Ferid Allani v. Union of India, WP(C) 7 of 2014, decision dated 12th December, 2019

News & Updates • January 29, 2020

Section 3(k) of the Patents Act, 1970 – Writ Petition challenging order dated 25th March, 2013 of the Intellectual Property Appellate Board by which Petitioner's patent application IN/PCT/00705/DEL for a "method and device for accessing information sources and services on the web" was rejected because it did not disclose any technical effect or technical advancement – The bar on patenting under Section 3(k) is in respect of "computer programs per se" and not all inventions based on computer programs – The word "per se" was incorporated in Section 3(k) to ensure that genuine inventions which are developed, based on computer programs are not refused patents - In today's digital world, when most inventions are based on computer programs, it would be retrograde to argue that all such inventions (for instance innovations in the field of artificial intelligence, block-chain technologies) would not be patentable - Thus the effect that such programs produce is crucial in determining the test of patentability- If the invention demonstrates a "technical effect" or "technical contribution" it is patentable even though it may be based on a computer program – Draft Guidelines for Examination of Computer Related Inventions, 2013 referred to which defines "technical effect" as solution to technical problem, and examples include (a) higher speed; (b) reduced hard-disk access time; (c) more economical use of memory etc. and also defines "technical advancement" as contribution to the state of the art in any field of technology - The meaning of "technical effect" is no longer in dispute owing to the development of judicial precedents and patent office practices internationally and in India – Patent application to be reconsidered and impugned order set aside.

Team: Pravin Anand, Shrawan Chopra and Vibhav Mithal