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<ol> <li>A bird feeder according to any preceding claim, wherein the shroud and the food holder are both cylindrical.</li> </ol>	
<ol> <li>A bird feeder according to any of the preceding claims wherein the shroud comprises a pitched roof portion. ✓</li> </ol>	
12. A bird feeder according to claim 3 wherein the shroud is slidably mounted on the rod via a downwardly extending sleeve. ✓	
13. A bird feeder according to claim 4 wherein the helical spring is disposed between the rod and the inside surface of the sleeve. ✓	
14. A bird feeder according to claim 4 wherein the helical spring is disposed around the outer surface of the sleeve. ✓	
15. A bird feeder according to claim 4 wherein the length of the shroud is greater than or equal to the combined length of the ✓ food holder and the spring in a compressed state.	
16. A bird feeder according to any of the preceding claims wherein the shroud is spaced from the food holder by no more than 1.5mm	
17. A bird feeder according to claim 7, wherein the sidewall is formed from a metal wire mesh with mesh size 5-8mm and wire√ diameter 2mm.	6
MARKS AWARDED 31/34	
Response to UKIPO	
This letter is in response to the communication under S18 (3) dated 18 May 2017.	
I request a 2m extension under R109 for responding to this ✓office action. I believe the deadline is therefore <u>18 November 2017</u> .	1
<u>Amendments</u>	2+5
Claim 1 is amended to specify that the shroud is "movably mounted with respect to the food holder" – this has basis on p4 ln 26 – 27.	
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Claim 1 is further amended to require that in the open position the "whole sidewall surface is exposed and ✓accessible to birds". This has basis in the summary of invention at p5 ln 31-32 as well as in the specific description of embodiments at p7 ln 16-17. ✓	

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	New claim 11 is added, relating to the shroud having a pitched roof portion. Basis is at $p7\checkmark$ ln 4.	
	New claim 12 is added, directed to the sleeve portion of the shroud. Basis is at p7 ln $10 - 13$	
	New claims 13 and 14 are added, directed to the location of the helical ✓ spring. Claim 4 is correspondingly made dependent on new cl 12 to ensure correct antecedent basis. Basis for these claims is at p 7 ln 28 – 31. ✓	
	New claim 15 with basis at p8 ln 14 – 18	
	New claim 16, basis p5 ln 19 − 22✓	
	New claim 17, basis p6 ln 18 – 25	
	Claim 6 is amended to specify 250 <u>mm</u> . Basis for✓ this amendment is p8 ln 25.	
<u>Cla</u>	<u>irity</u>	
Th am shi	e point at section 5 of the exam report is overcome by the above nendments. Claim 1 now clearly defines that the bird feeder comprises the roud. $\checkmark\checkmark$	2
The point at section 6 is also overcome by amendment, although in case the examiner believes <u>correction</u> is required rather than amendment we submit that the error was obvious, and it is clear that nothing else could have been intended other than 250 <u>mm</u> , given the specification.		2
<u>No</u>	velty	
D1 proposes a bird feeder having a vertical cylindrical hopper with one or more side openings (42) having a cylindrical concentric shroud mounted on the hopper and having an opening alignable with the hopper opening to provide discrete feed points. The shroud of D1 is retained by retainer pin 38 to limit relative movement between the container and shroud so that, as seen in Fig1 and Fig 2, the hopper surface is predominantly covered ✓ during ✓ the entire mode of operation. Therefore claim 1 is novel over D1.		2
D2 goo no mc inc ass	proposes a bird feeder having a specially- shaped projecting ✓ plug to ensure od access to seed by birds. The examiner does not cite D2 as relevant for velty, but we note that in any case D2 does not appear to disclose any sort of oveable shroud. There is a brief reference to "shields" but these are not licated in the attached figure and in any case do not appear relevant to sessment of novelty of the present invention. ∴ Claim 1 is novel over D2	1

## Inventive Step

D1 is the closest prior art as it has the most features in common with the present invention. ✓ Therefore, starting from D1 as closest prior art and considering the differences in features, the objective technical problem to be solved is increasing accessibility of the food holder in an open position to allow more birds to feed simultaneously. ✓ 7

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D1 only contemplates use of <u>discrete</u> feed points (i.e. one hole = 1 bird). Therefore, the skilled person when starting from D1 and in consideration of the objective technical problem, would be motivated to overcome this by providing additional discrete feed points. Because of the discrete feed points, providing a system where the whole sidewall of the hopper is exposed in the open position would <u>not</u> solve the objective technical problem , because the number of discrete points available would remain unchanged, therefore this is not a solution the skilled person would look to.

Furthermore, D1 <u>teaches away</u> from this solution, because it teaches that a retainer pin 38 should be used to "limit relative movement between the container and shroud"  $\checkmark$  (see p 15 ln 5-12).

D2 provided no additional teaching that would motivate the skilled person to modify the feeder proposed in D1 in such a ✓ way as to arrive at the system of the present invention, as D2 does not even propose use of a moveable shroud ✓. D2 proposes 2 embodiments – one having multiple individual holes, and one with a mesh sidewall, and having a specially shaped plug in the base to increase accessibility to food. At most, the skilled person seeking to improve food accessibility, would incorporate the plug from D2 into the feeder of D1, and this change brings the skilled person no closer to the present invention.

Accordingly we submit that claim 1 is inventive over D1 and  $D2\checkmark$ , alone or in combination.

As an aside, we also refute the examiner's suggestion that Claim 5 is not inventive – the skilled person starting from D1 would not make the shroud of D1 out of metal, because an explicit aim of D1 is to "provide a bird feeder which allows both people and birds to readily see any bird feed within the feeder." (p13 In 14-15), so the skilled person would not modify D1 to include an opaque shroud.

We also refute the examiner's arguments in relation to claims 7 and 8 – if D1 were to be modified to use a mesh wall for the food hopper, the invention would not work because movement of the shroud would  $\checkmark$  simply uncover a different bit of mesh (i.e. would not block access to food).



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<u>However</u> it appears there is only basis to amend to a <u>metal</u> $\checkmark$ mesh in the description. $\therefore$ Given your commercial intention to move to plastic mesh $\checkmark$ , I suggest we go with option <u>2</u> (i.e. entire sidewall exposed).	3
I have also taken the liberty of adding some further dependent claims which I thought may provide useful fallback positions	
So, please see my attached draft. Whilst the deadline for response has passed, we can get an as-of-right extension ✓ of 2m (until 18 Nov 2017 ✓) which you will see I have requested.	1 1
You are right that we still have some time (~ 1 month) before the extended deadline so if you would prefer me to amend to one of the other suggestions above, please let me know. If I do not hear from you, I will file this response by the extended deadline.	
I think that our arguments over the cited documents are strong, particularly in consideration of the fact that D1 only teaches discrete feed points. So, hopefully we should receive a notification of intention to grant soon.	
If you wish to file any divisional applications, we should do this while the application is still pending. There doesn't seem any urgent need for ✓ one, but we could consider something directed to the food hopper being vertically disposed sufficiently below the attachment point to prevent squirrel access, if this is something you're interested in.	1
Other notes – D1 will have <u>expired</u> a long time ago so is not a freedom-to- operate issue.	1
May be worth doing an FTO search anyway as both cited documents very old.	
As use of the plastic material only has the effect of providing a more aesthetically pleasing design, it seems unlikely we will be able to file a patent application to protect this specifically unless it has some other technical effect. You could file design registrations though to achieve some additional protection for aesthetic aspects.	
MARKS AWARDED 20/35	