



BL O/208/05

22<sup>nd</sup> July 2005

## PATENTS ACT 1977

APPLICANT Dennis Roger Neild

ISSUE Whether patent application number GB  
0328663.0 complies with Section 1(2)(d)

HEARING OFFICER G M Rogers

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### DECISION

#### History of the application

- 1 The application, entitled 'Driving in colour', was filed on 11<sup>th</sup> December 2003 along with a Form 9/77 and the associated fee. The application was referred in the usual way to an examiner.
- 2 On 27<sup>th</sup> February 2004, the examiner wrote to the applicant stating that the search of the application had been deferred as the application appeared to relate purely to the presentation of information and as such was not patentable. The applicant was given a two month period to consider whether or not to proceed with the application and the option of withdrawing the application and receiving a refund of the search fee was highlighted.
- 3 No response was received from the applicant and so on 25<sup>th</sup> May 2004 the examiner took the step of issuing a report under Section 18(3) as the primary action at the search stage, with the report comprising a reasoned opinion as to why the invention of the application was not patentable under Section 1(2)(d) and offering a further six month period within which the applicant could withdraw the application and receive a refund of the search fee.
- 4 No response was received by the applicant and so on 7<sup>th</sup> February 2005 a further letter was sent by the examiner stating that he was minded to refuse the application. Furthermore, the applicant was informed that they had a period of one month within which to apply for a hearing and that, if they did not wish to be heard, a hearing officer would decide the matter on the papers.
- 5 Again no response was received from the applicant and on 13<sup>th</sup> April 2005 a letter was sent by the examiner stating that the hearing process was being initiated. The applicant was contacted by the Office and stated that he wished a decision to be made on the papers.

#### The application

- 6 The application relates to a system of colour-coded road markings that help provide constant information to drivers on the speed limit they must observe. A number of coloured spots, which may be circular, square, rectangular or triangular in shape, are painted in luminescent paint between the broken white lines which mark the centre of roads and the lane divisions on larger roads.
- 7 The colour of the painted spots relates to the speed limit of the portion of road upon which they are painted, with red spots being used to indicate a road with a thirty mile per hour speed limit, orange spots to indicate a road with a forty mile per hour speed limit, yellow spots to indicate a road with a fifty mile per hour speed limit and green spots to indicate a road with a sixty mile per hour speed limit. To further aid a driver determine the local speed limit, the number of broken white lines between each spot also varies according to the speed limit so that there are three lines between each spot in a thirty mile per hour zone, four lines between each spot in a forty mile per hour zone etc.

### **The Law**

- 8 The examiner has maintained that the application is excluded from patentability under Section 1(2)(d) of the Act. The relevant part of this Section reads:

*1(2) It is hereby declared that the following (among other things) are not inventions for the purposes of this Act, that is to say, anything which consists of—*

*(a)...*

*(b)...*

*(c)...*

*(d) the presentation of information;*

*but the foregoing provision shall prevent anything from being treated as an invention for the purposes of the Act only to the extent that a patent or application for a patent relates to that thing as such.*

### **The Issues**

- 9 The application discloses a system of indicating the speed limit on a given stretch of road by the use of coloured markings located on the road. Different colours and spacings are used to indicate different speed limits. Within the application there is no disclosure of the road markings being produced from anything other than conventional materials or being formed using anything other than conventional techniques. Given that the materials and techniques used to form the markings must be considered entirely conventional, the contribution of the invention resides only in the content of the displayed information rather than the apparatus per se, which is known.

- 10 Any manner, means or method of expressing information which is characterised solely by the content of the information is excluded from patentability. Only if it can be shown that the invention provides a technical, rather than merely an intellectual, purpose will it escape the prohibition of Section 1(2)(d). I consider that the use of differently coloured and spaced markers to indicate the speed limit to road users neither shows a technical purpose nor provides a technical advance but rather provides purely intellectual information to road users. I conclude that the invention relates to the presentation of information as such, and is accordingly excluded from patentability under Section 1(2)(d).

### **Conclusion**

- 11 Having found that the claimed invention is excluded from patentability under Section 1(2)(d), I have reviewed the application fully and have been unable to find a technical feature which could be claimed in order to meet the patentability requirements. I therefore refuse the application under Section 18(3).

### **Appeal**

- 12 Under the Practice Direction to Part 52 of the Civil Procedure Rules, any appeal must be lodged within 28 days.

**G M ROGERS**

Deputy Director acting for the Comptroller