

- b. providing corresponding delivery tokens to a recipient device of the authorised recipient and to a delivery device associated with delivery of the purchase;
- c. at the point of delivery, determining whether the delivery token of the recipient device matched the delivery token of the delivery device; and, if so:
- d. confirming that delivery of the purchase is authorised;

wherein the delivery token provided to the recipient device is stored in a digital wallet of the recipient device such that access to the delivery token is restricted to an authenticated user of the recipient device.

The law

- 5 Section 1(1) deals with the conditions that must be met for a patent to be granted. It states that:

1(1). A patent may be granted only for an invention in respect of which the following conditions are satisfied, that is to say –

- (a) the invention is new;*
- (b) it involves an inventive step;*
- (c) it is capable of industrial application;*
- (d) the grant of a patent for it is not excluded by subsections (2) and (3) or section 4A below;*

- 6 Section 1(2) lists certain categories of subject-matter which are not considered to be inventions. These categories of subject-matter are conventionally known as excluded subject matter:

1(2). 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) a discovery, scientific theory or mathematical method;*
- (b) a literary, dramatic, musical or artistic work or any other aesthetic creation whatsoever;*
- (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.

- 7 Section 3 then sets out how the presence of an inventive step is determined:

3. An invention shall be taken to involve an inventive step if it is not obvious to a person skilled in the art, having regard to any matter which forms part of the state of the art by virtue only of section 2(2) above (and disregarding section 2(3) above.

Excluded subject matter

8 In *Aerotel*¹, the Court of Appeal set out a four-step test for determining whether a claimed invention is excluded under section 1(2) of the Act. The steps are as follows:

- (1) 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.

9 In the present case there is no issue with the construction of the claims. In order to determine the actual contribution made by the claimed invention, it is necessary to know the state of the art (para. 43, *Aerotel*). The prior art cited by the examiner for inventive step shows that the use of a pair of corresponding tokens, one sent to the recipient and one sent to the deliverer, is known. In addition, the use of digital wallets to authorise transactions is common general knowledge. It is also known to store other information such as payment information, ID information and purchase information in a digital wallet. However, none of the cited documents suggest it is known to store delivery tokens in a digital wallet.

10 Claim 1 defines a method of authenticating delivery of a purchase to an authorised recipient comprising the step of authorising a purchase using a digital wallet and confirming a delivery using a delivery token sent to the recipient and a corresponding delivery token sent to the deliverer. The delivery token sent to the recipient is stored in the digital wallet of the recipient device.

11 In the agent's letter of 14 December 2015 it is stated that the contribution made by the claimed invention is the enhanced security of the delivery process due to storing the token in the digital wallet. It is said that this enhanced security goes beyond the known uses of a digital wallet and therefore represents a novel technical contribution over the prior art. The applicant compares this to systems in the field of cryptography which rely on known cryptographic principles and states that applications of those principles may provide a novel technical contribution and may therefore be patentable. The applicant refers to the hearing officer's conclusion at paragraph 11 of *The Honey Pot Trust's application*², concerning a transaction verification system comprising video and audio capture arrangements to record video clips of the actual delivery of goods, the signature, by the person taking delivery, of the delivery note and possibly even vocal confirmation of the fact that the person taking delivery is who he or she purports to be, that they have inspected the goods and that the delivery appears to be in order.

"The invention may well provide a better system for verifying business transactions, but ultimately what the inventor has contributed is a different technical system for verifying transactions and not merely a different business method. I am led to the conclusion that the invention does not relate to a business method as such."

12 It seems to me that the present invention can be clearly distinguished from that considered by the hearing officer in *Honey Pot Trust*, where it seems the contribution lay in drawing together various hardware components in a particular manner (the audio/video recorder and data storage) for a particular purpose (the verification of

¹ *Aerotel Ltd v Telco Holdings Ltd and Macrossan's Application* [2006] EWCA Civ 1371

² [BL O/361/10](#)

safe delivery). In the present case, the prior art indicates that there is no contribution in the arrangement of hardware and that the use of digital wallets to store personal, financial and transactional information within a secure application in a smartphone is well known. The contribution in this case seems therefore to be the storage of a different type of transactional information, i.e. the delivery token, in a purchaser's digital wallet, and then the use of this delivery token to allow authentication of the purchaser at delivery. While I accept that there may be increased security in the purchasing process as a whole as the applicant suggests, i.e. in storing the delivery note in a digital wallet, this increased security is already a known benefit of storing personal and financial information in digital wallets. The storage of delivery tokens in a mobile device is clearly well-known, so exploiting the known benefits of digital wallets to store delivery tokens accessible only to the purchaser seems to me to be a business consideration as opposed to a technical one. As a result, I find that the invention is excluded under section 1(2) as being a method for doing business.

- 13 The remaining claims all claim known features of token based delivery confirmation systems. As such, none of these make a further technical contribution to the invention.

Inventive step

- 14 Having decided that the claimed invention is excluded from patentability under section 1(2) of the Act, I do not need to consider whether it lacks an inventive step.

Conclusion

- 15 I find that the claimed invention is excluded under section 1(2) because it relates to a method for doing business as such. I have read the specification carefully and I can see nothing that could be reasonably expected to form the basis of a valid claim. I therefore refuse the application under section 18(3).

Appeal

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

H JONES

Deputy Director, acting for the Comptroller