



PATENTS ACT 1977

APPLICANT	DAACI LIMITED
ISSUE	Whether patent application GB2104696.6 is excluded under section 1(2)(c) of the Patents Act 1977
HEARING OFFICER	Dr Andrew Rose

DECISION

Background

- 1 The application is entitled “System and methods for automatically generating a musical composition having audibly correct form”. It was filed on 31 March 2021 and was subsequently published as GB 2605440 A on 5 October 2022.
- 2 Throughout several rounds of correspondence from 17 May 2022 to 8 July 2025, the examiner has carefully considered their view in light of the relevant caselaw at the time of each examination report and concluded that the invention claimed in the application is excluded from patentability as being a program for a computer as such. In their letter dated 3 November 2025, the applicant has requested the hearing be based on the claims filed by the applicant on 12 July 2024 as a Main Request. The applicant also submitted a first Auxiliary Request related to a new set of claims with this letter, and a second Auxiliary Request to be based on claims 1 to 15 that were submitted on 5 December 2024. It should be noted that the claims to be considered for the Main Request filed on 12 July 2024 are not the latest set of claims, however it is the validity of this set of claims that the applicant has requested be decided at the hearing. At the hearing on 12 November 2025, the applicant was represented by Mr Bruce C. Dearling of Hepworth Browne and my assistant Dr Claire Jenkins was also in attendance.
- 3 The specification, including the amended claims, the objections raised by the examiner and the applicant’s arguments and observations prior to the hearing can all be viewed at the One IPO Search online file inspection service: [GB2605440 – Search for intellectual property – GOV.UK](https://www.search-for-intellectual-property.service.gov.uk/GB2605440)¹

¹ <https://www.search-for-intellectual-property.service.gov.uk/GB2605440>

The invention

- 4 As outlined in the 'Background to the Invention' section at the beginning of the as filed description

[T]he present invention relates to a system supporting original generative composition [of music], not just recombination of existing material especially in the context of music and how an original [musical] composition can be generated to align with and reflect an emotionally descriptive narrative, such as a described scene in a film script.

- 5 The 'Summary of the Invention' section on pages 11 and 12 of the description explains that

a generative composition system reduces existing musical artefacts to constituent elements termed 'Form Atoms'. These Form Atoms may each be of varying length and have musical properties and associations that link together through Markov chains.

- 6 On page 39 (lines 4-9), form atoms are described as "*meta-chord syntactical descriptors*" wherein "*each is a snippet of music (i.e., a musical section) of varying duration that has a length dependent upon the nature of the analysed musical expression and, as such, each represents a building block within the generative system.*"

- 7 In essence, the system allows a user to input a briefing narrative, or description of how the emotional impact of the music should change over time, and outputs a piece of music fitting the brief. The building blocks of this process are the so-called "form atoms": data structures encapsulating the essence of snippets of music, and rules that allow the music to be varied within the theme and appropriately concatenated with variations in other form atoms to build a piece of coherent music that fits the narrative.

- 8 With reference to Figure 3 below, the form atoms are a way of storing sets of rules and generalisations of musical form and texture that allow emotional annotations in training pieces to be translated into new pieces with similar emotional impact. There are "*semantic descriptors associated with each musical section, such as a Form Atom.*" Furthermore, "*descriptors will generally be derived by a musicologist who has critiqued a musical section of an existing piece of music and, indeed, within an overall corpus of musical artefacts in a library.*"

- 9 Page 29 explains that:

Each of these musical components is further classified.... to have one of two attributes, namely the component may either be a "feature" or an "accompaniment". A [musical][sic] feature can be considered to give temporal sense, awareness and gravitas, i.e., contributing significance, to a musical section. A musical feature is thus a salient sonic component in the texture space of the musical section i.e., it itself contains information about tension and release and which information would be destroyed in the event that a second feature co-existed in a common textural classifier even if that second feature is

played by an entirely different instrument. An accompaniment is complementary fluff that is inessential but provides richness and tonality to a textural classifier.

- 10 In Figure 3, “F” or “f” denote feature components and “A” or “a” denote accompaniment components, where musical features can be melodic, harmonies, bass lines, drum patterns etc.

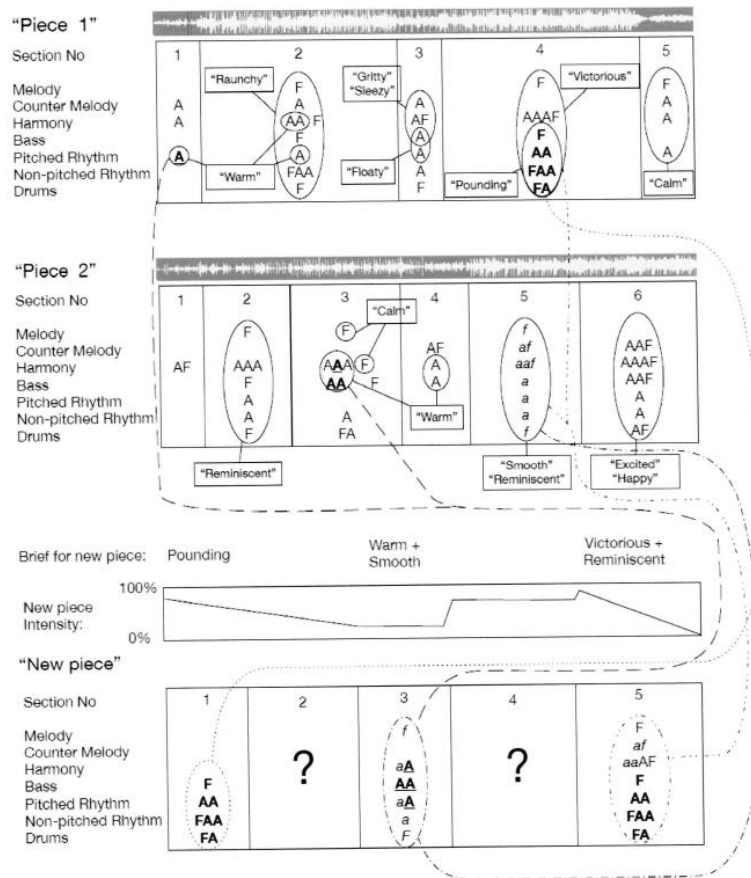


FIG.3

- 11 In summary, original compositions are broken down into sections wherein the texture of that section has an emotional connotation. The musical components of the sections are categorised into textural classifiers (p.29, l. 6-10) that may comprise a plurality of accompaniment components, or a maximum of one feature component. The components are also associated with descriptors (p.29, l. 28 – p.30 l.11) such that sections may contain the same descriptor but with different components.
- 12 A narrative brief comprising a plurality of sections with emotional connotations (see "brief for new piece" in Figure 3) is supplied by the user. The system uses the descriptors to assemble sections with emotional connotations matching the brief. The system may generate intermediate sections if there are gaps in the brief.
- 13 Separately, original compositions are also broken down into form atoms (p. 39 l. 26 – p.41, l. 7) comprising chords, form and progression descriptors, and emotional connotation tags. The form atoms are sequenced together through matching their tags to the emotional connotations of the briefing narrative to create chord schemes (p. 58, l. 8-11) that provide the harmonic map for the generated composition.

Sections may comprise a plurality of form atoms. The textures are then added to the chord scheme through matching the descriptors to the emotional connotation tags of the briefing narrative.

The claims

Main Request

- 14 The claims that are to be considered as the Main Request were filed on 12 July 2024 and include two independent claims (claim 1 and claim 15). Claim 1 is a system claim and claim 15 is a corresponding method claim. I consider that claim 15 will stand or fall with claim 1, and, for brevity, I only present the full text of claim 1 of this request below. The full set of claims forming the main request can be viewed online at [GB2605440 – Search for intellectual property – GOV.UK](#)², noting the claims dated 12 July 2024. Claim 1 reads as follows:

A computer-based auto-generative composition system, comprising:

an input coupled to receive a briefing narrative describing a musical journey with reference to a plurality of emotional descriptions for a plurality of musical sections along the musical journey;

a database comprising a multiplicity of Form Atoms having self-contained constructional properties representative of an historical corpus of music and where each Form Atom has:

a generative set of heuristics that support generation of a set of chords in a chord scheme or many different sets of chords in the same or different tonics that achieve the same form function and which thus have similar associated emotional/musical connotations, and heuristics that space out temporally any number of generated chords for any given length of musical time;

a tag that describes compositional heuristics of its respective Form Atom;

a chord list in a local tonic where the chord list defines branching structures giving options for generation of different chords from the local tonic, and

a progression descriptor in combination with a form function that expresses musically one of a question, an answer and a statement, and wherein each Form Atoms creates a meta-map of a chord scheme in a musical section;

wherein musical transitions between Form Atoms are mapped to identify and then record established transitions between Form Atoms in multiple original scores and such that, within the system, groups exist in which Form Atoms are identified as having similar tags but different constructional properties; and

processing intelligence, within the system, responsive to the briefing narrative and coupled to the database, wherein the processing intelligence is arranged to:

² See note 1 above for web address.

assemble, automatically, a generative composition having regard to the briefing narrative through selection and concatenation of Form Atoms having tags that align with emotional descriptions timely required by respective ones of the plurality of musical sections; and

select and substitute Form Atoms into the generative composition, the substitute Form Atom:

derived from the historical corpus of music; and

having its compositional heuristics aligned with the emotional descriptions; and wherein

the processing intelligence is further arranged to cause output of the auto-generative composition as musical output created from applied heuristics within a texture generator of the generative system, said texture generator arranged to select and apply musical instrumentation and arrangements to sequential chord schemes, formed from Form Atoms selected to generate a harmonic palette, for orchestration of the auto-generative composition and whereby the musical output is made audible from a speaker receptive of the musical output; and

generating automatically a different generative composition in response to at least a change in the briefing narrative.

Auxiliary Request 1

15 This request comprises claims 1-14 of the Main Request.

Auxiliary Request 2

16 This request comprises claims 1-15 that were filed on 5 December 2024, and include one independent claim (system claim 1) which reads as follows:

A computer-based auto-generative composition system, comprising:

an input coupled to receive a briefing narrative describing a musical journey with reference to a plurality of emotional descriptions for a plurality of musical sections along the musical journey;

a database comprising a multiplicity of Form Atoms having self-contained constructional properties within metadata associated with the Form Atom and where the self-contained properties are derived from an historical corpus of music and where each Form Atom has:

a generative set of heuristics that support generation of a set of chords in a chord scheme or many different sets of chords in the same or different tonics that achieve the same form function and which thus have similar associated emotional/musical connotations, and heuristics that space out temporally any number of generated chords for any given length of musical time;

a tag that describes compositional heuristics of its respective Form Atom;

a chord list in a local tonic where the chord list defines branching structures giving options for generation of different chords from the local tonic, and

a progression descriptor in combination with a form function that expresses musically one of a question, an answer and a statement, and wherein

the metadata creates a meta-map of a chord scheme in a musical section that is linkable to one or more secondary Form Atoms in generation of a musical composition in which, upon automated selection and concatenation of musically related Form Atoms by a computing system operationally arranged to identify and select different Form Atoms, musical good form is established in the generative composition based on compatible heuristics, chord lists and progression descriptors of each Form Atoms selected for adjacent concatenation, and wherein musical good form is compliant with conventions in accepted musical composition and musical good form contrasts with musical bad form in which there is no obvious or known linking that makes any discernible musical sense between successive musical phrases and in which musical bad form fails to communicate structure because sound signals cannot logically be processed into a sensually resolvable anticipatory order;

wherein musical transitions between Form Atoms are mapped to identify and then record established transitions between Form Atoms in multiple original scores and such that, within the system, groups exist in which Form Atoms are identified as having similar tags but different constructional properties; and

processing intelligence, within the system, responsive to the briefing narrative and coupled to the database, wherein the processing intelligence is arranged to:

assemble, automatically, a generative composition having regard to the briefing narrative through selection and concatenation of Form Atoms having tags that align with emotional descriptions timely required by respective ones of the plurality of musical sections; and

select and substitute Form Atoms into the generative composition, the substitute Form Atom:

derived from the historical corpus of music; and

having its compositional heuristics aligned with the emotional descriptions; and wherein

the processing intelligence is further arranged to cause output of the auto-generative composition as musical output created from applied heuristics within a texture generator of the generative system, said texture generator arranged to select and apply musical instrumentation and arrangements to sequential chord schemes, formed from Form Atoms selected to generate a harmonic palette, for orchestration of the auto-generative composition and whereby the musical output is made audible from a speaker receptive of the musical output; and

generating automatically a different generative composition in response to at least a change in the briefing narrative.

The law

- 17 Section 1(2) of the Act defines certain categories of subject-matter which are not considered to be inventions. These categories are often referred to as 'excluded subject-matter'. The relevant provisions of this section of the Act are shown below:

1(2) It is hereby declared that the following (amongst other things) are not inventions for the purpose of the Act, that is to say, anything which consists of...

(b) a literary, dramatic, musical or artistic work or any other aesthetic creation whatsoever;

(c) ...a program for a computer;

...

but the foregoing provisions shall prevent anything from being treated as an invention for the purposes of the Act only to the extent that a patent or application for a patent relates to that thing as such.

- 18 The interpretation of section 1(2) has been considered by the Court of Appeal in *Symbian*³. *Symbian* arose under the computer program exclusion, but the Court gave general guidance on section 1(2). Although the Court approached the question of excluded matter primarily on the basis of whether there was a technical contribution, it nevertheless (at paragraph 59) considered its conclusion in the light of the approach previously followed by the Court of Appeal in *Aerotel/Macrossan*⁴. The Court was quite clear (see paragraphs 8-15) that the structured four-step approach to the question in *Aerotel* was never intended to be a new departure in domestic law; that it remained bound by its previous decisions, particularly *Merrill Lynch*⁵ which rested on whether the contribution was technical; and that any differences in the two approaches should affect neither the applicable principles nor the outcome in any particular case.
- 19 Subject to the clarification provided by *Symbian*, it is therefore appropriate to proceed on the basis of the four-step approach. In *Emotional Perception*⁶, the Court of Appeal expressed (at [31]) that the four steps of the *Aerotel* test are:
- (1) Properly construe the claim;
 - (2) Identify the actual contribution (although at the application stage this might have to be the alleged contribution);
 - (3) Ask whether it falls solely within the excluded matter;
 - (4) If the third step has not covered it, check whether the actual or alleged contribution is actually technical.
- 20 Lewison J (as he then was) in *AT&T/CVON*⁷ set out five signposts that he considered to be helpful when considering whether a computer program makes a

³ *Symbian Ltd v Comptroller-General of Patents*, [2009] RPC 1

⁴ *Aerotel Ltd v Telco Holdings Ltd and Macrossan's Application* [2006] EWCA Civ 1371; [2007] RPC 7

⁵ *Merrill Lynch's Application* [1989] RPC 561

⁶ *Comptroller-General of Patents, Designs and Trade Marks v Emotional Perception AI Ltd* [2024] EWCA Civ 825

⁷ *AT&T Knowledge Ventures/CVON Innovations v Comptroller General of Patents* [2009] EWHC 343 (Pat)

technical contribution. In *HTC v Apple*⁸ the signposts were reformulated slightly in light of the decision in *Gemstar*⁹. The signposts are:

- i) whether the claimed technical effect has a technical effect on a process which is carried on outside the computer;
- ii) whether the claimed technical effect operates at the level of the architecture of the computer; that is to say whether the effect is produced irrespective of the data being processed or the applications being run;
- iii) whether the claimed technical effect results in the computer being made to operate in a new way;
- iv) whether the program makes the computer a better computer in the sense of running more efficiently and effectively as a computer;
- v) whether the perceived problem is overcome by the claimed invention as opposed to merely being circumvented.

- 21 The Manual of Patent Practice (MoPP)¹⁰ explains the IPO's practice under the Act and makes helpful references to relevant case law.
- 22 I acknowledge the agent's comments put forward in the letter dated 3 November 2025 that the *Aerotel* test has been subject to criticism regarding its helpfulness. In particular, it was argued that the term "technical" is unhelpful and that "there is a subjective if not abject failure to appreciate what is and what is not technical"¹¹. At the hearing, Mr Dearling reiterated that the law is being applied in an overly generalised sense. However, it must be understood that, at the time of writing this decision, the IPO remains legally bound to follow *Aerotel*. Furthermore, the cited criticism of the test is from Lewison LJ in *HTC v Apple*, and I will follow Lewison LJ's approach in the same case and nevertheless apply the *Aerotel* test with the helpful guidance of prior caselaw as encapsulated in his signposts (derived in *AT&T* and slightly reformulated in *HTC v Apple*). I note that the signposts are not an exhaustive list of prescriptive conditions, but a helpful summary of some precedent principles¹².
- 23 As I acknowledged in the hearing, the word "technical" can be misleading (computer program technology, music technology etc.) and I endeavoured to avoid being too hung up on the word "technical" in the hearing discussion. I will instead focus on the excluded categories and fields of endeavour that are inherently patentable, guided by precedent caselaw and the signposts. Looking back, this is consistent with how the term "technical" first came into this issue via the technical effect with rider approach used in *Merrill Lynch* and affirmed in *Aerotel* (where the four-step test was referred to by Jacob LJ as "a re-formulation in a different order of the *Merrill Lynch* test"¹³).

⁸ *HTC Europe Co Ltd v Apple Inc* [2013] RPC 30

⁹ *Gemstar-TV Guide International Inc v Virgin Media Ltd* [2010] RPC 10

¹⁰ Intellectual Property Office, 'The Manual of Patent Practice (MoPP)' (GOV.UK) <<https://www.gov.uk/guidance/manual-of-patent-practice-mopp>>.

¹¹ Paragraph 4.1 of the aforementioned letter of 3 November 2025.

¹² *HTC*, n.8 [149]

¹³ *Aerotel*, n.4 [41]

Application of the Aerotel test

Step (1): construe the claim

- 24 The examiner and the applicant agree that claim 1 is clear and its construction poses no difficulties.
- 25 In order to construe the claim myself, I have set-out below what I believe to be the meaning of the various terms and features of the claim, having confirmed or discussed my understanding at the hearing with Mr Dearing:
- The “briefing narrative” describes the requirements of the musical piece.
 - The “emotional descriptors” are things like “pounding”, “warm”, “rough”, “exciting” etc. – as can be seen from figure 3.
 - “Form Atoms” are pieces of information that are derived from an historical corpus of music, and contain:
 - a. A chord list (such as Eb → F/Eb (or Eb #11 13) → Ab/Eb → Eb from John Williams' Superman theme)
 - b. A heuristic (rule) for the generation of a chord sequence with a similar emotional connotation.
 - c. A heuristic (rule) for timing of generated chords (with similar emotional connotations).
 - d. A progression descriptor (such as Cb, Ce,...St, Si shown in Table on page 45, or described on page 42 - these indicate where the tonic is in the chord list of the form atom).
 - e. A form function that expresses whether the atom is a question, an answer or a statement.
 - f. A tag (descriptor) relating the form atom to emotional connotations
- 26 Mr Dearing disputed my understanding in part a, adding that form atoms are not music themselves, but they are in fact a data structure. He went on to make the analogy that the form atoms are, in essence, the electronic equivalent to a chemical molecule – fundamental building blocks produced and stored in an electronic domain. I agree with the former point relating to data structures: the form atoms are not just the music referred to in part a, but are a way storing a collection of information (comprising at least parts a to f, as per the claim), such that the information can be processed in context. The information within each form atom relates to how the form atoms can be put together to create the skeleton of a good form composition, following the desired emotional brief, and how this skeleton can be formed into a section of a musical composition. However, I do not accept that the latter analogy is at all helpful regarding the question of whether the invention here is patentable.
- 27 At the hearing we discussed the meaning of the line: “Each Form Atoms [sic] creates a meta-map of a chord schemes” in claim 1. It is now my view that this means that the form atoms are not simply a snippet of music or a chord progression, but include rules or heuristics that allow for a variety of chord schemes or progressions to be created from the form atom data. The form atom acts as a placeholder linked to an emotional description that can be built into a variety of musical phrases to fit with surrounding form atoms and make a coherent final composition.

- 28 At the hearing, I queried the meaning of the word “timely” in relation to “emotional descriptions” (line 27 of claim 1) and whether this added anything to the claim. Mr Dearling described how the word is required to convey that the form atoms are assembled in a coordinated manner to produce a coherent output. It is now my understanding that the word reflects that the emotional descriptions are not simply an unordered collection of descriptors, but describe an evolution of the piece through time – so the form atoms must be assembled to align with the briefing narrative as a time progression of descriptors.
- 29 Finally, I questioned the purpose of the select and substitute step and whether the system would not simply select the best form atoms in the first place. Mr Dearling explained that the system as claimed operates to generate form atoms, but also to substitute them in response to amendments to the narrative and that this step will change the nature of the final output.
- 30 With the terms and features of the main claim clear in my mind, I am also satisfied that the claim is sufficiently clear, and its construction poses no further difficulties.

Step (2): Identify the actual contribution (although at the application stage this might have to be the alleged contribution)

- 31 As set out in the letter dated 8 July 2025, the examiner has assessed the contribution to be as follows:

A system for automatically generating musical compositions using form atoms as defined in claim 1, the system allowing a user to generate a musical composition having musical features such as melodies, harmonies, chords, and rhythms that reflect and convey textural descriptions of a supplied briefing narrative.

- 32 At the hearing, Mr Dearling stated that he was satisfied with this assessment but wanted to insert the word “adaptable”. There appears to be support for this throughout the application and I am happy to accept this as part of the contribution. Thus, the agreed contribution now becomes:

A system for automatically generating musical compositions using form atoms as defined in claim 1, the system allowing a user to generate a musical composition having adaptable musical features such as melodies, harmonies, chords, and rhythms that reflect and convey textural descriptions of a supplied briefing narrative.

Step (3): ask whether it falls solely within the excluded subject matter

- 33 The examiner has been clear in that they believe the invention of claim 1 to be computer implemented, the applicant has agreed (see for example, the letter filed 5 December 2024 – page 7 section 3.1). However, the applicant and their agent contend (in the same letter, and reiterated at the hearing) that:

The claim [which defines the invention] [sic] contains elements that are not merely a computer program, but are functional and, indeed, interacts with physical elements, such as the database storing novel structures as code. Clearly is not a program “as such” whichever way the claim is construed. A

form atom is also not a computer program per se, and the claim as a whole does not relate to a program for a computer “as such.”

- 34 Mr Dearing further argued on this point at the hearing that the exclusion does not apply as claim 1 is not directed to a computer program – it is a system, so cannot be “a computer program as such”. I disagree with the interpretation of the law on this point. Indeed, substance over form is a key precedent in the caselaw in this area, going back at least to *Merrill Lynch*¹⁴, where a claim to a system was found to be excluded as a program for a computer, where Fox LJ stated

*...that it cannot be permissible to patent an item excluded by section 1(2) under the guise of an item which contains that item – that is to say, in the case of a computer program, the patenting of a conventional computer containing that program. Something further is necessary. The nature of that addition is, I think, to be found in the *Vicom* case where it is stated: “Decisive is what technical contribution the invention makes to the known art”. There must, I think, be some technical advance on the prior art in the form of a new result (e.g., a substantial increase in processing speed as in *Vicom*).*

- 35 When looking at the end-to-end process, which starts with a briefing narrative and ends with a coherent music composition, it appears that all of the steps in between are computer-implemented. In order to assess whether or not the computer-implemented invention of claim 1 is excluded, I will take the contribution decided upon in step 1 and determine whether it falls solely within the computer program exclusion, irrespective of the form of the claim. To do this I will ask whether or not it is technical in nature. Thus step 4 of the *Aerotel* test (as restated in *Emotional perception*¹⁵) becomes unnecessary, having had considered this in step 3.
- 36 Before looking to the signposts for completeness, I will address the main arguments made for why the invention should be seen as technical.

WTO TRIPS obligations

- 37 Mr Dearing argued strongly at the hearing that we should consider the invention as a whole and not just look at the end result. He asserted that the assembly of unique pieces of music is a technical process and further stated that we need to consider that the invention is in the area of musical technology. He further cited the WTO’s TRIPS treaty which states that “*patents shall be available for any inventions, whether products or processes, in all fields of technology*”¹⁶, pointing out that music technology is a valid area that should be afforded patent protection. On this point, it is my view that the prevailing test (*Aerotel*) does not exclude entire fields of technology (such as so-called music technology), but steps through careful analysis to assess each invention on its merits and determine whether or not the invention is anything more than those integers that are excluded under the Act. That is the exercise I am undertaking in the current analysis.

¹⁴ n.5 [569]

¹⁵ n.6 [31] “If the third step has not covered it, check whether the actual or alleged contribution is actually technical.”

¹⁶ Agreement on Trade-Related Aspects of Intellectual Property Rights (WTO) [Available at https://www.wto.org/english/docs_e/legal_e/legal_e.htm], art 27(1)

Substance versus form

- 38 When discussing how the invention differs from a computer program, Mr Dearing added that the end effect (the musical composition) is not pre-defined, other than it just needs to be coherent and have good form. The output was said to be entirely variable, but influenced by a number of factors which a human controls; this was set in contrast to a business method when there are clearly defined inputs and outputs. He continued by saying the invention is not a computer program, it is not a piece of code, like Fortran or C++, it is not just an instruction.
- 39 In my view, the variability of the output has no direct bearing on whether this is anything more than a program for a computer. Many computer programs output a result the exact form of which was unknown before the program ran; this does not make them patentable. What is important is what the program is achieving – I will look at this more closely in the analysis below.

The effect of the invention on the user

- 40 At the hearing Mr Dearing reiterated arguments put forward in the letter filed on 5 December 2024, that the impact of the production of coherent music that matches an emotional briefing has a measurable effect on brain activity and, in particular, the release of dopamine. He maintains that this is a technical issue, and the invention describes a very structured mechanism that generates a technical effect.
- 41 In the hearing Mr Dearing supported this line of reasoning with a reference to *Vicom*¹⁷, which he states “provides a better picture, which is entirely subjective” and is a patentable invention. To me, what is critical to the patentability of the invention in *Vicom* is not the subjective effect on the user of looking at a more pleasing image, but that the process of changing or filtering an image had its roots in physical filters and electronic hardware circuits and was deemed to be a technical process. An improved image filtering/enhancement process that happened through the medium of computerised manipulation of data was more than simply a program for a computer as it effected a technical (patentable) process of image filtering or enhancement.
- 42 Looking at the contribution and how the invention works, I agree with Mr Dearing when he proposed at the hearing that a real world effect of the claimed invention is that it allows the user to generate multiple alternative compositions very quickly, resulting in a more effective way of providing a system to generate a music composition. The only clarification I would make is that the process the contribution is part of is specifically the *composition* of music to an emotional brief; for example, it does not contribute improvements to how sounds are generated or how instrumentation is electronically emulated. The key question for me in analogy with *Vicom* is whether this composition of music to an emotional briefing is a technical process.
- 43 In the current case, the examiner has stated that: *“Ultimately musical composition is a creative pursuit, the result of which is a musical work. A faster, more efficient, or otherwise improved means of generating a musical work has no advantage or effect*

¹⁷ *Vicom Systems Inc* T0208/84 [1987]

otherwise in a non-excluded technical field”. Looking to *Emotional Perception*¹⁸ (as discussed on this point at the hearing), I note that Birss LJ concludes:

What makes the recommended file worth recommending are its semantic qualities. This is a matter of aesthetics or, in the language used by the Hearing Officer, they are subjective and cognitive in nature. They are not technical and do not turn this into a system which produces a technical effect outside the excluded subject matter

- 44 In my view the invention in the current case has a subjective and cognitive effect on a user in the manner of the aesthetics or emotional impact of the music and that this is not a technical effect outside the computer. In essence, and in agreement with the examiner, the current invention is the automation of a *creative* process: the invention is a very sophisticated and (I will say) very clever way of encapsulating the sort of knowledge, rules and “ear” that a creative composer may possess, and using this knowledge to automate a version of this process. But ultimately, the process being emulated is a creative one and this is not technical in the sense that a creative process itself is excluded¹⁹.

Music coherency

- 45 I have also thought about, and discussed at the hearing, whether there is a distinction to be made between coherent music and noise. That is, is music sufficiently objectively distinct to noise to infer that the generation of music is a technical process. On balance, I do not think it is. The coherency of music is, in my view, a subjective effect; for reasons expounded above (see paragraph 44 in particular), this subjective effect is not enough to demonstrate the contribution lies outside of the excluded categories.
- 46 Having covered all of the main arguments presented and discussed, I will now turn to the signposts to ensure I have fully explored the ways in which the contribution is likely to reveal a technical effect. The examiner considered all five of the *AT&T* signposts in their examination reports and deemed signposts i and v to be relevant to the invention. In the latest arguments filed 3 November 2025, the applicant does not specifically address the relevance of the individual signposts beyond asserting that “*the signposts are limited in usefulness if not misapplied in this particular case*”. At the hearing, Mr Dearling agreed that signposts ii, iii and iv are not useful. I agree with the examiner and Mr Dearling so I only need consider signposts i and v in more depth.

Signpost 1 – whether the claimed technical effect has a technical effect on a process which is carried on outside the computer.

- 47 I have covered this signpost in the discussion leading to my conclusions of paragraphs 44 and 45. I do not have any other analysis to add.

¹⁸ n.6, [79]

¹⁹ See paragraph 17 noting section 1(2)(b) of the Act. Furthermore, note paragraph 1.36.3 of the Manual of Patent Practice n.10.

Signpost 5 – whether the perceived problem is overcome by the claimed invention as opposed to merely being circumvented.

- 48 The crux of the fifth signpost is that the solution to a technical problem can inherit the technical character of the problem if the solution itself directly solves the problem and doesn't circumvent the issue that would otherwise infer technical character. This sentence lies in direct contradiction to my endeavour not to overuse the word "technical". However, as I have tried to do throughout this decision, I can take "technical" to mean something that isn't prima facie within the excluded categories, or relates to fields of endeavour that are inherently patentable, as guided by precedent caselaw.
- 49 The invention appears to overcome the problem of automating musical composition in response to a briefing narrative. However, this sort of automation in itself is a problem of software design, and lies with the excluded categories. Furthermore, musical composition itself, and the creation of aesthetically pleasing or emotionally impactful music is a creative problem. Thus, I cannot identify a technical aspect to the problem that would confer the solution with a technical (patentable) effect.
- 50 Having concluded my analysis of claim 1 of the main request, I find that the identified contribution falls solely within the excluded matter and is not technical. Therefore the invention defined by claim 1 is excluded from patentability under Section 1(2)(c) as being program for a computer as such.

Dependent and auxiliary claims

- 51 I consider the contribution of independent method claim 15 to be the same as that of claim 1, and therefore it is also excluded from patentability under Section 1(2)(c) as a program for a computer as such.
- 52 Having looked through the main and auxiliary claim sets, I can see nothing in the dependent claims, nor the alternative form of claim 1 given in auxiliary request 2 that would substantially change the contribution to something that is not solely within the excluded categories and lacks a relevant technical effect.

Conclusion

- 53 It is my decision that all claims of the main and auxiliary requests are excluded under section 1(2)(c) as a program for a computer as such. I therefore refuse the application under section 18(3).

Appeal

- 54 Any appeal must be lodged within 28 days after the date of this decision.

DR ANDREW ROSE

Patent Examination Group Head