



## PATENTS ACT 1977

APPLICANT	Supercell Oy
ISSUE	The Patents Act 1977: whether patent application GB1222096.8 complies with section 1(2) of the Act
HEARING OFFICER	Dr L Cullen

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### DECISION

#### Introduction

- 1 This decision concerns patent application GB1222096.8 entitled "*System and Method for Controlling Technical Processes*" and whether the invention as claimed in this application relates to excluded matter as defined in Section 1(2) of the Patents Act 1977 (hereinafter the Act).
- 2 The application was filed on 10<sup>th</sup> December 2012, claiming an earliest priority date of 12<sup>th</sup> April 2012. It was published as GB2501145A on 16<sup>th</sup> October 2013. A divisional application, GB1409299.3, was filed 26<sup>th</sup> May 2014 relating to claims in the present application identified as defining a second invention. The Section 20 compliance period is due to expire on 12<sup>th</sup> October 2016.
- 3 Accelerated processing of the application was requested by telephone on 8<sup>th</sup> January 2013. A combined search and examination report was accordingly issued on 29<sup>th</sup> January 2013, in which, amongst other things, two separate inventions were identified as being defined in the original claims, and both were objected to as being excluded from patentability as the presentation of information and as a program for a computer.
- 4 A response from the Applicant was filed on 21<sup>st</sup> May 2014 in which claims relating to the second identified invention were deleted (to be filed in the divisional application, as noted above), and arguments were presented regarding the patentability of the retained invention. A further examination report of 8<sup>th</sup> July 2014 maintained the excluded matter objection.
- 5 In a response dated 25<sup>th</sup> October 2014 further arguments were presented, and a hearing was requested. This response also included a set of claims in an Annex 3 which were identified as those granted for the US equivalent application. A letter from the Examiner of 28<sup>th</sup> November 2014 set out the outstanding objections to be considered at the requested hearing, primarily exclusion from patentability as the

presentation of information and a program for a computer. In this letter it was noted that it had been agreed with the Agent by telephone on 18<sup>th</sup> November 2014 that the claims under consideration were those filed as Annex 3 in the applicant's response of 25<sup>th</sup> October 2014.

- 6 A hearing was appointed for 20<sup>th</sup> January 2015. However this was cancelled by a letter from the Agent dated 12<sup>th</sup> January 2015.
- 7 A further letter from the Agent of 12<sup>th</sup> February 2015 requested a Hearing Officer to review the application on the basis of the material already submitted. The matter has therefore come to me for a decision based on the papers already on file. My decision is outlined in the following paragraphs.

### **The Application**

- 8 This patent application relates to a system for controlling technical processes, and particularly to the use of a graphical user interface (GUI) for control of complex technical facilities or simulations thereof. It is presented as having particular application in simulation software, which enables a user to anticipate and investigate the behaviour of a facility in defined circumstances and with different user inputs. In particular, the application refers to such simulation software being used as part of gaming software. The simulation software is used to show how a user input will effect a change as part of a game or simulation of a technical process.
- 9 A user interacts with the device by pointing, clicking, tapping and/or dragging operations at different locations on the GUI, the action resulting in one touch at a time. When carrying out a number of interactions, e.g. selecting a number of parameters to change in the game or in the simulation, single touch interaction with the GUI on the device is cumbersome. This application is concerned with improving the ability of the user to control the game or simulation by providing a GUI that recognises multiple touches at multiple locations made by a swiping motion across the interface.
- 10 The putative advantage of the present invention over acknowledged prior art control systems for actual or simulated processes is that it enables easier and quicker, and thus more efficient and effective, input of multiple user selections of various types multiple times and across multiple locations.

### **Claims**

- 11 The current claims were confirmed as amendments following the telephone on 18<sup>th</sup> November 2014 between agent and examiner (see above).
- 12 There are two independent claims: claim 1 to an electronic device and claim 12 to a method. They are of generally equivalent scope. Claim 1 reads as follows:

*An electronic device comprising:*

*a display screen; and*

*a computing hardware configured to execute a software product, wherein executing the software product generates and renders a graphical user*

*interface on the display screen, the graphical user interface being configured to facilitate user interaction, the computing hardware, graphical user interface and the software product being implemented on a gaming system, the computer hardware being configured to:*

*present one or more selectable graphical objects on the graphical user interface;*

*enable a selection of one or more of the selectable graphical objects;*

*generate a menu list on the graphical user interface upon selection of one of the selectable graphical objects, the menu list comprising one or more selectable options;*

*detect a selection of one of the selectable options from the menu list;*

*detect a substantially continuous selection of areas along a path on the graphical user interface, wherein the substantially continuous selection comprises detecting a swipe motion over the graphical user interface; and*

*execute an action corresponding to the selection option in each area along the path on the graphical user interface, wherein the gaming system comprises a farming game, the selectable graphical objects of the graphical user interface comprise different spatial regions of a farming environment in which one or more crops are grown, and wherein the selectable options in the menu list are different farming tools.*

Claim 12 reads as follows:

*A method of facilitating user interactions with a graphical user interface, the graphical [user] interface being generated and rendered on the display of an electronic device, by executing a software product on a computing hardware of the electronic device, the computing hardware, graphical user interface and the software product being implemented on a gaming [gaming] system,*

*the method comprising:*

*rendering one or [more] graphical objects within the graphical user interface;*

*detecting a selection of one or more of the one or more graphical objects;*

*rendering a menu list containing a set of selectable options, each selectable option corresponding to an effect to be applied to a portion of a specific graphical object, or to one or more of the one or more graphical objects;*

*detecting a selection of one of the selectable options;*

*detecting a substantially continuous selection of areas of the graphical user interface along a path by detecting a swipe motion over the graphical user interface; and*

*applying the effect corresponding to the selected option to a portion of a specific graphical object, or to one or more graphical objects corresponding to the path, wherein the gaming system comprises a farming game, the selectable graphical objects of the graphical user interface comprise different spatial regions of a farming environment in which one or more crops are grown, and wherein the selectable options in the menu list are different farming tools.*

### **The Issue to be decided**

- 13 The primary issue to be decided is whether this application complies with Section 1(2) of the Act.
- 14 In his letter of 28<sup>th</sup> November 2014, the Examiner suggested that the invention might also lack novelty or inventiveness under Sections 1(1)(a) and 1(1)(b) of the Act respectively; and advised that a full search had not been completed in respect of the present invention. He also objected to the clarity of the claims under section 14(5)(b) of the Act, and suggested that further clarity objections might be identified if the application were to be examined further.
- 15 If I find that the application does not relate to matter excluded under Section 1(2), I will remit the case to the Examiner for completion of the search and examination process.

### **Excluded Matter – Section 1(2)**

#### ***The Law***

- 16 Section 1(2) of the Act sets out certain categories of invention that are not patentable as follows (my emphasis added):

*“It is hereby declared that **the following** (among other things) **are not inventions for the purposes of this 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) **the presentation of information**;*

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

17 Current IPO practice is to use the structured approach set out by the Court of Appeal in its judgment in *Aerotel/Macrossan*<sup>1</sup> (hereinafter *Aerotel*) for deciding whether an invention is patentable. The test comprises four steps:

- (1) Properly construe the claim;
- (2) Identify the actual 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.

Operation of this test is explained in paragraphs 40-48 of the *Aerotel* judgment. Paragraph 43 confirms that identification of the contribution is essentially a matter of determining what the advantages of the invention are, what it is that the inventor has really added to human knowledge, and involves looking at the substance of the invention claimed, rather than the form of the claim.

18 More recently, the Court of Appeal in the case of *Symbian*<sup>2</sup> confirmed that this structured approach is one means of answering the question whether or not the invention reveals a technical contribution to the state of the art. In other words, *Symbian* confirmed that the four-step test is equivalent to the prior case law test of “*technical contribution*”, as discussed in *Merrill Lynch*<sup>3</sup>, *Gale*<sup>4</sup> and *Fujitsu*<sup>5</sup>. The key question is what does the “*technical contribution*” amount to, not whether it happens to be implemented by a computer.

19 The UK courts have worked out “signposts” to assist in determining whether there is a technical contribution. Although, these signposts will not assist in every case they do provide a useful means to determine if the actual contribution does or does not fall solely within excluded subject matter. The signposts were first set out in *AT&T*<sup>6</sup>, and were further refined on appeal in *HTC v Apple*<sup>7</sup> and were recently set out in full in para 13 of *Lantana*<sup>8</sup> as follows:

*“The signposts to a relevant technical effect (as modified in HTC v Apple) 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;*

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<sup>1</sup> *Aerotel Ltd v Telco Ltd*, *Macrossan’s Patent Application* [2006] EWCA 1371, [2007] RPC 7.

<sup>2</sup> *Symbian* [2009] RPC 1.

<sup>3</sup> *Merrill Lynch’s application* [1989] RPC 561.

<sup>4</sup> *Gale’s application* [1991] RPC 305.

<sup>5</sup> *Fujitsu Limited’s application* [1997] RPC 608.

<sup>6</sup> *AT&T Knowledge Ventures’ Application and CVON Innovations Ltd’s Application* [2009] FSR 19.

<sup>7</sup> *HTC Europe Co Ltd v Apple Inc* [2013] EWCA Civ 451.

<sup>8</sup> *Lantana Ltd’s Application* [2013] EWHC 2673 (Pat).

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 invention as opposed to merely being circumvented.

### **The Applicant's Arguments**

- 20 As noted already the current claims differ from those originally filed and from those filed as amendments with the Agent's letter of 21<sup>st</sup> May 2014, and, although filed as an annex ('Annex 3') to the Agent's letter of 25<sup>th</sup> October 2014, they were not formally filed as amendments at that stage (only being confirmed as the current claims by telephone on 18<sup>th</sup> November 2014). Therefore the arguments presented by the Agent in their letter of 21<sup>st</sup> May 2014, and that of 25<sup>th</sup> October 2014 do not relate specifically to the patentability of the current claims.
- 21 The Examiner objected to the inventions defined by each of these sets of claims as being excluded from patentability on the same grounds: that they each define the presentation of information and a program for a computer.
- 22 The Agent's arguments were general, and not directed specifically at the scope of the invention defined by any one of these sets of claims. The Agent has not provided an analysis of the invention defined by any of the sets of claims following the *Aerotel* test or using the *AT&T* signposts. Therefore, neither I, nor the examiner, had the benefit of any arguments from the Agent that relate specifically to the current claim set.
- 23 The Agent has presented a number of more general arguments that the application should be allowed. I have read and considered these arguments. I do not intend to reproduce each argument in detail here but they may be summarised as follows:
- (i) the invention includes technical features and produces a technical effect, and is therefore not excluded under Section 1(2) of the Act, which is to be applied narrowly;
  - (ii) the case law cited and followed by the Examiner (including *Aerotel*, *AT&T* and others of the cases noted above) is not relevant to the present application as those cases related to different types of invention;
  - (iii) Examiners at the UK IPO have an obligation to harmonise their examination practice with that of the European Patent Office (EPO), and that the present application would not be (and indeed, that an equivalent application is not being) objected to as related to excluded subject matter there;
  - (iv) UK IPO examination practice should be in principle, or is required to be by treaty, consistent with that of other jurisdictions, including the United States of America, where equivalent applications have been granted or are progressing towards grant; and
  - (v) the position held by the UK IPO and by UK patent courts regarding exclusions from patentability is incorrect in general, including in the case

law cited above, and that the principles established in this case law ought not to be followed.

- 24 There are a number of general arguments about the approach of the IPO to determining patentability – see (iii) – (v) above. These are conveniently dealt with first before turning to those arguments that refer more specifically to the technical features of the invention.
- 25 The IPO is the lowest tier of the tribunal in the UK that deals with intellectual property matters. The IPO is bound by decisions on such matters from the higher tiers within the UK tribunal system – in this case, and in order of ascending importance, the Patent High Court, the Court of Appeal and the Supreme Court<sup>9</sup>. These decisions are based on the legal provisions in place in the UK which concern intellectual property, for example, the Patents Act 1977
- 26 Article 52 of the European Patent Convention (EPC) concerns patentable inventions and corresponds to Section 1(2) of the Act. Section 130(7) of the Act, states that:

*“...it is hereby declared that the following provisions of this Act, that is to say, sections 1(1) to (4)... are so framed as to have, as nearly as practicable, the same effects in the United Kingdom as the corresponding provisions of the European Patent Convention, the Community Patent Convention and the Patent Co-operation Treaty have in the territories to which those Conventions apply.”*

- 27 With regard to construing sections of the Act identified in s.130(7), Lord Hoffmann in *Merrell Dow*<sup>10</sup> indicated that UK courts must have regard to decisions of the EPO. He said:

*“These decisions are not strictly binding upon the courts in the United Kingdom but they are of great persuasive authority; first, because they are decisions of expert courts (the Boards of Appeal and Enlarged Board of Appeal of the EPO) involved daily in the administration of the EPC, and secondly, because it would be highly undesirable for the provisions for the EPC to be construed differently in the EPO from the way they are interpreted in the national courts of a contracting state”.*

- 28 It was established by Jacob LJ in *Actavis*<sup>11</sup> that the Court of Appeal can (but is not bound to) depart from its own precedent to follow the EPO Boards of Appeal where it is satisfied that the Boards of Appeal have formed a settled view. However, with regard to matter excluded from patentability under s.1(2) of the Act, the Court of Appeal in *Aerotel* determined that the practice of the EPO Boards of Appeal was not then sufficiently settled for the Court of Appeal to depart from precedents of UK courts. The situation was reviewed and the same conclusion reached in *Symbian* and *HTC v Apple*. It is the prerogative of the UK courts and not of this Office to

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<sup>9</sup> This is the situation within the jurisdiction that covers England and Wales within the UK. There are also separate jurisdictions within the UK that cover Scotland and Northern Ireland, see, for example, Sections 97 & 98 of the Act.

<sup>10</sup> *Merrell Dow Pharmaceuticals Inc. v H.N. Norton & Co Ltd* [1995] UKHL 14; [1996] RPC 76

<sup>11</sup> *Actavis UK Ltd v Merck* [2008] EWCA Civ 444

determine whether the practice of the EPO Boards of Appeal is sufficiently settled and to depart from precedents established in UK case law.

- 29 Thus, the UK courts are happy to adopt the same approach as the EPO where it finds that this is the correct approach but this is a decision for the UK court to make based on its analysis of the basis and relevance of such EPO decisions. In the area of patentability of computer programs there is a difference in approach between the UK courts and the EPO Boards of Appeal. The IPO is thus bound to follow the decisions of the UK courts. The examiner directed the applicants' attention to IPO decision BL O/321/10, *Dell Products LP*, which also makes explains that the IPO cannot depart from the previous decision of the UK Courts<sup>12</sup>.
- 30 Decisions from a jurisdiction outside of the UK are based on legal provisions in place in those jurisdictions and are of persuasive value only. The UK Courts and the IPO will take such decisions into account on a case by case basis.
- 31 In determining the patentability of the current application, the Examiner was bound by current UK patent law, as established under the Act and as interpreted and expounded by UK courts. This is the correct approach and I am also bound to follow this approach. It is not at the discretion of the Examiner or the Hearing Officer to change the approach set down by the UK courts.
- 32 In this regard I note the recent judgement of the Court of Appeal in *Lantana*<sup>13</sup>. Here again (at paragraphs 8 to 10) is re-stated the position of the UK courts, which I am bound to follow, that in considering whether an invention is patentable it is appropriate to adhere to the four stage approach of *Aerotel* and to use the signposts of *AT&T* when considering what is the technical contribution. Further, paragraph 52 of this decision makes clear the limited value of EPO decisions as precedents in the UK courts

*“Mr Beresford relied on a number of decisions of the European Patent Office (“EPO”), including Decision T 06/1658. But although these are also concerned with Art 52 of the EPC and the patentability of computer programs, they adopt a different methodology (see, for example, Decision T 03/258 Hitachi). Mr Beresford did not dispute Kitchin LJ’s observation in argument that the methodology of the EPO and the English court should produce the same result. The position may be that the EPO and the English court ask the same questions - is there a contribution and, is that contribution solely within the exclusion? - but in a different order. The decisions of the EPO, therefore, provide only limited assistance to this court in determining whether the process adopted by the judge in this jurisdiction was flawed.”*

### **Analysis**

- 33 Following the four-step structured approach as laid down in *Aerotel*:
- Step (1): Properly construe the claim;*
- 34 The invention as claimed relates to the interaction between a user and an electronic device through a graphical user interface (GUI) on the device’s display screen as

<sup>12</sup> See <https://www.ipo.gov.uk/p-challenge-decision-results/o32110.pdf>.

<sup>13</sup> *Lantana Limited* [2014] EWCA Civ 1463.



part of a gaming system, specifically a farming game. The display screen may be a touch screen, and preferably a multi-touch screen. The presence of a multi-touch screen is presented in the description as being a particularly advantageous aspect of the invention over legacy user input and selection means, but I note (see above) that neither of the current independent claims is limited to a touch screen embodiment.

- 35 Claim 1 relates to an electronic device comprising computing hardware which executes system software for a farming game and cooperates with a display screen such that it presents a GUI. This GUI provides selectable graphical objects representing crop growing regions in a farming environment and presents a menu list of selectable options, referred to as an item specific menu, representing farming tools when one of the graphical objects is selected. A swiping motion is interpreted as a substantially continuous selection of areas and an action corresponding to a selected option (or farming tool) is executed in each such selected area. Claim 12 is to the corresponding method of facilitating user interaction with the graphical user interface.
- 36 In his letter of 21<sup>st</sup> May 2014 and again in that of 25<sup>th</sup> October 2014 the Agent identifies three technical elements in the present application: touch sensitive display; computing hardware; and information display. He suggests that “*As soon as there is one essential feature in a claim which is technical in nature, the claimed subject matter is then not to be considered as being excluded under section 1(2) PA 77.*” As noted above, the current independent claims do not specify that the display is touch-sensitive, although they do specify computing hardware and a display. Although, there are physical, technical components identified in the claim as essential to the invention, the point to be determined is whether the actual contribution of the invention comprises a patentable technical concept or whether it falls within one of those categories which are specified as excluded from patentability under Section 1(2) of the Act. In other words, what matters is not whether there is some technical feature in the independent claim but whether it is this technical feature which provides the actual contribution of the invention; whether this technical feature provides the advance which the invention makes with respect to what was already known or the advantage which the invention provides over what already existed.

*Step (2): Identify the actual contribution.*

- 37 There is no inventive contribution in the electronic device comprising a display and the computing hardware executing system software, or in the presentation on the display of a GUI, or in the specific application to a farming game. These are all essential aspects of the invention as defined in the independent claims, but they are each known and within the context of the present invention they each perform their normal or usual function. The actual contribution of the invention relates to the way in which it facilitates user interaction through the graphical user interface. The GUI provides a range of selectable graphical objects and menu lists of selectable options associated with each graphical object, and the division of the display into selectable areas. These features are all determined by software executed on the computing hardware to render the GUI on the display. I consider that the actual contribution is the execution of an action by the user defined by a continuous swipe across the GUI which delivers within a range of selected areas, the selected option related to a selected object,

*Step (3): Ask whether the contribution falls solely within the excluded matter;*  
*Step (4) Check whether the contribution is actually technical in nature*

38 Whether this contribution is no more than a program for a computer as such, and thus excluded from patentability, or whether it comprises some saving technical contribution can be assessed by following the *AT&T* signposts. By using the *AT&T* signposts in this manner, the third and fourth steps of *Aerotel* are considered together.

39 Looking at each the *AT&T* signposts in turn:

*i) whether the claimed technical effect has a technical effect on a process which is carried on outside the computer*

40 The process of the present invention takes place entirely on the display and within the device itself. There is no technical effect on any process outside of the computing hardware.

*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*

41 The present invention introduces no change to the architecture of the computing hardware. The effect is dependent on the provision on the GUI of selectable graphical objects and menu lists of selectable options, and the division of the display into selectable areas. These features are all determined by software executed on the computing hardware to render the GUI on the display.

*iii) whether the claimed technical effect results in the computer being made to operate in a new way*

42 The present invention does not result in the computing hardware itself operating in any new way.

*iv) whether the program makes the computer a better computer in the sense of running more efficiently and effectively as a computer*

43 In his letter of 25<sup>th</sup> October 2014 the Agent argues that the Applicant's invention provides a technical effect that "*resources can be more efficiently and rapidly controlled*". He draws an analogy with "*a more ergonomic design of a handle of a tool*" which may provide a benefit in reducing hand strain when using the tool. The electronic device of the present invention may be viewed as analogous to a tool, with the GUI corresponding with its handle, by which a user operates it. If the tool were of a standard, known type, and the innovative feature which provided the actual contribution of the invention lay in the design of the handle, then we would apply the *Aerotel* test to determine whether the known tool with the new handle constituted a patentable invention or whether it was excluded from patentability under Section 1(2) of the Act. So, for example, if the characteristic of the handle which distinguished it

from known types of handle for the tool in question lay solely in some decorative feature, then, following the *Aerotel* steps, we would come to the conclusion that the tool with this new type of handle did not constitute a patentable invention, since the actual contribution lay in an excluded category (as an artistic work or an aesthetic creation). However, if the handle had a novel shape, which provided an improved or more comfortable grip thereby reducing hand strain for the user, so that the known tool with the new handle became a more efficient or effective tool, then, following the *Aerotel* steps, we would find that the actual contribution did not lie in any excluded category, and that the invention comprising the tool with the new handle constituted a patentable invention. In the present invention, the electronic device with its display and computing hardware may be considered analogous to a tool of a known type, and the graphical user interface and the software executing to render it may be considered analogous to a new type of handle. The question to be determined then is whether or not the actual contribution of the invention which lies in this “handle” falls within an excluded category.

- 44 The program of the present invention facilitates user interaction with the computing hardware via the graphical user interface, and may enable a user to make selections more rapidly or conveniently, but it does not render the computing hardware itself any more efficient or effective or in any way better as computing hardware.

*v) whether the perceived problem is overcome by the invention as opposed to merely being circumvented.*

- 45 Whilst the present invention facilitates user interaction through a GUI, it does not address or overcome any specific problem. There is no clearly defined problem solved by what is claimed. I find myself in agreement with the view expressed by the examiner in his examination report dated 8 July 2014 that while the description asserts that state-of-the-art multi-touch devices and GUIs are deficient for modern gaming purposes, it does not illustrate why this is the case or why the claimed invention is an improvement over the state-of-the-art. Indeed, I consider that no improvement to multi-touch technology is disclosed or suggested. Therefore the fifth signpost can be disregarded.

- 46 Having used these five *AT&T* signposts to consider what is the nature of the contribution made by the invention and to explore if this contribution includes a technical effect, I am satisfied that the present invention as defined in the independent claims is to a program for a computer. The actual contribution is thus no more than a program for a computer as such, and falls solely within the excluded subject matter.

- 47 Inasmuch as the actual contribution relates to graphical objects and selectable options and areas upon a display, it relates to the presentation of information. As noted above this is achieved by a program for a computer. In the claims of the present invention, the starting point is a GUI (the whole purpose of which is the presentation of information); claims 1 and 12 define a device and associated method for rendering more objects on the GUI and so presenting different information. Overall, the only effect of the claimed invention is change the information being display on the GUI. Thus the starting-point is presentation of information and the end-point is presentation of information and in-between is a change in the way the information is presented. Mann J in *Gemstar*, see especially paragraphs 58-60,

found that such a change is not considered to be a technical effect. Thus, I find that I am in agreement with the view expressed by the examiner in his examination report dated 28 November 2014, that the invention as claimed relates to the presentation of information by a computer programme and is excluded.

- 48 The dependent claims define various alternative features which may be incorporated into the present invention. These are all features which could be implemented in software or by the connection of known computing hardware performing its normal function. I do not consider that the inclusion of any of these features would introduce an actual contribution which is not excluded from patentability under Section 1(2) of the Act as a program for a computer.

### **Conclusion**

- 49 I find that the invention as claimed in the current claims is excluded under Section 1(2) of the Act because it relates to a program for a computer and to presentation of information.
- 50 Having reviewed the specification I do not consider that any saving amendment is possible. I therefore refuse the application under section 18(3).
- 51 Since I have found the invention to be excluded from patentability under Section 1(2) of the Act, it is not necessary for me remit the application to the examiner for further consideration in relation to novelty, inventiveness or clarity.

### **Appeal**

- 52 In line with current practice of the Intellectual Property Office any appeal must be lodged within 28 days.

**Dr LAWRENCE CULLEN**

Deputy Director acting for the Comptroller