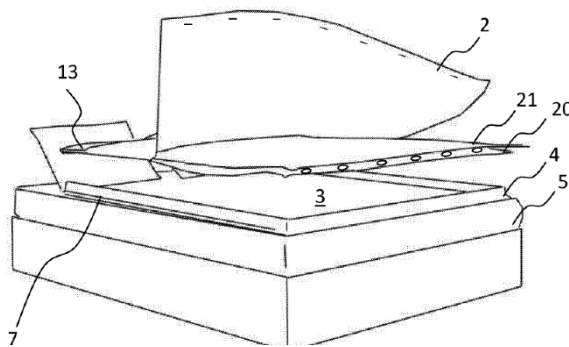


Figure 3 of the patent

9. Figure 1 shows the general arrangement of the invention in use, whilst figure 3 provides an exploded view of the parts. In particular, figure 3 shows the upper sheet (2), lower sheet (3) and intermediate sheet (20). The upper and lower sheets are connected around three edges by a peripheral edging strip (4). An opening (14) is provided along the fourth edge (at the head of the bed as illustrated) between the lower and intermediate sheets to allow the user to locate themselves in the bedding. A further opening (9 – at the foot end) is provided between the upper sheet and the intermediate sheet which creates a pocket for a duvet. That pocket is closable by buttons (15). A zipper (7, 8) is provided in the peripheral edging strip which the user can open/close to adjust the amount of space between the sheets, to make it easier to access that space and to adjust the amount of ventilation. The peripheral edging strip is also provided with holes (not shown) for ventilation.
10. The invention is said to provide “*significantly improved peripheral thermal insulation*”

around a user's body. This is achieved by having a generally enclosed compartment for the user which reduces draughts. The patent suggests that this can reduce illness and injury.

Infringement

11. Section 60 of the Act specifies acts that constitute infringement of a patent. In relation to a product, Section 60(1)(a) is relevant as follows:

Section 60(1)

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 ...

(c) where the invention is a process ...

12. In the Supreme Court in *Actavis v Eli Lilly*⁴, Lord Neuberger stated that the problem of infringement is best approached by addressing two issues. 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?

13. If the answer to either of these questions (the *infringement* questions) is “yes” then there is infringement, otherwise there is not.

Claim construction

14. As a first step in determining infringement, I must correctly construe the scope of the claims. This means interpreting them in the light of the description and drawings as instructed by Section 125(1). 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 claims to mean. This approach has been confirmed in the decisions of the High Court in *Mylan v Yeda*⁵ and the Court of Appeal in *Actavis v ICOS*⁶.
15. There is a single independent claim.

⁴ *Actavis UK Ltd & Ors v Eli Lilly & Co.* [2017] UKSC 48.

⁵ *Generics UK Ltd (t/a Mylan) v Yeda Research and Dev. Co. Ltd & Anor* [2017] EWHC 2629 (Pat)

⁶ *Actavis Group & Ors v ICOS Corp & Eli Lilly & Co.* [2017] EWCA Civ 1671

16. Claim 1 reads:

1. *Bedding comprising: an upper sheet of material; a lower sheet of material and an intermediate sheet configured to form a duvet case with the upper sheet;*

one or more strips of peripheral edging material connecting the upper and lower material sheets along their periphery, leaving an opening at one end for a user to locate themselves in-between the sheets of upper and lower material;

and a user-operable fastener provided within the one or more strips of peripheral edging material to permit the user to separate the sheets of upper and lower material;

the peripheral edging material further comprising ventilation holes.

17. I do not consider that there are any issues with construction of claim 1.

18. To summarise, the claim requires bedding with the following features:

- a) *three sheets of material (upper, lower and intermediate)*
- b) *a sleeping space between lower and intermediate sheets for a user*
- c) *a duvet space between upper and intermediate sheets for a duvet*
- d) *a peripheral strip of edging material connecting upper and lower sheets leaving an opening for a user to access the sleeping space*
- e) *a user operable fastener in the peripheral edging material*
- f) *ventilation holes in the peripheral edging material*

19. If the product is to infringe the patent on the basis of a normal interpretation of claim 1, i.e. the first *infringement* question, then it must possess all these features. In order to answer the second *infringement* question, I will need to consider if one or more similar features of the product vary in a way which is immaterial.

The product

20. The product comprises a range of designs of duvet covers marketed under the Redssen (RTM) brand. They are all defined by having a zip fastener around 3 sides of the cover.

21. The requester refers to the various Redssen Duvet covers available on amazon.co.uk (Amazon), for example:

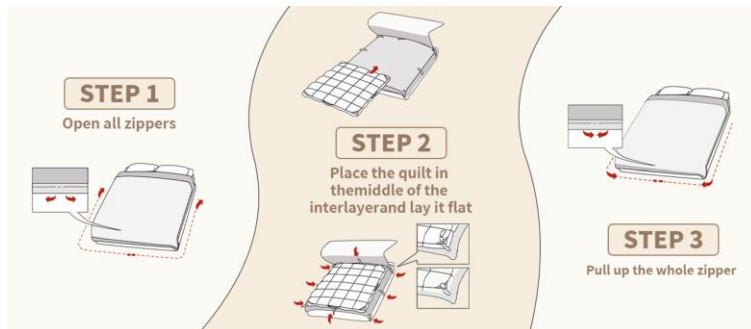
<https://www.amazon.co.uk/dp/B0FRM8JXF7> - "Easy Fit Duvet Cover Set with 3-Sided Zip | Zip Duvet Cover for Easy Putting On & Removing | Soft Polyester Bedding Set | Breathable Easy Care Quilt Cover | Double Size |

Navy Blue

22. The description of the product on the Amazon website refers to the 3-sided opening as follows:

- *Redefining Convenience: REDSSEN duvet cover with innovative 3-sided zipper for easy duvet insertion/removal, simplifying changes. Hidden zipper + delicate buttons blend aesthetics and comfort, echoing "Easy Change, Better Life." Durable, soft, breathable, fade/shrink-resistant—ideal for busy lifestyles.*

23. The following pictures from the Amazon website, which are merely examples of many, illustrate the Redssen duvet cover:



24. The various designs of the Redssen duvet cover are also available from a dedicated website at www.redssenhomes.com; for example:

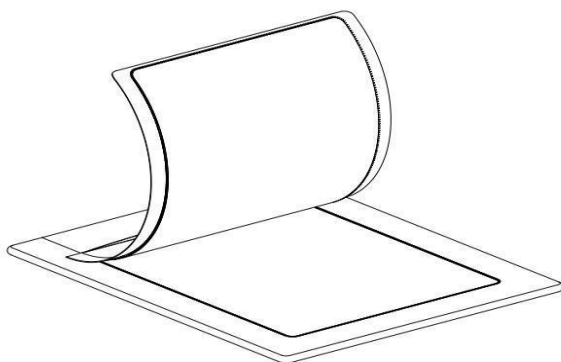
<https://redssenhomes.com/products/redssen-zipped-duvet-cover-set-100-polyester-navy-blue> - Navy Blue Duvet Cover 100% Polyester

25. The figure below is a further example illustrating the product, and is just one taken from a very large number on the redssenhomes website.



Discussion

26. It will be apparent from the above pictures and the description that the cover comprises only two sheets joined along one side and by a zip around the remainder of the periphery. The zip enables the two sheets to be largely separated to allow straightforward placement of a duvet between the sheets. The zip can then be closed to retain the duvet in the cover. There is no intermediate sheet between the two sheets. Accordingly, the product does not have the three sheets required to fall within the scope of claim 1. I.e. it lacks feature (a) as I have summarised the requirements of claim 1 above.
27. I have viewed a large number of the pictures available on these websites but can find nothing which would indicate that the product comprises a third sheet.
28. It will be noted that the figure above refers to a “*Patented 3-side Zip Design*”. I have searched for patents in the name of “Redssen” and also “Shanghai Junxuanhong” (Shanghai Junxuanhong Trading Co. Ltd. are owners of the Redssen trade mark) but the only patent I have been able to find is a US design patent – US D1,088,638 S. I have however identified a number of registered designs, including UK registered design number 6406159, figure 1 of which is reproduced below.



29. Whilst not necessarily particularly relevant for this opinion, these designs also illustrate a duvet cover formed with only two layers of material.
30. In the absence of anything which I considered to be an intermediate sheet, I invited

the requester to make observations regarding features of the product that could be interpreted as an intermediate sheet. No specific observations on this point were received.

31. The arguments that the requester has made are largely based on reference to isolated features of the patent which are taken out of context to suggest that the patent should be interpreted to require only two sheets. Additionally, passages apparently quoted by the requester also cannot be found in the description. For example, the requester appears to quote a passage which refers to a “*much wider opening for ease of inserting or removing a duvet from the case*”. However, I cannot find this text in the patent. Ultimately, I consider it clear that the claimed invention requires two compartments formed between three sheets.

32. The only passage which I consider points to a standalone duvet case is at page 6, lines 4 to 6 which reads:

The bedding duvet is either an integrated all-in-one bedding adaptation or an independent easy-fit duvet, designed specifically with a zipper and/or buttons or other suitable fastening means that extend up to half of the perimeter of the duvet case.

33. This passage refers to an independent easy-fit duvet, but I do not consider that it casts any doubt on the scope of the claimed invention.

34. In any event, I note also that whilst the Redssen duvet covers appear to possess a peripheral strip (see in particular the Amazon photograph reproduced above), there is no evidence to suggest that it has ventilation holes as also required by claim 1 (feature (f) of the summary).

35. On the basis that there are no examples of the product which include a third sheet, the product does not fall within the scope of the claims as a matter of normal interpretation.

36. In view of the significant differences between the product and the claims, I do not consider that the product differs by only an immaterial variation. Having two sheets is not an immaterial variation of the requirement for three sheets. The product only has a single compartment formed from two sheets and does not therefore work in the same way as the invention which provides two compartments. The patent requires a compartment for a user in order to achieve its stated objective of providing improved peripheral thermal insulation for a user.

37. The two *infringement* questions are therefore both answered in the negative and the Redssen duvet covers do not infringe the patent.

Opinion

38. It is my opinion that the Redssen duvet covers do not fall within the scope of the claims of the patent based on a normal interpretation. It is also my opinion that the Redssen duvet covers differ from the claimed invention by more than an immaterial amount. Accordingly, any acts carried out in relation to the Redssen duvet covers do not constitute infringement of the patent.

Application for review

39. 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. Any such application for a review can only be made if the opinion has mis-interpreted the specification of the patent.

Matthew Jefferson
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.