

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on	24.09.2024
Order pronounced on	29.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.M.A. (PT) No. 2 of 2024

Caleb Suresh Motupalli
 Rottelailu House of Bread
 29-37-31 Eluru Road, (Upstairs)
 Vijayawada- 520002,
 AndhraPradesh

... Appellant

VS

Controller of Patents
 Patent Office, Intellectual Property Building,
 G.S.T. Road, Guindy
 Chennai- 600032
 TamilNadu

... Respondent

Prayer: This Civil Miscellaneous Appeal filed under Section 117-A of the Patents Act, 1970, prays (i) that this Court set aside the order dated 27.10.2021, passed by the respondent herein in Patent Application No.5606/CHENP/2012 and allow the appeal and pass such order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case and to meet the ends of justice.



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For Appellant : Party-in-person

For respondent : Mr.A. R. Sakthivel,
Special Panel Counsel

JUDGMENT

Factual Background:

The appellant assails an order dated 27.10.2021 issued by the respondent in the review petition filed by the appellant under Section 77(1) (f) and (g) of the Patents Act, 1970 ('Patents Act') for reviewing the Controller's decision on 21.04.2021 in respect of the appellant's application for grant of patent (Indian Patent Application No. 5606/CHENP/2012).

2. The appellant filed the subject patent application on 27.06.2012 as a national phase application of PCT (Patent Cooperation Treaty) Patent Application No. PCT/IN2010/000669 dated 08.10.2010 claiming priority from US Application Nos. 61/290, 104 dated 24.12.2009 in respect of the invention titled



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'Necktie Persona-Extender/Environment-integrator and method for Super-Augmenting a Persona to Manifest a Pan-Environment Super-Cyborg'.

3. The application was originally filed with 13 claims. The First Examination Report (FER) was issued on 30.8.2018 raising objections under Sections 2(1)(j) with respect to inventive step, industrial applicability, 3(k), 3(m), 10(5), 10(4) of the Patents Act. In response to the FER, the appellant submitted its reply on 27.02.2019 deleting claims 6-13 and submitting amended claims 14-30.

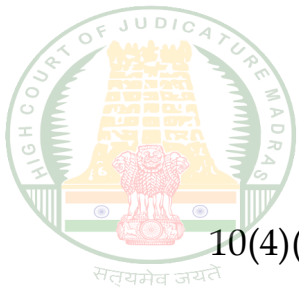
4. Subsequently, the hearing notice was issued on 07.08.2020 raising objections in respect of the amended claims under Sections 10(5), 10(4)(c), 10(5), 8(1)(b), 2(1)(ja), 3(k), 3(m), 57 read with 59 of the Patents Act. The hearing was conducted on 07.09.2020 and in the final written submissions dated 15.09.2020, the appellant



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submitted a detailed rebuttal refuting the objections raised in the hearing notice. The respondent issued the original decision on 21.04.2021 maintaining objections concerning: lack of enablement and definitive scope of the invention under Section 10(4); lack of clarity and conciseness under Section 10(5); amended claims being outside the scope of originally submitted claims in contravention of Section 57 read with Section 59; lack of compliance with formal requirements under Section 8(1)(b); lack of inventive step under Section 2(1)(ja) of the Patents Act in view of the teachings disclosed in prior art D1 (WO2001035208A1); and non-patentability under Sections 3(k) and 3(m) of the Patents Act.

5. Aggrieved by the order, the appellant filed a review petition under Sections 77(1)(f) and (g) of the Patents Act and Rules 130(1), 130(2) of the Patent Rules, 2003 on 11.05.2021 by making amendments to the claims. A second hearing notice was issued on 09.06.2021, again, raising objections under Sections



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10(4)(a-c), 10(5), 2(1)(ja), 3(k), and 3(m). The hearing took place on 02.07.2021 and the appellant submitted written submissions thereafter on the same day making further amendments to the claims. Pursuant thereto, the respondent issued the impugned order dated 27.10.2021 rejecting the patent application on the grounds of lack of enablement, lack of definitive scope of the invention under Section 10(4)(a-c), lack of clarity and concisenesses under Section 10(5), lack of compliance with formal requirements such as no proper reference provided in the figures, amended claims being outside the scope of original claims in contravention of Section 59(1), lack of inventive step under Section 2(1)(ja) of the Patents Act in view of the teachings disclosed in prior arts D2-D8 (US20040030741A1, "A Survey of Black-Box Modernization Approaches for Information Systems", Walnau et al., 1063-6773/00 \$10.00 © 2000 IEEE, US5404440A, US20040006566A1, US5880731A, Motupalli 1989: Statement of Purposes, ??? (Phi Sigma Join), Carroll 1982: IEEE: Metaphor and



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the Cognitive Representation of Computational Systems in combination with D1, and non-patentability under Sections 3(b), 3(k) and 3(m) of the Patents Act. The present appeal arises against this backdrop.

Submissions by the parties:

6. Oral arguments and written submissions were made by the appellant as party-in-person. Learned Special Panel Counsel, A.R.Sakthivel, appeared on behalf of the respondent.

Appellant's submissions:

7. The appellant contended as follows: his invention provides a 'beyond-AI' solution addressing the issue of 'n-Entropy', the loss of agency and control in the face of increasing AI capabilities and the threat of Runaway AI, which manifests as automation-related job losses. Directed at extending and augmenting the persona of an individual, the invention non-



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invasively integrates human intelligence with Artificial Intelligence (AI) thereby upgrading humans to "human 2.0".

Sufficiency of disclosure under Section 10(4)(a):

8. The appellant argued that the terms in the complete specification are in the context of the invention and the use of non-standard terminology or alleged vagueness does not mean that there is insufficient disclosure. By relying on *Novartis AG v Union of India* (2013) 6 SCC 1, he submitted that the sufficiency of disclosure under Section 10(4)(a) of the Patents Act must be assessed from the perspective of a person skilled in the art (PSITA) and by referring to *In re Naquin*, 398 F.2d 863, 866, he contended that if an invention is of an inter-disciplinary nature, it requires a team of PSITA to apply the enablement standard as a single person cannot be skilled in all the relevant arts which relate to multiple fields; and that the specification is adequate if it enables a person adept in each field to carry out the element relevant to the specialty.



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9. Additionally, the appellant argued that independent claims 14, 20 and 25 are drafted in the Jepson format, setting out the prior art in the preamble, and the improvement in the body, and precisely demarcate the scope of the claims. The length and complexity of the claims is due to the multi-faceted nature of the invention and the amendments are carried out for definiteness and clarity; the verbose nature of the claims is justified as it provides clarity and comprehensiveness and it does not amount to broadening of claims beyond the scope of Section 59(1).

Best mode of performing the invention and inventive step:

10. Claims 19, 24, and 30 disclose the best mode of performing the invention as required by Section 10(4)(b) of the Patents Act by providing for a Christocratic Necked Service Oriented Architecture (CNSOA) that synergistically employs a



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membership of safe actors, who are self-governed and able to offer governing services in the bridespace which forms the head space, and accenting/acquiescing actors in the christocratic-space which forms the body and executes operations, aligning the said actors with ruling actors. By providing a comprehensive system to reduce n-entropy through decussation of left and right flanks of the upright and inverted pyramids, the invention embodies a technical advancement of non-invasive integration of human with AI, integration of physical goods/objects/things with the network-is-the-computer, and integration of meatspaces with cyberspaces, through a layering process which results in "labourspace", which are not disclosed by the combined teachings of prior arts D1 and D2-D8.

Section 3:

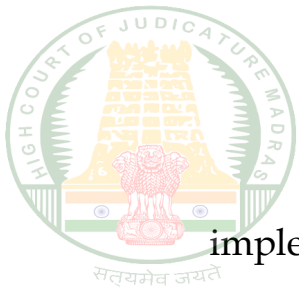
11. By relying on *Ferid Allani v Union of India and Ors.*, 2019 SCC Online Del 11867, and the Computer Related Inventions (CRI)



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Guidelines, 2017, the appellant argued that his invention meets the test laid down in section 3(k) of the Patents Act. The black-box modernizing structural features in Claims 1, 14, 15, 20, 21, 25 and 26 have the technical effect of transforming the relationship the user has with the AI/computer and everyday objects/things in the user's environment. The invention, as a whole, provides a novel system for human-AI-goods-meatspace-cyberspace integration with tangible effects in the real world and is not merely an algorithm or computer programme *per se*. It enables the hitherto autonomous, external and adversarial AI/computer system to be synergetically integrated with the user's persona; and is co-opted to augment and extend the cognitive and physical powers of the user.

12. As regards Section 3(m) of the Patents Act, the appellant contended that the invention involves a cognitive aspect which is implemented through complex system interactions and physical



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implementations and cannot be reduced to mental steps and therefore it is not barred by Section 3(m). Furthermore, the appellant contended that rejection of his patent application on the basis of Section 3(b), newly raised at the review stage, is a violation of the principles of natural justice as it denied him the opportunity to address the objection.

Respondent's submissions:

13. By way of counter affidavit, the respondent submitted that the technical features claimed in independent claims 14, 20, and 25 and the dependent claims lack inventive step in view of the teachings disclosed in D2-D8 in combination with D1 particularly in respect of methods for virtual environments, information retrieval, black-box modernization, graphic representation in communication, knowledge commerce augmentation, and cognitive learnings.

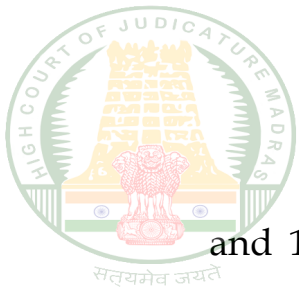


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14. As regards the grounds of rejection under Sections 10(4), 10(5) and 59(1) of the Patents Act, the respondent contended that the complete specification lacks adequate definition or description of non-limiting features and fails to transform the claimed abstract idea into a patent-eligible application. The usage of biblical references, undefined terms, and ambiguous phrases which broaden the scope of claims therein fail to meet the legal patentability criteria under the aforementioned provisions; and the inter-disciplinary nature of the invention does not resolve this ineligibility. Additionally, the lack of a defining set of computer-executed instructions attracts Sections 3(k), and 3(m) of the Patents Act making the invention non-patentable.

Discussion, Analysis and Conclusion:

15. At the outset, it is pertinent to state that the present appeal is against an order-in-review issued by the Controller under Section 77(1)(f) and (g) of the Patents Act and Rules 130(1)



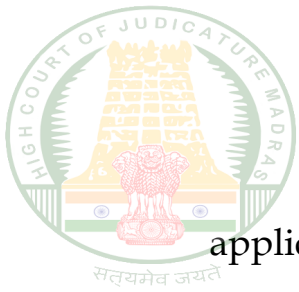
and 130(2) of the Patent Rules, 2003. The said provisions of the Patents Act vest certain powers of a civil court trying a civil suit under the Civil Procedure Code, 1908 (CPC) with the Controller as follows:

77. Controller to have certain powers of a civil court.—(1) *Subject to any rules made in this behalf, the Controller in any proceedings before him under this Act shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely: –*

- (f) reviewing his own decision on application made within the prescribed time and in the prescribed manner;*
- (g) setting aside an order passed ex parte on application made within the prescribed time and in the prescribed manner;*

(emphasis added)

16. By virtue of Section 77(1)(f) of the Patents Act, Section 114 of the CPC, read with Order XLVII, Rule I(1)(a), becomes



applicable. The said provisions, in respect of review, provide as

under:

114. Review.— *Subject as aforesaid, any person considering himself aggrieved –*

(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred.

(b) by a decree or order from which no appeal is allowed by this Code, or

(c) by a decision on a reference from a Court of Small Causes,

may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.

ORDER XLVII

Review

1. Application for review of judgment.— (1)

Any person considering himself aggrieved –

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,



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(b) by a decree or order from which no appeal is allowed, or (c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(emphasis added)

In order to sustain a review, the review applicant must demonstrate that the order-in-original suffers from any of the grounds mentioned in Order XLVII, Rule I(1)(a): error apparent on the face of the record, discovery of new or important matter or



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evidence which, despite exercise of due diligence, was not in the knowledge of the applicant during the original hearing process, or any other sufficient reason. Upon examining the appellant's review application dated 11.05.2021 filed in Form 24, I find that he has not canvassed any of the aforementioned grounds. In view of the fact that the review applicant failed to make out a case under Section 77(1)(f), the Controller ought to have rejected the review application. Instead, she has dealt with the review application as an original application for grant of patent, conducted a second full-fledged hearing and issued the impugned order in the nature of an order-in-original under Section 15 of the Patents Act refusing patent grant.

17. At this stage, it is apposite to take cognizance of Section 117-A of the Patents Act which confers the power to High Court to hear appeals against, *inter alia*, an order of the Controller:

117A. Appeals to [High Court]. – (1) *Save as otherwise expressly provided in sub-section (2),*



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*no appeal shall lie from any decision, order or direction made or issued under this Act by the Central Government, or from any act or **order of the Controller for the purpose of giving effect to any such decision, order or direction.***

*(2) An appeal shall lie to the [High Court] **from any decision, order or direction of the Controller of Central Government under section 15, section 16, section 17, section 18, section 19, 6 [section 20, sub-section (4) of section 25, section 28], section 51, section 54, section 57, section 60, section 61, section 63, section 66, sub-section (3) of section 69, section 78, sub-sections (1) to (5) of section 84, section 85, section 88, section 91, section 92 and section 94.***

(emphasis added)

Thus, Section 117-A provides for appeals to the High Court against, *inter alia*, an order of the Controller issued only under the



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Sections mentioned in Sub-section 2 of Section 117-A of the Patents Act. It can be seen that Section 77(1)(f) is conspicuous by its absence. In other words, a statutory appellate remedy is not provided for against an order-in-review issued under Section 77(1)(f) of the Patents Act. Therefore, the present appeal is liable to be dismissed at the threshold as not maintainable under Section 117-A of the Patents Act.

18. Without prejudice to the above conclusion, considering that the impugned order was issued in the nature of an order-in-original under Section 15 of the Patents Act, after a detailed re-examination of the patent application, I scrutinize the appeal on its merits.

19. The impugned order has rejected the application under Sections 10(4), 10(5), 3(b), 3(k), 3(m), and 59(1) of the Patents Act. First, I examine whether the objection under Section 10(4)(a) on the



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finding that the complete specification is vague, lacks direction and working examples, and requires undue experimentation to work the claimed invention warrants interference. In consonance with the patent bargain, Section 10(4)(a) requires the specification to describe the claimed invention and its method of operation in full to enable a PSITA to work the invention in exchange of the monopoly granted during the patent term.

20. As was held in *No-Fume Ltd v Frank Pitchford & Co Ltd* (1935) 52 RPC 231, whilst it is not necessary that the specification should disclose every detail of the invention with accuracy and precision, it should also not demand of the PSITA undue levels of experimentation or the usage of inventive faculty, which the PSITA lacks, to work the invention. Additionally, if the teaching in the specification is not adequate to achieve the results promised in the claimed invention, the specification is insufficient.

21. The claimed invention proposes to solve the problem of



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loss of agency and control by humans as a result of increased AI capabilities, by creating a super-augmented persona. To this end, independent Claim Nos. 14, 20 and 25 provide for, *inter alia*, an user interface comprising a persona-extender, persona-augmenter, ecosystem indicia which provide for an integration technology for integrating the extended persona with plurality of objects, other extended persona of other actors; a delegated processing unit indicium which provides for the actor to non-invasively delegate grunt work or low level processing to delegated processing unit. The metaphor environment performs a black-box modernization technique to provide persona extender or persona augmenter to the actor.

22. Dependent Claim Nos. 15, 21 and 26 respectively provide for the apparatus, method and means for a persona-augmenting apparatus comprising a necktie metaphor environment which in turn comprise the integration technology, a set of handles for



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handling the plurality of objects imitating what the appellant terms as human body's heterogeneous membership of organs. The passage to the actor is regulated using conventional information processing and user interface design techniques to mitigate n-entropy to levels of 7 ± 2 units to align with human cognitive capacity. The integration is compared to wearing a neck-tie (necktie-imitation (5T in Fig 1C)) whereby the neck (5A in Fig 1C) is characterized as an "e-throne" to establish "oneness" for intuitive control or governance of heterogeneous membership.

23. For determining whether the teachings in the complete specification support these claims, the court must assume the mantle of a notional PSITA. The PSITA can be one technical expert or a team consisting of multiple experts depending on the nature of the invention. The appellant argued that the multifaceted interdisciplinary nature of the claimed invention necessitates that the invention be examined by a PSITA team consisting of relevant



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experts. Without doubt, the claimed invention pertains to the field of AI, more particularly, Augmented Reality and Mixed Reality.

Therefore, the PSITA is a software engineer with expertise in AI and allied fields or a team having experts well-versed in AI, black-box modernization techniques, Object Oriented Analysis and Design techniques.

24. On perusal of the complete specification by assuming the mantle of the said PSITA team, I find that the disclosures therein do not sufficiently enable the product, method or means claims. The perceived problem of loss of human control is proposed to be solved using the necktie persona-extender/environment integrator. As can be seen above, independent Claim Nos. 14, 20, 25, and dependent claim Nos. 15, 21, and 26 and 17, 22 and 28 provide for the product, method and means claims through which the 'persona extension/augmentation' is achieved. Pages 12 and 13 of the



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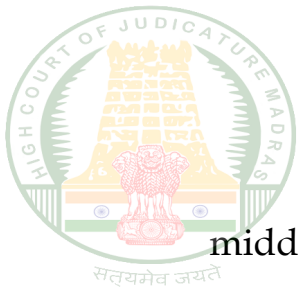
complete specification teach that through the black-box modernization technique, the computer works towards extending human minds and bodies beyond their conventional boundaries; the computer is recast as the necktie persona-extender/integrator; the hardware of the extender/integrator consists of the pocket data processing device connected to a global network with handwriting, speech, gesture and image synthesizing/processing software, a camera on the forehead, earphone with microphone and a projector. Distributed Object Technology (DOT) and its middleware provide the necessary integration technology whereas the browser and the web provide for the extension technology.

25. In his affidavit in support of the appeal, the appellant has relied on the cited prior art D3 in response to the Controller's objection as to what black-box modernization entails. A close reading of prior art D3, which is a non-patent literature entitled "A Survey of Black-Box Modernization Approaches for Information



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Systems", written by Walnau et al, shows that the paper deals with legacy system evolution activities, viz., maintenance, modernization, and replacement. More particularly, the paper expounds in detail the various modernization techniques of old information systems, one of which is black-box modernization. This technique involves the usage of wrapping which removes the mismatches between the interface artifact and the interfaces required by current integration practices. Modernization of legacy systems carried out at the functional (logic) level involves both legacy data and also the business logic embedded in the legacy system. One of the techniques used in modernization carried out at the functional level is Object-Oriented Wrapping wherein the individual applications, common services, and business data are represented as objects and involves several tasks including code analysis, decomposition, and abstraction of the object orientation model. Distributed Object Technology (DOT), the combination of distributed technology with object orientation, by using object



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middleware, extends object technology to the net-centric information systems of modern enterprises to achieve functional level modernization.

26. On carefully examining the complete specification and the relevant prior art documents, I find that the appellant has merely coalesced the disclosures and discussions in the patent and non-patent literature, which largely relate to harnessing AI capabilities for advancing human operations, to arrive at the claimed invention. Significantly, black-box modernization, DOT, object oriented analysis and design techniques, which lie at the heart of the claimed invention and form the bedrock for enabling the claimed technical features, persona extension and augmentation, are disclosed in the prior art document D3 for modernizing outdated information systems. The teachings in the complete specification of the claimed invention do not provide any directions for the adoption of these technologies for persona



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extension and augmentation. In order to meet enablement requirements, undue levels of experimentation entailing the deployment of inventive faculty should not be required to work the invention. A fair reading of the complete specification does not lay bare the purported working and usage of the aforementioned techniques, which as D3 shows, are known in industry practice for modernizing legacy information systems, to attain the intended result of persona-augmentation and extension. Absent such teachings and the techniques not being common general knowledge for persona extension and augmentation, in my view, undue experimentation requiring the use of inventive faculty is necessary to achieve the promised result.

27. Dependent Claim Nos. 17, 22 and 28 also provide respectively for the apparatus, method and means for an environment integrator comprising a labourspace, which, in turn comprises a meatspace corresponding to goods and services



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available in the world, and a cyberspace corresponding to an interactivity or virtual goods and services; layering of labourspace over meatspace; and integration of meatspace with cyberspace using interfacing techniques.

28. Furthermore, Claim Nos. 18, 23 and 29 provide, respectively, for the apparatus, method and means for a second labourspace, a second environment integrator, an avatar comprising a graphical representation of the labourspace of first actor in the second labourspace of the second actor comprising a virtually worn necktie and virtually seated throne. Via the avatar, the extended and augmented persona immersively inhabit the second labourspace that is distributed geographically. Using the second environment integrator of the second actor, integration of environmental objects or systems is achieved in the second labourspace.

29. Claim Nos.19, 24, and 30, which the appellant claims as



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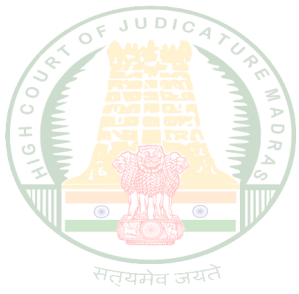
representing the best mode of performing the invention, provide for the apparatus, method and means, respectively, for the CNSOA that comprises the super augmented personae as claimed in Claim No. 18, and correspondingly in Claim Nos. 23 and 29, an inverted pyramid comprising the bridespace and christocratic space which are further divided into left and right flanks for immersive habitation of respective actors therein; decussation of the flanks, whereby the left flank of the inverted pyramid is integrated with the right flank of the upright pyramid and vice versa, allows for impartial governance, administration, and management by way of cross-trading or similar means.

30. Upon a fair reading of the specification, I find that it does not contain any details as regards the conventional information processing and user interface design techniques to mitigate n-entropy as claimed in Claim No. 15(iv)(3) and correspondingly in Claim Nos. 21 and 26, nor the conventional wired or wireless



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integration or interfacing techniques used for layering of the cyberspace over the meatspace to form the labourspace as claimed in Claim No. 17(b)(iv) and correspondingly in Claim Nos. 22 and 28. As for the working of the CNSOA as provided for in Claim Nos. 19, 24 and 30, the complete specification in Page 14, merely mentions the usage of standard "Object Oriented Analysis and Design" techniques for integration but glaringly lacks any teachings or working examples regarding its usage in achieving the integration as claimed. Apropos the decussion of the pyramids, the description found in pages 16-17 of the complete specification contains an elaboration of the proposed decussion and biblical and natural element analogy but is devoid of any technological enablement of the features in the claim. For the aforementioned lack of technical criteria in the complete specification to work the claims for achieving the intended result, the claimed invention fails the enablement test under Section 10(4)(a) of the Patents Act.



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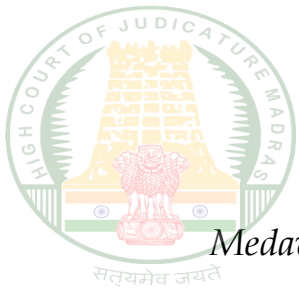
31. Section 10(4)(b) of the Patents Act requires the complete specification to disclose the "*best method of performing the invention which is known to the applicant and for which he is entitled to claim protection.*" While grappling with the question of whether the patent-in-suit relating to "improvements in or relating to soil cultivating implements" discloses the best mode of performing the invention, Lord Justice Nicholls in *C Van Der Lely NV v. Ruston's Engineering Co. Ltd.* ('*Van Der Lely*') [1993] RPC 45 propounded that the standard for ascertaining whether the claimed invention discloses its best mode of performance is to be determined as per practice and not in theory. The appellant contended that Claim Nos. 19, 24 and 30 represent the best mode of performing the invention. As the discussion in the preceding paragraph no. 30 shows, the complete specification is bereft of a) any teachings to use the object oriented analysis technique to achieve the promised



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integration and b) any technical feature to result in the decussation of the pyramids hosting the actors. Therefore, the claimed invention fails under section 10(4)(b) as it does not disclose any workable criteria to arrive at the intended result, let alone the best mode of performing the invention.

32. Section 10(5) of the Patents Act requires the claims of the invention to be clear and succinct and to be fairly based on the matter disclosed in the specification. Elucidating the rule of clarity and succinctness, the UK Court of Appeal in *The General Tire & Rubber Company v. The Firestone Type and Rubber Company Limited and Others* [1972] R.P.C. 457, posited that the rule requires the patentee to provide "as clear a definition as the subject matter admits of" and the question of definition has to be decided as a "practical matter" and the puzzles set out at the edge of the claim carry little weight. The principle underlying the second part of the provision, the fair basing rule, was formulated in *Biogen Inc v*



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Medava Plc, [1997] R.P.C. 1. The rule requires that the specification must enable the invention to be performed to the full extent of the monopoly claimed. Further, in *Van Der Lely*, it was held that a claim covering an unimplementable or an unworkable embodiment is not fairly based on the specification.

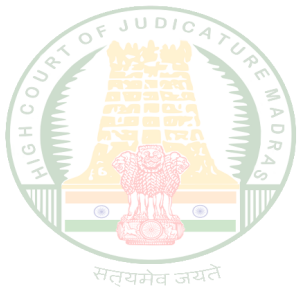
33. The impugned order has rejected the application under Section 10(5) on the ground that claims are lengthy, vague and do not represent a technical characteristic. In addition to the unintelligible wording of the claims and the specification, I find that the definition, i.e., the claims pertaining to persona-extension, augmentation, and black-box modernization when read along with the description, especially the paragraphs relating to DOT, middleware, Object Oriented Analysis and Design in pages 13 and 14 of the complete specification, do not represent a workable embodiment for achieving the subject matter of the invention, i.e., persona extension, integration and a method for super-



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augmentation to manifest a pan-environment super-cyborg for global governance by way of wearing a necktie. Therefore, I conclude that the claimed invention fails to meet the requirements of Section 10(5) of the Patents Act on grounds of ambiguity and failure to fairly base the claims on the disclosures in the complete specification.

34. As regards Section 3(k), after tracing the legislative history, discussing the patent ineligibility of computer programmes *per se* in relation to the Copyright Act, 1957, and surveying the relevant precedents, I concluded in *Microsoft Licensing Technology LLC v Assistant Controller of Patents*, 2024:MHC: 2537, that if the claimed invention has a technical effect, which is not limited to an application or a data set, improves the functioning and efficacy of the system and has an effect on the hardware, it would surmount the prohibition under the provision.



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35. The claimed invention addresses the problem of loss of human agency because of increase in AI capabilities by purportedly integrating objects with humans, extending the humans out, and immersing them in a labourspace through black box modernization techniques. Devoid of any working examples or demonstration of the applicability of these techniques, which are known through the prior art to be used for modernizing outdated legacy information systems, to achieve persona extension and integration, the claimed invention does not possess any technical effect, much less any impact on hardware and thus fails to attain the promised result of super-augmentation of the user. Hence, the claimed invention does not qualify the test under and 3(k) of the Patents Act and is thus patent-ineligible.

36. Since the appeal fails under Sections 10(4), 10(5), and 3(k) of the Patents Act, I do not find it necessary to examine the



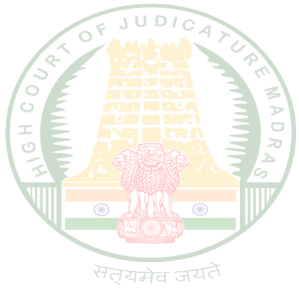
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objections under other Sections. For reasons set in the preceding paragraphs on the merits of the patent application, I record that even if the appeal were to be construed as an appeal against the order-in-original under Section 15 of the Patents Act, no interference would be warranted.

37. Therefore, the impugned order does not warrant any interference and consequently, C.M.A. (PT) No. 2 of 2024 is dismissed without any order as to costs.

29.01.2025

Index : Yes/No
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To

The Controller of Patents,
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**Pre-delivery judgment made in
C.M.A. (PT) No. 2 of 2024**

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