

EIGHTY-SECOND SESSION

In re Popineau (No. 14),

(Application for review)

Judgment 1592

The Administrative Tribunal,

Considering the fourteenth complaint filed by Mr. Gérard Popineau against the European Patent Organisation (EPO) on 13 October 1996;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. In this complaint, his fourteenth, Mr. Popineau is applying to the Tribunal for the review of Judgment 1540 of 11 July 1996 and asking it to allow his ninth complaint against the EPO. In that complaint he asked the Tribunal to send his case back to the Organisation so that he might reply to an article that had appeared in its *Gazette* and to award him material and moral damages and costs.
2. The Tribunal rejected his ninth complaint in Judgment 1540 for the reasons it had stated in Judgment 1363. It ruled that the passages in the article that he found libellous merely reflected the content of 1363 and reported the Tribunal's findings on the evidence entered by both parties. It concluded that, being *res judicata*, those findings were "no longer challengeable" but "binding on both parties as true statements of fact". Any issue ruled on in Judgment 1540 is again *res judicata*. As that judgment said, the only challenge that the Tribunal will allow, by way of exception, is an application for review based on some admissible plea.
3. Some of the complainant's pleas in this application are about Judgment 1363, not 1540. Since he is seeking review of 1540 they are irreceivable.
4. He objects to the reference in 1540 to "evidence entered by both parties" and alleges that there was no evidence to suggest that a firm known as "Gérard Popineau Consultants" appeared in the business register in France. He thereby reveals misunderstanding of the *ratio* of 1540, which does not depend on any such entry in the register. So the complainant's argument is that the Organisation is unable to produce a "crucial" piece of evidence that would prove the existence of such entry is utterly irrelevant.
5. He pleads "grave breaches" of due process in his ninth complaint. But the only one he cites is the rejection of his application for hearings. As the Tribunal has said time and again -- for example in Judgment 442 (*in re* de Villegas No. 4) -- failure to hear evidence is not an admissible plea for review. So his plea fails.
6. Being "clearly irreceivable", the complainant's application for review must be summarily dismissed under Article 7 of the Rules.

DECISION

For the above reasons,

The application is dismissed.

In witness of this judgment Sir William Douglas, President of the Tribunal, Mr. Michel Gentot, Vice-President, and Mr. Edilbert Razafindralambo, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 30 January 1997.

(Signed)

William Douglas
Michel Gentot
E. Razafindralambo
A.B. Gardner

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