



decision. I have also taken into account all the correspondence on the file of both applications, including the skeleton arguments filed on 20 March 2017.

## The applications

### GB 1307847.2 ("the parent application")

- 5 The first paragraph of the parent application as-published by WIPO in the international phase, states that *"The present invention relates to a strategy game for one or more players. The game can comprise the use of left- and right-handed money, which the present invention also provides together with left-and right-handed property rights for use in a game or in commerce, and apparatuses adapted for use with these. A concept described herein as chiralkine links all these together"*. This is explained further at page 2 (lines 22 to 32 of the application as-filed):

*"The game is performed in a game field. In the game field, a player deploys two tokens for each move, each of the tokens representing a function that is the antisymmetric opposite of the other with respect to the players (like debit and credit). The inventor has given these tokens the name chiralkines in recognition that they involve left/right handedness (chirality) and movement (kinetics). As the game progresses, a token can be combined with another already deployed, creating one of two alternative new symmetric functions (with respect to the players) depending upon the order in which the combined tokens have been played. The two symmetric functions are in all the players' interests or against all the players' interests. Accordingly, the game contains elements that link the interests of the players together, as in real life. Optionally, each of the two alternative symmetric functions is represented by a single token, replacing two antisymmetric tokens in combination. The objective of the game is to arrive at a particular arrangement of one or more tokens in the game field."*

- 6 The description goes on to state at page 3 (lines 21 to 29 of the application as-filed):

*"The game differs from other games in that each player's move is made up of two antisymmetric opposite components, one beneficial to the player and the other beneficial to the player's opponent(s). Put another way, one component is selfish, restricting the freedom of movement of an opponent, while the other is altruistic, increasing it. These antisymmetric pairings can accumulate as the game progresses. Players must think about how to position both first tokens to their advantage, and make best use of the moves of their opponent(s). Players must also think about the potential outcomes resulting from them or their opponents switching an antisymmetric function to a symmetric function. A symmetric function acts in the same way on all players. It either restricts or increases their freedom of movement."*

- 7 Subsequent to the pre-hearing report of 10 January 2017 Mr Hay filed a further set of five claims on 24 January 2017, which were considered in a further examination report dated 6 February 2017. It is upon this set of claims that I will base my decision. Claim 1 (corresponding largely to claim 10 of the original claim set), is set out below:

*"1. A kit for playing a game, which comprises in physical form:*

*a game apparatus comprising:*

*at least two sets of first tokens, one for each player, each set consisting of two kinds of first token (+ -) and (- +) each representing a function that in relation to the players is the antisymmetric opposite of the other;*

*a set of second tokens (+ +) and (- -) each representing a function that in relation to the players is the symmetric opposite of the other; and*

*a game field provided with a plurality of token spaces;*

*rules providing that the game objective is for a player to achieve an arrangement of one or more tokens in the token spaces of the game field that represents a particular function; and*

*said method comprises a sequence of moves in which each player in turn identifies a first token (- +) and a first token (+ -) to be placed in (+) different token spaces so as to effect a change in function (>) in each of these token spaces selected from:*

*(+ +) + (- +) > (- +);            (- -) + (+ -) > (+ -);*

*(+ +) + (+ -) > (+ -);            (- -) + (- +) > (- +);*

*(- +) + (+ -) > (- -); and        (+ -) + (- +) > (+ +);*

*then moves to change the tokens in each token space accordingly.”*

- 8 There are also independent claims to an electronic gaming device (claim 3), and an omnibus claim to an apparatus (claim 5), both of which can be regarded as relating to the same inventive concept as claim 1 and need not be reproduced here.
- 9 Several further sets of claims have been filed subsequent to this in attempts by Mr Hay to address the examiner's objections. While none have been fully considered by the examiner, I indicated at the hearing that I would be willing to consider auxiliary claim 1 filed on 7/4/17 as part of my decision, which is also reproduced below (claim 2 of the auxiliary claim set filed on 7/4/17 is considered below with regard to the divisional application):

*“1. An apparatus linking the interests of its players together, which comprises in physical form:*

*at least two sets of first tokens, one for each player, each set consisting of two kinds of first token (+ -) and (- +) each representing a function that in relation to the players is the antisymmetric opposite of the other;*

*a set of second tokens (+ +) and (- -) each representing a function that in relation to the players is the symmetric opposite of the other;*

*a plurality of token spaces, each of which is occupied by a first or a second token;*

wherein in use of the apparatus each player in turn identifies a first token (- +) and a first token (+ -) to be placed in (+) different token spaces so as to effect a change in function (>) in each of these token spaces selected from:

(+ +) + (- +) > (- +);          (- -) + (+ -) > (+ -);

(+ +) + (+ -) > (+ -);          (- -) + (- +) > (- +);

(- +) + (+ -) > (- -); and      (+ -) + (- +) > (+ +);

then moves to change the tokens in each token space accordingly.”

#### GB 1700269.2 (“the divisional application”)

- 10 In her first examination report of the parent application, the examiner objected that the claims related to two separate inventions not forming a single inventive concept. As has already been noted, a divisional application was subsequently filed in respect of the second invention on 6 January 2017. The divisional application is entitled ‘Left- and right-handed money’, though the body of the description is apparently identical to that of the parent application.

This concept is explained in the description as follows, in the passage from page 12, line 32, to page 13, line 5:

*“When used in commerce, parties to a transaction may exchange right-handed money for goods or services and left-handed money. Banks may lend right-handed money to a purchaser of goods or services and left-handed money to a vendor. Thus, a purchaser must itself sell some goods or service for right-handed money in order to be able to repay its debt to the bank. Similarly, the vendor must itself purchase some goods or service before it can repay its debt to the bank. With the current monetary system, money is created by banks based upon them treating the loans they have already made as assets belonging to them. In accordance with the present invention, left- and right-handed money are created (or destroyed) at the same time that left- and right-handed property rights are created (or destroyed). This is entirely consistent with the state changes that take place in the game according to the invention. For more details, see Example 8 hereinafter”.*

- 11 Example 8 details a notional scenario in illustration of how left- and right-handed money might be used. In the example, ‘P’ sells a property to ‘Q’ for 100000 currency units. Lawyers acting for P and Q create left- and right-handed property rights in the property. A bank creates, and then lends 100000 left-handed currency units (LCU) to P and 100000 right-handed currency units (RCU) to Q. The left- and right-handed property rights are used as security against the loans, which fact is recorded in a government registry alongside the ownership of the left-handed property right by P and the right-handed property right by Q. The left-handed property right is secured on the RCU deposited in the bank account of P, the balance of which the bank holds until the equivalent amount of LCU has been repaid. The money that has been created circulates within the economy, their value being based upon a real asset: the property purchased by Q from P. Eventually P and Q repay their loans from the bank at which point the original property contract is completed. All 100000 RCU and 100000 LCU are recombined and destroyed. The left- and right-handed property

rights are also combined and transformed, so that Q becomes the sole owner of the property. The bank applies to the government property registry to have the changes recorded.

12 Two claims were present in the application as-filed, which are reproduced below:

*“1. Left-handed and right-handed money.*

*2. An apparatus adapted for use with left and right handed money, selected from:*

*a bank card, comprising a machine readable identification code, said card being adapted to handle transactions in left- and right-handed money;*

*a cash machine adapted to dispense left- and right-handed money;*

*a cash register adapted to handle and record transactions in left- and right-handed money;*

*a vending machine adapted to receive money in one of right- and left-handed forms and dispense it in the other;*

*and an apparatus for use by a bank, comprising left- and right handed money and a computer programmed to maintain records of transactions in left and right-handed money.”*

13 Mr Hay filed a further auxiliary claim on the divisional application on 20 March 2017 (an identical claim was also filed on the parent application on 7 April 2017, referred to in paragraph (9) above), which I indicated at the hearing I would consider as part of this decision, though as with the auxiliary claims of the parent, it has not been considered by the examiner in her examination reports. It is reproduced below:

*“1. An apparatus linking together the interests of its players together, which is left- and right-handed money, said left- and right-handed money consisting of six forms: created right-handed money (- +)<sup>1</sup>, exchanged left-handed money (+ -)<sup>1</sup>, redeemed right- and left-handed money (+ +); created left-handed money (+ -)<sup>2</sup>, exchanged right-handed money (- +)<sup>2</sup>, and redeemed left- and right-handed money (- -).”*

### **The issues to be decided**

14 The issue to be decided with regard to the parent application is whether or not the claims of the parent application relate to a method for playing a game as such, and so are excluded by virtue of section 1(2).

15 With regard to the divisional application the issue to be decided is whether or not the claims are excluded under section 1(2) as relating to a method for doing business as such. However the examiner has also noted, in her pre-hearing report of 6 February 2017, that claim 2 of the divisional application was present (as claim 9) in a previous application (GB1407018.9) in the name of the present Mr Hay (jointly with Mrs. Frances Hay). This previous application was the subject of hearing decision BL O/477/15, in which the claims were held by the Hearing Officer to be excluded from patentability as a method for doing business. As I indicated at the hearing, it follows

that I cannot consider the patentability of claim 2 as part of my decision. This is due to the legal doctrine of estoppel by record.

- 16 Claim 1 of the divisional application was not present in Mr Hay's previously decided application GB1407018.9, and I indicated at the hearing I would consider its allowability, and also that of the auxiliary claim filed on 20 March 2017 (para 13), with regard to the business method exclusion of section 1(2).

### **The law**

- 17 Section 1(2) of the Patents Act 1977 sets out certain categories of invention that are not considered to be patentable, and is reproduced below:

*"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."*

- 18 Both Mr Hay and the examiner are agreed that the assessment of patentability under section 1(2) is governed by the judgement of the Court of Appeal in *Aerotel Ltd v Telco Holdings Ltd and Macrossan's Application*<sup>1</sup> ('*Aerotel*').
- 19 These provisions have been the subject of regular consideration by the UK courts. The assessment of patentability under section 1(2) is governed by the judgment of the Court of Appeal in *Aerotel*, as further interpreted by its judgment in *Symbian Ltd's Application*<sup>2</sup> ('*Symbian*'). In *Aerotel*, the court reviewed the case law on the interpretation of section 1(2) and approved a four-step test for the assessment of "excluded matter". Those steps are:

Step 1: properly construe the claim:

Step 2: identify the actual contribution;

Step 3: ask whether the identified contribution falls solely within the excluded subject matter;

---

<sup>1</sup> [2006] EWCA Civ 1371

<sup>2</sup> [2008] EWCA Civ 1066

Step 4: check whether the actual or alleged contribution is actually technical in nature.

- 20 Subsequently, the Court of Appeal in *Symbian* made clear that the *Aerotel* test is not intended to provide a departure from the previous requirement set out in case-law, namely that the invention must provide a “technical contribution” if it is not to fall within excluded matter.

### **Arguments and analysis**

- 21 Mr Hay’s arguments with regard to both applications are essentially the same, which follows on from his view that they both relate to the same underlying inventive concept. The issue of whether the inventions relate to a single inventive concept or otherwise is, however, not at issue in this decision (an objection to plurality of invention was raised by the examiner on the parent application and a divisional application was subsequently filed by Mr Hay). While I will take full account of Mr Hay’s comments, for the purpose of this decision I think it is appropriate for me to consider each application separately.

#### The parent application

- 22 The objections to this application are that it is excluded from patentability by virtue of section 1(2) of the Act as a method for playing a game. I will now consider the four steps of the *Aerotel* test in relation to the parent application:

#### *Step 1: properly construe the claim*

- 23 In her pre-hearing report of 10 January 2017, and subsequent examination report of 6 February 2017, the examiner has indicated that the construction of claim 1 is straightforward and can be understood without difficulty from the language of the claim with reference to the description.
- 24 Mr Hay believes that the logic underlying his invention has not been understood and that the *Aerotel* test has therefore been applied incorrectly. He suggests, in his skeleton arguments, and also at the hearing, that the invention should be construed as an apparatus in use by its players and as an apparatus linking the interests of its players together. My understanding of Mr Hay’s arguments in this regard is that the claims should not be construed by merely looking at the apparatus *per se*, rather it should be construed as an apparatus when used in a certain way.
- 25 In my view Mr Hay’s arguments point towards an issue that has not been addressed in the examination report of 6 February 2017, namely the lack of clarity regarding the amended form of claim 1. Claim 1 specifies a ‘kit for playing a game’, and part (a) defines the apparatus features of the kit; however, part (b) goes on to specify a set of rules (for using that apparatus). This could be construed in one of two ways: (i) as a game apparatus (as defined in part (a) of the claim) that is suitable for use with, but is not restricted to, the rules defined in part (b); or (ii) as a method of using an apparatus as defined in part (a) by following the rules defined in part (b).
- 26 While in my view the first of these possibilities would be the conventional approach to claim construction, for the sake of this decision I will construe claim 1 according to

the second, i.e. as a method of using an apparatus. Mr Hay contends that claim 1 is 'an apparatus in use': in my opinion this is exactly the same thing as the use of an apparatus.

27 I should also point out here that, again following conventional rules of claim construction<sup>3</sup>, I construe part (a) of claim 1 as requiring 'at least two sets of first tokens, one for each player, each set consisting of two kinds of first token (+ -) and (- +) each suitable for representing a function that in relation to the players is the antisymmetric opposite of the other' and 'a set of second tokens (+ +) and (- -) each suitable for representing a function that in relation to the players is a symmetric opposite of the other' (my emphasis added). In other words, the particular functions assigned to the tokens is entirely dependent upon the rules of the game.

28 I do not think it is necessary for me to expand upon my construction of the actual rules of the game, and their underlying logic, since I consider that these are set out clearly in claim 1 as reproduced above with reference to the description.

*Step 2: identify the actual contribution*

29 The examiner has referred to various prior art references in consideration of the contribution of the invention. These include:

A conventional chess set comprising a board and playing pieces;

US6394455 B1 (DENOVAL)

CN201394342 Y (DONGYUAN)

Battleship (RTM) – Pirates of the Caribbean Edition

30 With regard to claim 1 filed on 24/1/17, my understanding of the examiner's argument in her report of 6 February 2017 is that it is known for board games to be provided with what might be deemed a 'game field' and also various playing pieces that might notionally be assigned 'first' and 'second' tokens as required by the invention of claim 1. The cited prior art references are merely indicative of what is well known, i.e. tokens for first and second players (such as counters) and game boards representing 'game fields', and so I don't think it is necessary to analyse them in great detail.

31 The examiner therefore argues that in view of this the contribution of claim 1 resides in the particular rules defined in part (b) claim 1. Having read the claims and the description, I fully agree with the examiner's analysis here. At step 1 above I have construed claim 1 as the use of an apparatus. The apparatus aspect of claim 1 is clearly achievable by any apparatus that can be used according to the rules of claim 1. In my view it would be possible to follow these rules using known counters on known game boards, such as a chess set (even if this would not be the optimal way of playing the game). This could be done by notionally assigning the various pieces of the chess set as first tokens for each player and also second tokens for use by both players. The apparatus is conventional and this leads me to conclude that the contribution resides entirely in the rules of the game. The rules embody the

---

<sup>3</sup> As set out for instance in the Manual of Patent Practice at paragraph 2.12.

underlying logic of the invention and are unambiguously set out in part (b) of claim 1. They involve players taking it in turns to move tokens into game spaces on the game field, and in doing so they may change the 'function' of the tokens already present in the game spaces of the board in six different ways (referred to Mr Hay as 'the six states'), to the benefit (or interest) of one or both players.

- 32 While in some of his correspondence, such as his letter filed 16 December 2016, Mr Hay argues that the invention could not be carried out using a chess set, at the hearing itself he appeared to accept that the physical form of the apparatus used in his invention could take the form of shells, or pebbles or feathers, the essential thing was that something physical must be present. I accept his point that something physical must be present but this does not alter my conclusion. For instance, card games, such as bridge and poker, rely upon the use of a conventional apparatus in the form of a deck of playing cards. Such games are only differentiated from one another as a result of the methods by which that apparatus is used, i.e. the rules.
- 33 At the hearing Mr Hay argued that the invention is an apparatus linking the interests of people together which is constituted in six states, each of which has physical form. He also argues, in his skeleton arguments, that '*An apparatus linking the interests of its players together cannot be identified either with a method of playing a game or with a method of doing business. It is not a method, and it is not specific to either*'. I cannot agree with these arguments: any such linking of interests only arises as a result of following the set of rules defined in part (b) of claim 1 (which defines the six 'states'), and in the case of the parent application they clearly relate to the rules for playing a game.
- 34 I should also point out that while independent claim 3 (as filed on 24 January 2017) was not considered to any great extent in the examination process, it relates to an electronic gaming device for use by one or more players, comprising display means for the first and second tokens, and data processing means for following instructions identical to those defined in part (b) of claim 1. This also points towards the conclusion that the contribution of the invention does not reside in the particular game apparatus itself, but rather exists in the use of a set of rules, which might be carried out using physical tokens, or which might be carried out with the aid of tokens displayed using electronic equipment.

*Steps 3 & 4: ask whether the identified contribution falls solely within the excluded subject matter; and check whether the actual or alleged contribution is actually technical in nature*

- 35 Having determined that the contribution of the invention is no more than a set of rules as defined in claim 1, it is a straightforward conclusion that it is excluded from patentability by virtue of section 1(2) as a method for playing a game as such. The fourth step of the *Aerotel* test requires that I check whether the contribution is technical in nature, and I can find nothing in either the method of the invention or in the apparatus used to suggest that it is.
- 36 Understandably, Mr Hay has devoted much effort in ensuring that I have understood the logic that underpins the rules, for which I am grateful. However, while I think this logic is clearly disclosed in his application, it is not the issue. The issue is whether or

not the invention relates to anything more than a set of rules (a method) for playing a game. I conclude that it does not.

- 37 I should also add that I have also considered claims 2 to 5 of those filed on 24 January 2017 and find that these claims are also excluded as being a method for playing a game for the same reasons.

#### *Auxiliary claim*

- 38 I indicated at the Hearing that I would also consider claim 1 of the auxiliary claim set filed on 7 April 2017, and I will now briefly do so, though strictly with regard to section 1(2) only.
- 39 Claim 1 of this set (reproduced above at paragraph (9)), is directed towards 'an apparatus linking the interests of its players together' rather than a 'kit'. I do not think this claim by itself is very clear, and it can only be interpreted in light of the description. The description clearly states a method and apparatus for playing a game. While the words 'game' and 'rules' are not present in this auxiliary claim, it still uses terminology that is consistent with a game, such as 'players', 'tokens' and 'token spaces'. Putting aside my reservations regarding its clarity, I consider that this claim has to be construed as a method of playing a game using an apparatus (step 1 of the *Aerotel* test). As before, the apparatus (tokens and token spaces) is conventional, and so the contribution lies in the rules, which involves players taking it in turns to identify first and second tokens and moving them into token spaces following the methodology defined in the claim (step 2). As the rules define a method, the contribution still lies entirely in a method of playing a game, which again has no technical contribution, and therefore is excluded as a method for playing a game for the reasons I have set out above (steps 3 and 4).

#### The divisional application

- 40 The objections to the divisional application are that it is excluded from patentability because it is a method for doing business. I will again consider its allowability under section 1(2) using the four steps of the *Aerotel* test:

#### *Step 1: properly construe the claim*

- 41 Claim 1 of the divisional application simply specifies 'Left- and right-handed money'. In her pre-hearing report of 6 February 2017 the examiner argues, correctly in my view, that on its own the meaning of this claim is not clear. However, she goes on to state that in the context of the description it relates to left- and right-handed money where right-handed money is exchanged for left-handed money and goods or services, which cannot be created or destroyed independently. I agree with this, though would add that the left- and right-handed money is linked to the creation of left-and right-handed property rights.

#### *Step 2: identify the actual contribution*

- 42 Mr Hay's arguments for the divisional application are the same as those for the parent. He asserts that it is an apparatus in use, for linking the interests of its players together, constituted in six states. He goes on to state, in his skeleton

arguments, that *'An apparatus linking the interests of its players together cannot be identified either with a method of playing a game or with a method of doing business. It is not a method, and it is not specific to either....Money is also an apparatus linking the interests of people together. It is not specific to use in a game or in controlling an economy. It is an apparatus used collectively by people, not a method'*.

- 43 I do not accept these arguments as applied to the divisional application either. While the left- and right-handed money of the invention may take a physical form, for example as left- and right-handed currency tokens, it is clear to me that any such physical form of the apparatus is not crucial to the working of the invention, and in fact there is no detailed disclosure of it in the application as-filed. This points away from the contribution being an apparatus. Furthermore, and as I have concluded above in relation to the parent application, 'an apparatus in use' is just another way of saying 'the use of an apparatus'. To the extent that it can be discerned with any certainty, the contribution of claim 1 resides in the method of using a different type of money, which method involves the creation of left-and right-handed money linked to the creation of left- and right-handed property rights.

*Steps 3 & 4: ask whether the identified contribution falls solely within the excluded subject matter; and check whether the actual or alleged contribution is actually technical in nature*

- 44 Money can be described as having a number of functions, including use as a medium of exchange such as for the payment of goods or services. It is inextricably linked to commercial activities, and I have no doubt in finding that an alternative monetary system is precisely the sort of thing that the business method exclusion of section 1(2) is intended to encompass. The Manual of Patent states, at paragraph 1.34, that the business method exclusion is generic, and also that (at paragraph 1.33.2) *'...business methods are not considered to be restricted to financial or commercial activities, but embrace administrative, organisational and managerial activities'*.
- 45 Furthermore, and applying step four of the *Aerotel* test, from what little information is given in the specification regarding the apparatus used with left- and right-handed money, I can find nothing technical either in the apparatus or in the way it is used. I therefore conclude that claim 1 is excluded from patentability as a method for doing business as such.
- 46 In his skeleton arguments Mr Hay cites a number of patents (relating to, among other things, a moneybox, a cash dispensing apparatus, and a computer implemented method for handling transactions) granted by the IPO, which he refers to as 'legal precedents', in support of his argument that his invention is patentable. Without considering any of the various documents referred to I am afraid that Mr Hay is incorrect on this point: a granted patent does not form a legal authority that is binding on me, nor one that is even persuasive. Furthermore, none relates to the provision of an alternative form of money and I can see no particular relevance in any of them to the present application.
- 47 Mr Hay also refers, in his letter dated 13 February 2017 on the parent application, and also in his skeleton arguments, to a previous decision of the House of Lords,

*Generics (UK) Ltd v Lundbeck A/S*<sup>4</sup>, My understanding of his arguments on this point is that because the patent at issue in this decision involved the resolution of one enantiomer (i.e. chiral form) of a known drug, citalopram, it is the same kind of invention as the present application, which (as is referred to above in relation to the parent application) involves the use of what Mr Hay calls 'chiralkines'. Again, I cannot agree with Mr Hay on the relevance of this decision: the facts and legal issues involved in this case were very different to those of the present application.

#### *Auxiliary claim*

- 48 As with the auxiliary claims of the parent application, I shall only consider this claim with regards to section 1(2). The auxiliary claim (reproduced at paragraph (13) above) relates to an apparatus 'for linking the interests of its players together, which is left- and right-handed money'. Applying the first step of the *Aerotel* test, and to the extent that this claim can be considered clear, I remain of the opinion that it should be construed as, in effect, a claim to the use of an apparatus, and not an apparatus *per se*. In the context of the description I construe 'players' as relating to the people using the money in an economy (and so linking their interests together). The money has six states as defined in the claim, and is linked to the creation of left- and right-handed property rights.
- 49 In my opinion the contribution of this claim remains a method of using a different type of money (step 2), and it follows that I consider this claim is excluded from patentability under section 1(2) as a method for doing business for the same reasons given previously, and that there is no technical contribution (steps 3 and 4).

#### **Compliance date**

- 50 At the hearing I agreed to allow Mr Hay to extend the compliance date of both applications, which he has done, to 17 June 2017.

#### **Conclusions**

- 51 I have concluded that the invention as set out in the claims of the parent application filed on 24/1/17 (see paragraph (7) above) are excluded from patentability under section 1(2) because they relate to a method for playing a game as such, and that the invention as specified in claim 1 of the divisional application (see paragraph (12) above) is excluded under section 1(2) because it relates to a method for doing business as such. I have found the auxiliary claims for each application to be excluded for the same reasons. Furthermore, I have carefully read the specification of each application and can find nothing that might form the basis of a patentable claim. I therefore refuse both under section 18(3).

#### **Appeal**

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

#### **C L Davies**

---

<sup>4</sup> [2009] UKHL 12