

PATENTS ACT 1977

IN THE MATTER OF an
application for Patent Number GB 9806308.4
in the name of Dr Surinder Kaur

DECISION

1. Patent application number GB 9806308.4 was filed on 23 March 1998 in the name of Dr Surinder Kaur. Following this, on 9 April 1998, a standard letter was sent to Dr Kaur explaining amongst other things what she must do next for the application to proceed. Most importantly it was explained that a Patents Form 9/77 requesting Preliminary Examination and Search, together with the appropriate fee, needed to be filed by 24 March 1999. This form and the fee were subsequently received by the Office on 18 March 1999.
2. The application was then passed to an examiner for the search to be carried out. However, the examiner took the view that she was unable to carry out a search because (i) the claim did not clearly define the technical features of the invention, (ii) the description did not define the invention in sufficient technical detail and (iii) as far as the description could be understood it did not relate to a patentable invention. This was communicated to the applicant in a letter dated 31 March 1999 with the further comment that the search would be deferred for a period of one month to give Dr Kaur the opportunity to decide whether or not to continue with the application.
3. There being no reply from Dr Kaur within the time set the examiner issued a further letter dated 11 June 1999 making the same points as in the previous letter and giving Dr Kaur a fresh opportunity to withdraw the application or explain her position in writing. A reply date of 12 July 1999 was set.
4. From the papers on the file it is evident that Dr Kaur's husband rang the examiner on 9 July 1999 to discuss the application and said that Dr Kaur herself would ring on 12 July 1999. In the event this did not happen and the examiner decided to send one last letter on 23 July 1999. In this letter the option was given to Dr Kaur of withdrawing the application and requesting a refund of the search fee or of attending a hearing in the Office in order to present her views. A deadline for reply of 23 August 1999 was set failing which it was made clear that a decision would be made on the basis of the papers about whether to refuse the application.
5. Again no reply was received from Dr Kaur and the application was passed to me to decide the issue.
6. I have reviewed all the papers on the file of this application and have no hesitation in coming to the same conclusion as that reached by the examiner. The description of the

specification is in fact only a single page based on abstract principles described in Dr Kaur's PhD thesis. Although purporting to relate to the practical application of those principles there are no technical details that would enable a third party to put the invention into practice. Moreover the single claim is a statement about the invention being the first implementation of those abstract principles for the purpose of optimising brain performance and clearly does not define the technical features of the invention. There is also the possibility that were more known about the invention than Dr Kaur has disclosed it would fall within those classes of inventions excluded from patentability by section 4(2) of the Act.

7. My decision is, therefore, that patent application GB 9806308.4 should be refused. Following this decision I shall take steps to ensure that the fee accompanying the Patents Form 9/77 is refunded to Dr Kaur.

8. Since this is a decision on a substantive matter the period for appeal is six weeks.

Dated this 14th day of December 1999.

D L Wood
Deputy Director, acting for the Comptroller.