



PATENTS ACT 1977

APPLICANT Michael O Bamidele

ISSUE Whether Patent Application GB2003375.9 meets the requirements of the Patents Act 1977

HEARING OFFICER Emma Porter

DECISION

Introduction

- 1 The application was filed by Mr Bamidele on 9th March 2020. It comprises three pages of description, three pages of figures and one page of claims and it was published on 15 September 2021 as GB2592917 A.
- 2 The application describes the technical field of the invention as being wireless communication between smartphones, and particularly focusses on a DNA authenticated wireless connection between smart phones which connection is used for transferring credit between the smartphones. The method includes the biometric authentication of a credit transfer between smartphones using DNA scanning and DNA confirmation on each of the smartphones involved in the transaction.
- 3 The specification including the claims, the objections raised by the examiner and the applicant's arguments, observations and amendments can all be viewed at the IPO's online file inspection service: <https://www.ipo.gov.uk/p-ipsum.htm>

The invention

- 4 In the description as filed, the invention is stated to be a fast way of transferring credit from smartphone to smartphone, which uses a secure wireless connection which is authenticated on each smartphone using each smartphone user's DNA. This wireless connection between smartphones is referred to as a DNA Authenticated Pair. It is implicit that each smartphone must comprise DNA scanning and analysis capabilities.
- 5 The application also discloses wireless bi-directional channels between each of the smartphones and the underlying banking applications, between the banking applications and online bank accounts and between the online bank accounts and the banking system servers. A Multi Bank App (software application) is installed on

each smartphone and this App is said to provide a bi-directional interface for all of the types of bank accounts available.

- 6 Additionally, there is said to be an SSCT Transceiver on each smartphone (SSCT being a Smartphone to Smartphone Credit Transfer Transceiver). This transceiver establishes the wireless connection for the biometrically authenticated credit transfer and also the wireless communication to the Multi Bank App.
- 7 The original set of 10 claims have been amended on the 22nd May 2023 to a set of 11 claims, and amended again on the 25th March 2024 to a set of 13 claims. There are plural independent claims in each claim set, and this decision will focus on the invention as claimed in claims 1 and 2.

Claim 1 as filed:

1.A method for the real time wireless transfer of credit from one smartphone to another, such credit transfer being biometrically authenticated (by DNA scanning) on both smartphones. A system for enabling the above method employing SSCT transceivers (smartphone to smartphone credit transceivers), multi bank apps, online bank accounts and banking system servers.

Claims 1 and 2 as amended 22nd May 2023:

1.A method for the real time wireless transfer of credit from one smartphone to another, such credit transfer being biometrically authenticated (by DNA scanning) on both smartphones.

2.A system for enabling the above method of claim 1 employing SSCT transceivers (smartphone to smartphone credit transceivers), multi bank apps, online bank accounts and banking system servers.

Claims 1 and 2 as amended 25th March 2024:

1.A method for the real time wireless transfer of credit from one smartphone to another, such credit transfer being biometrically authenticated (by DNA scanning) on both smartphones to execute a DNA authenticated pair between the smartphones, such credit transfer also being concurrent, secure, synchronised, real time, wireless and integrated with the individual system components described in the specification.

2.A system for enabling the above method employing smartphone embedded DNA scanners, SSCT transceivers (smartphone to smartphone credit transceivers), multi bank apps, online bank accounts and banking system servers.

The law

- 8 The relevant law is defined in the Patents Act 1977 (as amended) and can be viewed online at the IPO's website:

The Act: <https://www.gov.uk/guidance/the-patent-act-1977>

- 9 The Manual of Patent Practice explains the IPO's practice under the Act and makes helpful references to relevant case law. The Manual can be viewed online at the IPO's website: <https://www.gov.uk/guidance/manual-of-patent-practice-mopp>
- 10 Below, I have indicated the sections of the Act which apply to each of the examiner's objections. There is no dispute concerning the relevant law and its application to the facts of this case.

Issues for decision

- 11 It is usually the case in applications coming to a hearing that there is a single issue of contention between the applicant and examiner that the Hearing Officer is required to decide. In this case there are many issues of contention, relating to many substantive requirements of the Act that need to be satisfied before a patent may be granted. The examiner considers that the application fails to meet the requirements for sufficiency, added subject matter, unity of invention, clarity, inventive step and novelty. The examiner has deferred the consideration of excluded subject matter.
- 12 After many rounds of amendment and argument, Mr Bamidele requested that a Hearing Officer decide based upon the documents and responses on file. In the pre-hearing report dated 1st May 2024, the examiner has deferred completion of the originally truncated search and has also deferred any further examination.
- 13 I have carefully considered all of the documents on file and I shall address the objections set out in the detailed pre-hearing report to the extent necessary to resolve the question of whether the application meets the requirements and conditions for grant of a patent.

Sufficiency – section 14(3)

- 14 The examiner argues that the application does not disclose the required information about DNA scanning and DNA analysis on a smartphone clearly or completely enough for a skilled person to be able to perform the invention as set out in claims 1 and 2.
- 15 In *Eli Lilly v Human Genome Sciences*¹, Kitchin J gave the following summary of the relevant principles to be applied when assessing whether an application satisfies this section of the Act:

"The specification must disclose the invention clearly and completely enough for it to be performed by a person skilled in the art. The key elements of this requirement which bear on the present case are these:

- (i) the first step is to identify the invention and that is to be done by reading and construing the claims;
- (ii) in the case of a product claim that means making or otherwise obtaining the product;
- (iii) in the case of a process claim, it means working the process;

¹ *Eli Lilly v Human Genome Sciences* [2008] RPC 29 at [239]

- (iv) sufficiency of the disclosure must be assessed on the basis of the specification as a whole including the description and the claims;
- (v) the disclosure is aimed at the skilled person who may use his common general knowledge to supplement the information contained in the specification;
- (vi) the specification must be sufficient to allow the invention to be performed over the whole scope of the claim;
- (vii) the specification must be sufficient to allow the invention to be so performed without undue burden."

- 16 I construe the invention as "the biometric authentication of a wireless connection between two smartphones, which authentication uses DNA scanning on both of the smartphones". In order for the application to be sufficient the information provided in the specification, combined with the common general knowledge of the skilled person, must allow the invention to be performed over the whole scope of the claim.
- 17 The concept of the skilled person is that of the un inventive, but technically competent person (or team). They possess the common general knowledge in the art at the time of the application and also have the necessary skill and expertise to apply that knowledge. For the purposes of sufficiency, the skilled person is seeking to make the patent work and does so with the common general knowledge at the time the patent was filed. The examiner considered that the skilled person is a designer and/or manufacturer of smartphones, and no alternative description was provided by Mr Bamidele. I agree with the definition provided by the examiner.
- 18 Next, I must determine the common general knowledge of the skilled person. The concept of a smartphone with DNA authentication had been mentioned as a possibility in some prior publications cited during the examination process, i.e. US2015/254912 A2 , US2015/227937 A1 and [Voice, DNA, fingerprint and others: How 5 biometric security solutions compare - Tech Monitor](#), but there is no description of any technical or constructional details of a smartphone which can extract and analyse DNA in these citations.
- 19 Mr Bamidele provided many examples of published information related to DNA scanners and DNA microscopes which may be attached to laptops or mobile phones (some of which were published after the filing date of the present application) but none of these disclose any constructional or technical details of a smartphone with an integral DNA scanning and DNA analysis means. There is no evidence, in the material or arguments from the applicant, that a smartphone with the means to carry out DNA scanning and analysis was part of the common general knowledge of the skilled person at the time of filing the invention.
- 20 As DNA scanning and analysis on a smartphone was not common general knowledge, the specification is required to provide enough constructional and technical details to enable the skilled person to manufacture a smartphone with DNA scanning and DNA analysis means without prolonged research, enquiry or experiment².

² <http://www.bailii.org/ew/cases/EWHC/Patents/2008/1379.html>

21 The teaching of the specification does not provide any constructional or technical description of a smartphone with DNA scanning and analysis means. For example, it does not describe what biological material the user provides as the sample for DNA analysis, how the biological sample is input into the smartphone, how the DNA is extracted from the sample or how the DNA is amplified for analysis. Therefore, I find that the application fails to satisfy the requirements of section 14(3).

Added subject matter – section 76(2)

22 No amendment of an application for a patent shall be allowed if it results in the application disclosing matter extending beyond that disclosed in the application as filed. The examiner objects that the amended claims filed on the 25th March 2024 disclose subject matter which was not present on the filing date, specifically they object that the words “concurrent” and “synchronised” in amended claim 1 are not disclosed in the application as filed.

23 The amendments to original claim 1 are shown underlined below:

Claim 1 as filed:

1.A method for the real time wireless transfer of credit from one smartphone to another, such credit transfer being biometrically authenticated (by DNA scanning) on both smartphones. A system for enabling the above method employing SSCT transceivers (smartphone to smartphone credit transceivers), multi bank apps, online bank accounts and banking system servers.

Claims 1 and 2 as amended on 25th March 2024:

1.A method for the real time wireless transfer of credit from one smartphone to another, such credit transfer being biometrically authenticated (by DNA scanning) on both smartphones to execute a DNA authenticated pair between the smartphones, such credit transfer also being concurrent, secure, synchronised, real time, wireless and integrated with the individual system components described in the specification.

2.A system for enabling the above method employing smartphone embedded DNA scanners, SSCT transceivers (smartphone to smartphone credit transceivers), multi bank apps, online bank accounts and banking system servers.

24 The application as filed refers to secure, real time and wireless transfer of credit, a DNA authenticated pair and smartphone embedded DNA scanners. It also describes an integrated system of individual components, and so these features, which have been added to the claims by amendment, do not add any subject matter.

25 I will now consider the features “synchronised” and “concurrent” which have also been added to the claims by amendment. The application states that the credit transfer is fast and happens “in real time” via bi-directional connections between the elements. As depicted in Fig 1 (below), the SSCT transceiver is connected via a bi-

directional link to the Multi Bank App, the Multi Bank App is connected via a bi-directional link to the Online Bank Accounts, and the Online Bank Accounts are connected via bi-directional link to the Banking System Servers.

**System Diagram I : Close Proximity Smartphone to Smartphone
Credit Transfer**

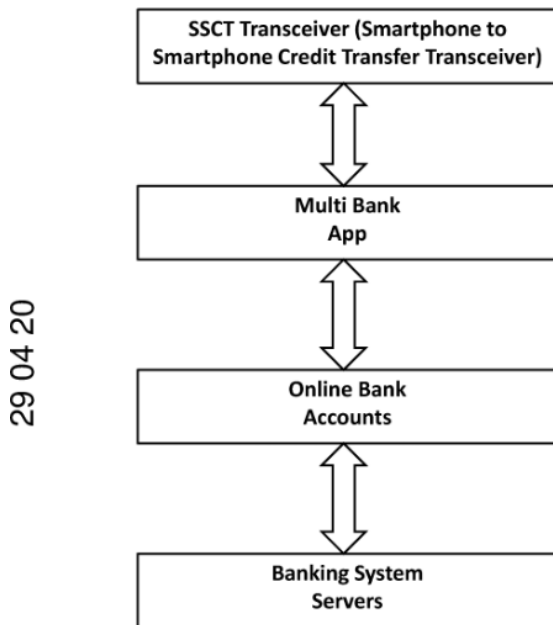


FIG. 1

- 26 In the last paragraph of page 2 it is stated that “the online bank accounts connect bi-directionally to the multi bank app to ensure a real time transfer of credit from the relevant bank accounts to the multi bank app and through the SSCT transceiver to the receiving smartphone”.
- 27 From the description as a whole, “real time” appears to mean that each of these steps occurs sequentially without delay, rather than the steps occurring simultaneously or at the same time. There is no explicit or implicit disclosure of the credit transfer being concurrent or synchronised and so these amendments add matter to the application as originally filed. Therefore, I find that the application fails to satisfy the requirements of section 76(2).

Examiner’s other objections

- 28 The examiner has raised further objections to clarity³, plurality of invention⁴ and inventive step⁵, which I consider to be justified based on a cursory review. The examiner deferred consideration of whether the application relates to excluded subject matter⁶. However, given my findings above in respect of the requirements of section 14(3) and section 76(2), I do not consider it necessary or proportionate to

³ Section 14(5)(b)

⁴ Section 14(5)(d)

⁵ Section 1(1)(b)

⁶ Section 1(2)(c)

make a definitive finding with respect to these further requirements in order to resolve the question of whether the application meets the requirements for grant. In my view, it very clearly does not.

Conclusion

- 29 The specification does not disclose the invention in a manner which is clear enough or complete enough for it to be performed by a person skilled in the art, as is required by section 14(3).
- 30 The application also includes subject matter extending beyond that disclosed in the application as filed, as prohibited by section 76(2).
- 31 I therefore refuse the application under section 18(3).

Appeal

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

EMMA PORTER

Patent Examination Group Head