2025:MHC:538

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on	06.02.2025
Judgment pronounced on	27.02.2025

CORAM:

THE HON'BLE MR. **JUSTICE SENTHILKUMAR RAMAMOORTHY**

CMA (PT) No.13 of 2024

Navya Network Inc.
108, Trowbridge Street,
#1 Canbrudgem N/a 02138,
United States of America

Through its Authorized Representative
Ms.Gitika Srivastava,
CEO of Navya Network Inc.
108, Trowbridge Street, #1 Cambridge
MA 02138 – USA ... Appellant

v.

The Controller of Patents & Designs,
Patent Office,
IPR Buildings, SIDCO Plot
GST Road, Guindy,
Chennai-600 032. ... Respondent

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PRAYER: This Civil Miscellaneous Appeal filed under Section 117 A of the Patents Act, 1970, to allow the appeal, set aside the impugned order dated 13th March 2023 passed by the Respondent in Indian Patent Application No.951/CHENP/2013 and grant the subject Patent in favour of the Appellant.

For Appellant : Mr.Kapil Kumar
and Mr.K.Muthu Selvam
for M/s K and S Partners

For Respondent : Ms.R.Durga Rani, CGSC
Ms.Himanshi Kharb, Controller

JUDGMENT

This appeal is directed against the order dated 13.03.2023 dismissing Patent Application No.951/CHENP/2013. The said application was filed by the appellant herein for grant of patent for an invention titled "TREATMENT RELATED QUANTITATIVE DECISION ENGINE".

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2. Upon request by the appellant, the respondent issued a First Examination Report (FER) dated 21.11.2019. In the FER, objections were raised *inter alia* on grounds of lack of novelty, lack of inventive step, exclusion under Section 3(k), lack of clarity and conciseness under Section 10(5) of the Patents Act, 1970 (the Patents Act). The appellant responded to the FER on 21.08.2020 and submitted amended claims. Pursuant to hearing notice dated 13.12.2021, the appellant submitted written submissions on 22.02.2022 by enclosing current claims 1 to 28. These claims were rejected by the order impugned order herein.

3. Learned counsel for the appellant submitted that the impugned order erroneously concluded that the appellant's claims relate to an algorithm or computer programme per se or business method in terms of Section 3(k) of the Patents Act. By referring to the judgment of the Delhi High Court in *Microsoft Technology Licensing v. Assistant Controller of Patents and Designs, 2023 SCC OnLine Del 2772,*

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particularly paragraph 47 thereof, learned counsel contended that claims cannot be rejected solely on the ground that the claims relate to computer executable instructions or algorithms that are performed on a general purpose computing device. He also submitted that the Delhi High Court concluded that if the claims are in respect of a computer programme which results in a technical effect that improves the computer system's functionality and effectiveness, it cannot be rejected as being a computer programme per se.

4. He next submitted that the rejection on the ground that it is a business method is completely erroneous. By referring to paragraph 74 of the Delhi High Court in *Open TV Inc. v. The Controller of Patents and Designs, 2023:DHC:3305,* learned counsel submitted that an invention would be excluded as being a business method only if it is intended primarily to enable conduct or administration of a particular business and if the purpose of the invention is for claiming exclusivity or monopoly over a manner of doing business. He also

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relied upon the judgment of this Court in *Priya Randolph v. Deputy Controller of Patents, 2023:MHC:5450,* to contend that the monopoly claim is not in respect of a method of conducting business.

5. As regards the conclusion that the claimed invention lacks an inventive step, the first submission of learned counsel was that the respondent committed an error in the identification of the persons skilled in the art (PSITA). According to him, in view of the nature of the invention, a PSITA team should have been formed by including a medical expert therein. With regard to prior art documents D1 and D3, learned counsel contended that the claimed invention would not be obvious to PSITA from either of these prior arts. He distinguished D3 by pointing out that D3 involves patient interaction whereas the claimed invention does not. As regards prior art D2, he contended that prior art D2 is limited to grading and providing scores for alternative medicines. By contrast, he submitted that the claimed invention is more complex and even provides for grading of the

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experts, whose opinion is sought and relied upon for purposes of generating a report for the patient. Therefore, he concluded his submissions by reiterating that the claimed invention would not be obvious to PSITA on the basis of cited prior arts.

6. Learned standing counsel made submissions in response to the above by contending that the appellant's patent application was rejected primarily on the ground of lack of inventive step. According to the respondent, the claimed invention consists of two steps. The first step involves collating relevant information from patients and feeding such information into a medical information system depending on the specified health condition by selecting guideline treatment options. The second step involves the evaluation of alternative guideline treatment options and selection of the most appropriate treatment option. It was further submitted that both the steps are anticipated by, or, at a minimum, obvious from claims 21 and 29 of prior art D3. Likewise, the respondent contended that

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grading and scoring is clearly anticipated by or at least obvious from claim 33 of prior art D2.

Discussion, analysis and conclusion:

7. The complete specification sets out the title of the claimed invention as "TREATMENT RELATED QUANTITATIVE DECISION ENGINE". The field of invention is described as relating to systems and methods for facilitating medical decisions. The summary, in relevant part, is as under:

> *"In accordance with one embodiment of the invention, a system and method, for use with a computer system, generate a report to help decide among a plurality of treatment options for a patient with a given medical condition. To that end, the system and method receive patient information related to the patient and the medical condition, and query a treatment option database to generate a plurality of potential treatment options for the medical condition. In a corresponding manner, the system and method*

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also receive preference information indicative of the patient's preference(s) for potential treatment outcomes of the treatment options. The patient's preference(s) are used to produce a preference value. The system and method also analyze indexed study data relating to the plurality of treatment options to produce (e.g., at least in part in a computer process), based on the analysis of the indexed data, a study score for each of the treatment options. Accordingly, for each treatment option, the method and apparatus produce a treatment score as a function of at least the preference value and the study score, thus permitting generation of a report listing the treatment options and a) the treatment scores or b) the information derived from the treatment scores."

The above paragraph discloses that the claimed invention envisages a system and method for use with a computer system so as to generate a report, which would help the patient to decide from and

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out of a plurality of treatment options. It further indicates that quantitative scores are generated to enable the patients to pick the most appropriate treatment option. The complete specification further discloses that this method and system involves formulating the medical question, quantitative representation of information sources, providing for queries to experts for expert feedback, literature analysis, reckoning patient preferences and risk tolerance and evaluating outcomes on the basis of an outcome database and machine learning so as to rank the treatment options and set out the same in the report.

8. Therefore, it becomes necessary to examine whether all the above mentioned features are found in the cited prior arts and, even if not, whether such features would be obvious to PSITA from the cited prior art. Prior art document D3 was referred to as the closest prior art. D3 is patent literature bearing the title 'HEALTH CARE MANAGEMENT SYSTEM'. After outlining the then existing prior art

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as enabling the evaluation of the recommended treatment from a pre-defined treatment, D3 identifies the problem to be solved as a health care management data processing system that could be used by various health care participants at multiple stages of the health care process. The summary of the invention recites *inter alia* as under:

> *"According to the present invention, there is provided a processing unit and software-implemented health condition treatment guidelines. A user inputs an individual's health data into a new or existing case file in response to inquiries implemented in a health-condition specific guideline. Through the interactive guideline query-response process, a guideline-recommended treatment (or treatments) is obtained. The user may adopt or accept the guideline-recommended treatment or input an actual or proposed treatment that is different. Discrepancies between actual/proposed and guideline-recommended treatment are identified and the user's choice is documented through interactive queries. Once a treatment is selected,*

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the case information is added to the data base and an additional reviewer can analyze the file. The case may be re-opened, and changes may be made at any stage in the process to reflect new conditions, or new or modified treatments."

Thus, D3 provides for a diagnosis based guideline and discloses that the application of such guideline to an individual's health condition consists of four phases, namely, the entry phase, the question/data collection phase, the assessment phase and final recommendation phase. It further discloses that the guideline development process involves 13 steps. These steps include identification of illness category, the components of care, literature search, quantitative analysis about a particular intervention, effectiveness, summary of risks and benefits of interventions, etc. Independent claim 21 of prior art D3 is as under:

"21. A medical information system for analyzing health care treatment for individuals having a specified health care condition to evaluate such

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treatment against specified health care guidelines comprising:

(a) a central processing unit;

(b) at least one memory unit connected to said central processing unit;

(c) means for defining one or more health care conditions for which treatment exists;

(d) means for providing to the system one or more diagnosis-based guidelines corresponding to each of said one or more specified health care conditions and including at least one guideline treatment option; and

(e) means for interactively exchanging with the system information for at least one or more characteristics of the individual relevant to the observed health care condition, said exchange utilizing data collection nodes and conditional branching in a diagnosis-based guideline, to arrive at an endpoint selected from the group consisting of: a guideline treatment option, an indication to select another one of the diagnosis-based guidelines, or an indication for further clinical evaluation."

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9. Prior art D3 therefore appears to disclose most features of the claimed invention with the exception of quantitative analysis by grading or scoring.

10. Turning to prior art D2, this is also patent literature bearing the title "Method and System for Patient Preference Determination for Treatment Options". The publication date is 28.08.2003, which is subsequent to the publication date of prior art D3, being 06.01.1994. Paragraph [0003] of the complete specification of prior art D2 is as under:

> ***"[0003]*** *The present invention relates to a method and system for matching patient preference data with products, such as drugs and other pharmaceuticals, and in particular to a computerized method and system for receiving preference data on patients and using this data with a therapeutic product and other treatment-*

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related information to determine a treatment preference for each patient."

11. The summary of the invention, at paragraph [0012], is as under:

> *"**[0012]** The present invention provides a method and system for determining treatment preference information. In one embodiment, individuals are queried for such data as demographic information, preference factors, and trade-off selections. The preference factors include, for example, relief from symptoms, cost of treatment, side effects of treatment, frequency of treatment required, and mode of administration of treatment. In one embodiment, input patient preference data are used with repositories (e.g., databases) of treatment related information, and then treatment preferences are refined via use of selectable options for tradeoff preferences. In one embodiment, treatment options are then ranked or otherwise compared."*

As in the case of prior art D3, prior art D2 also discloses the

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evaluation of received treatment preference information using a repository of treatment option information to determine at least one preferred treatment option.

12. Significantly, it also provides for the ranking and scoring of treatment options, including medications. Claims 17, 18 and 33 are as under:

> *"17. The method of claim 16, wherein evaluating the received treatment preference information using a repository of treatment option information to determine at least one preferred treatment option for the user further includes:*
>
> *ranking each of the plurality of medications applicable to the treatment condition."*

> *"18. The method of claim 17, wherein ranking includes:*
>
> *producing a weighted comparison of the received treatment preference information and the medication specific information for each of the*

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plurality of medications applicable to the treatment condition."

.. .. ..

"33. *A method for determining medication preference information for a patient, the method comprising:*

receiving a selection of a treatment of interest, the treatment of interest having a plurality of associated medications;

receiving the demographic information;

receiving a plurality of preference factor selections from the patient, the plurality of preference factor selections including at least one selected from a group consisting of valuation of relief from symptoms, cost of medication, side effects of medication, frequency of treatment, and mode of administration;

analyzing the plurality of associated

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medications with respect to the plurality of factor selections, wherein analyzing includes comparing pairs of the received plurality of preference factor selections and assigning a score for each of the plurality of preference factor selections based on a predetermined comparison threshold;

determining at least one tradeoff option for the plurality of associated medications, each of the at least one tradeoff option being identified from a repository of option information;

receiving a tradeoff selection for each of the at least one tradeoff option; and

scoring each of the plurality of associated medications, wherein scoring includes applying the score for each of the plurality of preference factor selections and a score applied for each of the received tradeoff selections;

wherein ranking includes weighting each of the plurality of associated medications based on the received preference factors information and the

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received tradeoff selection for each of the at least one tradeoff option."

Claims 17, 18 and 33 clearly disclose that prior art D2 recites ranking and assigning a score in respect of medication, received treatment preference information, preference factor selections and received tradeoff selections. In effect, prior art D2 also involves quantitative analysis by way of ranking and scoring.

13. In a similar vein, prior art D1 titled 'AN INTERACTIVE TREATMENT PLANNING SUPPORT SYSTEM AND METHOD THEREOF' provides *inter alia*, for an ontology of hierarchical treatment options by constructing and sorting a treatment method and treatment information, defining a treatment method class corresponding to the treated disease and the patient's condition; providing detailed information on the best treatment method selected based on the relative preference input provided by the patient. If the best method presented is not the final selection,

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feedback is received to find a suitable treatment method. Thus, it can be seen that D1 discloses a method of ranking treatment options in a hierarchy and presenting it to the patient.

14. In order to determine whether the claimed invention would be obvious to PSITA from the cited prior arts, it is necessary to set out independent claims 1 and 14. The same are as under:

> *"1. A method, for use with at least one processor on at least one computer, of generating a report to help decide among a plurality of treatment options for a patient with a given treatable medical conditions, the method comprising:*
>
> *receiving (210), by a patient information receiving module, patient information (110) related to the patient and the medical condition;*
>
> *querying (220), by querying module, a treatment option database (235) to generate a plurality of potential treatment options for the medical condition;*

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receiving (360), by a preference information receiving module, preference information (120) indicative of the patient's preference for potential treatment outcomes of the treatment options to produce a preference value;

analyzing (320), by an analysis module, indexed study data (130) relating to the plurality of treatment options by at least grading evidence within the indexed study data (130), wherein the indexed study data (130) is derived from scientific studies, each of which evaluates an effect of a different treatment option on different trial subjects who have a similar medical condition as the patient;

producing (420), by a study score producing module, a study score for each of the treatment options based on the analysis of the indexed study data (130);

determining, a treatment scoring module, for each distinc treatment option, a distinct treatment score as a function of at least the preference value and the study score corresponding to the distinct treatment option;

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and

generating (370), by a reporting module, a report (150) listing the treatment options and a) the treatment scores or b) information derived from the treatment scores.

14. A medical treatment recommendation system for generating a report to help decide among a plurality of treatment options for a patient for a given treatable medical condition, comprising:

a patient information receiving module that receives patient information (110) related to the patient and the medical condition;

a querying module that queries a treatment option database (235) to generate a list of potential treatment options for the medical condition;

a preference information receiving module that receives patient information (120) indicative of the patient's preference for potential treatment outcomes of the treatment options to produce a preference value;

an analysis module that analyzes indexed study data (130) relating to the plurality of

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treatment options by at least grading evidence within the indexed study data (130), wherein the indexed study data (130) is derived from scientific studies, each of which evaluates an effect of a different treatment option on different trial subjects who have a similar medical condition as the patient;

a study score producing module that produces a study score for each of the treatment options based on the analysis of the indexed study data (130);

a treatment scoring module that determines, for each distinct treatment option, a distinct treatment score as a function of at least the preference value and study score corresponding to the distinct treatment option; and

a reporting module that generates a report (1500) listing the treatment options and a) the treatment scores or b) information derived from the treatment scores."

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As is evident from the above, the claimed invention seeks monopoly over the method involving the use of a processor on at least one computer to generate a report to decide between plurality of treatment options for a patient with a specific treatable medical condition. The method comprises receiving patient information; posing a query to the treatment option data base to generate a plurality of the potential treatment options for such medical condition; receiving information indicative of patient's preference for potential treatment outcomes of the treatment options; analysing index study data relating to plurality of the treatment options; producing a study score for each treatment option; and thereafter generating a report listing the treatment options and treatment scores.

15. In addition, dependent claims 6, 7 and 8 provide for receiving expert recommendations, recalculating and refining the treatment score as a function of the expert score in addition to the

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preference value and study score based on patient input and scientific studies respectively; the expert score is arrived at by taking into account the expert's degree of success, ranking of the institution that the expert is affiliated with and the like.

16. As is evident from the above discussion, except for the quantitative analysis by providing for grading and scoring, all the features of the claimed invention were present in prior art D3, which additionally provides for patient interaction. Prior art D2 fills the gap by providing for grading and scoring in addition to patient interaction. Prior D1 provides for hierarchical ranking of treatment options and also involves accounting for patient preferences. All these cited prior arts are analogous since they share a common field of invention with the claimed invention. There are clear cues in D3 that would lead the PSITA team to D2 and D1, and thereby to the claimed invention.

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17. Learned counsel for the appellant contended that the grading and scoring system disclosed in the claimed invention is more sophisticated inasmuch as grading and scoring is provided for even in respect of the literature analysed by the system and also extends to the consulted experts.

18. Even proceeding on the basis that prior arts D1 and D2 do not recite grading and ranking in respect of the experts, given the fact that they provide for a grading and scoring system in respect of medications and other treatment options, in my view, it would be obvious to a PSITA team, consisting of a software engineer and a medical expert, to arrive at the claimed invention on the basis of clear pointers in the said prior arts. Mere refining of the treatment score based on expert grading does not represent a technical advance over the prior arts and, in any event, would be obvious from cited prior arts to the PSITA team. Therefore, the claimed invention does not

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satisfy the requirements of Section 2(1) (ja) of the Patents Act. In view of the above, it becomes unnecessary to examine whether the claimed invention stands excluded from patent protection under Section 3(k) of the Patents Act.

19. For reasons set out above, CMA(PT)No.13 of 2024 is dismissed by confirming the order of the respondent. There will be no order as to costs.

27.02.2025

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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