

Mr W Mason
European Patent Office
Munich
80298
Germany

Your ref
Our ref: G300118

22 October 2010

Dear Mr Mason

**European Patent Application No 07 733 789.7
IMAGING APPARATUS AND METHOD
THE UNIVERSITY OF WARWICK**

We hereby submit third party observations in respect of this European patent application under Art 115EPC.

Our client is a well established manufacturer and is monitoring with interest the prosecution of this European patent application.

We concur with your assessment of the relevance of documents D1 to D3 to the claims of the international patent application as set out in the International Preliminary Report on Patentability dated 6 January 2009. We also consider that the objections raised in the IPRP are not overcome by the amended claims submitted by the applicant's agent on 5 October 2010.

The Examiner is asked to take the following observations into account when preparing his response to the agent's submission.

Amendments

In the set of amended claims submitted by the applicant's agent claim 1 has been amended to delete the requirement for 'Apparatus for inspecting an article' and replace it with the phrase 'Apparatus for detecting an object concealed in an article'. The agent cites as basis for the amendment passages of the description all but one of which refer exclusively to imaging of an article. The agent goes on to state at page 3, paragraph 3 that, "the phrase "detecting an object" covers both a binary choice - is the object present or not, as well as the actual imaging of an object, both types of embodiment being described in the present application."

In the immediately following paragraph the agent states that, "the amended claims cover a situation where a single source and detector positions are used and it is determined whether, for example, a transmitted portion of the source beam is below an amplitude threshold - indicating the presence of an object and the case in which a spatial variation of the transmitted portion of the beam is plotted in order to image the object."

If on one hand the agent is seeking to distinguish the amended claims from the prior art then it is not clear how this broad interpretation is helpful in this respect. Indeed, it is our view that