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FD4	1 of 36	57%

Examiner's
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The following claim integers will be used:

1.1 A stockless anchor, comprising:

1.2 a shank (10) having a head end (12) and a crown end (16); and

1.3 a fluke arrangement (14) connected to the shank (10) at the crown end (16);

1.4 characterised in that the fluke arrangement (14) includes:

1.5 a bill (22) for penetrating the seabed; and

1.6 a pair of blades (21) disposed symmetrically on either side of a centre line (24) lying in a plane (x, x', x'', x''') that includes the shank (10)

1.7 wherein the distance between the outermost edges of the blades (21) increases from the front to the rear so as to be widest at or close to the rear of the fluke arrangement (14).

2.1 An anchor as claimed in claim 1,

2.2 wherein the shank (10) includes an articulated part (18) which is pivotable with respect to the fluke arrangement (14).

3.1 An anchor as claimed in claim 1 or 2,

3.2 wherein the bill (22) lies on or close to the centre line (24).

4.1 An anchor as claimed in claim 3,

4.2 wherein the fluke arrangement (14') is fixed with respect to the shank (10').

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5.1 An anchor as claimed in any preceding claim,

5.2 wherein the blades (21) extend from the centre line (24) and define a central ridge extending to the bill (22).

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Construction:

1.1 A stockless anchor, comprising:

- “A ... anchor” = something which is suitable for mooring floating objects, such as yachts, ships and other floating vessels (P3, L4-5) by engaging with a surface such as a sea bed (P3,L16-18). Sets the scene of the invention as relating to anchors.
- “A stockless anchor” = without a stock (industry term as stated in P11 L15).
- “comprising” = includes the following features but is not limited to them.

1.2 a shank (10) having a head end (12) and a crown end (16); and

- A head end = a part of the anchor configured to attach to something which itself connects to the floating object to be anchored (P3, L29 and P4, L17). E.g. a chain (p3 L29) or a mooring chain (P4, L17).
- A crown end = a part of the anchor configured to attach to the fluke arrangement (P3 L29-30)
- A shank = an elongate part of the anchor that connects the head end to the crown end (P3, l28). Does not require a particular length, but is elongate in that it is defined by two points, the head and crown, and stretches between the head and crown as shown in Figure 1 (p6) and 4 (P7). As such the crown end is opposite to the head end along the shank.

1.3 a fluke arrangement (14) connected to the shank (10) at the crown end (16);

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- A fluke arrangement = something which acts to bury itself in the seabed during use (P4 L27)
- Connected to the shank at the crown end = attached or fixed to (P3, L28-29 and P4, L9-10). The attachment is fixed in that the fluke arrangement can't separate from the crown end, or the anchor would not be able to fulfil its purpose.

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1.4 characterised in that the fluke arrangement (14) includes:

- characterised in that = EPO claim language implying that the earlier features are known and that the following features are novel. Has no legal basis
- includes = similar to comprises. Means that the fluke has the following features but can also have other features.

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1.5 a bill (22) for penetrating the seabed; and

- for = suitable for the purpose of. e.g. configured or able to perform the purpose,
- a bill for penetrating the seabed = Something which naturally digs into the ground (P4, L17-18 and L22-23). i.e. is suitable for penetrating the seabed by digging into the sea bed. The bill is the forward most point of the fluke arrangement (P3, L36-37, and P6 Feature 22 of Figure 1 and 2).

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1.6 a pair of blades (21) disposed symmetrically on either side of a centre line (24) lying in a plane (x, x',x'',x''') that includes the shank (10)

- a pair of blades = two plates (P3, L31 and P4, L3-4) that are configured to dig into the sea bed after the bill has dug in (P4, L25-26). Can be formed form separate plates (P4, L3-4) or from a single piece (P4, L6-8). They are a pair in that the two have similarities such that the anchor acts in the same way whether the anchor rests on one or the other (P4, L19).
- centre line = the centre line is an abstract line of symmetry (P4, L11) aligning with the direction in which the anchor will be dragged by the shank portion (P4, L20-23 and P6 Fig 2) It is as such "in its line of action" (P4, L29). While the centre line can be defined by a physical ridge (P4, L1) this is not required by the claims at least because claim 5 defines the presence of a ridge, and therefore the centre line of claim 1 must be broader than a physical ridge for the central ridge of claim 5 to have meaning. As such, it can be an abstract line of symmetry.
- disposed symmetrically on either side of a centre line lying in a plane (x, x',x'',x''') that includes the shank (10) = The blades are positioned on either side this line of symmetry (P4, L5 and P6 Fig 2). As stated above, this contributes to them being a pair in that the anchor acts in the same way whether the anchor rests on one or the other (P4, L19).

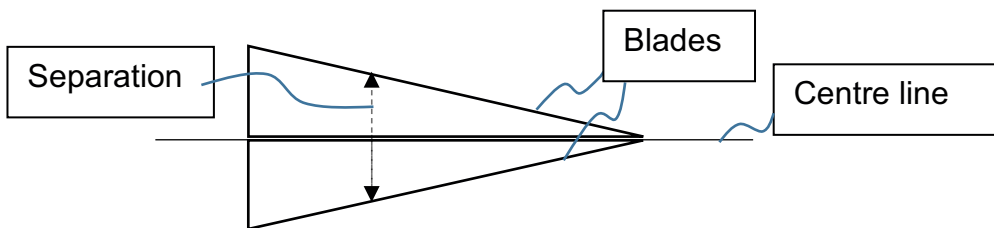
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1.7 wherein the distance between the outermost edges of the blades (21) increases from the front to the rear so as to be widest at or close to the rear of the fluke arrangement (14).

- distance between the outermost edges of the blades (21) = the separation of the furthest edges of each blade perpendicular to the line of symmetry as shown in the diagram below by the dotted line.



- increases from the front to the rear = the separation of the furthest edge of the each blade increases such that the area is greater in the rear half (P3, L35) and lesser in the front half such that they move towards a point (P3, L36)
- so as to be widest at or close to the rear of the fluke arrangement = two alternatives due to “or”. The first requires a definite widest at the rear end, whereas the second permits an alternative in which they are widest close to the rear end but can narrow at the very end. This can be to allow rounding at the very end dependent on the shape of the rear of the blades (see Figure 2 on page 6). As such the second alternative shall be defined as the widest point is closer to the rear than the front as long as the shape still allows the resistance to increase due to the increasing width (P4 L31-32).

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2.1 An anchor as claimed in claim 1,

- An anchor = no antecedent basis but will be interpreted as the stockless anchor
- As claimed in claim 1 = dependent on claim 1 such that it includes all of the features of claim 1 as well as the following.

2.2 wherein the shank (10) includes an articulated part (18) which is pivotable with respect to the fluke arrangement (14).

- An articulated part = the shank has a hinged portion (P4, L20), which can be provided by a pivot pin or the like (P4, L14).
- which is pivotable with respect to the fluke arrangement (14) = as the crown end is fixed to the fluke arrangement, the hinged portion is provided between the crown end and the head end (P4, L14-15).
- The axis of the hinge is in the plane including the centre line (Fig1 p6) such that hinged portion of the shank extends flat along the ground (P4 L20) and such that pressure from being buried causes them to move to an upright position in line with the plane of symmetry (P4, L27-28). As such it is not just any hinged mechanism but is a hinged mechanism that aids the burying process. This is different to the hinge of C which allows the anchor to be stored flat when not in use (P3 L9-10 and P12 L17-18) and which the drafter was aware of when drafting so would have considered that it fell outside of the scope of the claimed articulated part.

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3.1 An anchor as claimed in claim 1 or 2,

- As claimed in claim 1 or 2 = alternative, where either claim 3 includes all of the features of claim 1 as well as the following, or claim 3 includes all of the features of claim 1 and claim 2 as well as the following

3.2 wherein the bill (22) lies on or close to the centre line (24).

- lies on or close to the centre line (24) = Alternatives, which allows for a small amount of variation in the positioning of the bill. However, it is necessary that the bill is at least very close to the centre line to cause it to naturally dig into the ground (P4, L22)

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4.1 An anchor as claimed in claim 3,

- As claimed in claim 3 = this technically allows claim 4 to include the features of claim 3+claim1 and Claim 3+claim 2+ claim 1. However, claim 4 is incompatible with claim 2 because claim 2 requires the fluke portion to be pivotable with respect to at least a portion of the shank, whereas claim 4 requires that the shank is fixed with respect to the fluke portion. The difference in the embodiments is shown by comparison of Figure 1 and 4 (pages 6 and 7). Therefore only the dependency of claim 1 +claim 3 is allowable and the claim will be construed as meaning that only this dependency is covered (consider amending)

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4.2 wherein the fluke arrangement (14') is fixed with respect to the shank (10').

- is fixed with respect to the shank = this refers to the embodiment of figure 4 (page 7). There is no hinge such that the position of the Fluke 14' is not pivotable with respect to any portion of the shank (P4, L34-35).

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5.1 An anchor as claimed in any preceding claim,

- as claimed in any preceding claim = this allows the following to dependencies for claim 5:
 - claim 1
 - claim 1 + 2
 - Claim 1 + 2 +3
 - Claim 1+ 3
 - Claim 1 + 3 + 4
 - (see above for why C1+2+3+4is not allowed)

5.2 wherein the blades (21) extend from the centre line (24) and define a central ridge extending to the bill (22).

- the blades (21) = no antecedent basis but will be interpreted as the pair of blades
- extend from the centre line and define a central ridge extending to the bill (22) = the blades join at a physical ridge aligning with the centre line that extends upwards from the bill (P4, L1 and Fig 1, P6).

MARKS AWARDED: 10

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CONSTRUCTION

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Infringement

There is a single embodiment that is produced by Bettermore:

- The Bettermore NG (BNG) as disclosed in Doc B.

Claim 1

Y - 1.1 A stockless anchor, comprising:

- BNG is suitable for mooring floating objects (P8 L5)
- BNG's anchor is stockless in that does not have a stock as there is no bar at the head end (P10 Fig 1)

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Y - 1.2 a shank (10) having a head end (12) and a crown end (16); and

- There is a shank having two limbs (P8 L29-30) one of which is a head end 52a (Figure1, P10) that has a connection point (P10 Figure 1 "ring feature") for connecting to a vessel (P8 L34-35) and the other of which is a crown end which is attached to a fluke arrangement (P8, L32).

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Y 1.3 a fluke arrangement (14) connected to the shank (10) at the crown end (16);

- The second limb 52b is attached to a fluke (P8, L32). The fluke acts to bury itself in the ground (P8 L32-33 and P9 L9-10) and therefore is consistent with the claimed fluke arrangement.

Y - 1.4 characterised in that the fluke arrangement (14) includes:

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- No specific arrangement necessary.

Y - 1.5 a bill (22) for penetrating the seabed; and

- The point of the fluke (P8 L35-36) is suitable for digging into the ground (p9 L10). Additionally, it appears that it would naturally do so as part of the process of self-righting.

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Y - 1.6 a pair of blades (21) disposed symmetrically on either side of a centre line (24) lying in a plane (x, x',x'',x''') that includes the shank (10)

- The fluke has two curved and tapering plates 56 and 57 (P9, L1-2) that dig into the sea bed after the point of the fluke has dug in (P9 L7-8).
- They are symmetrically arranged around an abstract centre line as can be seen from Figure 2, Page 10.
- Additionally, the surface of each defined by a cylindrical form whose axis is located in the plane of symmetry of the anchor (P9, L4-5). Therefore the flat line on the surface of the cylinder where the two plates meet can be defined as the centre line.

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Y - 1.7 wherein the distance between the outermost edges of the blades (21) increases from the front to the rear so as to be widest at or close to the rear of the fluke arrangement (14).

- The plates 56 and 57 are tapering plates (P9L2) with their tapering shown to be from a point at the front in Figure 2 (page 10) towards the rear.

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- The widest separation is not at the rearmost part, but it is closer to the rearmost part than the front most part (P10 Fig 2) and therefore this is consistent with the claim in particular as the shape allows the resistance to dragging to increase as the fluke buries itself (P9, L7-8).

BNG has all of the features of claim 1.

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Y - 2.1 An anchor as claimed in claim 1,

BNG has all of the features of claim 1.

N- 2.2 wherein the shank (10) includes an articulated part (18) which is pivotable with respect to the fluke arrangement (14).

- BNG is a single solid construction (P8, L32) and does not contain any hinge.

BNG does not have all of the features of claim 2.

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Y - 3.1 An anchor as claimed in claim 1 or 2,

- BNG has all of the features of claim 1
- (although BNG does not have all of claim 2, this is an alternative and therefore these features are not required)

Y - 3.2 wherein the bill (22) lies on or close to the centre line (24).

- The point of the fluke is aligned with the foremost extremity of the shank (P8, L35-36 and P9 Figure 2) such that it is on the centre line.

BNG has all of the features of claim 1.

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Y - 4.1 An anchor as claimed in claim 3,

- BNG has all of the features of claim 3 and claim 1.
 - (see above for why dependency on C1+2+3 is not allowed)

4.2 wherein the fluke arrangement (14') is fixed with respect to the shank (10').

- The fluke is mounted on the shank in a fixed manner (P8 L32). There is no point of rotation.

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BNG has all of the features of claim 4

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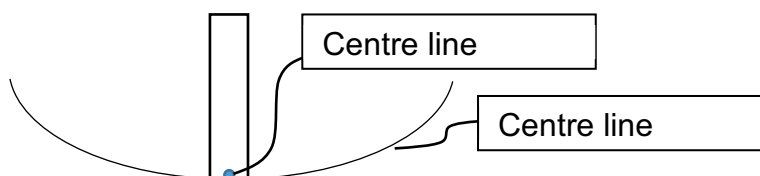
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Y - 5.1 An anchor as claimed in any preceding claim,

- BNG has all of the features of claim 1
- BNG does not have all of the features of claim 1 + 2
- BNG does not have all of the features of Claim 1 + 2 +3
- BNG has all of the features of Claim 1+ 3
- BNG has all of the features of Claim 1 + 3 + 4
- (see above for why dependency on C1+2+3+4is not allowed)

N - 5.2 wherein the blades (21) extend from the centre line (24) and define a central ridge extending to the bill (22).

- The blades extend from a centre line but there is no centre ridge in the claimed sense as the line on the surface of the abstract cylinder does not rise up from the point of the fluke. Instead the centre line is the lowest point (P9 L4-5) as shown below:



BNG does not have all of the features of claim 5

MARKS AWARDED: 13

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INFRINGEMENT

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Novelty

There are 3 embodiments for novelty, all of which are disclosed in C:

- The admiralty anchor (AA) – P11, L7-13, P13 Fig 1
- The stockless anchor (SA) –P11 L14-29, P13 Fig 2
- The improved anchor (IA) – P11 L30 – P12 L28, P14 Fig 3 and 4

Feature	Y/N –AA	Y/N – SA	Y/N - IA
1.1	N – Anchor (P11 L4) but has a stock (P11 L10-11)	Y- Anchor (P11 L4) and no stock (P11 L15)	N – Anchor (P11 L4) but there is a “stock” but it is removable (P12 L21-22) therefore it is no always present. However, in use it is intended to be present therefore I will consider that it is always present for the purposes of novelty. Additionally, Drafter of A was aware of disclosure of C so would have clearly have appreciated that stocks could be at the head or crown end.

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1.2	Y – shank has a crown end (P11 L8) and a head end (P11L9-10)	Y – Shank 1' has a crown end attached to a unit 3' and a head end 6' (P13 Fig2)	Y – shank (P11L39) has a crown (P11L40) and a head end (P12 L1)
1.3	Y – fluke is urged into sear bed and connect to crown (P11L12)	Y- flukes are attached to crown end engage the ground (P11 L18-19)	Y – twin fluke unit are integral with the crown (P12 L3) and dig into ground (P12 L6)
1.4	Y – no specific requirement	Y – no specific requirement	Y – no specific requirement
1.5	Y - P11 L9	Y – the front points of the flukes will engage the ground simultaneously (P11 L24)	Y – the fluke 101 taper to a point 105 (P12 L5) which provides good ground penetrating (P12L6)
1.6	N – While there can be a two opposing arms (P11 L8) they are not a pair in the sense claimed as they are not	Y- there are two fluke 4' that are a pair, i.e. a twin flukes (P11, L17) arranged with respect to each other (P11 L27) symmetrically around a centre line	Y – there are two flukes that are a pair, i.e. a twin fluke unit (P11 L40) arranged symmetrically around a centre line which is in the same plane as the shank (P14

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	positioned on either side of a centre line which is aligned with the direction that the anchor will be dragged.	which is in the same plane as the shank (P13 Fig 2). Aff	Fig 4)	
1.7	N – No blades in the sense claimed	N – the widest separation between each fluke is closer to the front than the rear. (Fig 2 P13)	Y – the widest separation between the flukes 101 is both towards and at the rear of the fluke arrangement as the edges increase to a widest point and then are parallel towards the end of the fluke arrangement. (Fig 4, Page 14, and P12 L10-11)	1 1

Claim 1 is novel over AA

Claim 1 is novel over SA

Claim 1 is novel over IA.

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Feature	Y/N –AA	Y/N – SA	Y/N - IA
2.1	N – C1 novel over AA	N – C1 novel over SA	N – C1 novel over IA
2.2	N – no hinged part (P13 Fig1)	N – shank and flukes are pivoted together at the crown end (P11 L17-18) but the axis is not in the plane formed by the shank and centre line (P13 F2)	N- while there is a hinged part this does not act to self right the anchor but is instead used to store the anchor flat (P12 L17-18) and the axis is not in the plane formed by the shank and centre line (P14 F3)

Claim 2 is novel over AA

Claim 2 is novel over SA

Claim 2 is novel over IA.

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Feature	Y/N –AA	Y/N – SA	Y/N - IA
3.1	N – C1 novel over AA, C1 +C2 novel over AA	N – C1 novel over SA. C1 + C2 novel over SA	N – C1 novel over IA C1 +C2 novel over IA
3.2	Y - The bill lies along a center line (P11 L9)	N – each of the bills is provided spaced away from the centre line as shown in Fig 2 (P13).	Y– while each of the bills is provided spaced away from the centre line as shown in Fig 4 (P14), it is stated that it is desirable to keep the spacing between the points 105 of the flukes as small as possible so that contact with the seabed is close to the centre line of the shank (P12 L14-16). Therefore each of the points 105 is close to the centre line

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Claim 3 is novel over AA

Claim 3 is novel over SA

Claim 3 is novel over IA by virtue of its dependency.

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Feature	Y/N –AA	Y/N – SA	Y/N - IA
4.1	N – C1 +C3 novel over AA,	N – C1 + C3 novel over SA.	N – C1 +C3 novel over IA
4.2	Y – the fluke is fixed (P11 L7-8)	N – shank and flukes are pivoted together at the crown end (P11 L17-18)	N – there is a hinged part that allows for the anchor to be stored the anchor flat (P12 L17-18)

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Claim 4 is novel over AA by virtue of its dependency.

Claim 4 is novel over SA

Claim 4 is novel over IA.

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Feature	Y/N –AA	Y/N – SA	Y/N - IA
5.1	Y – claim 5 novel atleast by dependency on claim 1	Y – claim 5 novel atleast by dependency on claim 1	Y – claim 5 novel atleast by dependency on claim 1
5.2	N – No blades in the sense claimed	N – there is a gap between the Flukes that prevents them joining to form a ridge (P13 F2)	N – there is a gap between the flukes 101 that accommodates the shank that prevents them joining to form a ridge (P12 L16-17)

Claim 5 is novel over AA.

Claim 5 is novel over SA

Claim 5 is novel over IA.

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NOVELTY

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Inventive Step

Using Pozzoli / Windsurfer

Claim 1

- The person skilled in the art (PSA) is a manufacturer or designer of anchors (P3 L4, P2 second sentence) 1
- The PSA's Common general knowledge (CGK) includes:
 - A knowledge of generic anchor types that have been known for many years (P2 Para 5 and P3 L12-13) and that include AA and SA described in Doc C. 1
 - Problems occurring with stockless anchors (P3 L13-15)
- The starting embodiment is IA of Doc C as this has all of the features of claim 1 except that it includes a stock. 1
- The inventive concept of claim 1 is to provide an anchor having a self burying and self-righting capability in use (P3 L6-7) 1
- The difference over IA of doc C is that claim 1 is directed towards a stockless anchor whereas IA has a stock. 1
- It would be obvious to modify IA to remove the stock because:
 - The use of a stock is said to provide stability and to prevent twisting (P12 L20-21) however, the separation of the flukes also contributes to this effect (P12 L12). Therefore if the separation of the flukes is minimised then the presence of a stock may be less important.

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- IA states that the stock can be a separable element (P12 L21) and therefore no modification is required to remove it. Rather only a motivation to remove it in use.
- Indeed, as the stock can be removed, and as it provides only a supporting role to preventing twisting motion, the skilled person would be considered to routinely experiment with removing the stock to see how the anchor of IA performs, without the exercise of inventive skill.

Claim 1 lacks inventive step over IA.

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Claim 2

- The PSA and CGK are the same as for Claim 1
- The starting embodiment is IA of Doc C as this has the most features in common with claim 2.
- The inventive concept of claim 1 is to provide an anchor having an improved self-righting capability in use (P4 L27-29)
- The difference over IA of doc C is that claim 2 is directed towards a stockless anchor whereas IA has a stock and that the claim 2 has a articulated part that pivots to allow the shank to lie on its side, flat on the ground (P4, L20).
- It would not be obvious to modify IA towards the subject-matter of claim 2 because:
 - Although it is obvious to remove the stock as described above, and while this does not require substantial modification, the modification to provide a hinge of the type required is far more substantial;
 - While there is already a hinge, this does not work to allow the flukes to rotate sideways but is instead to allow the shank to be stored flat in between the flukes (P12 L16-18).
 - Modification of the pivot attachment would prevent it from performing its primary purpose of storing flat, as the necessary axis of rotation is completely different.
 - There is nothing to suggest that allowing the flukes to rotate in the plane of the axis would be beneficial in C or in the CGK.

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- Therefore it would not be obvious because the modifications move IA away from its express function of allowing easy storage, and the skilled person has no motivation for performing making the modifications.
- Therefore claim 2 is inventive over C.

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Claim 3

- The PSA and CGK are the same as for Claim 1
- The starting embodiment is IA of Doc C as this has the most features in common with claim 3.
- The inventive concept of claim 3 is to provide an anchor having an reduced likelihood of twisting (P4 L23-24)
- The difference over IA of doc C is that claim 3 is directed towards a stockless anchor.
- It would not be obvious to modify IA towards the subject-matter of claim 3 for at least the same reasons as described in relation to claim 1.
Additionally, IA is also concerned with placing the bills as close to the centre line as possible to minimise twisting (12 L12).
- Therefore claim 3 lacks inventive step in view of IA.

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Claim 4

- The PSA and CGK are the same as for Claim 1
- The starting embodiment is IA of Doc C as this has the most features in common with claim 4.
- The inventive concept of claim 4 is to provide an anchor having a self burying and self-righting capability in use (P4 L37) that is structurally simpler and stronger (P4 L39-40)
- The difference over IA of doc C is that claim 4 is directed towards a hingeless and stockless anchor.
- It would be obvious to modify IA towards the subject-matter of claim 4 because:
 - It is stated in IA of C that an anchor can be stored flat on deck without the necessity for folding the flutes or stock (P12 L27-28). Therefore the skilled person has a motivation to remove the hinge of IA as it does not prevent the stowing of the anchor.
 - It would be apparent to the PSA that the removal of moving parts would increase the strength and make the anchor structurally simpler as this would form part of their CGK (see AA which is structurally simpler).
 - As stated above, the removal of a stock is obvious to try without the need for inventive skill.
- Therefore claim 4 lacks inventive step over IA in view of CGK.

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Claim 5

- The PSA and CGK are the same as for Claim 1
- The starting embodiment is IA of Doc C as this has the most features in common with claim 5.
- The inventive concept of claim 5 is to provide an anchor having a self burying and self-righting capability in use (P4 L37) that cause the blades to dig in as the bill is turned downwards (P4 L25-26).
- The difference over IA of doc C is that claim 5 is directed towards stockless anchor having two blades that are joined at a central ridge.
- It would not be obvious to modify IA towards the subject-matter of claim 5 because:
 - Although it is obvious to remove the stock without the need for inventive skill.
 - The formation of a ridge would provide a significant change to the construction and operation of IA. For example it would no longer be possible to fit the shank between the flukes (P12 L16-17) , as there would be no gap.
 - While IA does suggest minimising the gap (P12 L12) this motivation would not be strong enough to incentivise the skilled person to remove the gap but instead motivates them to reduce it to the width of the shank.
- Therefore claim 5 is inventive over IA.

MARKS AWARDED: 13

I. S.

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Amendment

- Amend claim 4 to recite “as claimed in claim 3 as dependent on claim 1”.

Basis is provided in the claims as filed.

- Amend claim 1 to recite that “the pair of blades form a contiguous structure” or similar.
 - Basis is provided by P4 L4. While this relates to one method of construction basis alternative forms of construction are clearly allowed (P4 L5-8).
 - The amendment is novel over the twin flukes of SA and IA disclosed in C.
 - The amendment is also inventive as it would not be obvious to remove the gap between the flukes as this would prevent the shank from fitting between them.
 - The amended claim would be infringed by BNG as that has a single fluke with two edges.

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AMEND

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Sufficiency

There may be an issue of sufficiency in that the anchor of claim 1 may not work across the whole breadth of the claim as it is not heavy enough (P4 L38 and P2 3rd paragraph). However it would appear to be within the routine skill of the PSA to choose a high enough weight anchor, therefore this sufficiency issue does not seem significant.

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Advice

In their current form:

Claims 1 to 5 are novel but only claims 2 and 5 are likely to be inventive.

Only claims 1, 3 and 4 are infringed.

However, as claims 1, 3 and 4 are invalid as they lack inventive step, we recommend amending. However as claims 2 and 5 are not infringed we recommend amending to include features from the description instead of amending to these claims.

- As detailed above, we propose to amend to “the pair of blades form a contiguous structure” which is infringed and also valid over the prior art.

A has granted and therefore the amendments must be narrowing amendments which they are.

A request to the controller can be filed to make the amendment. The request needs to state a reason which can be the presence of the prior art IA.

The amendment will published and be open to third party amendment.

(it is possible to amend during infringement proceedings but this does not seem suitable as client wants to negotiate a license).

Infringement of A

Need to find out if Bettermore are making, using, disposing, offering to dispose, importing or keeping BNG in the UK. If they are then they will be infringing the patent as long as it is still in force and an infringement action can be brought.

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Check whether the renewal fees have been paid. They are due at the end of January each year.

Remedies to infringement as a result of an infringement action include a final or preliminary injunction, delivery up or destruction, damages or an account of profits, a declaration of infringement and validity. Additionally costs can be awarded.

Once the amendments have been made, we should send a copy to BNG to make them aware of the new claims.

Additionally investigate their activities in France and Norway and other countries where there is a corresponding patent to A in force. Obtain local advice to clarify the situation regarding infringement in those countries where Bettermore are performing acts.

Bettermore patent.

Check whether this is granted. Compliance period is 1 July 2021 so expected that examination will end soon if it hasn't granted.

If not granted consider filing TPOs to stop grant citing A as a document of relevant. Additionally have they publicly disclosed their own invention during manufacture several years ago (P2 Para 4) as this may be before the filing date of their patent (1 Jan 2017).

If granted then consider FTO review to establish if you infringe. Although note that your own disclosure is earlier than theirs so as long as you haven't modified your product, any article infringing their patent will lack novelty.

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File a caveat to watch for patent applications in Bettermores name.

Other licenses

Consider whether the above amendment would effect the licenses given to other licensees. Would their products still fall within the scope? If they wont then consider not filing the amendments and instead negotiating a license that is more favourable for Bettermore so that they don't push for invalidity.

MARKS AWARDED: 0

ADVICE

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