Intellectual Property Office

BL O/179/19

04 April 2019

PATENTS ACT 1977

APPLICANT	Gelliner Limited
ISSUE	Whether patent application GB1414511.4 complies with section 1(2)(c)
HEARING OFFICER	Ben Buchanan

DECISION

Introduction

1 This decision considers the issue of whether the invention claimed in patent application GB1414511.4 satisfies the requirement for patentability as defined by section 1(2) of The Patents Act 1977 ("The Act").

2 The application, entitled "Bill Payment System and Method", was filed at the IPO on 15th August 2014 in the name of Gelliner Limited. It was published on 16th March 2016 as GB2530015A. The compliance period has been extended as of right and expires on 15th April 2019.

3 Processing as a Combined Search and Examination was requested and following several rounds of correspondence with the Applicant (initially via their attorneys Dehns, and then via their attorneys Marks & Clerk) the current set of claims was filed on 14th September 2018. The Examiner has maintained throughout the examination of this application that the claimed invention is excluded from patentability under section 1(2)(c) of the Act. Initially he reported that the claimed invention related to the presentation of information as well as a method of doing business and a program for a computer. Objections in respect of the latter categories of exclusion have been maintained, the objection against the claims filed on 14th September 2018 being set out fully in the examination report dated 5th November 2018 along with an invitation for the Applicant to request a hearing. On 21st December 2018, the Applicant requested a hearing, and on 28th December 2018 that the matter be decided on the basis of the papers on file. A pre-hearing report letter was issued by the Examiner on 30th January 2019.

4 The pre-hearing report sets out the matters at issue. The Examiner reasons that the claimed invention is not patentable because it is a program for a computer and a method for doing business as such and confirms that consideration of whether the latest claims filed on 14th September 2018 are novel and inventive has been deferred, and the search for prior art remains incomplete. The novelty and

inventiveness of these claims is not the subject of this decision. It is, however, noted that the Applicant has provided a reasoned argument in favour of the novelty and inventiveness of the claimed invention in their letter of 15th January 2018 in respect of the differences compared to the cited prior art and in their letter dated 14th September 2018 in respect of the inventive step of the current claims. These arguments are gratefully acknowledged as they facilitate appreciation of the alleged contribution the invention provides.

5 I confirm that I have considered all of the correspondence on file. Except where otherwise stated below, this decision is based on the applicant's argument set out in their attorney's letter dated 14th September 2018, and the examiner's objections set out in the pre-hearing report dated 30th January 2019.

Related Applications

6 A request for a hearing on GB1815310.6, a divisional application derived from this application, has also been requested and considers similar issues. It has been the subject of a separate decision.

The Invention

7 The invention concerns making it more efficient for a user to pay a bill at a merchant establishment by making a bill computer-readable and avoiding the need to transact directly with a Point of Sale (POS) device. The central concept involves a data analyser receiving a file including data representing a textual representation of a bill from a POS device and augmenting the file to include data representing a non-textual representation (e.g. a 2D matrix barcode or QR code) of some data which is then sent to an output device. In an embodiment, a computing device which may be a mobile phone with a scanner (e.g. a camera), scans and detects the augmented output file to detect the non-textual representation and decodes it, then displays the decoded bill information to the user. The user may then initiate payment of the bill. Stated advantages of the invention include simplifying bill payment; facilitating splitting the bill, or partial payment; and avoiding the need for a direct connection between the computing device and the POS device.

The Claims

8 The latest claims filed on 14th September 2018 include three independent claims, numbers 1, 15 & 30 and are set out below:

> *1. A method comprising:*
>
> *receiving, by a data analyser device from a point-of-sale (POS) device, a file including data that represents a textual representation of a bill from a merchant;*
>
> *parsing, by the data analyser device, the received file to recover data representing the bill corresponding to various data fields of the file, comprising at least a bill identifier and an amount due corresponding to the bill;*
>
> *augmenting at least a portion of the received file to include data representing a non-textual representation of (i) the bill identifier, (ii) the amount due corresponding to the bill, (iii) a merchant identifier corresponding*

to the merchant, and (iv) an itemization of the bill, thereby generating an augmented file;

sending the augmented file away from the data analyser device to an output device;

providing, by the output device, at least the non-textual representation of the
augmented file;

detecting, by a computing device, the non-textual representation provided by the output device, wherein the computing device decodes the detected non-textual representation to recover data represented by the non-textual representation; and

initiating, by the computing device, payment of the bill from the merchant according to the recovered data.

15. A computer-readable medium storing instructions that when executed by a data analyser device cause the data analyser device to perform functions comprising:

receiving from a point-of-sale (POS) device, a file including data that represents a textual representation of a bill from a merchant;

parsing the received file to recover data representing the bill corresponding to various data fields of the file, comprising at least a bill identifier and an amount due corresponding to the bill;

augmenting at least of portion of the received file to include data representing a non-textual representation of (i) the bill identifier, (ii) the amount due, (iii) a merchant identifier corresponding to the merchant, and (iv) an itemization of the bill thereby generating an augmented file; and

sending the augmented file away from the data analyser device to an output device.

30. A data analyser device comprising:

a processor; and

a computer-readable medium storing instructions that when executed by the processor cause the data analyser device to perform functions comprising:

receiving, from a point-of-sale (POS) device, a file including data that represents a textual representation of a bill from a merchant;

parsing the received file to recover data representing the bill corresponding to various data fields of the file, comprising at least a bill identifier and an amount due corresponding to the bill;

augmenting at least of portion of the received file to include data representing a non-textual representation of (i) the bill and (ii) a merchant identifier corresponding to the merchant, thereby generating an augmented file; and

sending the augmented file away from the data analyser device to an output device.

The Law

9 The Examiner has raised objections under section 1(2) of the Act, stating that the invention is not patentable because it relates to categories of excluded matter. The most relevant provisions of this section of the Act are shown in bold 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 –*
> *(a) … ;*
> *(b) … ;*
> *(c) a scheme, rule, or method for performing a mental act, playing a game or* ***doing business****, or* ***a program for a computer****;*
> *(d) … ;*
> *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.*

10 These provisions are designated in section 130(7) as being so framed as to have, as nearly as practicable, the same effect as Article 52 of the European Patent Convention, to which they correspond. I must therefore also have regard to the decisions of the European Patent Office Boards of Appeal that have been issued under this Article in deciding whether the present invention is patentable, although I am not bound to follow them. I am bound to follow the decisions of the UK Courts however.

11 In order to decide whether an invention relates to subject matter excluded by section 1(2), the Court of Appeal has said that the issue must be decided by answering the question of whether the invention provides a technical contribution to the state of the art. The Court of Appeal in *Aerotel/Macrossan*[1] set out the following four-step approach to help decide the issue:

> *(1) Properly construe the claim;*
> *(2) Identify the actual (or alleged) contribution;*
> *(3) Ask whether it falls solely within the excluded subject matter;*
> *(4) Check whether the actual or alleged contribution is actually technical in nature*

12 The operation of the approach is explained at paragraphs 40-48 of the judgment. Paragraph 43 confirms that identification of the contribution is essentially a matter of determining what it is the inventor has really added to human knowledge, and involves looking at substance, not form. Paragraph 47 adds that a contribution which consists solely of excluded matter will not count as a technical contribution.

13 The case law on computer implemented inventions has been further elaborated in *AT&T/CVON*[2] which provided five helpful signposts to apply when considering whether a computer program makes a relevant technical contribution. In *HTC v*

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[1] Aerotel Ltd v Telco Holdings Ltd (and others) and Macrossan's Application [2006] EWCA Civ 1371
[2] AT&T Knowledge Ventures LP and CVON Innovations Limited v Comptroller General of Patents [2009] EWHC 343

Apple[3], Lewison LJ reconsidered the fourth of these signposts and felt that it had been expressed too restrictively. The reformulated 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; and*
> *v) whether the perceived problem is overcome by the claimed invention as opposed to merely being circumvented.*

Arguments and Analysis

14 I am bound to follow the Court's approach in *Aerotel*, as the Examiner has done. Although the Examiner has cited the *AT&T* signposts (as reformulated in *HTC*) in his pre-hearing report, he elected not to apply them all to the contribution he identified. It is quite clear to me, however, not least from the form of the claims, that the invention is implemented by means of a computer program. This also seems to be clear from the attorney's arguments in their letter of 19th September 2019 which emphasises the *parsing, augmenting and detecting* steps carried out by the claimed invention – all steps which are implemented by programmed hardware. It seems very likely to me that the signposts may provide helpful guidance in determining the nature of the contribution and so I shall apply the test set out in *Aerotel* and then use the signposts to guide my assessment of whether the contribution is technical.

(1) Properly construe the claims

15 The first step is to construe the claims.

16 Independent claims 1, 15 and 30 are not of equivalent scope. Claim 1 specifies that following the sending of the augmented file to an output device, the non-textual representation is detected by a computing device which decodes the detected non-textual representation to recover data represented by it, and that payment of the bill is initiated according to the recovered data. The instructions of claim 15 and the device of claim 30 terminate at sending the augmented file to an output device.

17 Claim 15 is also narrower in scope than claim 30 in that it additionally augments the received file to include data representing a non-textual representation of the amount due and an itemization of the bill.

18 The first instance of the word "of" in line 20 of page 3 of the claims (claim 15) and line 6 of page 6 of the claims (claim 30) presumably requires substitution with the word "a". I have assumed this substitution when construing these claims.

[3] HTC v Apple [2013] EWCA Civ 451

19 Beyond the issues identified above, construing the claims presents no further difficulty as the identification and interrelationship of their integers is clear.

20 In his letter dated 30th January 2019, and without further explanation, the Examiner states that "the independent claims are considered to each embody the same concept. For conciseness I will only consider the proposed invention of claim 1 in detail as the same reasoning, *mutatis mutandis*, will apply to each of the independent claims".

21 Similarly, it is noted that the applicant's argument presented in their attorney's letter dated 14 September 2018 refers only to "amended claim 1", thereby also suggesting that independent claims 15 and 30 are directed towards the same invention.

22 I will address the implications of the differences in the scope of the independent claims when identifying the actual contribution below.

(2) Identify the actual contribution

23 From the documents on file, it does not seem that the Applicant and the Examiner have agreed as to the identified contribution.

24 In his pre-hearing report dated 30th January 2019, the Examiner states that the alleged contribution of claim 1 (and therefore of claims 15 and 30) can be identified as:

> *A computer implemented method of providing an efficient billing process wherein a POS sends a bill to a data analyser which parses the file, sends data to a server, and generates an augmented file including a non-textual representation of billing information to send to an output device. The customer subsequently decodes the non-textual representation to initiate a payment with the server which provides the advantage of freeing up the time of the POS user.*

25 This interpretation of the alleged contribution seems to draw upon features included in an embodiment of the invention as described in the description, but which are not essentially present in any of the independent claims. None of independent claims 1, 15 or 30 involve "sending data to a server" or "initiating payment with a server", and the decoding provided for in claim 1 (absent from 15 & 30) is performed by a "computing device" rather than "the customer". While the contribution need not necessarily align perfectly with the scope of the independent claims, I cannot readily reconcile the examiner's formulation with the claimed inventive concept.

26 The applicant's formulation of the alleged contribution is set out on pages 2-4 of their attorney's letter dated 14th September 2018.

27 While the passages provided on pages 2-4 of the letter dated 14th September 2018 refer to "contribution", and "the test in Aerotel/Macrossan", a succinct interpretation of the contribution is not presented. Identifying the contribution instead seems to comprise identifying "technical features" which allegedly "provide a technical contribution", amongst which are parsing the received file, augmenting that file and detecting and decoding the non-textual representation. It seems that the passage

closest to concisely identifying a contribution resides at section I. on page 3 where it is stated that:

An actual contribution is to provide…a non-textual representation of a bill which has previously been augmented by the data analyser.

which is followed by:

the contribution resides, in part, in the data analyser's ability to augment the file and create a non-textual representation.

and finally:

A further technical contribution can be found in the ability of the computing device to first detect…the non-textual representation, and then decode in order to recover data which may allow the customer to initiate payment.

28 It is clear that were these suggested contributions to be taken individually, each is at best only a partial reflection of the contribution provided by independent claim 1, and from the letter, it seems not to be the applicant's view that any one of the above suffices in isolation. As such, the applicant's interpretation of the contribution seems to be best understood from a combination of the above, which may be summarised as:

Provide a non-textual representation of a bill which has previously been augmented by a data analyser to create a non-textual representation, and
then detecting and decoding the non-textual representation to recover data which may allow the customer to initiate payment.

29 Jacob LJ outlined the considerations to be applied when identifying the contribution made by the claims in paragraph 43 of *Aerotel*:

"The second step – identify the contribution - is said to be more problematical. How do you assess the contribution? Mr Birss submits the test is workable – it is an exercise in judgment probably involving the problem said to be solved, how the invention works, what its advantages are. What has the inventor really added to human knowledge perhaps best sums up the exercise. The formulation involves looking at substance not form – which is surely what the legislator intended."

30 In seeking to reconcile the views of the Examiner and the Applicant, and to identify for myself what the contribution is, I shall follow this approach. The problem addressed by the invention is neatly summarised in the opening paragraph of the description, namely how to simplify paying bills at establishments such as restaurants, refuelling stations and retailers including splitting the bill and adding a tip. Lines 21-30 of page 19 further explain that non-textual representations can increase the efficiency of bill payments, and the user is spared the "tedium" of bill payment. The description also suggests that avoiding the need for direct communication with the POS terminal is more secure (page 19, lines 31-35).

31 While line 33 page 8 – line 1 page 9 and lines 28-30 of page 18 mentions that the user avoids collecting paper receipts and the merchant avoids providing the user

with a printed receipt, these are considered incidental advantages of the invention rather than reflecting a central problem addressed by the invention. Furthermore, nothing has been made of them in the arguments on file.

32 As such, the problem addressed by the invention according to the description is simplifying paying bills to a merchant. Although the invention is implemented by a specific arrangement of programmed hardware, there is no suggestion that the problem is related to hardware or its general operation. Rather, the problem is how to program software applications to control the hardware. The data analyser and the computer-readable medium associated with it are allegedly new because they are programmed to operate in an allegedly new way.

33 The invention of independent claims 1, 15 and 30 works by processing a file from a POS device to recover textual data representing a bill, augmenting the file with data representing a non-textual representation of a bill and merchant data and providing the augmented file as an output. As mentioned above, claim 1 further provides for the non-textual representation to be detected and decoded by a computing device in order to allow initiation of bill payment.

34 The main advantages provided by the invention are set out in lines 21-35 of page 19. This passage indicates that the advantages revolve around increasing the efficiency of paying bills through the use of non-textual representations – the user's device need merely detect a non-textual representation to effect bill payment, avoiding the need to tender cash or card for payment. It is also explained that sensitive user data related to payment instruments such as cards need not be given to staff thereby reducing the risk of misappropriation. As noted above, there are further advantages such as to facilitate splitting the bill, adding a tip and obviating the need to provide a printed receipt.

35 In light of the assessment above of the problem to be solved, how the invention works and the advantages provided, I consider the contribution common to all three independent claims to be:

Processing a file from a Point of Sale (POS) device that includes textual representation of a bill from a merchant (e.g. for the cost of a meal) to recover bill data, augmenting the file by generating a non-textual representation (e.g. a QR code) of some of the data and providing the augmented file as an output; in order that a customer can pay the bill using a computing device (e.g. a smart phone) and optionally split it or add a tip without transacting directly with the POS.

36 I appreciate that claims 15 & 30 do not specifically include the features beyond providing the augmented file as an output that are identified in this formulation of the contribution. However, the inclusion of these characteristics in the contribution is consistent with a purposive construction of these claims. Crucially, the differences in scope between the independent claims do not alter their contribution; the differences only relate to the specific data processed or the (business) transaction which is conducted when the invention is put into effect.

(3) Does the contribution fall solely within the excluded matter?

37 The applicant's arguments are set out in their attorney's letter of 14th September 2019. This letter, and the associated marked-up amendments helpfully emphasise the allegedly technical features of the claims and put forward an argument asserting they provide a technical contribution. The argument follows the *Aerotel* four step test, but does not refer to the *AT&T* signposts or any other authority in support of this assertion.

38 In summary, the applicant's argument is:

- The invention includes the following technical features:
    - The data analyser parsing a file representing the bill to recover data corresponding to various data fields
    - Augmenting the file to include a non-textual representation of some bill data
    - Detecting and decoding the non-textual representation to recover bill data
- The "technical" result of intercepting, parsing and augmenting bill information into a non-textual representation facilitates handling by a computing device which may be used by a customer to pay a bill
- The provision of a non-textual representation of a bill enables a more efficient transaction and avoids the POS being needed for a customer to initiate the transaction
- The contribution relies on:
    - The data analyser augmenting the file representing the bill by including a non-textual representation
    - The computing device detecting and decoding the non-textual representation which enables a customer to initiate payment
- Considering a configuration absent the data analyser, the computing device would receive only a textual representation
- The data analyser acts as an intermediary between the POS device and the output device, enabling the customer to efficiently complete the transaction, including affording wider payment options such as splitting the bill

39 These arguments rely on some features of the invention and its contribution which are not evident in each of the claims. Nonetheless, as I have indicated above, a purposive construction of the claims, and the contribution afforded by the inventive concept does, I think, encompass the characteristics relied upon by the applicant's argument.

40 What is clear is that the operation of the data analyser in intercepting, parsing and augmenting the textual data so as to provide a non-textual output which can be detected and decoded by a customer device is essential to the invention and is fundamental to the alleged contribution.

41 I will first consider whether the contribution resides solely in a program for a computer. I will then consider whether the contribution resides solely in a method for doing business. In so doing I will bear in mind the applicant's argument when assessing the contribution as I have formulated it.

Program for a computer

42 As I have noted above, it is clear that the contribution is implemented using a computer program. In using the guidance from the *AT&T* signposts for assistance, the question to be resolved is whether the contribution resides solely in a computer program or whether it has a technical effect which takes it outside of that exclusion of section 1(2)(c) of the Act.

43 Signpost i) asks "*whether the claimed technical effect has a technical effect on a process which is carried on outside the computer*". It is important to define "the computer". It is well established that "the computer" can include systems operating as a network for the purposes of this signpost, as emphasised by Birss J in paragraph 30 of *Lantana*[4]. "The computer", then is not just the *computing device* of the claims, but refers to the system of components comprising the data analyser, the POS device, the computing device and where appropriate other devices such as servers and further computing devices.

44 The steps of intercepting, parsing, augmenting, detecting and decoding are all carried on inside the computer. The only process which is carried on outside "the computer" is the output of the non-textual representation, its scanning by the computing device (to enable detection) and the transaction between a user and the merchant. The output and scanning steps are conventional and are not affected by the contribution or the nature of the data in question. The transaction is within the field of business. The applicant's arguments assert that a wider range of payment options may be realised more efficiently. I do not consider these effects outside the computer to be technical.

45 The applicant's argument also refers to the POS being made redundant for the purposes of initiating the customer transaction, thus simplifying the transaction. This effect too would seem to fall within the field of business and not to be technical. Some of the consequential advantages, not directly referred to in the applicant's arguments, relate to data security and obviating the need to print a receipt. These might also be deemed to arise outside the computer. Transacting via an intermediary (as opposed to directly with the merchant's POS device) so as to avoid payment means being misappropriated, and the provision of electronic receipts are not in themselves indicative of a technical effect and in any case are well known. They do not form a part of the contribution as I have identified it.

46 Finally, the Examiner has argued that the use of a barcode (and by extension a 2D barcode or QR code) for communicating between computing devices is not in itself technical, citing *BL O/353/16 (Lionel Wolovitz)*. I would add that the non-textual representation referred to in the present application can conform to an ISO standard, as acknowledged for example on page 6 lines 1-7, and nowhere is there a suggestion that the format of the non-textual representation is itself new or inherently technical. I cannot therefore see that the provision of the non-technical representation, its detection or decoding gives rise to a technical effect.

47 Signpost ii) asks "*whether the claimed technical effect operates at the level of the architecture of the computer; that is to say whether the effect is produced*

[4] Lantana v Comptroller-General of Patents [2013] EWHC 2673 (Pat)

irrespective of the data being processed or the applications being run". The Applicant has not provided a specific argument on this point, but the steps of intercepting, parsing, augmenting, detecting and decoding are clearly carried out upon textual and/or non-textual bill data. There is no suggestion of any part of the contribution which operates at the architectural level of the computer; e.g. its construction and use of resources, for example defined within the operating system or communication protocol. In contrast, "the computer" is running conventionally under the control of the application software which implements the invention on appropriate hardware. In other words, as per the second part of the signpost, the effect is not generally applicable regardless of the applications run or data processed, but rather is specific to the payment of a bill and the associated bill and merchant data.

48 I agree with the examiner's view that following *Aerotel v Wavecrest*[5] especially paragraph 227, for the contribution to reside in hardware, the arrangement of hardware must be new in itself and not new due to the programmed method operating on the hardware. The proposed invention defined in independent claims 1, 15 & 30 may potentially operate differently to the cited prior art, but this is due to the particular program being run, not the arrangement of hardware. The effect produced is entirely dependent upon the application being run. As such, the second signpost does not assist in identifying a technical contribution.

49 Signpost iii) asks "*whether the claimed technical effect results in the computer being made to operate in a new way*". As with signpost ii) above, the contribution identifies nothing which can be equated to a "computer" being operated in a new way. The hardware runs the application program in a standard manner.

50 Signpost iv) asks "*whether the program makes the computer a better computer in the sense of running more efficiently and effectively as a computer*". "*As a computer"* confers a similar requirement as in signposts (ii) & (iii) that the computer itself should operate differently and not just under the control of application level software. In other words, merely providing a program to make more efficient use of the hardware does not meet the signpost. The computer as a whole must operate in an improved way. There is no assertion in the application or the applicant's arguments which suggests an alleged contribution to efficiency or effectiveness as a computer. In my opinion, the components of the invention are not operating more efficiently or effectively as "a computer" when running the program which provides the contribution. The gain in efficiency and effectiveness instead resides in the bill payment transaction.

51 Signpost (v) checks "*whether the perceived problem is overcome by the claimed invention as opposed to merely being circumvented*". Again, I agree with the examiner's view that the problem to be overcome, as stated on page 1, is not a technical one. It is instead overcoming the tediousness of bill payment, which is achieved by providing an improved method of bill payment, this lying squarely in the field of business. Conceivably, the problem of compromised data security through having to provide sensitive data related to payment instruments like credit or debit cards at a POS might be viewed as a technical problem. However, this problem is not solved, for example by improved encryption or verification, but rather is circumvented by implementing the transaction with an intermediary instead. In any

[5] Aerotel Ltd v Wavecrest Group Enterprises & Others [2008] EWHC 1180 (Patents)

case this benefit would seem to be incidental to the way in which the invention addresses the problem of improving the efficiency of a bill payment transaction and is not new in itself. As such, the fifth signpost does not assist in identifying a technical contribution.

52 Having considered the alleged contribution in light of the *AT&T* signposts, I am of the opinion that it falls solely within the excluded subject matter of a program for a computer. None of the signposts suggest that the contribution is more than a program for a computer *as such*. The contribution resides solely in a program for a computer and it does not have a technical nature which takes it outside of the exclusion of section 1(2)(c) of the Act.

A scheme, rule or method for doing business

53 The attorney's letter dated 14th September 2018 does not seem to directly address the method for doing business exclusion under section 1(2). I have found above that beyond the conventional outputting and scanning of data, the only process carried on outside the computer is in the field of business. The question here is whether it relates solely to a method for doing business *as such*.

54 In the pre-hearing report dated 30 January 2019, the Examiner asserts that *Merrill Lynch*[6] states that the business method exclusion is generic, and that the fact that an application provides a new or better way of conducting business is not relevant as it remains no more than a method of doing business as such. I must therefore assess the contribution to the field of business and determine not whether it is a better method per se, but whether there is any technical effect within the field.

55 In *BL O/112/18 (Landmark Graphics Corporation)* at paragraph 27 the Hearing Officer concluded that one can step back from the actual advance over the state of the art and identify the field of endeavour when considering what the inventor has added to the stock of human knowledge, i.e. the contribution. If that field of endeavour is a technical one, as in *Halliburton*[7], then the invention may be a patentable one under section 1(2).

56 As presented on page 1 of the description, the inventor has appreciated that paying bills is tedious. His aim is to avoid this by undertaking to provide an improved bill paying experience. He is endeavouring to facilitate improved customer transactions. The field of endeavour can therefore be considered to be: *facilitating bill payment transactions by using a device remotely from the POS*. This leads me to believe that the field of endeavour is indeed only "business", and I believe therefore the invention does fall solely within the excluded field of a method for doing business as such.

(4) Check if the contribution is actually technical

57 The third and fourth steps of the *Aerotel* test involve asking whether the identified contribution falls solely within the excluded categories, and then checking whether it is technical in nature. Given that the consideration as to whether the contribution is technical in nature has a direct bearing on whether it falls solely within excluded

[6] Merrill Lynch's Application [1989] RPC 561
[7] Halliburton Energy Services, Inc. v Smith International (North Sea) & Ors [2005] EWHC 1623 (Pat) (21 July 2005)

subject matter, these two steps have been considered together above. However, for the avoidance of doubt, I am content that there is no relevant technical contribution in the invention of GB1414511.4.

Novelty and inventive step

58 As noted in the pre-hearing report, the search for prior art is incomplete and the requirement for novelty and inventive step has not been fully analysed, nor the applicant's arguments in this respect fully considered. In so far as certain features referred to above are described as not new, I have relied upon the prior art cited during examination. However, nothing turns on this assessment because these features do not form part of the contribution that I have identified because they are incidental features or advantages of the invention. I make no formal finding in respect of the novelty of or inventive step provided by the claimed invention. Because I have found that the claimed invention is excluded from patentability, I do not need to consider the novelty or obviousness of the claims, nor remit the application to the Examiner to do so.

Conclusion

59 I find that the claimed invention is excluded under Section 1(2)(c) because it relates to a program for a computer and a method for doing business as such. Having considered the specification as a whole I do not think that any saving amendment is possible. I therefore refuse this application under Section 18(3).

Appeal

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

BEN BUCHANAN

Deputy Director, acting for the Comptroller