

## **Excluded subject matter: UK court revises a technical effect signpost**

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A recent decision of the UK Court of Appeal concerning an Apple, Inc, patent for the management of multiple touches on a touch screen device has resulted in a small but notable change to the test for whether or not a software invention is excluded from patentability in the UK.

The patent concerns the use of flags associated with parts of the display screen which are used to determine how multiple simultaneous touches of the display screen are handled (preventing touches being reported to applications in certain circumstances).

As well as other findings regarding inventive step, the Court of Appeal decided that the invention avoided exclusion from patentability as a computer program. In doing so, the court broadened one of the technical effect signposts often used in the test for excluded subject matter. In particular, a signpost which previously specified that a technical effect might be found in an invention which makes a computer faster or more reliable, was broadened to include inventions which make the computer more efficient and effective as a computer.

The court went on to decide that the Apple invention was not excluded as a computer program because, among other things, dealing with multiple touches is a technical problem, the invention provides a better device irrespective of the applications operating on the device, and the invention greatly simplifies the programming of applications for a device with a display screen capable of receiving multiple simultaneous touches.

Whilst not representing a step change in the interpretation of the exclusions from patentability in the UK, the decision does provide guidance on the interpretation of previous case law. In addition, the decision is of specific relevance to software inventions, at or around the operating system level, which make the programming of devices more straightforward.

The full decision can be found [here](#).

If you have any queries regarding the patentability of software inventions, then please contact our [Russell Sessford](#).