

SIXTY-FIFTH SESSION

***In re* BERGDAHL (No. 2)**

(Application for review)

Judgment 948

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 855 filed by Mr. Sven-Erik Bergdahl on 25 February 1988, the reply of the European Patent Organisation (EPO) of 13 May, the applicant's rejoinder of 14 July and the Organisation's surrejoinder of 30 September 1988;

Considering Article II, paragraph 5, of the Statute of the Tribunal;

Having examined the written evidence;

CONSIDERATIONS:

1. The complainant, a search examiner at the European Patent Office, is applying for review of Judgment 855 of 10 December 1987, which dismissed his claim to the grant of a higher step at the date of his appointment on the strength of his prior professional experience.
2. In support of his application he argues that the Tribunal committed a "material error" in that it cited Judgment 657 of 18 March 1985 (*in re* Metten and others), which in his submission has no bearing on his own case. In his rejoinder he enlarges on his contention that the reasoning in Judgment 855 was utterly mistaken in law.
3. The Organisation's answer is that the complaint is irreceivable because it is just an attempt to reopen a matter that is *res judicata*, and it cites Judgment 442 (*in re* de Villegas No. 4) of 14 May 1981, which stated the quite exceptional grounds on which a party may apply for full or partial review of a judgment.
4. As the Organisation observes, the complainant fails to cite any admissible grounds for review. In Judgment 855 the Tribunal went thoroughly into his position and his pleas, and it dismissed his case in keeping with precedent that was at the time already well-established. The purpose of his present application is to get the Tribunal to change its mind by seeking to refute its reasoning and show the case law it cited to be irrelevant. What he is alleging is a mistake of law, and that does not constitute admissible grounds for review.
5. Being irreceivable, the application fails.

DECISION:

For the above reasons,

The application is dismissed.

In witness of this judgment by Mr. Jacques Ducoux, President of the Tribunal, Mr. Héctor Gros Espiell, Deputy Judge, and Mr. Pierre Pescatore, Deputy Judge, the aforementioned have signed hereunder, as have I, Allan Gardner, Registrar.

Delivered in public sitting in Geneva on 8 December 1988.

(Signed)

Jacques Ducoux
H. Gros Espiell

P. Pescatore
A.B. Gardner

Updated by PFR. Approved by CC. Last update: 7 July 2000.