

EIP

Urbis Schreder slips up on anti-climb lighting patents validity challenge

DW Windsor Ltd v Urbis Schreder Ltd [2025] EWHC 563 (IPEC) (14 March 2025)

Summary

This action involves two companies that design, manufacture and supply exterior lighting fixtures. DW Windsor is the proprietor of two patents (GB 2 495 509 (the “509 Patent”) and GB 2 495 566 (the “566 Patent”), and together “the Patents”), both entitled “A pathway lighting unit” and having the same priority date. These patents describe lighting units for use along walled pathways where climbing is to be discouraged, for example on railway bridges.

DW Windsor brought a claim for patent infringement against Urbis Schreder in the Intellectual Property Enterprise Court for their Alinea Anti-Climb illuminated handrail. Urbis Schreder subsequently admitted infringement, leaving only the issue of validity of the Patents to be decided at trial.

H.H.J. Melissa Clarke’s judgment provides detailed consideration of the identity of the person skilled in the art (“PSA”), the common general knowledge (“CGK”), and the inventive concepts disclosed in the Patents.

The Patents

The 509 Patent

The 509 Patent relates to a pathway lighting unit for walled pathways where security is a concern (such as on bridges or areas near private property). The problem it addresses is that lighting units mounted low on side walls can be used as footholds for climbing, which compromises safety and security. The solution is a lighting support with a “roof” inclined at 45° or less, making it hard to step on and therefore preventing climbing while

still allowing optimal lighting placement.

p2

The 566 Patent

The 566 Patent, like the 509 Patent, relates to a pathway lighting unit for walled pathways, but also addresses the problem that side walls are often used to mount cable or pipe supports which, over time, can become cluttered and obstruct other uses. The invention in claim 1 is the same as that of the 509 Patent, save that the lighting support is “elongate”[1] and also includes a means to support at least one cable or pipe along its length, helping manage space more efficiently on the side wall.

~~Validity~~

PSA

There was no disagreement on the legal principles for identifying the PSA, but the parties disagreed on the identity of the PSA for the Patents. It was accepted that the same PSA applies to the Patents and that the dispute mirrors that about the CGK.

- DW Windsor defined the PSA as a lighting design engineer with experience in exterior lighting, but not in specialised areas like bridges or railways. Their expert generally supported this view, adding that the PSA is a product designer with a general knowledge of public lighting but not anti-climb measures. He believed the PSA would not consider features unless specifically asked in a specification or design brief.
- Urbis Schreder described the PSA as someone with expertise in pedestrian safety and anti-vandalism measures. Their expert opined that they were likely working in railway infrastructure, such as at Railtrack (the then owner of the UK network infrastructure) or its maintenance contractors or as a safety inspector.

H.H.J. Melissa Clarke sided with DW Windsor, finding the PSA to be a lighting support designer, not a railway or public infrastructure safety specialist. The established field existing at the priority date in which the problem can be located was held to be lighting support design. Urbis Schreder’s view was seen as too narrow and poorly argued, and DW Windsor’s description better reflected real-world practice at the priority date.

Common General Knowledge

H.H.J. Melissa Clarke, having found the PSA to be a lighting support design engineer, found that such a person would not have knowledge of rail safety regulations, anti-climb measures, or railway-specific safety features. Any such information would come from a design brief or specification, not from the PSA’s general knowledge. The PSA would

therefore not recognise anti-climb design as a problem to solve, nor have any motivation to address it.

Novelty

DW Windsor admitted certain features of the patents were present in the prior art. However, their expert later reached different conclusions in his report and considered that fewer features of the relevant claims were disclosed. H.H.J. Melissa Clarke did not criticise the expert for this and accepted that the fact that he had come to a different opinion is evidence that he carried out his task independently.

DW Windsor did not try to withdraw or amend its earlier admissions nor amend its pleaded case. H.H.J. Melissa Clarke stated that DW Windsor will be held to its original admissions, and the expert's views that conflict with those admissions will be disregarded.

Woolston

The dispute over an installation at Woolston station footbridge ("Woolston") concerned whether a "sloped wedge" raised over an illuminated handrail (which the parties agreed was a lighting support) disclosed certain integers of the Patents. It was accepted by Urbis Schreder's expert that the wedge and handrail were different items supplied by different contractors.

H.H.J. Melissa Clarke held that, inter alia, the wedge is not part of the lighting support, nor is it located "on top" of it, as required by the Patents. Additionally, the wedge did not cover the full length of the handrail, leaving parts accessible for climbing.

Ueda

The dispute over Japanese patent ("Ueda") concerned the disclosures in a lighting fixture in which the attachment mechanism aims to minimise the gap between a light source and a bracket fixed to a support surface (such as a wall) to reduce water ingress and condensation.

On one argument, Urbis Schreder suggested installing the lighting fixture upside-down to form a roof with a 38-45° angle. H.H.J. Melissa Clarke concluded Ueda does not have a roof designed to prevent footholds, and rejected the idea of rotation, as the patent specifies a "correct position". H.H.J. Melissa Clarke found that the claims of the Patents were novel over Ueda, save that Ueda's roof is detachably fixed to the bracket and therefore claim 5 of the 509 Patent is not independently valid.

Profila

p4

The dispute over “Profila” combines two brochures: Profila Bench Trunking and Cable Management Solutions. H.H.J. Melissa Clarke ruled these cannot be treated as a single piece of prior art to launch an invalidity attack, as they relate to distinct products with different features. Only the Profila Bench Trunking brochure was considered for the validity challenge.

Similarly to Ueda, one argument Urbis Schreder suggested was installing the product upside down to inhibit climbing. H.H.J. Melissa Clarke held that this would require a complete redesign, as inter alia, light would be directed upwards rather than downwards. H.H.J. Melissa Clarke held that the Patents were novel over Profila.

Obviousness

Woolston

Urbis Schreder argued that the PSA would consider it obvious to integrate the wedge with the illuminated handrail to create a single overall configuration, grounded in the fact that this was common on railway infrastructure to protect components from the elements and from access by the public. H.H.J. Melissa Clarke stated that this was not obvious for the PSA she had found.

Ueda

H.H.J. Melissa Clarke did not find that it would be obvious to the PSA to add a 45° or less roof angle to Ueda, as the PSA lacks the common knowledge to consider it an anti-climb measure or an appreciation that incorporating anti-climb measures into a lighting support was a technical problem that required solving. Additionally, H.H.J. Melissa Clarke found that any further modifying of Ueda would require invention.

Profila

H.H.J. Melissa Clarke found that the PSA would not consider it obvious to modify Profila to integrate anti-climb features. The suggestion that Profila could be inverted for upward lighting is not seen as a practical or technical modification the PSA would consider, particularly since the light angle would be blinding unless placed above eye-level. H.H.J. Melissa Clarke concluded that using Profila to create a lighting support with other features of the Patents would require an inventive step, rather than being a simple, routine modification.

Instruction of Experts

p5

H.H.J. Melissa Clarke commented on the instruction of experts in her judgment.

DW Windsor's expert admitted to reading in words from other claims when interpreting Claim 1. In this regard, H.H.J. Melissa Clarke considered that he lacked a clear understanding of the correct approach. Additionally, he had not been made aware that certain claim features had already been admitted by DW Windsor to be in the prior art.

When it came to obviousness, DW Windsor's expert also showed a lack of understanding by failing to consider that the PSA would have the photographs which were in issue as prior art in these proceedings. H.H.J. Melissa Clarke stated DW Windsor's solicitors could have given more assistance on how to go about these tasks.

On the other hand, H.H.J. Melissa Clarke found that Urbis Schreder's expert's opinion was too heavily influenced by his solicitors. During cross-examination, an unsure response about the Woolston handrail indicated that he did not form his opinion independently in his expert report and had been led.

Conclusion

All relevant claims of the Patents were held to be valid and infringed (as admitted by Urbis Schreder), save that Claim 5 of the 509 Patent is not valid independently of claim 1 for lack of novelty over Ueda.

This judgment is a helpful reminder for the law when determining the validity of patents and what needs to be borne in mind when instructing experts on the same.

The judgment can be accessed [here](#).

[1] [60]: H.H.J. Melissa Clarke stated that "...I am satisfied that this is an ordinary English word and whether something has been sufficiently lengthened or extended to properly be assessed as long in proportion to its breadth and so to be understood by the PSA as 'elongate' ... is a matter of fact and degree for the Court to assess through the eyes of the PSA."