

COMMISSIONER'S DECISION

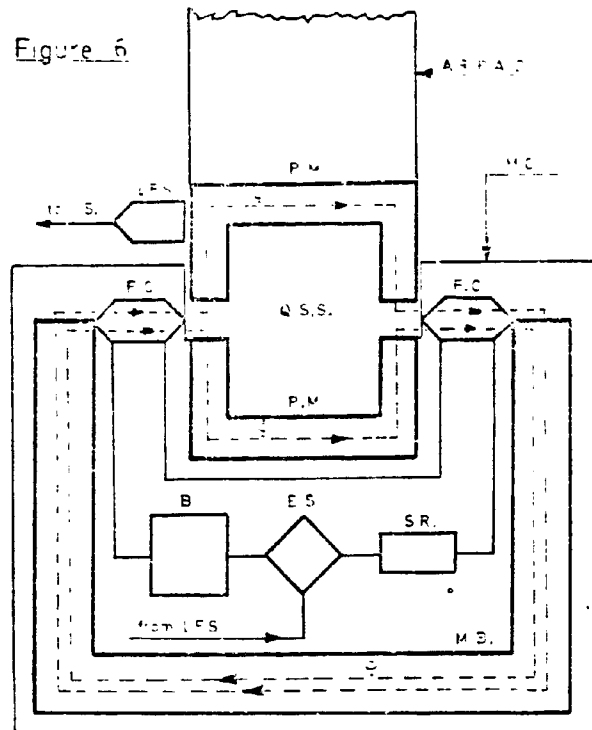
Sufficiency of Disclosure, Operative Device: Parts of the disclosure refer to a battery driven device, and other parts discuss the device as being an inexhaustible source of energy. The rejection was affirmed for lacking a correct full description of the operation and for lacking adequate information to construct a working device.

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Patent application 418,044 (class 310-70) was filed on December 17, 1982 for an invention entitled "Energy Releaser". The inventor is Arpad A. Boday. The Examiner wrote a final action on July 13, 1983 refusing the application under Section 2 of the Patent Act for being inoperable.

The alleged invention relates to the release of magneto-dynamic energy of permanent magnets in order to win mechanical movement. The apparatus is said to consist of a permanent-magnet armature device with controlled multi-magnet fields in a motor.

Figure 6 of the disclosure illustrates the device as follows .



- Legende.  
 A.P.A.D. Automatically Running Permanent-magnet Armature Device  
 B Battery  
 M.B. Magnet Bridge  
 M.G. Magnet Gun  
 $\phi$  Magnetic Flux  
 E.S. Electronic switch  
 F.C. Flux Control  
 L.F.S. Load Free sequential-programme  
 P.M. Permanent Magnet  
 Q.S.S. Quasi-Static Switch  
 S.R. Speed Regulator

The B-E.S.-F.C.-L.F.S.-S.R. electronic circuits represent parts of the invention.

In the Final Action the Examiner rejected the application under Section 36(1) of the Patent Act, for insufficient disclosure, and under S.2 for lack of utility. He stated (in part):

...  
The main difficulty in examining this application is the fact that language, expressions and terminology used, and many ideas and opinions expressed in this application, are so unconventional that they cannot be understood even by our experienced examiner. Though they all have a meaning to the inventor, many of them are meaningless to an examiner, scientist or engineer; for instance, it is not clear what is meant by "free from load property", "artificially induced reciprocal permeance" or "pursuance of the oppositional potential" (see top of page 6). It is not clear either, what is meant by a "controlled magnet gun" and what it is shooting (see page 4, lines 21 and 43).

It is found, therefore, that the present disclosure is quite confusing. The drawings are of no help because they are not properly explained and do not explain the disclosure. (See Section 36(1) of the Patent Act.)

For the examiner, facts are more important than the language used by the applicant in his above letters, and the only clear fact that emerges from the study of this disclosure is that applicant believes that he has invented a permanent magnet device which is an "Inexhaustable Energy Source" which "does not require for its operation supplementary shipment of natural energy incorporating fuel". (See page 7, lines 25 to 27.) This fact places applicant's device firmly into the class of perpetual motion devices.

It is again established that the present alleged invention is directed to a typical perpetual motion device which, according to present knowledge of science and technology, is inoperable, and therefore not useful. The present application is therefore again rejected in view of Section 2 of the Patent Act.

...

In reply to the Final Action Applicant argued that the rejection is unjustified and that he is entitled to a patent.

The issue before the Board is whether or not the application describes an operative and useful apparatus.

Claim 1 of the application reads as follows:

Every of such magneto-dynamic energy releaser apparatus, which is an Automatically Running Permanent-magnet Armature Device (A.R.P.A.D.) with Magnet Gun (M.G.) controlled multi-magnet fields as an energy transducer of the permanent-magnet's magneto-static stationary fields for magneto-dynamic energy to winning a mechanical movement and/or a generation of electric current, regardless of the direction and the path of the motion, or of the kind and power of the current.

In his letter of April 21, 1983, Applicant has made several statements that his apparatus uses an external source of energy. In part 7 for example, he refers to figures 5 and 6 as showing a circuit that includes a battery as the external source of energy. In part 8 Applicant mentions three terms found on page 6 of the application in which external energy is used, and we agree that those terms are found there. We also note in paragraph 1 on page 6 that Applicant says the electronic circuits are not part of the invention. This statement is reinforced by the information appearing on figure 6 that the electronic circuits are not the object of the invention. In part 9 Applicant explains that the motor and the energy releaser operate when the switch is in the on position, and stops when the switch is off. Further, in lines 26 to 28 on page 6 of the application, we note that speed regulation or progressive rotation is said to be possible by electronic regulation of flux control. The view is also expressed on lines 30 to 34 that the property of the preferred embodiment is that "the use of all materials are regenerable or reuseable, except for the ball bearing...".

It seems from the above parts of the disclosure and his explanation that Applicant realizes there must be a power source to regenerate energy taken from his device. His recognition that he uses a switch to start or stop his device, which includes a battery, strengthens the view that an external force is needed to provide the operation of the magneto-dynamic device from which he says he obtains energy. We derive from Applicant's disclosure, therefore, that the output of energy from his device will continue only so long as there is a battery. While Applicant says in lines 39 to 45 on page 7 of the disclosure that his device does not require supplementary energy from sources such as "...water fall, coalmine, sunlight, wind-blow etc...", he has provided information that his device includes a battery as a source of energy.

We are unable therefore to support the rejection that the application is directed to a perpetual motion machine in view of the above portions of the disclosure and Applicant's arguments concerning the battery.

There are other portions of the disclosure however, which have not been understood by the Examiner. Lacking an understandable description he refused the application. We now review them.

Applicant has disclosed and argued that he has an 'Inexhaustible Energy Source'. We do not share his view that he has an inexhaustible source of energy, because of his own explanation that he provides an external source of energy. In our opinion it is well known that if an external energy source drives a device it may be possible to withdraw some of that energy for useful purposes. We are satisfied that Applicant's statements that the magnets, per se, provide an inexhaustible source of energy, are not acceptable. Indeed, the parts of his disclosure noted above and the arguments in his letter of April 21, 1983, outlining the presence of an external source, negate such a concept.

In paragraphs 2 and 4 of page 1 of the application, it is stated that the controlled multi-magnetic fields regulate an automatically running permanent magnet armature device. On page 3 lines 25 to 43, Applicant says his invention makes possible the release of an inexhaustible source of energy which he refers to as Magneto-Dynamic Free Energy, and at the same time he says there are no "...losses, no Joule-heat, nor magneto striction, etc., occurring which makes possible the magnetic field control without power and energy." The above passages from pages 1 and 3, in our view, are directly contrary to what has been disclosed by Applicant in other portions of the disclosure, and to what he has argued in parts 7, 9 and 12 of his letter of April 21, 1983.

On page 4 line 21 to page 5 line 18 of the application several equations are referred to, as is a magnet gun, as well as a statement which infers that increasing the power of the released magneto-dynamic energy is independent from the used external energy of the electronic control, and another statement that the external energy for the electronic control takes no part in the motive power. This portion of the disclosure does not explain

or clarify the significance of the equations nor adequately describe the operation of the magnet gun. The two statements are also contrary to what Applicant argues in parts 7, 9 and 12 of his letter.

We refer again to page 1 of the disclosure. On lines 21 to 26, Applicant refers to his motor as being an "invented complex of devices...which is... an energy transducer of the permanent-magnet's magneto-static stationary fields for magneto-dynamic energy...". As previously noted however, there is a statement on figure 6 that several parts of the complex shown ...are not object of the invention". These two passages are contradictory. They are also vague because, from our reading of the disclosure, there is no clear indication nor comprehensible description of the operation of the remaining parts which are all that is left to be considered.

We are satisfied therefore that these other portions of the description of the operation of the device are unclear and not understandable.

In part 12 of Applicant's letter of April 21, 1983, he says that he has built an operable and useful model of a motor having a magnet gun, and that it is open for Patent Office inspection. He comments that its size is not according to the Patent Rules, i.e. Rule 31(2), as it exceeds 12 inches and, it is not possible to miniaturize it. We note that although Applicant argues that he has built working models, and the Examiner has alluded to the fact that Applicant may submit one, there is no model before us, nor any documented evidence of the working of any model.

The Examiner has also rejected the application on the ground that the models that Applicant refers to in his letter of April 21, 1983, "...cannot be considered operable because they have not been described as operable", and then adds "Whatever is described in the disclosure is perpetual motion which is inoperable...". While we are able to agree with the Examiner that certain portions of the disclosure are not understandable, we also

recognize Applicant's argument that the disclosure includes a reference to a battery operated device. However, we are not prepared to say that the models to which Applicant refers, but which we have not seen, are not operable. Likewise we are not disposed to agree with the Examiner's general statement "Whatever is described...is perpetual motion which is inoperable...", lacking a full discussion of all the parts which are viewed as forming such a device.

In the Final Action, the Examiner expressed difficulty in understanding certain expressions and terminology, and found the disclosure confusing. He considered that the drawings were not helpful because in his view, they were not properly explained, and he directed Applicant's attention to Section 36(1) of the Patent Act. We have noted carefully Applicant's extremely vigorous urgings and statements in his letters of April 23, 1983, and December 21, 1983. We are guided instead by the decision of the Exchequer Court (now Federal Court) of Canada in Minerals Separation Noranda Mines (1947) Ex CR 306 at 316:

Two things must be described in the disclosures of a specification, one being the invention, and the other the operation or use of the invention as contemplated by the inventor, and with respect to each the description must be correct and full. The purpose underlying this requirement is that when the period of monopoly has expired the public will be able, having only the specification, to make the same successful use of the invention as the inventor could at the time of his application.

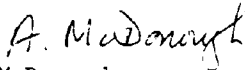
And at page 317:

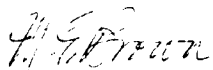
When it is said that a specification should be so written that after the period of monopoly has expired the public will be able, with only the specification, to put the invention to the same successful use as the inventor himself could do, it must be remembered that the public means persons skilled in the art to which the invention relates, for a patent specification is addressed to such persons.

We have studied the specification bearing in mind the above decision and we have not been able to understand the alleged invention, neither from the written description nor from the letters submitted. We find no description

in the disclosure of the manner in which the automatically running permanent magnet armature device is caused to be, or achieves a state of, automatically running, nor how the permanent magnets provide an inexhaustible energy source. We are not persuaded by Applicant's arguments nor by the disclosure, drawings, and claims, that the application provides an adequate and clear description of the operation of the apparatus. In summary, we are satisfied the specification neither describes how Applicant's device operates, nor provides adequate instructions to construct, make or use a working machine, as required by Section 36(1) of the Act.

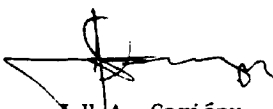
Therefore, after carefully reviewing the specification and Applicant's arguments, and bearing in mind the direction provided by the Exchequer Court decision, Minerals Separation v Noranda, supra, we recommend that the rejection of the application be affirmed, for lacking a correct, full, description of the device in terms which are clear and concise so that a person skilled in the art would be unerringly directed to make, construct and use the invention.

  
A. McDonough  
Chairman  
Patent Appeal Board

  
M.G. Brown  
Assistant Chairman

  
S.D. Kot  
Member

I have carefully reviewed the findings and the recommendation of the Patent Appeal Board. Accordingly, I refuse to grant a patent on this application. Applicant has six months within which to appeal my decision under the provisions of Section 44 of the Patent Act.

  
J.H.A. Gariépy  
Commissioner of Patents

Dated at Hull, Quebec

this 16th. day of August 1984

Agent for Applicant

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