kiki Intellectual		BL O/410/22 11 May 2022
Property Office	PATENTS ACT 1977	
APPLICANT	Wally Tzara	
ISSUE	Whether patent application GB1811470.2 is excluded under section 1(2)	
HEARING OFFIC	ER H Jones	

DECISION

- 1 This is a second decision relating to the same issue of whether the invention set out in GB1811470.2 is excluded under section 1(2) of the Act. In my earlier decision (BL O/303/22) I found that the claimed invention clearly encompassed activities which fall within the excluded fields, in particular the field of business methods. However, I found that the claims also covered a device and a method which may be of use in technical fields and that it was possible for the applicant, Mr Tzara, to restrict the scope of his claims so as to eliminate activities within the excluded fields. Mr Tzara was given one month to file amended claims which overcome the various issues set out in my decision.
- 2 Mr Tzara replied by letter dated 5 May 2022 saying that the earlier decision had taken full account of his observations and had taken note of all of his remarks. He filed amended claims which limit the numerical data events to "ones corresponding to a quantity of a technical nature" and capable of producing "a topological network as described in US patent 8301675". US8301675 is the applicant's own patent relating to a computer system for "predicting the evolution of a chronological set of numerical values". He argues that only quantities which are of a technical nature can engender a topological network.
- I considered the meaning of "topological network" at paragraph 18 of my earlier decision. It wasn't clear to be then nor is it clear to me now what this phrase means, so I am not convinced that it has the effect of limiting the scope of the invention to non-excluded fields as Mr Tzara suggests. Even though Mr Tzara accepts in his letter that business methods should be excluded from patentability, he argues that some business methods are technical because of the nature of the data used, for example the temperature of water being a technical quantity even though it can be analysed in the fields of climatology, ecology or economy. I do not accept this it is clear from cases such as *Cappellini's application* [2007] EWHC 476 (Pat) that the use of technical data, which in Cappellini's case were geographical waypoints, does not make it inevitable that an invention falls outside an excluded field. Something more is needed, for example an application or effect in a technical field.
- 4 In my earlier decision I said that if Mr Tzara limits his claims to the field of meteorology, climatology, seismology or cosmology then in my view the contribution

will be technical (as it will then relate to triggering an alert in response to determining a reversal of a trend in observations or measurements that pertain to the physical world). Mr Tzara has not limited the claims so as to eliminate activities within the excluded fields, so it will now be refused under section 18(3).

Appeal

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

Huw Jones Deputy Director, acting for the Comptroller