

Patent Dispute Resolved: JGL's Hoist Not Infringing

Jeff Gosling Limited (“**JGL**”) sued Autochair Limited in the IPEC for a declaration of non-infringement concerning its “Apex Assist” hoist and Autochair’s patent, which covers a particular set-up of a hoist for lifting wheelchairs and similar items into and out of vehicles. Despite Autochair arguing that there was infringement under normal construction, means essential and under the doctrine of equivalence, and the Judge agreeing that both experts were open to criticism, the conclusion was that JGL’s hoist was not an infringing product.

The patented hoist involves a lifting arm with a “projecting upper arm end section” which can be varied by height and length by “stepless adjustments”. This is shown in the patent as three “adjustments”, each of which is stepless. JGL’s hoist also has three adjustments, but “Adjustment 3”, which varies the length of the upper end section along with “Adjustment 1”, is not stepless. It is instead adjusted using screws that fit into set holes. The Judge found that therefore on a normal construction, the patent is not infringed as it requires all stepless adjustments.

Autochair’s next argument was that fitters of JGL’s hoist could (and suggested up to 30% would) secure Adjustment 3 outside of the set holes, instead tightening the screws against the extension to secure it by pressure alone creating a stepless extension, and that JGL should have known that, therefore the supply of the hoists would be indirect infringement by supplying means relating to an essential element of the invention. However, the 30% number put forward by Autochair’s expert was a general estimate of the number of fitters who would not follow the manufacturer’s instructions fully, not specifically those who would ignore the safety warnings about securing Adjustment 3 differently. Further, the Judge found that it would be obvious to JGL and any reasonable person that you should use the holes and that not to do so may be dangerous and void the

warranty. He therefore found that indirect infringement was not made out.

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Finally, Autochair argued that JGL's hoist infringed the patent by the doctrine of equivalence. Essentially, they argued that the 10mm increment adjustment of JGL's hoist achieved the same result as the stepless hoist described by the patent in the same way. However, the Judge found that part of the "result" of the inventive concept of the patent was "maximum manoeuvrability", which was not achieved by JGL's hoist, although it did potentially have better safety. Autochair's equivalence argument therefore also failed.

An interesting point to note is the Judge's comments on the two experts. JGL's expert, Mr Shaw, was an engineer in the automotive industry and lectures in mechanical engineering. The Judge stated that Autochair's criticisms that he had insufficient experience in the narrow field of hoists had weight. However, Autochair's expert, while being much more specifically grounded in mobility aids, was criticized as being insufficiently independent, having worked for 20 years for a related company under the director of Autochair (who was also a witness). Despite these criticisms, the Judge did say that both experts provided useful evidence.

The decision is [here](#).