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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ C.A.(COMM.IPD-PAT) 149/2022

T-MOBILE INTERNATIONAL AG AND CO. KG. THROUGH MR.
TANMAY JOSHI, CONSTITUTED ATTORNEYAppellant

Through: Mr. Vineet Rohilla, Mr. Rohit Rangi
and Mr. Tanveer Malhotra, Advocates.
Mr. Adarsh Ramanujan, *Amicus Curiae*

versus

THE CONTROLLER GENEREAL OF PATENTS, DESIGNS AND
TRADEMARKS AND ANR.Respondents

Through: Dr. Monika Arora, CGSC with Mr.
Subhrodeep Saha, Ms. Animika Thakur,
Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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26.02.2026

1. This appeal is filed under Section 117A of the Patents Act, 1970, (hereinafter referred to as '*the Act*') against order dated 29.12.2016 passed by the respondent no.2/Deputy Controller of Patents & Designs, against the Patent Application No. 468/DELNP/2008 titled "*Method and Arrangement for optimising the Operational Times and Cell Change Performance of Mobile Terminals*" whereby the present application was refused on the grounds under Section 3(k) and Section 3(m) of the Act.

2. The request for examination for the present application was filed on 21.05.2009 and thereafter, the Patent Office issued a First Examination Report (FER) on 28.07.2015. The appellant filed a response on 09.11.2015 with respect to the objections raised in the FER. Thereafter, the subject application was re-examined in view of the response filed by the appellant and *vide* letter dated 02.08.2016, respondent no.2 scheduled the hearing on 26.08.2016. The appellant attended the hearing and thereafter, filed its written submissions on



08.09.2016 to respond to the objections raised. Subsequently, the respondent no.2 issued the impugned order dated 29.12.2016 rejecting the subject patent application.

3. The impugned order provides the following reasoning for the rejection of the subject application on the ground of objection under Section 3(m) of the Act:-

*“The subject matter as described and claimed relates to a method and an arrangement for optimizing the operational times and cell exchange performance of mobile terminals, as used in a cellular mobile communication network. The objective is achieved, admittedly, with computer program as well as instructions.
It is, therefore, amply clear that the alleged invention, falls under the category of mere scheme and/or mental act. I fully agree with the findings of the examiner that the subject matter as described and claimed attract the provisions of section 3(m) of the Patent Act, 1970.”*

4. The respondent, as stated in its written submissions, has relied on the “Guidelines for Examination of Computer Related Inventions (CRIs), 2016.” Further, the Controller, as mentioned in para 12 of the said written submissions, had also relied on the 2016 Guidelines while passing the impugned order. This Court also notes that “Guidelines for Examination of Computer Related Inventions (CRIs), 2017” were published that became applicable with immediate effect. The said Guidelines note Section 3(m) of the Act in the following language:

*“4.5.6 A mere scheme or rule or method of performing mental act(s) or a method of playing game(s)
The above criterion is to be judged as per the procedures as laid out in chapter 08.03.05.12 of the Manual.”*

5. This Court notes that there is substantial addition in the CRIs Guidelines, 2025 with respect to invention related to AI and computer programmes etc., compared to earlier guidelines. It important to note that the present invention



under the subject application pertains to a method and an arrangement for optimizing the operational times as well as cell change performance of mobile terminals, as used in a mobile communication network, for example according to GSM or UMTS Standard. The Manual of Patent Office Practice and Procedure, Version 3.0 dated 26.11.2019 under Chapter 09.03.05.12 discusses Section 3(m) of the Act as follows:

“A mere scheme or rule or method of performing mental act or method of playing game is not an invention.

A mere scheme or rule or method of performing mental act or method of playing game, are excluded from patentability, because they are considered as outcome of mere mental process. For example,

- a) Method of playing chess.*
- b) Method of teaching.*
- c) Method of learning.”*

6. Therefore, this Court believes that in the view of the subject matter of the present invention under the subject application, the said reference under the Manual as well as the CRIs Guidelines is not sufficient. Even learned counsel for the parties are *ad idem* that there is a lack of sufficient guidelines in respect of Section 3(m) of the Act.

7. In terms of the orders dated 19.01.2026 and 05.02.2026, Mr. Subhrodeep Saha, learned counsel appearing for the respondent no.1, has handed over a copy of the draft guidelines on behalf of the respondent. The same are taken on record.

8. Since the issue of formulation and drafting of guidelines in respect of Section 3(m) of the Act will have a cascading effect across all jurisdictions, this Court is of the considered opinion that the assistance of an *Amicus Curiae* would be necessitated.

9. Accordingly, the Court requests Mr. Adarsh Ramanujan, learned counsel who is in Court, to appear and assist as *Amicus Curiae* in such endeavour. Mr.



Ramanujan accedes to the request.

10. Mr. Saha, learned counsel for respondent no 1, and Mr. Vineet Rohilla, learned counsel for the appellant hand over the copies of these draft guidelines to Mr. Ramanujan, learned *Amicus Curiae*, who seeks some time to go through the same and assist this Court. Mr. Rohilla, learned counsel for appellant shall also assist this Court in the said endeavour.

11. For the purpose of framing of guidelines, list on 08.04.2026 for Mr. Ramanujan, learned *Amicus Curiae* to give a report in terms of the aforesaid guidelines which are required to be framed.

12. Matter be placed “High on Board”.

13. In view of the above and in terms of the earlier order of this Court dated 19.01.2026, the matter is remanded back to the Deputy Controller of Patents for *de novo* consideration of the present patent application.

14. The notice for date of hearing shall be issued by the respondent no.2/Deputy Controller of Patents within ten (10) days from the date of service of this order. The appellant shall be heard. Learned counsel for the appellant is also permitted to place before the Deputy Controller of Patents any other judgment or citation that he seeks to rely on.

15. The Deputy Controller of Patents is requested to complete the *de novo* hearing within eight weeks from the date of the receipt of this order.

TUSHAR RAO GEDELA, J

FEBRUARY 26, 2026

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