

## **2013 PAPER P6**

### **SAMPLE ANSWER 2**

This script is an example of an answer to the above examination question paper. The answer received a pass mark. It is a transcript of the handwritten answer provided by the candidate, with minimal re-formatting to improve readability.

We hope you will find it helpful when preparing for this examination, but please note it is not a model answer. You may also find the Examiners' Reports and the Final Examination Guidance Documents useful too. You will find these in the Examination Support area of the PEB website.

## **Construction**

What the person skilled in the art (psa) would understand the patentee to be using the language of the claim to mean – Kirin Amgen.

cgk : common general knowledge

psa knows patent dropping convention (pdc) – Virgin Airways

### **Claim 1**

1.1 - 'Apparatus for cleaning water'

'for' : suitable for i.e., capable of performing the function specified without significant modification or alteration

because pdc

Pg 3, lines 7-8 – invention relates to water cleaning apparatus

pg 5, lines 3-4 specify that any rel. large entrained detritus will be separated &

pg, 5, lines 12-13 specify that smaller particles will settle out

∴ 'cleaning' : at least removing the water of these things.

1.2 - 'the apparatus comprising a holding tank with a central aperture through which extends an upstanding pipe'

'comprising' : at least including the following features but may possible include more because pdc & Claim 3 for example provides further feature of apparatus (repercussive effect)

'holding tank' : something that retains water for a desired length of time (pg 4, lines 22-24) (Shouldn't be limited to cylindrical as in Figs because of pg 6 line 22-25)

'central aperture' : In both embodiments the opening in the holding tank is at the centre of the holding tank when viewed from above ∴ seems central = at the centre

However pg 6, lines 27-30 suggest that the weir (14, 106) need not be located centrally - & the psa will know that variations can be made ∴ could be argued that the patentee was intending to use 'central' loosely. However, since the word appears in the claim I do not think we can ignore it (Ancon).

∴ construe to mean located centrally (though need not be exact – by eye ok)

'which' – refers to the aperture

'upstanding pipe'

pg 4, lines 19-20 specify that the tube 14 extends up from (& below the aperture). Its purpose being to prevent water from running straight down tube

∴ must cover anything that projects up from the aperture & which prevents water from falling straight down the pipe.

1.3 'the uppermost edge of which providing a weir'

'which' : the pipe

'weir' : barrier to water flow as discussed under 1.2

'uppermost edge' the edge of the pipe which is highest vertically.

#### 1.4 'the holding tank having a filter material provided across its top'

'having a .... provided' in the specific embodiment (Fig 1) the filter material (i.e. the mesh 23) 'lies to cover the holding tank' (pg 4, lines 33-34). This is said to be important for maintenance purposes (pg 5, lines 15-16) ∴ must at least include filter material placed upon / lying on.

'across' - in Fig 1 the mesh can be seen to extend all the way over the top of the holding tank - to perform its filtering function must prevent any water entering tank without first going through filter ∴ construe to mean 'all the way across.' (confirmed at pg 3 lines 28-29).

'its top' : 'its' = holding tank  
'top' = pg 4, line 34 suggest that ledge 22 may be located at or near the top edge 15.

∴ top means it must be provided over the holding tank (to fulfil filtering purpose) but does not need to be located across the very top edge.

'filter' must include 'mesh' as this is the type of filter described.

## Claim 2

2.1 'water cleaning & storage apparatus'

→ Apparatus now includes a 'storage' part. i.e. the water storage tank

∴ apparatus must be capable of cleaning & storing.

2.2 'the apparatus comprising a water .... which a pipe extends'.

'comprising' as in 1.2 for same reason.

'water storage tank' distinct from 'water holding tank' because it doesn't just retain for a specific desired amount of time or until a certain amount of water has been collected, but could store for a lot longer & will only be allowed to empty if the user actively opens it.

'top wall' – in Fig 2 this is shown to be above the storage tank.

∴ separates the 'storage part' from the 'holding part'.

### 2.3 'one end of the pipe providing a wier'

In Statement 4 invention on pg 4, lines 3-7, one end of the pipe is said to extend through the top wall & the 'other end' provides a weir. However in claim doesn't specify this to be the end above the top wall.

Although in practice it doesn't really make a difference as to provide a barrier to water running into the storage tank the weir would have to be provided above it.

→ Even when cleaning the device the pipe 106 will still provide a weir to the last volume of retained water.



2.4 'a peripheral wall upstands ... to provide a holding tank'.

'peripheral wall' – implies located away from the central portion, i.e., around the edges.

pg 5, lines 20-21 & specific embodiment the upstanding walls are just a continuation of the water storage tank walls.

∴ must at least cover this, but wording of the claim allows for the upstanding walls to be spaced wider or slightly narrower than the walls of the storage tank.

'upstands from' i.e., extends above it.

2.5 'and wherein ... over & between the peripheral wall'.

'secured' – differs from 'having provided in 1.4 now actively fixed to.  
pg 5, lines 23-24 support this construction.

'filter material' as in 1.4 must at least prevent 'relatively large entrained detritus' from entering the holding tank (pg 5, lines 3-4 & 33-34).

'over & between' – means that the filter is secured over the peripheral walls – in Fig 2 this is shown to be over the top edge ∴ must at least include this.

- as with 1.4 must extend entirely over the opening to the holding tank.

- 'between' means it runs between the walls i.e. extends entirely over.

### Claim 3

3.1 'Apparatus according to Claim 1 or 2'

Means a device having at least all of the features of Claim 1 or

Means a device having at least all of the features of Claim 2.

### 3.2 'Comprising ... to the pipe'.

'Comprising' – at least including the following features but may include more features because pdc.

'a wall' – pg 3, lines 23-24 specifies the holding tank to have a base or lowermost wall which slopes towards the aperture.

→ this is how the holding tank works.

∴ wall belongs to the holding tank & is its base.

'sloping from or to the pipe' in embodiment 1 the base slopes towards the pipe & in embodiment 2 the base slopes away from the pipe (if considering the movement of water on the slope under gravity).

∴ the 'or' is differentiating – there is no embodiment in which the base slopes from and to the pipe. – only one or the other.

#### Claim 4

##### 4.1 'Apparatus ... Claim'.

Means a device having at least all of the features of Claim 1, Claim 2, Claim 1 + Claim 3 or Claim 2 + Claim 3.

##### 4.2 'Wherein the filter material is a mesh'.

pg 3, lines 26 describes the mesh - i.e., a ret....ated surface like a sieve.

4.3 'typically fabricated from steel or other metal material'.

'typically doesn't appear to be particularly limiting'.

- is it an optional feature?

Statement of invention on pg 3 lines 2-27 doesn't help.

- uses same language

However pg 3 lines 31-32 does specify that materials used are 'preferably formed from rigid weather & corrosion resistant materials'.

Jeems inclusion of typically means 'steel or other metal' optional feature.

4.4 'having a mesh hole size of from 1 to 10 mm'.

Same as preferred range given on pg 3, lines 27.

no qualification with 'about' or 'approximately'  $\therefore$  should be construed naturally but with mathematical rounding limits as only given to 1sf.

$\therefore$  mesh hole size of from 0.5 to 10.5 mm.

### Infringement of A by B's CleaniO product

- Wasteaway (W) - exclusive importers of B ('cleanio')  
- Appear to be offering for disposal (trade show) & disposing of (pg 9, line 7)
- W's supplier - manufacturing 'Cleanio' – W is importing to UK so supplier must be overseas - ∴ activities not caught by A.
- Clients of W - Customers may be end users – but will probably have a defence of 'private, non commercial use'  
- If W are supplying to retailers these retailers could be infringing A if selling, offering for sale, keeping etc.
- only infringement if Cleanio falls with scope of Claims of A.



## Claim 1

- 1.1 ✓ because the CleaniO system of B is 'for use with a domestic water butt to aid the cleaning of water as it flows to it' (pg 9, lines 9-10). 'Cleaning' at least includes filtering relatively large solids because all water enters through plastic mesh surface 4.
- 1.2 ✓ because system 1 of B includes a holding tank (surface 3 + wall 2) (i.e. it retains water (pg 10, line 5)) which has an opening in surface 3 that is at the centre of the surface when viewed from above & has a pipe 5 through the opening which projects up from the aperture to prevent water falling straight down pipe 5.
- 1.3 ✓ The edge of pipe 5 which is the highest vertically creates a barrier to water, which is only breached by sufficient water building up to overflow the pipe 5.
- 1.4 ✓ The uppermost flexible surface 4 is made from a plastic mesh material (filter material), which is attached to the inner surface of the wall 2 (& ∴ necessarily extends entirely over it). The surface 4 is also provided over the holding tank (3 + 3) & is located 'near to' the top edge \*.

∴ Cleanio product of B satisfies all features of Claim 1.

\* pg 10, lines 3-4, acknowledge 4 to be a 'filter'.

## Claim 2

- 2.1 ✗ The CleaniO system supplied by W does not include the Butt B ∴ there is no 'storage' part in the device of B. Once the water overflows the weir of pipe 5 water will be lost from the 'holding tank'.
- 2.2 ✗ because the Butt B does not form part of the system of B it is just 'for use' with a butt.  
∴ no 'water storage tank'.  
If it was sold with the Butt, the lower surface 3 could be thought of as the 'top wall' of the storage tank.
- 2.3 ✓ B does include a pipe extending through lower surface 3 & the pipe creates a barrier to water entering the pipe (as in 1.3).
- 2.4 ✗ because there is no storage tank. However if it was sold with the Butt wall 2 can be considered a 'peripheral wall' as it is just a continuation of the Butt wall.
- 2.5 ✗ because upper surface 4 although a filter material under my construction is not fixed over the peripheral wall 2, it is recessed from it in the Figs.

∴ Claim 2 not satisfied by CleaniO product.

### Claim 3

- 3.1 ✓ When dependent on C1.
  - ✗ When dependent on C2.
- 3.2 ✓ the holding tank of CleaniO (ie, wall 2 of surface 3) has a base – surface 3 – which slopes towards the pipe when it is in use.  
(it will also slope away from the pipe when being cleaned – Fig 2).

∴ Claim 3 satisfied by CleaniO product when dependent on C1 only.

#### Claim 4

- 4.1 ✓ When dependent on Claim 1 or Claim 1 + Claim 3.
  - ✗ When dependent on Claim 2 or Claim 2 + Claim 3.
- 4.2 ✓ because uppermost flexible surface 4 was thought to be the 'filter material' & this is described as a mesh on pg 9, lines 26-27.
- 4.3 ✓ because 4.3 starts 'typically' – the feature following it was thought to be an optional feature of the claim.

∴ Although B specifies mesh 4 to be made from a plastics material Claim 4 doesn't always require this so is not a distinction between A & CleaniO.

However, if it was construed to be essential feature CleaniO's plastic mesh could be considered a trivial difference which could be found on application of the protocol q's to be an obvious variant that has no material effect on the product.

4.4 ? don't know what sized holes the plastic mesh 4 has.

Ask Client or ask for sample.

∴ Claim 4 might be satisfied by CleaniO depending on size of mesh holes.

W is also planning to start importing CleaniPro.

- this device has a integral storage tank
- the lower surface will be made of heavy duty plastic
- the uppermost surface 4 will be made using a flexible steel mesh with pore size < 1 mm.

Otherwise, appears to be same as CleaniO.

∴ will satisfy Claim 1 for the same reasons set out above.

(even though 'holding tank' can now hold in excess of 1000 litres it will still be able to empty as water level overflows weir of pipe 5 ∴ not 'storage')

## Claim 2

- 2.1 ✓ because CleaniPro has integral lower tank for storage of cleaned water. (pg 10, lines 19-20).
- 2.2 ✓ because if Butt B in Figs effectively becomes the 'integral storage tank' (no reason to suggest any other set up would be adopted) then lower surface 3 would be the 'top wall' separating the 'storage tank' from the 'holding tank' & pipe 5 extends through this surface.
- 2.3 ✓ CleaniPro can 'hold' in excess of 1000 litres on surface 3 (pg 10, lines 18-19) and since no other differences specified that would prevent water from flowing down pipe 5 seems it must still be the set up of pipe 5 providing a weir.
- 2.4 ✓ wall 2 of the 'holding tank' are continuations of the Butt walls – since this is how embodiment of A is set up must be within scope of 2.4.
- 2.5 ? If CleaniPro set up as the CleaniO + Butt is in Fig 1 then the filter material will not be secured over the peripheral wall but inside it – so 2.5 wouldn't be satisfied.

But p10, lines 26-27 say that surface 4 of CleaniPro will be swept – if the filter layer was recessed as in Fig 1 would the sweeping work?  
Surely dirt would just get trapped at the edges.

∴ could the filter be attached over the peripheral wall?

Check.

∴ depending of exact location of filter surface 4 of CleaniPro Claim 2 might be satisfied by CleaniPro.

### Claim 3

- 3.1 ✓ When dependent on C1.  
? When dependent on C2 (depends on 2.5).
- 3.2 ✓ Assume same set up with surface 3 sloping towards pipe 5 (because said to be cleaned in the same way i.e., by raising rod 6 to change orientation of surface 3).

∴ Claim 3 satisfied by CleaniPro (provided 2.5 is).

#### Claim 4

- 4.1 ✓ When dependent on C3 + C1 or C1.  
? When dependent on C3 + C2 or C2 (depends on 2.5).
- 4.2 ✓ Uppermost surface 4 is a filter & is made out of a mesh (pg 10 – line 24).
- 4.3 ✓ Mesh 4 is made using flexible steel (pg 10, line 24).
- 4.4 ✓ Mesh having pore size of from 0.5 mm to < 1 mm will fall within mathematical rounding limits given to Claim 4.

Any below 0.5 mm will be outside 4.4.

∴ Claim 4 satisfied when mesh hole size is from 0.5 mm to < 1 mm.



### Novelty of A over Embodiment 1 of C

C was granted before the application A was filed  $\therefore$  must have been published before A filed = S.2(1) prior art.

#### Claim 1

- 1.1 ✓ C relates to miniaturising water cleaning plants (pg 12, L20-21) & pg 13, line 7 specifically mentions embodiment 1 to be 'apparatus for cleaning water'.
- 1.2 ✓ funnel portion 15 can be considered to be a 'holding tank' because it is said to 'arrest direct flow of the flowing water in to the tube portion 18' (pg 13, line 14-15) Also any water caught by baffles 19a or 19b will be retained until enough water collected to overflow (even if this doesn't require much water).

Funnel portion 15 has an aperture at its centre  $\rightarrow$  space with filter 16 & pipe 18 extends through this aperture & can be considered to project up from the aperture because baffle 19b is 'formed as an extension of the tube portion' (pg 13, line 16-17).

The tank 10 can also be considered as a holding tank as it retains water only until enough water has collected to overflow into the peripheral volume 21. However tank 10 does not have a central aperture i.e. at the centre of the tank when viewed from above. It does have pipe 30, but not centrally under my definition.

- 1.3 ✓ because baffle 19b ensures that the water cannot run directly onto filter 16 (pg 14, lines 4-5)  $\therefore$  must provide a barrier to water flow which is breached by there being enough water to overflow the highest (vertically) part of the pipe 18 + baffle 19b.
- 1.4 ✗ If the holding tank is considered to be funnel 15 it does not have a filter material extending all the way across it (only the lid is above it & this is not said to be a filter).

If holding tank considered to be tank 10 this also does not have a filter material extending all the way across it.

$\therefore$  Claim 1 appears novel over embodiment 1 of C.

## Claim 2

- 2.1 ✓ because – see 1.1 & clearly has a storage tank 10 (i.e. 21 + 10) which is closed until user actively opens outlet pipe 12.
- 2.2 ✓ because embodiment has storage tank (10 = 20 + 21) which has a divider between the 'storage part' 10 & the 'holding part' 15 i.e. funnel 15 has a pipe 18 through it (pg 13, lines 21-22).
- 2.3 ✓ the top end of pipe 18 i.e. baffle 19b will provide a weir (i.e. barrier to water flow).
- 2.4 ✓ wall of upper portion is an extension of wall of lower portion & bounds filter portion 15 to provide a 'holding tank'.
- 2.5 ✗ because the only filter material present is material 16 in pipe 18 & this does not extend over & between the walls of the upper portion.

∴ Claim 2 appears novel over embodiment 1 of C.

### Claim 3

3.1 ✗ when dependent on either claims 1 or 2.

3.2 ✓ base of funnel portion (i.e. the holding tank) slopes towards the pipe 18, (see pg 13, line 12).

∴ features of Claim 3 not novel over embodiment 1 of C.

#### Claim 4

- 4.1 ✖ when dependent on any combinations of claims because C1 & C2 not anticipated.
- 4.2 ? filter 16 is said to be formed of a plastics material preferably a mass of plastic (✖) fibres – this could be formed into a mesh but doesn't say specifically.
- 4.3 ✖ is not formed from steel or another metal – only plastic is mentioned  
However this was construed as an optional feature of C4.
- 4.4 ✖ don't know if filter is formed as a mesh (presumably it is as this would cover arrangements where fibres overlap to form pores for water to flow through – does it have to be structured?

However no details of how big the pores size.

∴ Claim 4 not anticipated by embodiment 1 of C because no mention of mesh holes from 1 to 10 mm.

### Novelty of A over embodiment 2 of C

- 1.1 ✓ embodiment 2 is another apparatus for cleaning water (pg 12 lines 20-22).
- 1.2 ✗ although upper portion could be thought of as a holding tank (because baffles 19a' & 19b' arrest water flow, it does not have a central aperture with a pipe projecting up from it.
  - Aperture formed between baffles 19b' is not at the centre of the holding tank when viewed from above (holding tank extends from wall of 10' to interior wall – Fig 2A shows it is not at the centre but off to the left).
  - Aperture covered by lid 30' does not have a pipe extending through it.
- 1.3 ✓ pipe 18' does project from the aperture & provides a barrier to water flowing into the pipe 18' from 11'.
- 1.4 ✓ At pg15, lines 19-10, UP' is said to have a coarse filter – which is shown in Fig 2 to extend entirely over the holding tank (UP') & is located 'near to' the top of the 'holding tank'.
  - if holding tank instead considered to be the lower portion there is no central aperture in the holding tank when viewed from above ∴ 1.2 still not satisfied.

∴ Claim 1 not anticipated by embodiment 2.

## Claim 2

- 2.1 ✓ because see 2.1 & clearly has a storage tank – i.e. LP' which stores water until 12' is opened (or 30').
- 2.2 ✓ because LP' is separated from UP' by walls 17' which are above storage tank of LP' (vertically) & have a pipe 18 extending through it.
- 2.3 ✓ because baffles 19b' project upwards & create barrier to water entering pipe 18.
- 2.4 ✗ because wall continues from LP' forming one upstanding part of the UP' however construction wasn't limited to the upstanding walls being spaced equally with the storage tank & so the vertical wall within the tank 10' that forms part of the UP' could be considered a peripheral wall. However, wall forming UP' cannot be considered to be 'upstanding from' the LP' because in this embodiment the LP' extends as high up as the UP' with the UP' simply being a portion of the LP'.  
  
∴ does not extend above it.
- 2.5 ✗ because coarse filter is not secured over the peripheral wall but rather inside them.

∴ Claim 2 novel over embodiment 2.

### Claim 3

3.1 ✖ when dependent on either claim.

3.2 ✔ conical wall 17 slopes towards pipe 18.

∴ feature of claim 3 appears anticipated.

#### Claim 4

4.1 ✗ when dependent on any claims.

4.2 ✓ coarse filter said to be a metal frame that removes large particles – only way it can do this is if the frame is a mesh-like formation.

4.3 ✓ is made of metal ∴ falls within 'or other metal material'.

4.4 ✗ no info as to size of mesh holes.

∴ claim 4 not anticipated as specific sized holes are not mentioned.



## Inventive Step

- 1a) The person skilled in the art is a designer or manufacturer of water cleaning systems because this is the field of invention (pg 3, lines 7-8).
- 1b) The cgk must include the large tanks described on pg 12, lines 9-11 that allow entrained matter to settle from the water.
- 2) The inventive concept of claim 1 is the idea of using a holding tank which contains water in it by the edge of a pipe in which 'cleaned' water is to fall down. Claim 1 also adds an additional 'cleaning' step to remove larger particulate matter by making water flow through a filter material before entering the device.

The inventive concept of claim 2 is the idea of storing 'cleaned' water after it has been filtered & settled.

The inventive concept of claim 3 is to include a sloping base in the holding tank to funnel water towards the weir or towards a cleaning valve.

The inventive concept of claim 4 is the use of a filter having pores of from 1 to 10 mm in size. This prevents particulate matter with a dimension larger than 10 mm falling through the filter into the holding tank.

- 3) The differences between the claimed subject matter & the prior art has been outlined above.

C is the most relevant prior art.

C aims to provide a miniaturised water cleaning plant which includes the known methods of filtering, settling & downstream purification.

The difference between embodiment 1 & claim 1 is that claim 1 provides a filtering step before settling the water. This difference is taught in embodiment 2 of C which includes a coarse filter element (CF) above the 'holding tank' so that relatively coarse particles are removed from the water entering via inlet pipe 11 before they can settle on the filter 16.

∴ Claim 1 seems obvious in view of the combination of embodiments in C. But would psa combine eb1 & eb2 – seems they would – both aim to solve same problem & are both very close variations of each other.

The difference between embodiment 1 & claim 2 is the filter element as in claim 1. Therefore seems it would be obvious to include a filter material between the peripheral walls – but there is nothing in C to suggest that it should be secured over the tops of the walls (as it is in the present invention).

There would appear to be no motivation to do this as C does not teach using the filter member as a surface exposed to the elements – it is protected by lid 30. In

contrast, the invention A secures the filter over the walls is so that it can be easily swept clear of debris caught in it.

∴ Claim 2 appears inventive.

The features of Claim 3 do not appear novel over either embodiments of C  
∴ not inventive on its own.

The difference between Claim 4 & both embodiments of C is the use of a mesh having holes between 1 mm & 10 mm in size. These specific measurements are not taught by C & there appears nothing to suggest that these would be particularly useful.

∴ Claim 4 appears inventive over C.

## Advice to Client

### Infringement

Claims 1 & 3 appear to be infringed by CleaniO product, & Claim 4 may be infringed by CleaniO if mesh holes of the plastic mesh 4 are between 0.5 mm & 10.5 mm & if the court would agree with my interpretation that the use of the word 'typically' means that production from steel is an optional feature of the claim.

I could be wrong on this point. Please can I have a sample of CleaniO?

Claim 2 is not infringed by CleaniO because it does not come with a storage tank & because the filter material 4 does not appear to be fixed over the peripheral wall 2 (but rather inside it).

If the court were to interpret 2.5 as not requiring the mesh to go over the top of the peripheral wall, CleaniO could be thought as means relating to an essential element of your invention. By providing CleaniO  $\therefore$ , W could be thought to be a contributory infringer (seems double territorial requirement fulfilled – selling in the homes in the UK) & knows that the devices will be used with a Butt which will effectively put your invention into effect.

The product W is intending to import in 2014 appears to infringe Claims 1, 3 & 4 & may infringe Claim 2 if location of filter is over the periphery walls of the holding tank.

### Validity

Claims 1, 2 & 4 appear to be novel over C but claim 1 appears to be obvious over the combination of embodiments taught in C.

Outcome of inventive step invariably depends on expert evidence so I will run my reasoning by an expert to check if they agree.

Could restore validity of Claim 1 by introducing features of Claim 2 or Claim 4 in to it, but neither of these appear to be infringed directly by CleaniO & at the moment product without water Butt is most important to you. However, would catch CleaniPro.

Another possible amendment we could use would be to introduce the feature of the pipe being moveable into Claim 1 (basis = pg4, line 1). This would appear to be novel & inventive over C (in which 18' & 18' are fixed) but would appear to still catch CleaniO in which the pipe is moveable up & down between configurations shown in Fig A & Fig B.

Might be prudent to amend before taking any action against W as there is less chance of W finding out about us applying to the controller for the amendment & so may go unopposed (by W at least).

### Threats

Even if W took your conversation as a threat it is not actionable since W is an importer of what appears to be an infringing article.

- W seemed shocked you had a patent – have you been marking your products? If so, W will be on statutory notice. No innocence defence.
- Since you had not heard of W's products before – are their sales causing you any harm? Might they be operating in a parallel field – i.e. much cheaper than yours – may be considerably different markets.
- If you think your business could survive CleaniO also being on market could licence technology to W – royalties received (even if modest) could bring in more revenue than you would ever get from a court hearing.
- You say you are looking to expand sales abroad as well – do you have any patents filed overseas – if not the publication of A will mean that you cannot get a patent for this invention elsewhere.
  - could you consider working with overseas manufacture to produce your products more cheaply.
  - need to check for conflicting rights abroad before launch.

If it is important to you to stop W importing in the UK suggest we put them on notice. Wouldn't advise going for an interim injunction as injunction heavy and would have to disclose to the courts our concerns with validity. Also not clear if balance of convenience would lie on your side as seems these products although exceeding your sales predictions are not crucial to the success of your business ∴ damages would seem sufficient remedy.

Can apply for damages – but only if you have actually suffered damage – since you were not aware of them until the trade show is this actually the case?