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5 October 2006

PATENTS ACT 1977

APPLICANT Tony Lawless

ISSUE Whether patent application number GB 0501649.8 complies with sections 1(2) and 14(3)

HEARING OFFICER R C Kennell

DECISION

Background

1 Application no GB 0501649.8 entitled "Electromagnetic manipulation system" was filed by the applicant, Mr Lawless, on 26 January 2005. No search has been carried out because under section 17(5)(b) of the Patents Act 1977 this was not considered by the search examiner to serve any useful purpose, but the application has subsequently been substantively examined. The application has not yet been published by the Patent Office.

2 There has been a lengthy correspondence between Mr Lawless and the Patent Office. I do not need to go into this in detail, but as matters stand Mr Lawless has been unable to overcome the substantive examiner's objections under sections 1(2)(a) and 14(3) of the Patents Act 1977. These state respectively that "anything which consists of a discovery, scientific theory or mathematical method" is not an invention for the purposes of the Act if the application relates to that "as such", and that the specification "must disclose the invention in a manner which is clear enough and complete enough for the invention to be performed by a person skilled in the art".

3 The matter therefore came before me at a hearing on 5 September 2006, attended by Mr Lawless (who is not professionally assisted) and the substantive examiner, Mr Barnaby Wright. The points in issue are to my mind fairly summarized in Mr Wright's last report dated 20 July 2006:

> "The bulk of this application apparently relates to an analysis of the magnetic forces in the universe and how they might be utilized ("manipulated") for various purposes. In particular, the application contains observations regarding the alignment of certain planets about the sun and then makes an assumption that gravity does not exist. This seems to amount to nothing more than a scientific theory which by virtue of section 1(2)(a) of the Act, is not entitled to patent protection. As I have informed you, the Patents Act may offer protection for products, processes and methods of manufacture derived

> from a scientific theory provided that they are capable of industrial application. … In order to obtain protection for such practical applications however, the patent application must comply with section 14(3) by providing a clear and complete disclosure of the product, process or method. It is noted that the application makes reference to experiments with the repulsive forces between magnets and that passing reference is made to matter that might possibly resemble patentable subject matter … . However, if it is found that there is a patentable concept, i.e. one not relating to excluded matter, I do not believe that the disclosure would comply with section 14(3). The disclosure is neither clear enough nor complete enough for the invention, if any exists, to be performed."
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> "In the application, and the many accompanying letters, you report on the observations concerning the generation of sunspots in relation to the alignments of Jupiter, Saturn and the Sun. Based on these observations, an argument is made that gravity does not exist. Instead, it is proposed that gravity is replaced by electromagnetic forces. An argument is also put forward that the various requirements of the Patents Act 1977 are out of date. In your letter of 15 June 2006, you argue that you have provided an electromagnetic manipulation system involving the use of electromagnet forces."

Analysis of arguments

4 At the hearing, it was clear that Mr Lawless felt that he had reached an impasse because he was unable to persuade the Office that his invention worked outside the laws of gravity, despite presenting what he saw as solid evidence that that went against the Office's rules and regulations. He therefore believed that these were standing in his way because they were "all worked out on the laws of gravity". He was insistent that the Office should check the work that backed up the invention, pointing out that he had built a machine around twenty years ago and that his work since then had been directed to finding out why it worked as it did.

5 I explained to Mr Lawless that the function of the Office was essentially to check whether his application complied with the requirements of patent law and that this was where he and the examiner had parted company. The question was not essentially how the machine worked but whether there was enough of a description of the machine to enable someone skilled in the art to make it. I repeatedly asked Mr Lawless to identify whereabouts there was such a description, but, despite maintaining that he had written this out in sufficient detail, he was unable to point me to anything more concrete than some sketchy references to reversing polarity and encasing the machinery (which the examiner has already noted).

6 I also attempted to draw a distinction between the theory underlying the invention and the practical applications that might flow from that theory, emphasizing that, as explained above, a patent cannot be granted for a discovery or a scientific theory as such. However, Mr Lawless believed that the invention was not a theory as he had concrete evidence to back up his observations, and that although he had indeed discovered something it stemmed from the construction of a machine.

7 I am afraid that I am not persuaded by Mr Lawless' arguments. A patent application is at bottom a document which needs to tell the skilled man in the particular art enough for him to be able to put the invention into practice without invention on his own part. I do not think there is anything in the specification which tells a skilled engineer with enough clarity what type of machine needs to be constructed, let alone any detail of how it would be done. Reference was made at the hearing to a diagram which shows some constructional features, but as I understood it Mr Lawless did not regard this as anything more than a starting point for his work.

8 Without sufficient description of the machine, it seems to me that what is left is indeed nothing more than a theory or discovery, despite Mr Lawless' arguments to the contrary. Mr Lawless alleges that he has evidence to back up his observations, but that does not in my view make them any less of a theory or discovery - as opposed to a practical application of the theory or discovery - for the purposes of patent law.

9 As regards Mr Lawless' assertion that the Patent Office's rules are in some way underpinned by the laws of gravity, I do not see how this can be the case, since the Patents Act and the various Rules made under it make no mention whatsoever of such a requirement. I note however that the search examiner in his report of 21 June 2005 considered the invention not to be capable of industrial application (as is required by section 1(1)(c) of the Act) because it operated in a manner which was contrary to well-established physical laws. As was subsequently explained to Mr Lawless, that point has been established by a number of legal decisions. However, the substantive examiner has not raised any objection on this ground and I am not basing my decision on it. It seems to me the fundamental point in this particular case is not whether the machine operates according to well-known physical laws but whether there is in fact a sufficient description of a machine, however it operates.

10 I have read the all the specification and correspondence very carefully (including material within the CDs which Mr Lawless has supplied), but I do not think that they take matters any further. I would emphasise that such checking as I have carried out is directed solely to considering whether the application complies with the requirements of patent law. Despite Mr Lawless' entreaties I have not sought to validate the work underlying his invention – that is not the role of the Patent Office and not one which it is equipped to carry out.

Conclusion and consequences

11 In conclusion I agree with the examiner and I do not see that there is any basis in the application for the grant of a patent. I therefore refuse the application under section 18(3) of the Act.

12 In consequence, in accordance with section 16(1) of the Act the application will not be published. At my request, in a letter dated 7 September 2006, the examiner explained the options that would be open to Mr Lawless depending on how I decided the case. Mr Lawless is welcome to discuss this further with the examiner if necessary.

Appeal

13 Mr Lawless has a right of appeal to the Patents Court against my decision. If he wishes to do this, he should (as required by the Practice Direction to Part 52 of the Civil Procedure Rules) file his notice of appeal with the court within 28 days of the date of the decision.

R C KENNELL
Deputy Director acting for the Comptroller