

## PATENTS ACT 1977

APPLICANT Cammegh Limited

ISSUE Whether patent application GB2111710.6 is  
excluded under section 1(2)(c)

HEARING OFFICER H Jones

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### DECISION

#### Background

- 1 A PCT application was filed in the name of Cammegh Limited on 24 May 2021, claiming a priority date of 22 May 2020. The application entered the national phase early, on 16 August 2021, as GB2111710.6, along with a set of amended claims. The international application was searched in September 2021, published as WO 2021/234179 A1 on 25 November 2021, and GB2111710.6 has subsequently been republished as GB2598668.
- 2 The examiner's opinion is that the claimed invention relates to a method of playing a game, a method for doing business, and a program for a computer. Observations from the applicant and a further set of amended claims have not persuaded the examiner otherwise. Consideration of other issues, such as novelty and obviousness, has been deferred.
- 3 The matter came before me at a video hearing on 14 June 2022. The applicant was represented by Mr Andrew Bridle of Bridle Intellectual Property Ltd. Mr Bridle provided me with skeleton arguments prior to the hearing, and I have taken these into account along with the earlier correspondence on file which may be viewed on the [IPO's file inspection service](#).

#### The invention

- 4 The invention relates to a system that provides an enhancement to the game of roulette. In addition to the conventional game in which players place wagers on the outcome of a single spin of the wheel, players also have the opportunity to place wagers upon a supplementary game and win a share of a progressive prize pool which accumulates over time from losing wagers.
- 5 Figures 1 and 2 of the application illustrate the simplest form of the invention:

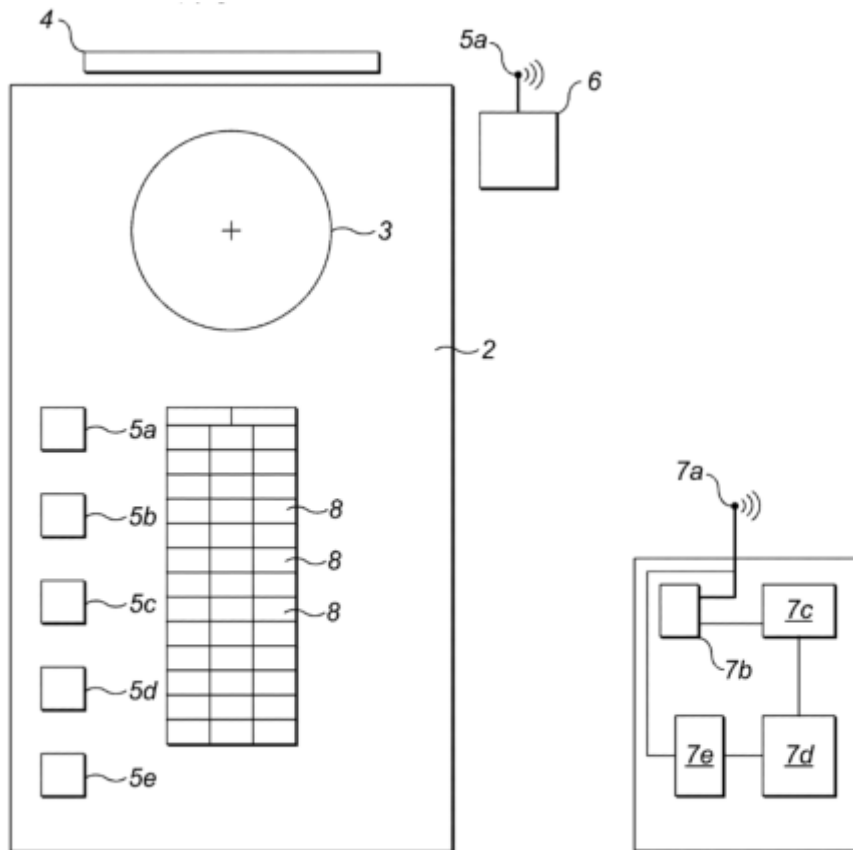


FIG. 1

FIG. 2

6 The roulette wheel 3 is a physical roulette wheel on a table 2. A spin of the wheel generates a random number in a conventional manner. As is standard, wagers can be placed on the outcome of this spin, but the claims are directed towards a supplementary game which can be played alongside the standard game. The supplementary game requires players to place wagers (e.g. in the form of chips) onto a wager receiver area 5a-5e. Details of these wagers are input into an electronic device 6, either manually by a croupier or automatically by sensing properties of the chips. The wager details are sent to a prize pool server (Fig. 2) which allocates a monetary value based on the wagers to a prize pool, the current value of which is presented to the players on a display 4. If the spin of the roulette wheel generates a particular random number then those players who have placed a wager for the supplementary game win a token, but if any other number is spun then the losing wagers are simply used to increase the prize pool. Players use their winning tokens to choose a number from an array of numbers 8 on the table. If the next spin of the wheel matches the number they chose then they win a portion of the prize pool.

7 There are three independent claims, which read as follows:

1. A gaming system comprising a roulette wheel including a rotating wheel and a ball which generates a random number; one or more wager receivers to receive wagers placed by one or more players; a plurality of first winning event tokens; a display; and a prize pool server, wherein the prize pool server includes a data receiver to receive details of the wagers placed by the players via the or each wager receiver, a processor for determining a prize pool and a data storage module for storing data relating to the prize pool; wherein the or

each wager receiver includes a wager input component, wherein the wager input component includes an electronic device into which details of the wagers are entered by a user or which senses one or more properties relating to a chip used to place wagers, and wherein the wager input component is connected to the data receiver of the prize pool server and transmits details of the wagers placed via the respective wager receiver to the data receiver of the prize pool server; wherein the display displays the monetary value of the or each portion of the prize pool; and wherein if the random number generated by the roulette wheel does not satisfy a pre-determined condition a losing event is defined and the monetary value of the wagers placed by the player(s) are added to the prize pool; and if the random number satisfies the pre-determined condition then a winning event is defined and the or each winning player receives one of the first winning event tokens which is used to select a number from an array of numbers that correspond to the numbers of the rotating wheel for a subsequent spin of the roulette wheel, wherein if the random number generated by the roulette wheel on its subsequent spin matches the selected number, a second winning event is defined and the player then wins a portion of the prize pool.

7. A networked gaming system, wherein the networked system includes a plurality of roulette wheels, wherein each roulette wheel has associated with it one or more corresponding wager receivers, a display and plurality of first winning event tokens; wherein the or each wager receiver includes a wager input component, wherein the wager input component includes an electronic device into which details of the wagers are entered by a user or which senses one or more properties relating to a chip used to place wagers; wherein the display displays the monetary value of the or each portion of the prize pool; wherein the networked system further includes a common prize pool server, wherein the prize pool server includes a data receiver to receive details of the wagers placed by the players via each wager receiver, a processor for determining a prize pool and a data storage module for storing data relating to the prize pool; wherein each wager input component is connected to the data receiver of the prize pool server and transmits details of the wagers placed via the respective wager receiver to the data receiver of the prize pool server; wherein the roulette wheels each include a rotating wheel and a ball which generates a random number; wherein if the random number generated by each roulette wheel does not satisfy a pre-determined condition a losing event is defined by that roulette wheel and the monetary value of the wagers placed by the player(s) in connection with that wheel are added to the prize pool; and if the random number generated at a table satisfies the pre-determined condition then a winning event is defined and the or each winning player in connection with the roulette wheel that generated the winning event receives one of the first winning event tokens which is used to select a number from an array of numbers that correspond to the numbers of the rotating wheel for a subsequent spin of that roulette wheel that generated the winning event, wherein if the random number generated by the roulette wheel on its subsequent spin matches the selected number, a second winning event is defined and the player then wins a portion of the prize pool.

8. A networked gaming system wherein the networked system includes a master physical roulette wheel; one or more electronic gaming terminals (EGTs), wherein each EGT includes a respective wager receiver which

receives data relating to wagers placed by a respective player and a display; and a common prize pool server, wherein the or each wager receiver includes a wager input component, wherein the wager input component includes an electronic device into which details of the wagers are entered by a user or which senses one or more properties relating to a chip used to place wagers; wherein the display displays the monetary value of the or each portion of the prize pool; wherein the prize pool server includes a data receiver to receive details of the wagers placed by the players via the respective wager receiver, a processor for determining a prize pool and a data storage module for storing data relating to the prize pool; wherein each wager input component is connected to the data receiver of the prize pool server and transmits details of the wagers placed via the respective wager receiver to the data receiver of the prize pool server; wherein the master roulette wheel includes a rotating wheel and a ball which generates a random number; wherein each of the electronic gaming terminals includes a data input which receives data relating to the random number generated by the master physical roulette wheel; wherein each of the electronic gaming terminals includes a data output which transmits data relating to the wagers placed by a user to the data receiver of the prize pool server; and wherein each of the electronic gaming terminals includes a plurality of electronic first winning tokens; wherein if the random number generated by the master physical roulette wheel does not satisfy a pre-determined condition a losing event is defined and the monetary value of the wagers placed by the player(s) at each of the EGTs is added to the prize pool; and if the random number generated by the master physical roulette wheel satisfies a pre-determined condition then a winning event is defined and the or each winning player at one or more of the EGTs receives one of the electronic first winning event tokens which is used to select a number from an array of numbers that correspond to the numbers of the rotating wheel for a subsequent spin of the master physical roulette wheel, wherein if the random number generated by the master physical roulette wheel on its subsequent spin matches the selected number, a second winning event is defined and the player(s) who selected the winning number then wins a pre-determined portion of the prize pool.

- 8 In simple terms, claim 1 defines a single-table arrangement which operates as I have described above. Claim 7 is directed towards an arrangement in which there are multiple roulette tables sharing a common server and a common prize pool. Claim 8 relates to a slightly different arrangement in which there is a physical roulette wheel but the players enter their bets, view the value of the prize pool, and receive electronic tokens via electronic gaming terminals which communicate with a server.

### **The law**

- 9 Section 1(2) of the Act lists certain categories of subject-matter which are excluded from patent protection.

*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) ...
- (b) ...
- (c) a scheme, rule or method for...playing a game or doing business, or a program for a computer;
- (d) ...

*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.*

10 The test for establishing whether a patent application relates to one of these excluded categories is set out in the Court of Appeal's judgement in *Aerotel*<sup>1</sup>. The steps of the test are as follows:

- (i) properly construe the claim;
- (ii) identify the actual contribution;
- (iii) ask whether it falls solely within the excluded subject-matter;
- (iv) check whether the actual or alleged contribution is actually technical in nature.

11 In *Symbian*<sup>2</sup> the Court made clear that the question of whether a computer implemented invention is patentable has to be resolved by asking whether it reveals a technical contribution to the state of the art.

### **Argument and Analysis**

12 Though the examiner has raised a few concerns about how to correctly construe the claims, I do not consider that Mr Bridle and the examiner disagree in any material way on this point. Indeed, Mr Bridle did not specifically address me on those concerns in the hearing. What is really at issue here is a disagreement over how to characterise the actual contribution, and whether that contribution falls solely within the excluded fields.

13 The examiner's view is that the contribution is:

A gaming system and networked gaming system comprising a roulette wheel such that if a spin of the roulette wheel produces a losing event then the monetary value of wagers placed by the player(s) are added to prize pool; and if a spin of the roulette wheel produces a winning event then each winning player receives a token which is used to select a number from an array of numbers, such that if the number of the selected token matches the result of a subsequent spin of the roulette wheel then a second winning event is defined and the player wins a portion of the prize pool.

14 The examiner has largely focussed on the detail of the game-play, but Mr Bridle sees things somewhat differently. Mr Bridle clearly accepts that this invention is about a roulette game – it would be impossible to argue otherwise – but he says that the contribution is actually the hardware which makes it possible to play the new game.

15 *Aerotel/Macrossan*<sup>3</sup> helpfully highlights the critical factors that need to be considered when identifying the contribution:

*"The second step – identify the contribution - is said to be more problematical. How do you assess the contribution? Mr Birss submits the test is workable – it is an exercise in judgment probably involving the problem said to be solved, how the invention works, what its advantages are. What has the inventor really added to human knowledge perhaps best*

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

<sup>2</sup> *Symbian Ltd v Comptroller-General of Patents* [2008] EWCA Civ 1066

<sup>3</sup> At paragraph 43

*sums up the exercise. The formulation involves looking at substance not form – which is surely what the legislator intended.”*

- 16 It is important to note that there is, in principle, a distinction between contribution and inventive step, but nevertheless an assessment of what the inventor has added to human knowledge implicitly involves some consideration of the difference between the invention and the prior art. The international search report lists four documents said to be relevant for the purposes of novelty or inventive step. At the hearing Mr Bridle took me through these documents in some detail with the aim of demonstrating that the arrangement of hardware used by the claimed invention is in fact novel, and that as a consequence the contribution is more than just the rules for playing a new game.
- 17 Of the four documents, the examiner considers that three disclose the same combination of hardware as that used in the application, but he has only discussed one in any detail in his examination report, presumably because he thought it to be the most relevant. Mr Bridle concurs that CA3105418 (TCS John Huxley Europe Limited) is the most relevant prior art, so it makes sense for me to direct my attention to his arguments with respect this document first.
- 18 I do not think there can be any doubt that CA '418 describes a roulette game which uses a live casino roulette table<sup>4</sup> and allows players to place side-bets on an auxiliary progressive jackpot game<sup>5</sup>. Furthermore, it is clear that the side-bets are registered, possibly with a sensor, and there is a game computer interfaced with the table<sup>6</sup> and in communication with a remote server<sup>7</sup>. There is also a display<sup>8</sup> which shows the value of the progressive jackpot.
- 19 Mr Bridle accepts all of this, but he explained to me that there is a fundamental difference between this prior art and the current application. In a nutshell the difference is this; in CA '418 the winner of the jackpot is chosen randomly by a processor, whereas in the current application the winner of the jackpot is determined in response to the occurrence of an event. The key point he draws from this is that the auxiliary game in CA '418 does not require, and in fact clearly teaches away from, the use of the so-called “winning event tokens” referred to in the claims. As I explained earlier, these tokens are awarded to players who have placed a wager on the jackpot game when a certain predetermined number occurs on the roulette wheel, and they are used to play for the jackpot in the next spin of the wheel. Accordingly, his submission is that there is a difference between the hardware in CA '418 and the hardware in the application, that difference being the winning event tokens. Mr Bridle accepts that the difference is a small one, but he says that nevertheless the contribution must be seen as a new system.
- 20 I put it to Mr Bridle at the hearing that CA '418 does in fact disclose the use of tokens. After all, CA '418 says that the players use tokens to register a side-bet in the auxiliary jackpot game<sup>9</sup>. Mr Bridle’s response is that the tokens referred to in CA '418 are just standard betting chips, and that in the invention there are two types of token - the chips used to place wagers, and the winning event tokens. In other words, the

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<sup>4</sup> Page 3 lines 7-8, lines 27-34

<sup>5</sup> Page 5 lines 29-30, page 6 lines 9-10, page 7 lines 14-17

<sup>6</sup> Page 5 lines 32-24

<sup>7</sup> Page 5 lines 34-37

<sup>8</sup> Page 6 lines 35-36

<sup>9</sup> Page 8 lines 32-33

“winning event tokens” are different physical elements to the chips that are used to place bets.

- 21 In my view there is a flaw in Mr Bridle’s argument about the winning event tokens. What makes these tokens “different” is simply that they are awarded to players when a particular event occurs in the game. Though the claims are silent on the point, I should say that it appears from the description that these tokens may be provided in particular colours, but to my mind this is a trivial difference that does not result in the tokens being something physically or technically different. In any case the use of chips/tokens in various colours is well known in roulette, and moreover is actually disclosed in CA ‘418<sup>10</sup>. The winning event tokens introduce nothing new in terms of hardware; they are merely tokens.
- 22 Mr Bridle’s skeleton arguments and his submissions at the hearing focussed on claim 1, but as I have mentioned above the other independent claims define different arrangements of hardware. Claim 7 can be easily addressed. It is, as the examiner pointed out, narrower in scope than claim 1 in that it includes multiple physical roulette tables, but with a common prize pool and server. This is an arrangement of hardware clearly taught in CA ‘418<sup>11</sup>.
- 23 Claim 8 requires a physical roulette wheel, but players interact with the game via EGTs (electronic gaming terminals) which each include a wager receiver and a jackpot display. Accordingly, in claim 8 there are no physical tokens; they are electronic. I raised this point briefly with Mr Bridle and the hearing and he appeared to concede that his argument does not apply to claim 8. Regardless, CA ‘418 clearly contemplates a progressive jackpot game associated with a live casino roulette table in which the players place their bets and view the value of the jackpot remotely via computer, mobile phone or other terminal<sup>12</sup>.
- 24 In summary, it is clear to me that there is no combination of hardware in any of the claims (including the dependent claims) which is not shown in CA ‘418.
- 25 I can be brief in my comments on the other documents listed on the international search report.
- 26 The examiner has not relied upon US2012/322529 (Gilbertson), Mr Bridle considers it of little relevance, and I see no need to disagree.
- 27 With regards to US2009/0170595 (Walker), Mr Bridle’s submission is that it is about baccarat and not roulette. I pointed out to Mr Bridle at the hearing that there are references to physical roulette wheels<sup>13</sup>, but his view is that these are “throw-away” statements and there is no specific disclosure of roulette wheels in combination with the other hardware features required by the claims of the current application. I do not think this is correct. While US ‘595 is described using baccarat as an example, it is perfectly clear that the disclosure is equally applicable to betting on the outcomes of a game of roulette at a physical table<sup>14</sup>. US ‘595 allows players to bet on a progressive jackpot, the value of which is calculated and displayed to the players<sup>15</sup>. The table includes sensors for determining when wagers are placed, and there is a

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<sup>10</sup> Page 11 lines 32-36

<sup>11</sup> Page 4 lines 18-20

<sup>12</sup> Page 3 lines 7-10 and lines 20-22

<sup>13</sup> Paragraphs [0149]-[0150]

<sup>14</sup> Paragraphs [0171]-[0172]

<sup>15</sup> Paragraphs [0111],[0209]-[0211]

server which performs all the necessary calculations<sup>16</sup>. There are even two different types of token<sup>17</sup>.

28 Finally, while Mr Bridle accepts that US9327186 (Pecenik) relates to physical roulette table<sup>18</sup>, he says that there cannot be a prize pool server as the game in US'186 doesn't involve progressive jackpot. Mr Bridle did accept at the hearing that US '186 discloses a processor, but not a server that stores data relating to the prize pool. As per my response to his earlier argument about the winning event tokens, a prize pool server is merely a server - it does not become a technically different piece of hardware because it is programmed to calculate the value of a prize pool. I agree with the examiner that US '186 includes all the hardware defined in the claims; there is a server<sup>19</sup>, means for receiving wagers<sup>20</sup>, displays<sup>21</sup>, and even two types of token<sup>22</sup>.

29 I absolutely agree with Mr Bridle that there are substantial differences between the prior art the current application. Had this decision been about novelty and inventive step then Mr Bridle would most likely have persuaded me, but that is not the issue before me. Mr Bridle has tried to characterise the differences as differences in the hardware, but to my mind the differences are just difference in what the hardware is used for. The hardware is simply a physical roulette table, an electronic means which receives details of wagers and can send the details to a server, and a display. That combination of hardware features is shown in the three documents discussed above. It is quite possibly shown in more documents; I note that the examiner has not conducted any search for the purpose of identifying the contribution.

30 So, if it is not a new combination of hardware that has been added to the stock of human knowledge, what does that leave, and what is the actual contribution? I accept that hardware is involved in the playing of the roulette game, but for the reasons set out above I consider the contribution to be essentially what the examiner says it is. That being the case there is plainly no contribution beyond a scheme, rule or method of playing game.

31 Having concluded that the claims are excluded as relating to a method of playing a game I see no need to consider whether they are also excluded as a computer program or business method, not least because Mr Bridle has made no specific or additional submissions on these points. The game exclusion certainly seems to me to be the most appropriate of the exclusions in this instance.

## **Conclusion**

32 I have found that the claimed invention is excluded from patentability under section 1(2)(c) because in substance it relates to a method of playing a game as such. As such I refuse the application under section 18(3).

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<sup>16</sup> Figures 10,13, and paragraph [0134]

<sup>17</sup> Paragraphs [0049]-[0052]

<sup>18</sup> Figures 1,5A,5B, column 3 lines 11-12

<sup>19</sup> Column 8 line 20 – column 9 line 13, or 428 in figure 5A for instance.

<sup>20</sup> Column 8 lines 4-6, or 416 in figure 5A

<sup>21</sup> 420, 430 in figures 5A,5B for instance

<sup>22</sup> Column 7 lines 20-27



## **Appeal**

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

**Huw Jones**

Deputy Director, acting for the Comptroller