Application for Permission to Appeal

Court of Appeal

BETWEEN:

The Queen

(on the application of Dr Philip L Davies)

Appellant/Claimant

-and-

1. Secretary of State for Foreign and Commonwealth affairs

2. Secretary of State for Business, Energy and Industrial Strategy

Defendants/Respondents

SKELETON ARGUMENT ON BEHALF OF THE APPELLANT/CLAIMANT APPLICATION FOR PERMISSION TO APPEAL AGAINST HIGH COURT JUDGE'S ORDER: 1 OCT 2019 – PERMISSION TO APPLY FOR JUDICIAL REVIEW IS REFUSED; THE APPLICATION IS CONSIDERED TO BE TOTALLY WITHOUT MERIT (SIR WYN WILLIAMS).

Updated 02 July 2020, 20.15 pm

Introduction and details of the matter being challenged

I, Philip Davies, in support of a campaign to "save the Outer Space Treaty", have for nearly 10 years been publicly claiming actual possession of land on planet Mars. This claim is based on actions that I consider to be consistent with the minimal requirements (in both public international and private law) for proof of possession of difficult, distant, predominantly barren land. I have since been joined in the claim by many people (now, very deliberately, a pan-multinational communal claim, involving people from all 195 world nations), with the communal claim still based on one sustained act of possession. On the basis of an international human right to property

(thus a right to have opportunity to acquire property), plus a national/European human right to protect a possession/property (as per the European Convention of Human Rights, incorporated into national law by the Human Rights Act 1998), I have requested that the UK government facilitates access to international legal appraisal (due process) for this communal claim. This request does not involve any promotional support from UK Government. The UK Government, although agreeing in writing with some of my campaign goals, has refused to act on my request.

I, the claimant, challenged the refusal of Foreign & Commonwealth Office (FCO) to either:

A/ submit claimant's "communal" property claims to land on Mars to a UN committee (COPUOS); or

B/ attempt to find an alternative pathway towards international legal due process for the consideration of the claims.

This refusal was articulated on 18 March 2019 in a formal letter of reply from David Edmondson, Policy Head, Space Security and Advanced Threats, Security Policy Department, Foreign and Commonwealth Office (Bundle Section A, pages 11-12). I challenged the decision and on 17th April 2019 Mr Edmondson confirmed by email that the UK Government position would not alter.

I then followed the Judicial Review Pre-Action Protocol. I issued the defendant with a detailed 'letter before claim'. On 15th May 2019, I received an emailed reply (PDF document) from Mr Joe Vester on behalf of Governmental Legal Department. Mr Vester stated that the claim would be resisted in full and also stated that any application for protective costs order would be resisted.

Subsequently I served my application for permission to apply (plus bundle) for JR to the court and to the respondents. The respondents in turn supplied their Summary Grounds of resistance. I maintained communication as best I could with the court office, but after the departure of my key contact (Iain Carr) in late August 2019, I received no further email replies to my attempts at correspondence.

On 1st October 2019, Sir Wyn Williams (as High Court Judge) issued his decision that permission for Judicial Review was refused; the application was considered to be totally without merit.

I did not receive any written letter or email communication from the Administrative Court with respect to this decision.

The court office had previously been sporadically helpful with my email and telephone inquiries, but I heard nothing from them after 19th August 2019. I gather this was because my previous administrative contact, Iain Carr, had left the Administrative Office. After receiving an automated email informing me of Iain Carr's departure from HMCTS (dated 24 September 2019), I was obligated to use an alternative email address which never replied: (administrativecourtoffice.caseprogression@hmcts.x.gsi.gov.uk).

Thinking the judge's decision on my papers was still pending, I sent a further letter and email (with further information in support of my claim) to the court office on 17th October. There was no reply from the court.

On Friday 15th November I received a letter from the Government Legal Department (Jennifer Lashley) demanding payment of costs. A copy of the High Court decision was included in that letter. This was a shock for me ... I realized that my claim had foundered at the first hurdle and it was already 6 weeks after the decision, well beyond the accepted 7 days for appeal.

On Monday 18th November I eventually got through to the Administrative Court Office by telephone, where I got further confirmation of the court decision. I was informed that a letter containing this decision had been sent to me by normal unrecorded post! This was entirely unsatisfactory. I protested that for such an important matter that had already cost me a lot of money, surely a recorded mail delivery would be required. Surely an accompanying email would also be sent. I was advised that neither of these delivery methods were normal practice. I did accept that in living in a small apartment block with communal mailbox for five apartments, it was

an occasional truth that mail went missing. I suggest that such "missing mail" would not occur if mail was registered.

On Tuesday 19th November 2019, I sent my hastily prepared Appellant's Notice by special delivery to Civil Appeals Office Registry (together with crossed cheque, Grounds for Appeal, skeleton argument, plus copies of original decision, N461, Summary Grounds of Resistance, original claim skeleton argument).

On Monday 2nd December I sent a further loose letter by normal mail and by email to the Civil Appeal Office Registry (with some further information/indexing to complete the bundle required).

Having been used to very sporadic communication from the previous court office, I was not surprised that by late January 2020 I still had no communication about the permission to appeal. On 17th February and again on 5th March I sent emails (confirmed received) to the civil appeals office (civilappeals.cmsc@justice.gov.uk), asking about the status of my application for permission to appeal. I got no reply by post or email. I also tried on at least three occasions to get through by telephone to the office. This was fruitless. Being a medical doctor, I have been otherwise distracted by Covid 19 since then. My latest and last email communication last week (copied also to civilappeals.registry@justice.gov.uk) was kindly answered by Mr Chowdhury. He suggested that papers were lost in the post and requested I resend my papers and cancel the old cheque). With recorded delivery the papers should not have been lost.

I was content to send all papers again. I request that the Judge favourably assesses this lengthy time extension request, given that I did submit the original Appellant's notice within a week of knowing the Judge's decision.

Thus, I apply for permission to appeal against the High Court Order (i) and the reasons provided by the judge (ii and iii):

i. Permission is hereby refused; the application is considered to be totally without merit.

ii. The Summary Grounds of Defence are compelling. They explain in detail but clearly why the claim has no prospect of success. I cannot do justice to the points made in the Summary Grounds of Defence by providing my own summary and so I adopt those grounds as my own reasons for refusing permission.

iii. I do not consider that the Claimant's letter of 15th August detracts from the compelling nature of the defence. I am not surprised that the focus of the defence does not relate to the European Convention on Human Rights but paragraphs 41 to 43 of the Summary Grounds deal with the ECHR sufficiently.

Essential reading

The Outer Space treaty 1967

The Outer Space Act 1986

Human Rights Act 1998 & EHCR Articles 6, 14 and 1st Protocol

Website pages: http://mars.sale/legal-issues and http://mars.sale/media

The linked website pages (above) provide comprehensive information on the claim.

Background facts

1. Since March 2010 I, the claimant/appellant have, through physical and administrative actions, publicly claimed actual possession of Planet Mars and all land therein. This original claim to celestial land was based on physical and administrative actions that were designed to satisfy the threshold criteria for occupation/possession to be recognised under international (and private) law. It has grown into a pan-multinational communal claim to actual possession of all land on Planet Mars (Claim 1). I have, since 2017, developed two further Martian claims to form a bundle of three discrete claims ("the claims"). The two additional claims concern priority rights to Martian resources and priority rights to temporo-

spatial slots which approximate to the surface of Mars. I have stated that these two further claims need not apply if the original land claim (Claim 1) proves successful in gaining registration of title into trust (with a United Nations body requested to act as trustee).

2. I am a full time medical general practitioner (GP) and a former senior medical officer in the Royal Air Force. With a pre-existent interest in both space flight and astronomy, in January 2010 I became aware of the threatened status of the Outer Space Treaty 1967 (OST: formal title is the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies). New national space laws, largely embracing commercial intent and space exploitation, were in development. The facilitation of space commerce is no doubt vital for the further evolution of space exploration, but these new national laws were destined to damage the integrity of the Outer Space Treaty. Looming space weaponization (most space faring nations agree this is now inevitable) would lead to further weakening of the treaty. Why did this matter? Given that this treaty is the only piece of hard law that attempts to prevent aggressive weaponization of space (and explicitly bars nuclear weapons and other WMDs), it is rather important to maintain its relevance and strength.

3. In February 2010, I realised that my efforts to lobby UK government and UNOOSA (United Nations Office for Outer Space Affairs) had no likelihood for success. I had campaigned for either an update to the OST or a new "hard law" that could have strength against aggressive space weaponization and ideally govern space exploitation and space debris mitigation. I devised a plan that might give my campaign some legitimate leverage.

4. I realised that for national governments, greed for acquisition and prosperity trumps any desire for universal peace. If I could agitate that greed, perhaps we could jolt COPUOS (the United Nations Committee for Peaceful Uses of Outer Space: the body which agreed the triumphant Outer Space Treaty in 1967 but has dismally failed, in 53 years of trying, to update it for the purposes of 2020 and beyond). We hoped this jolt could be enough to trigger a worthy update to space

law, in order to facilitate space commerce but keep the environment safe from weapons/debris and enable opportunity for as yet non-space-faring nations.

5. In developing a plan for a sufficiently legitimate claim to actual possession of a celestial body, I opined that access to legal due process should not easily be barred: there exists an international, European and UK right to protect a possession/property. The right to disposal of property brings with it the reciprocal right to have opportunity to acquire property (whether earthly or celestial). Such a legal process was likely to attain considerable media focus, hence providing opportunity to raise awareness of the progressive weakening of the OST. I opined that if the claim was sufficiently well crafted with a transparently positive strategy, the international legal due process may even regard it favourably. The claim would necessarily become a communal claim (based on one sustained act of Martian land possession). This meant that by use of a website and social media, I was initially able to attract hundreds of international co-claimants. Most co-claimants joined the campaign on a no-cost basis although there are now some priced land claim certificates (£7), which serve to fund the future legal due process. Given that no celestial registry currently exists, I anticipated the need for either a bespoke international court/registry appointed by UN or consent via the UN to initiate arbitration through the Permanent Court of Arbitration in The Hague (PCA).

6. The fully successful outcome of the claim was imagined as the registration of Martian land into a trust, with a UN body appointed to act as trustee, co-claimants becoming beneficiaries, and (since a strategic change in the claims since in 2017) the owned land being held open as “common land.”. UN would have the preferential right to acquire (in addition to the legal land title) all beneficial land shares, contingent on delivering a successfully ratified update to OST and payment of nominal fee to all co-claimants. This strategy is declared in my formal Declaration of Intent (which is issued to all co-claimants) and throughout the website (http://marsregister.org).

7. I understood that general international law applied to space and celestial bodies, as per Article III of OST. International law has, over the last one hundred years, agreed the criteria required to acquire new land territory, depending on the geographical/geological nature of the land involved. Effective occupation (and land use) was the key for nations to acquire new territory. If the land was of low quality (usually distant and relatively barren), then there was a much lower proof requirement for effective occupation to be recognised by an international court. There was no formal requirement for settlement (see the cases of Las Palmas Island, Clipperton Island and Eastern Greenland). Similarly, in private law, with actual possession being the equivalent of effective occupation, a squatter in adverse possession did not necessarily have to inhabit the claimed land if it was of a rather difficult or barren nature. Whether in public international law or private law, the acquisition of unregistered difficult/barren land required the sustained demonstration of intent to possess/occupy and some early measures to control or benefit the land in order to make it ready for future use or settlement. The best summation of the required criteria for proof of 'effective occupation' of three variants of land quality (and how this might apply to celestial land acquisition) is the famous 1963 paper by Professors McDougal, Lasswell, Vlasic and Smith: The Enjoyment and Acquisition of Resources in Outer Space.

8. Thus, I investigated measures by which I might, using existing international law as a guide, gain actual possession of celestial land. As an amateur astronomer, I had already employed low strength laser pointers in the course of locating and demonstrating the celestial positions of stars and the near planets. Through research (covering mathematics, physics, chemistry and biology), I estimated that high strength laser light could be applied safely from Earth to Mars and provide a very small benefit to the planet. High power laser applications to Mars would effect CO2 sublimation (from solid ice to gas), a phenomenon that is widely viewed as a viable option for the terraforming of planet Mars. Such sublimation, if done on a much bigger scale (see Elon Musk's interview on the option to deploy thermonuclear explosions over the Martian poles to get CO2 sublimation via "the fast way") would lead to a warming atmosphere. Just a few degrees temperature

rise may in turn generate a greenhouse effect which would help to deliver an atmosphere on Mars, sufficient to avoid the human need for pressure suits.

9. Since 2010, I have been regularly applying high power laser light to Mars (portable lasers, providing blue or red laser light, up to 3500mW when fixed to an astronomical telescope with a computerised "tracking mount"). With Mars at closest approach, there were 4.4 quadrillion laser photons per second raining down on the surface of Mars. Some of these photons would complete the sublimation and release of CO2 into the Martian atmosphere and might even trigger a high-energy spark to life.

10. Standard operating procedures are strictly observed in order to maintain safety for aircraft and general public. Constant laser applications to Mars are conducted over 15 minutes (average), twice weekly (average). The majority of applications are conducted when the only airport within 40km (TAG Farnborough Airport) is closed. The operation of laser is always in accordance with CAP 736: Operation of Directed Light, Fireworks, Toy Balloons and Sky Lanterns within UK Airspace.

11. Constant Laser applications formed the basis for the claim to possession of all Martian land. In addition to this was the frequent use of programmable high-powered laser Morse code messages, beamed to Mars (declaring our peaceful possession of planet Mars). Further to this effort to demonstrate actual possession to Mars, I developed a comprehensive governance plan for the management of Martian land (should the claim prove successful via international due process). This plan expected UN agreement to act as trustee of Martian land and to attempt an update to OST. Since 2018, contingency plans were developed to provide a workable solution even if UN declined the role of trustee. This plan provided for the communal holding of all Martian land as "common land" (with public rights of access and use) with the formation of an effective user group to act as a governing body/trustee (for commercial exploitation and debris/waste management purposes).

12. I opined that my actions to support a claim of actual possession of celestial land did indeed satisfy the minimal legal criteria, traditionally based on geographical/geological qualities, to acquire distant, difficult and relatively barren unregistered land. I realised that planet Mars, although rather distant and barren, held much higher strategic value than those rather barren islands or polar regions on Earth, but opined that for such strategic value to be weighted within a legitimate assessment of the merits of his communal claim, it absolutely required legal due process in an international court/registry with jurisdiction. Having satisfied myself (with the benefit of expert legal and scientific advice) that our claim could pass the threshold for legitimacy under public international (and private) law, I turned to examine the possible resistance to our claim within "space law". The cornerstone of all space law is the Outer Space treaty (OST). International scholars will variably acclaim the extent that customary law has grown from the 52 years old treaty. My opinion (after some discussion with leading legal experts in space law), was that OST and extended customary law did not in any way block our pan-multinational communal claim to Mars possession. Moreover, it did not block our human right to protect our possession as communally owned property: celestial property.

13. I identified UNCOPUOS (specifically the legal subcommittee, that being the committee that created and agreed the OST) as the natural setting for the initial consideration (for legal due process) of The Mars Land Claim. This was confirmed via email discussions with Mr Niklas Hedman, Chief, Committee, Policy and Legal Affairs Section (CPLA), UN Office for Outer Space Affairs (UNOOSA), Vienna. In March 2017, Mr Hedman stated: "you must have your case presented formally to the Committee on the Peaceful Uses of Outer Space (COPUOS) and its subsidiary bodies, by a State member of the Committee."

14. Over the course of ten years from 2010, I notified UK government, US State Department, and UNOOSA of our claim and issued each with repeatedly updated applications for "First Registration of All land on Planet Mars." In 2016 I intensified my practise with the opening of a website (MarsRegister.org) in addition to the

existing social media sites. In July 2016 I engaged in email conversations (involving the said applications) with Helen Mulvein OBE, Legal Counsellor, United Kingdom Mission to the United Nations. She stated that "The UK Government will not be taking any action on this." She went on to state:

"The provisions of the Outer Space Treaty (Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies) apply to this issue, with Article 2 providing:
'*Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.'*
This applies to Mars, the Moon and any other celestial body."

15. I then approached Clive Hughes, Desk Officer for Space Security and Emerging Technology, Security Policy Department, Foreign & Commonwealth Office. Mr Hughes represented UK Government as delegate to both the legal subcommittee and the full UN-COPUOUS body. He replied by email on several occasions from August to November 2016. He echoed the goals of my campaign, stating:
"I appreciate the intent of your initiative. We too are working to ensure that outer space remains a safe and secure domain, free of conflict, in which productive human activity can be conducted. … Although there are complex challenges to doing so, a new legally binding treaty to update the OST maybe something we can achieve in the future".
Mr Hughes then invoked Articles II and VI of the OST to explain why FCO would not support the claim to "private legal title for land on Mars."
He further stated:
"But we do not believe that attempting to establish legal title to land on Mars (or any other celestial body beyond Earth) is a viable or constructive route towards establishing a new treaty. There are many governments, including the UK, which would disagree with such an approach. … I note your intent would be to pass the land into UN trusteeship at a future date. However, there is no basis for the government to support the ownership-in-trust of celestial lands by the UN. For

these reasons, we cannot support your request for legal assessment of your claim by the UN or any other body. … There is no FCO procedure for complaints of this nature. If you wish to take the matter further, I suggest you seek independent legal advice."

I then replied, challenging the applicability of Articles II and VI of OST, and advising that if Article VI really did apply, then UK government had some national and international obligations to adhere to (under Article VI OST and Outer Space act 1986).

Mr Hughes replied in October 2016: "My apologies for the delay. I will spare you detailed excuses, but I would appreciate it, if you could bear with me for a while longer. These are complex, long-term issues so some internal consultations are in order." Ultimately, in November 2016, he replied by email to inform:

"Our view remains the same as expressed in my email of 25/08/2016. We do not think your approach is the right way to promote the peaceful exploration and use of outer space and, as I mentioned, I am concerned that it could, in fact, be counterproductive.

We will therefore not be presenting your proposal to COPUOS or the GA".

16. I understood that there was no likelihood of resolving the situation, as it stood, without recourse to a judicial review in UK High Court. However, I was by that time formulating a wholly different construct for the Mars Land Claim and its future propagation. Thus, between November 2016 and February 2019, a new construct was imagined. From a single land claim grew three discrete claims (Martian land, priority rights to Martian resources, and priority rights to temporal-geographical slots (approximating to surface of Mars) for purposes of use and/or homesteading. The additional claims are discrete but need not apply if "claim 1" (land) is successful. All claims have now become pan-multinational claims (with people of all 195 nations of the world represented in defined, equitable numbers). This completely changes the nature of the claim. Article 1 of OST prescribes that the use of outer space "shall be the province of all mankind". I assessed this to mean that space was the responsibility of, and for benefit of, *all mankind*, but not necessarily *all nations*. Whilst all states had free access to all space and celestial

bodies, it was the province of *all mankind*. Thus, the newly constructed claim contained free allocations of claim certificates for people of all nations, in equitable numbers (according to population statistics and Human Rights standards). It served to allocate land equitably throughout humankind and establish either UN trusteeship or a user group (AllMankind.org) which would hold legal title and govern Martian activity with a careful but pro-commerce direction. The creation of such a regulatory body was another new element to the claim. In all eventualities, whether the UN chose to engage with the our plan or not, a successful registration of Martian land would result in common land (with open access rights for all) that would be held in trust with a regulatory body in place to advance space commerce but protect celestial land from abusive exploitation and preserve the Martian opportunities for people from currently non-space faring nations. Finally, I also addressed the applicability of articles II and VI of OST again. After much study of the travaux préparatoires, U.S. State department records, scholarly articles and even telephone conversations with the sole surviving drafter of both the UNGA "*Principles Declaration*" in 1963 and OST in 1967 (Dr Craig Eisendrath), I determined that whilst it could be argued that Article VI OST did apply to the claims in question (as per previous FCO positions), that would not serve to block the claim. With new arguments on position and many changes to the original claim, the claimant opined that it was time to approach the UK government anew.

17. The huge raft of changes from the original claim (from 2016 until 2019), plus a changing political climate (Brexit, international reaction to U.S. Commercial Space Launch Competitiveness Act, the new American Space Commerce Free Enterprise Act ("outer space shall not be considered a global commons") plus the new introduction of LaunchUK and The Space industry Act 2018), meant that I sensed opportunity to approach FCO again with new information and a more structured approach in order to gain a more correct understanding (within FCO) of the celestial claims: the key issues for FCO to understand were that there were now three discrete celestial claims, all three being pan-multinational in construct and with a plan for immediate registration of celestial land into trusteeship of UN (or

an elected user group), with all claimed land now to be held as common land with access/use rights for all. I myself, whilst prepared to undertake any role as settlor, trustee, or regulatory body representative, did not wish to obtain any beneficial title for the celestial land claimed (unless legally required). The nature of the three claims was set out in a "Legal Self-Assessment Document" as well as in summary form within a "Declaration of Intent" that all co-claimants signed up to.

18. I approached (by email) David Edmondson (FCO, details above) after being advised by Clive Hughes that he had vacated the space portfolio. In four separate emails the claimant informed Mr Edmondson of the three claims, the pan multinational nature of the claims, and the plans to register Martian land into a trust (ideally with UN as trustee), with all land held open as common land. The defendant was advised on the pressure applied to the UN (within the plan) in order to effect a successfully ratified update to OST. I requested (as per the previous advice from UNOOSA) that Mr Edmondson agree to have the problem of "The Mars Claims" introduced to COPUOS, initially the LSC (legal subcommittee), in order to consider an appropriate pathway to legal due process. This mechanism (presentation of the claims to LSC) did not require, in any way, actual support from UK Government. I demanded that should this request be refused, then an alternative pathway to legal due process must be investigated and suggested. Mr Edmondson spent four weeks "consulting across government" in order to reach a formal letter of reply. On 18th March he stated: "Article VI of the OST sets out that States bear international responsibility for activities in outer space, including where such activities are carried out by private entities. Article II of the Outer Space Treaty provides that '*outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.'* This applies to Mars, the Moon and any other celestial body. Appropriating land on Mars, or any other celestial body, may be regarded as a national activity seeking national appropriation of a part of a celestial body, which would be contrary to the provisions of the Outer Space Treaty. You state an intent to pass the land into UN trusteeship at a future date.

This is not a function of the United Nations and we see no clear basis for government to support the ownership-in-trust of celestial lands by the UN."

19. I attempted to clarify the matter (UN trusteeship was not a vague future ambition, it was built into the application for first registration, such that if the claim was successful the land would be registered into trust with UN being requested to assume trusteeship). I advised that actual possession (=effective occupation) was not barred by OST. I advised that pan-multinational communal possession of celestial land was not barred by customary space law. I noted again that if Articles II and VI OST really did apply to their fullest possible extent, then the defendants (representing UK Government) must consider all of their international obligations that then flow from the OST, especially Article XI. They should also then consider the applicability of the Outer Space Act 1986. They had not done so. I also noted the inclusion of some biased socio-political reasons for refusing to engage with my request, namely their stated dislike for UN Trusteeship in space. I declared the applicability of the Human Rights Act 1998 (covering Articles 6, 14 and Article 1 of the First Protocol, ECHR).

20. Having repeatedly requested that some equitable solution be found (I offered to attend any appointment in person to achieve this), I was unsuccessful in gaining an actual answer to my requests. It is true that the original, rudimentary claim, as dealt with by Clive Hughes, had lead to an official negative answer to my original requests. The new requests (representing the new claims with different constructs) have not been met with any appropriate answer. Nevertheless, from Mr Edmondson's formal reply of 18th March 2019 (as again confirmed by a final email from him dated 17th April 2019), I assumed that there was no willingness by FCO (hence, the defendant) to provide any legal route to consider this claim of celestial property or priority rights.

21. Thus, with no other options available (and a maximum three months window of opportunity after the formal response from defendant), I felt compelled to claim for Judicial Review in the Administrative Court. The letter before claim was my

final attempt to gain access to our rightful opportunity to register the land claimed to be in our (communal) possession - but to no avail. Given that a UK court would not have jurisdiction to assess the full merits of a pan-multinational shared claim to celestial land for purposes of registration into an international trust, I did identify that such legal due process could only occur in an international legal setting. A bespoke court/registry could be formed, under UN direction, for such a purpose. Brooks W Daly, Deputy Secretary General of PCA, has advised claimant that the PCA stands ready to arbitrate in the claim if sufficient consent for arbitration can be gained (from COPUOUS or UNGA). So therefore, the purpose of a Judicial Review was only to ascertain if I, the claimant, do have a legitimate right to access appropriate international legal appraisal and thus have opportunity to protect our pan-multinational communally owned celestial possession/property (or priority rights) via a legal due process with jurisdiction.

22. On 01 October, Sir Wyn Williams (as High Court Judge) ordered: Permission for JR is hereby refused; the application is considered to be totally without merit.

SUMMARIZED: GROUNDS OF APPEAL

23. I appeal against the High Court Order (permission for JR was refused) and the reasons provided by the judge (he simply adopted the Grounds of Defence). I hereby refer to my submitted Grounds of Appeal (filed together with this skeleton argument). The remainder of this document contains a succinct summation of the key points within my appeal.

24. The most accepted means of acquiring new land (previously unregistered) is to prove “effective occupation” (if one is a nation state) or “actual possession” (if one is an individual or group of individuals). This process, conducted effectively in a court or registry with appropriate jurisdiction and consent, serves to protect one’s possession through recognition and/or registration.

25. International, national and human rights laws assert the right to protect possessions/property. Alongside this is the right to dispose of one’s possessions/property. The reciprocal right must be the right to have opportunity to acquire possessions/property.

26. The European Convention of Human Rights (ECHR) is incorporated into our national law by the Human Rights Act 1998. There are no explicit procedural requirements within Article 1 of Protocol 1 of ECHR (‘protection of property’) but over recent years the ECtHR has recognised some narrow procedural guarantees

that do flow from A1P1 (inherent in the principle of lawfulness). The court has also imposed positive obligations upon the state: rather than merely not interfere, the state may be required to take positive measures of protection.

27. It is my understanding that if my communal claim of celestial possession is sufficiently 'actual', then A1P1 of ECHR becomes engaged. For this particular matter, if A1P1 is engaged, then so too is Article 6 ECHR (right to a fair trial).

28. The right to possess and protect land as property is recognised in international law. Such international law does apply to space and celestial land (Article III of the Outer Space Treaty 1967).

29. Thus, if we can satisfy a Judge that our claimed celestial possession is arguably actual, then Article 6 and A1P1 ECHR must apply.

30. The proof requirement to satisfy actual possession (or indeed effective occupation) of difficult, barren land is established in case law as being much less onerous than that required for high quality land (flush with resources and ready for settlement). There is no demand for actual settlement; just a sustained intent to possess/occupy, some attempt at land control and perhaps some early measures to make the land more ready for future settlement and trade. Land quality (rather than strategic importance) has been the key determinant in such cases over the last century.

31. Our sustained application of high powered laser beams upon Mars (at times there are 4.4 quadrillion laser photons raining down on the Martian surface per second) will complete the release of Carbon Dioxide gas (via sublimation from surface 'dry ice') into the atmosphere. This provides a very small benefit towards future terraforming of the planet: a CO2 induced greenhouse effect could result from just a few degrees rise in ambient temperature … this would feasibly enable human activity without a requirement for pressure suits. The use of high-powered laser light (especially blue light) might even provide the high energy spark required for primitive life to emerge.

32. This sustained deployment of powerful lasers is associated with a detailed, well developed plan for the communal ownership of Martian land, held open to all as 'common land' and with legal title being offered (as part of the registration application) to the UN as Trustee. The plan makes provision for a space user group to effectively encourage and facilitate space commerce/exploitation whilst protecting space from weaponization and uncontrolled debris. I suggest that this combination of action and administration for over 10 years does show our claimed celestial possession to be arguably actual (we of course state it is actual).

33. With our celestial claim being arguably actual, we assert that Articles 6 and A1P1 of ECHR must be engaged. We then expect the Judge to recognise a procedural right that must flow from both Articles 6 and A1P1. That right is to have access to

a fair legal appraisal with jurisdiction (hence it must be international or supranational e.g. the UN), in order to have opportunity to protect our possession via legal recognition and registration. To deliver on that procedural right, a positive obligation must fall upon the UK Government: it must attempt to facilitate the introduction of my communal claim to that international court/forum. UNOOSA has already indicated to me in writing that we must have a member state introduce our claim to UN COPUOS, thus enabling a legitimate consideration of our claim. I note also that the Permanent Court of Arbitration have indicated (in writing) that they do stand ready to arbitrate in the matter as required (if consent comes from COPUOS).

34. The UK Government (thus the defendants), can only override their positive obligation to assist if they can show this to be important for public interest/safety or if customary space law can be shown to bar the existence of pan-multinational, communal, celestial property rights (it does not).

35. UN Trusteeship in space with the celestial land being held open for all as 'common land' can surely not be such a negative matter in the public interest. There may be some legitimate concerns with respect to the UN's often over-bureaucratic approach to commercial regulation, but imaginative planning can deal with that. Just as important (if not much more so) is the need for safety and peace in space as well as on Earth. UN trusteeship, together with a safe update to OST, would likely prevent aggressive weaponization of space and enable more effective debris management.

36. There is absolutely no bar to a pan-multinational communal celestial land claim. Even the expanded reach of customary space law does not impede such an entity. Whilst most experts agree that individual nations cannot bestow celestial land rights to their nationals (although the US Space act has dented this opinion somewhat), there is no suggestion that a multinational/supranational body like the UN (and probably ONLY the UN) could not bestow a shared possessory title upon pan-multinational co-claimants whilst retaining legal title itself as trustee. Indeed this would fit well within the OST (especially Article I: 'the province of All mankind' … not necessarily all nations) and also the moon agreement. Indeed, it fits well within all space law, including the current, expanded customary law.

37. The defendants are clearly not sure whether space law does imply that our communal actions/claims are barred by space law. Nevertheless, both they and the Judge have asserted that the view that it might do, is sufficiently tenable to justify their refusal to act positively on my request.

38. If I didn't already have a right to access the appropriate international due process, then perhaps such a tenuous interpretation could be viewed as sufficient for the defendants not to agree to my request … but, I do have such a right. Rather than flowing explicitly from the OST (although it does arise indirectly via OST Article III), my right to a fair trial/appraisal with jurisdiction comes from ECHR (provided it is engaged … and it is).

39. I assert that the positive obligation placed upon the defendants (hence, UK Gov) by Articles 6 and A1P1 ECHR holds greater strength that the ghostly extension of reach that defendants (and Judge) have awarded, without any evidence, to Articles II and VI of OST.

40. I note that in deploying Articles II and VI beyond their fullest accepted reach (and using that as the key reason for refusing to agree to my request), the defendants must openly consider all of their important international obligations that then flow from OST. Article XI must surely apply. This requires the UK Gov to advise the UN Secretary General (and general public/scientific community) of our 'national activities' in space. They should also consider the applicability of Outer Space Act 1986. The defendants have shown no such consideration.

41. Thus, we can clearly state that the defendants and Judge have both erred in law in their consideration/application of Space law and the breaching of Article 6 plus A1P1 ECHR.

42. In their ignorance of Article XI OST and the Outer Space Act 1986, despite applying Articles II and VI OST beyond the furthest accepted reach, they have satisfied the definition of Wednesbury Unreasonableness.

43. In stating their dislike for UN Trusteeship as a reason for refusing to agree to my request, the defendants (and thus the Judge also) have employed such conscious bias as to be discrimination … and therefore, Article 14 ECHR is also breached.

44. I should note that the defendants poured scorn on our hopes that through the Mars Land Claim we might provide a jolt to COPUOS to provide a safe update to space law in order to prevent the imminent weaponization of near space. This diversion was not necessary (it didn't need to be considered as part of the legal challenge) … but we find it laughable that they attempt to discredit our motivations when they and the other state delegates at COPUOS have failed to properly update space law since the Outer Space Treaty 1967 (OST), despite 53 years of trying.

45. In order for the Court of Appeal to know more of the background to my communal celestial land claim, I suggest a visit to our informative website pages:

http://themartians.org

http://allmankind.org

http://marsregister.org

There is detailed legal information here: http://mars.sale/legal-issues

Further Information

- Relevant information can be gained from the claimant's website and social media outlets. There is a 30-minute video presentation by claimant here: http://mars.sale/media
- There is detailed legal information here: http://mars.sale/legal-issues

- The claimant's campaign can also be scrutinized here: http://twitter.com/jointhemartians
- World leading space law professors Fabio Tronchetti and Philip de Man have agreed to act as judging panel in an international moot court competition (open to law schools) which will use the Mars Land Claim (claim 1) as the "problem." The Mars Prize competition is found here: http://TheMarsPrize.com

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02.07.2020