

PATENTS ACT 1977

IN THE MATTER OF

Patent Application Number

9809576.3 in the name of

Mr John Angus Spedding

DECISION

1. The present application was filed on the 5th May 1998, claiming priority from an earlier application which had been filed on the 6th May 1997 by Mr Spedding who has acted throughout on his own behalf without professional assistance. Form 9/77 and its fee requesting preliminary examination and search had been filed and accordingly the application was inspected by an examiner. However, though no request for substantive examination had been filed, the examiner deferred searching the application and examined it because he was of the view that its subject matter related to a scheme, rule or method for doing business and as such was excluded by section 1(2) of the Patents Act 1977. This procedure follows from the decision of the Assistant Comptroller in *Rohde and Schwarz's Application [1980] RPC 155* where he held that objections could be raised under Section 18(3) at any time. The examiner's view was communicated to Mr Spedding in a letter dated the 5th June 1998. Mr Spedding responded with a letter of the 29th November 1998 contesting the examiner's objections. Further correspondence failed to resolve the matter and at Mr Spedding's request, the matter came before me at a hearing on the 4th March 1999 which was attended by Mr Spedding and the examiner, Mr John Donaldson.

2. Mr Spedding's application relates to a way of collecting tax. When people die their money would be passed to the Treasury for a set period, for example 10 years. The Treasury would invest the money and at the end of the period split the proceeds three ways, with the original capital being passed to the legatees and the excess divided into tax income for the Treasury and an amount which is reinvested to provide further tax income in the future.

3. I should say at this point that I have not considered the claims of Mr Spedding's application in any detail beyond noting that the single independent claim begins : "A delayed inheritance system is a financial mechanism ". However nothing turns upon this because the point at issue at this stage is not the particular form of the present claims but the rather more fundamental question of whether the application discloses any matter, and therefore whether it could support any claims to an invention, which would not be excluded by section 1(2)(c). This section excludes the following from being an invention for which a patent can be granted :

"A scheme, rule or method for performing a mental act, playing a game or doing business, or a program for a computer."

and adds :

"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 an application for a patent relates to that thing as such."

The question I must answer in this case therefore is, does this application relate to anything more than a method for doing business? Moreover, I am approaching this on the basis that I should refuse the application only if I am certain that it discloses nothing more than a method for doing business and that I should give the applicant the benefit of any doubt in this respect.

4. On that basis the point essentially comes down to what the expression "business" in section 1(2)(c) is to cover, and specifically whether it covers taxation. Mr Spedding argued strenuously, and with great conviction, that the term "business" concerned only commercial business and trading and not systems for raising tax. While the Act does not define "business", the Shorter Oxford English Dictionary includes a wide number of definitions ranging from very broad definitions such as "that about which one is busy" through to more specific definitions including "occupation", "profession", "work", "trade" and "dealings". Mr Spedding was essentially arguing that "business" should mean only the last two of these definitions, and moreover then only in a purely commercial context and I do not think this is right. While I do not for a moment want to

suggest that some of the very broad dictionary definitions of "business" are necessarily appropriate, I believe that taxation systems are methods for doing business because it seems to me that a taxation system, such as the one proposed in the present application, in essence concerns the business of governments and States, and in particular the way in which they might choose to raise revenue. Therefore, since the present application concerns nothing more than details of a proposed taxation system as such, I am in no doubt that it is nothing more than a method for doing business within the terms of section 1(2)(c).

5. That being so, it is clear to me that there is nothing which could support a claim to an invention which would not be excluded and accordingly, I hereby refuse the present application under section 18(3).

6. As this is a substantive matter, any appeal must be lodged within 6 weeks of the date of this decision below.

Dated this 8th day of March 1999.

Derek Haselden

Deputy Director, acting for the Comptroller

THE PATENT OFFICE