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CONTEMPORARY TRENDS RELATED TO SOFTWARE PATENTING IN INDIA

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ABSTRACT

This project examines the modern trends in software patenting in India both in Section 3(k) and the backlaw cases and the transformation of exams. It is followed by the ways in which the rules and policies governing computer-related inventions have shifted to more rigid exclusion schemes to a technical effect/technical contribution mode, as represented by the 2017 and 2025 Guidelines to Examining Computer-Related Inventions (CRI). Namely the Ferid Allani case and its impact on the way software-implemented inventions are treated at the Patent Office are specially highlighted.

Based on the latest government releases and the IP India Annual Report 2024-25, the study contextualizes these changes of the doctrines into a bigger frame of record patent filings, increasing local involvement, and institutional changeover. The project investigates as to whether the present rules strike a balance between the exclusion of so-called computer programs per se and safeguarding actual software-enabled technical advancement, and concludes by providing some practical proposals on how the standards can be further clarified and transparency enhanced using only a slight amount of official statistics by employing a doctrinal approach.

KEYWORDS: Software patenting, Section 3(k), Computer-related inventions, CRI Guidelines 2025, Ferid Allani, Technical effect, Patent filing trends.

INTRODUCTION

The economy of India has become significantly more digitalized over the past ten years and all IT aspects, as well as fields like fintech, e-commerce, health or education, are based on various software-driven tools and decisions based on data. This change is reflected in the patent statistics: in IP India Annual Report 202425, the total patent applications have nearly doubled between 202021 to 202425, reaching some 1.10 lakh applications in 202425, most of which are domestic in origin of that time. These statistics denote that Indian firms, startups as well as research institutions are increasingly using the patent system to secure their inventions.

This wave of innovation is in software and computer-implemented tech, although there is a legal headache. Section 3(k) of the Patents act 1970 does not allow the patents of mathematical or business method or a computer programme as it is or an algorithm. You will probably have to read it very broadly to take most inventions in software out of consideration; read it too narrowly, and you may find yourself handing out monopolies on generalities.

To address this, the Patent Office developed certain Guidelines to Examination of Computer Related Inventions (CRIs) in 2017 and revised them again in 2025. Examiners apply this guideline to help determine how the use of

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Section 3(k) on inventions relates to computers in the future, along with some key court cases such as the *Ferid Allani v. Union of India* and subsequent Delhi High Court decisions. The paper will examine such changes, compare them with the existing filing and policy trends, and evaluate whether India is going on the right path towards a more stable and fair system of software patenting.

Legal and Policy Framework on Software Patenting

Statutory Framework and Section 3(k)

According to the Patents Act's **Section 2(1)(j)**, a new product or method that incorporates an inventive step and has the potential for industrial use is considered an "invention." "Inventive step" is defined in **Section 2(1) (ja)** as a feature that is not apparent to a person skilled in the art and entails either a technical advance over existing knowledge, economic significance, or both. These clauses include all innovations, including software-implemented ones.[748]

However, **Section 3** enumerates topics that are not considered inventions. "A mathematical or business method or a computer program per se or algorithms" are not included in **Section 3(k)**. "Computer program per se" is the crucial phrase. In India, practically all software-based inventions would not be eligible for patent protection if it were read liberally. The inclusion of "per se" implies that the legislators wished to prevent patents on pure algorithms and business techniques while preserving a space for computer-related inventions with a genuine technical contribution. Strict reading was a common technique in early examinations.[749] Under Section 3(k), claims pertaining to software, algorithms, or computer-implemented techniques were occasionally denied without a thorough examination of their technical characteristics. This led to criticism from practitioners and scholars, who argued that such a formalistic approach discouraged innovation in areas such as telecommunications, embedded systems and network security, where software and hardware are deeply intertwined.[750]

The 2017 CRI Guidelines

"Guidelines for Examination of Computer Related Inventions (CRIs)," published by the Office of the Controller General, were revised in 2017 to make them clearer. The 2017 Guidelines, available on the IP India website, include examples of patentable and non-patentable CRIs, define basic concepts, and propose an evaluation process.[751]

They recommend that examiners pay more attention to the content of the invention than just the claim title (method, system, equipment). It is not possible to turn an unpatentable computer program into a patented invention by only stating that it is a "device." The Guidelines do, however, confirm that not all inventions pertaining to software are forbidden. They present the concepts of "technical contribution" and "technical effect" as crucial filters. The document lists examples of technical effects, such as higher processing speed, reduced memory use, better user interfaces, improved security and more efficient database searching. Sufficient transparency is also emphasized in the 2017 Guidelines.[752]

In order for an experienced individual to execute the invention, applicants are required to submit thorough descriptions that include flowcharts and block diagrams. This addresses the worry

[748] Pachnanda, N. (2021, March 23). Evolution of patentability of computer program-based innovations in India- through the Ferid Allani case. Invest India. https://www.investindia.gov.in/team-india-blogs/evolution-patentability-computer-program-based-innovations-india-through-ferid

[749] Arumugam, Y. (2025, May 7). Section 3(k) compliance: Why inventions as instructions face patent challenges. Mondaq. https://www.mondaq.com/india/patent/1620786/section-3k-compliance-why-inventions-as-instructions-face-patent-challenges

[750] Intellect Bastion. (2025, May 6). Software patent in India: Understanding section 3(k) & eligibility. https://www.intellectbastion.com/can-we-patent-computer-software/

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that certain CRI applications don't provide a specific technical answer; instead, they merely make general, abstract claims.

The 2025 CRI Guidelines and Emerging Technologies

The 2017 framework's shortcomings were made clear by the quick advancements in AI, ML, blockchain, cloud computing, and other cutting-edge technologies. In 2025, the Press Information Bureau released a press release announcing the Patent Office's amended CRI rules following the release of draft rules and an invitation to feedback. According to the release, the revised Guidelines are intended to give emerging technologies more defined guidance and guarantee uniform review of CRIs.[753]

A more organized method is used in the 2025 Guidelines. Before deciding on Section 3(k) and other patentability requirements, examiners must:

- comprehend the claimed invention in its entirety.
- identify its technical features.
- determine whether these features result in a technical effect or technical contribution beyond a generic computer; and
- make a determination that AI/ML, deep learning, blockchain, and quantum computing are covered in detail in certain parts. For example, rather than just mentioning that AI is employed, AI-related applications should reveal model architecture, training data, and specific technical advancements.[754]

In order to demonstrate the proper interpretation of Section 3(k), the 2025 Guidelines also include around nineteen recent court rulings, such as *Ferid Allani* and subsequent Delhi High Court cases. The Guidelines thereby serve as a link between legislation, case law, and practice. Although the Guidelines set a high standard for disclosure, practitioner analyses applaud this integration but point out that there may still be room for disagreement over what precisely qualifies as a technical contribution. The Guidelines may subtly normalize software patents, according to certain civil society organizations.[755]

Emerging Doctrinal Position

When considered collectively, Section 3(k), the 2017 Guidelines, and the 2025 amendment demonstrate that India is shifting from a form-based strategy which primarily focuses on claim language to an effect-based one. Whether the claimed invention, when considered as a whole, accomplishes a technical impact or technical contribution beyond a simple algorithm, business procedure, or abstract notion operating on a typical computer is the main doctrinal question. The legislative exclusion is still significant, though. Business procedures, mathematical techniques, and pure algorithms are still not covered by patents. In AI and IoT scenarios, where software interacts intimately with hardware or network architecture, the true challenge is in borderline CRIs. Later chapters show how courts and the Patent Office have tried to manage this tension through case law and administrative practice.

Judicial and Administrative Trends

The Case of Ferid Allani

Many consider the *Ferid Allani v. Union of India*[756] case as a milestone in Indian software patent history. The application was entitled to protect a specific means of accessing web content particularly terminals which had a limited capacity. One of the reasons why the application was rejected by the Patent Office relying non-patentability as the main aspect,

[753] Press Information Bureau. (2025, July 29). Release of revised guidelines for examination of computer-related inventions (CRIs) 2025. Ministry of Commerce & Industry, Government of India. https://www.pib.gov.in/PressReleasePage.aspx?PRID=2149719

[754] Mirandah Asia. (2025, September 2). India's 2025 CRI guidelines: A new era for software and AI patent examination. http://www.mirandah.com/indias-2025-cri-guidelines-a-new-era-for-software-and-ai-patent-examination/

[755] Kawale, D. (2025, September 17). Navigating the new frontier: India's revised CRI guidelines 2025. IIPRD. https://www.iiprd.com/navigating-the-new-frontier-indias-revised-cri-guidelines-2025/

[756] *Ferid Allani v. Union of India*, W.P.(C) 7/2014 (Delhi High Court Dec. 12, 2019). https://www.casemine.com/judgement/in/5e1bd8a19fca192e398c40d4

and initially the IPAB supported the stance of the Patent Office.

In 2019, the decision of IPAB was overruled by the Delhi High Court. The court observed that Section 3(k) cannot be interpreted that all existing inventions are ineligible because they involve the use of computer programs in some way or other. Revolving around the term "**per se,**" the Court ruled that pure computer programs are of the only ones that are prohibited, whereas anything that involves a software-related discovery can be patented in cases where it demonstrates a technological improvement or progress. It made the Patent Office re-examine the application according to the CRI Guidelines and international practice.[757]

However, on remand, the application was refused once more, and a new application to the IPAB was made. The IPAB in July 2020 permitted the appeal and awarded the patent. It believed that the invention had a tangible technical impact, more efficient web access, in particular on limited devices, so it could not be disregarded as merely software based. This ruling applied the overall principles of the High Court into a particular determination of patentability and made a strong statement that Section 3(k) needs to be interpreted with subtlety.[758]

Post-Ferid Allani Jurisprudence

Following Ferid Allani, the Intellectual Property Division of the Delhi High Court has rendered decisions in a number of CRI-related matters involving corporations like Microsoft, BlackBerry, Raytheon, and Ab Initio. While each case has its own set of facts, certain similar elements have developed. The Court has mandated that before determining whether Section 3(k) applies, examiners must take the invention "as a whole," determine the technical issue, and then look at the purported technological remedy.[759]

These rulings frequently criticize flimsy justifications in which the Patent Office designates an invention as a "computer program" without taking the technical aspects or the CRI Guidelines' examples seriously. The Court has been more inclined to conclude that Section 3(k) does not prohibit protection when the invention relates to advancements in network protocols, security, device performance, or embedded control systems and the specification clearly illustrates the technical contribution.

Many of these examples are included in the 2025 CRI Guidelines, which also summarize their main conclusions. This lessens the possibility of uneven treatment among controllers and examiners and helps match examination procedures with judicial expectations.[760]

Administrative Practice Under the New Framework

The Patent Office has become more inclined to give patents to computer-related inventions where a technological effect is evident, as per *Ferid Allani* and with the establishment of the 2025 Guidelines. Even though objections under Section 3(k) continue to be frequently brought, they are less frequently denied where the applicant can show a technical contribution, such as additional encryption, improvement of resource management, or reduction of latency.[761]

The Guidelines are also questioned in recent rulings of the Delhi High Court. Some of the 2024-25 proceedings have been remanded by the Court due to cases being handled by examiners applying Section 3(k) without the structured analysis mandated by the 2025

[757] *Ferid Allani v. Union of India*, W.P.(C) 7/2014 (Delhi High Court Dec. 12, 2019). https://www.casemine.com/judgement/in/5e1bd8a19fca192e398c40d4

[758] *Allani Ferid v. Assistant Controller of Patents & Designs*, OA/17/2020/PT/DEL (Intellectual Property Appellate Board July 20, 2020). https://spicyip.com/wp-content/uploads/2020/08/Ferid-Allani-20.07.2020.pdf

[759] C&C IP. (2025, March 26). Draft computer related inventions (CRI) guidelines 2025 published by the Indian Patent Office. https://www.candcip.com/single-post/draft-computer-related-inventions-cri-guidelines-2025-published-by-the-indian-patent-office

[760] Kawale, D. (2025, September 17). Navigating the new frontier: India's revised CRI guidelines 2025. IIPRD. https://www.iiprd.com/navigating-the-new-frontier-indias-revised-cri-guidelines-2025/

[761] De Penning & De Penning. (2025, April 11). Draft CRI guidelines. https://depenning.com/blog/draft-cri-guidelines/

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Guidelines. This is how the Guidelines have been under constant pressure to be strictly adhered to so that true technical advancements can be realized and not a sham.

Critical Evaluation

The Ferid Allani series of cases has firmly established the technical-effect and technical-contribution tests as part of Indian practice doctrinally. This shifts India towards the European view which allows computer-implemented inventions with further technical effect but not software as such.[762]

Much, however, depends on how open-textured terms such as technical effect and technical advancement may be interpreted by a particular examiner and bench. Consistency is a threat, especially where state-of-the-art AI is involved. Although stronger disclosure regulations enhance the standard of patents, it can add an additional load to establishments and startups that do not have access to specialized drafting services. These problems give the arguments in the discussion of the suggestions about the necessity of more organized training and more comprehensible explanations credibility.

Contemporary Filing and Policy Trends

Domestic Participation and Patent Filings

According to the IP India Annual Report 2024–2025, patent activity has significantly increased. In just five years, the total number of applications nearly doubled, from roughly 58,503 in 2020–21 to 110,375 in 2024–25. In 2024–2025, 68,201 applications roughly 61.79% of the total were submitted by domestic applicants, compared to 42,174 by overseas applicants. This demonstrates that the majority of growth is now driven by inhabitants.[763]

The Department for Promotion of Industry and Internal Trade also reports in a 2025 press release that during the previous five years, the total number of IP filings (including patents, trademarks, designs, and GIs) has grown by almost 44%. According to the government, this puts India on the "IP growth curve" and is a component of their plan to promote an ecosystem of innovation driven by intellectual property. According to comments, a significant portion of high-tech submissions in domains like ICT and AI are computer-related ideas, even though the Annual Report does not specifically categorise "software patents."[764]

Institutional and Procedural Reforms

A number of institutional improvements are mentioned in the same Annual Report. These include hiring hundreds of more examiners, enhancing electronic filing, and introducing digital dashboards and AI-based tools (first for trademarks) to assist users and the Office. When combined, these actions seek to improve transparency, decrease pendency, and boost the effectiveness of IP administration.

Such reforms are crucial for CRIs in particular because it is technically challenging to examine software-related inventions. The quality and timeliness of decisions can be enhanced by sufficient examiner capacity and technological resource access, which is particularly beneficial for rapidly evolving software and artificial intelligence start-ups.

Implications for Software-Oriented Innovation

These trends are cautiously positive from the standpoint of research institutes and software-oriented businesses. According to the data, the institutional setup is growing stronger and more Indian applicants are registering for patents. Simultaneously, the 2025 CRI Guidelines establish stricter and more organized disclosure

[762] Sodhi, J. S. (2020, July 25). Curtain call for computer-related inventions in India: An analysis of the Ferid Allani case. IPWatchdog. https://ipwatchdog.com/2020/07/25/curtain-call-computer-related-inventions-india-analysis-ferid-allani-case/

[763] S.S. Rana & Co. (2025, June 18). India on the IP growth curve: Highlights from the IP India annual report 2024-25. https://ssrana.in/articles/india-on-the-ip-growth-curve-highlights-from-the-ip-india-annual-report-2024-25/

[764] Global Patent Filing. (2025, August 5). India's patent filing trends: In light of regional and global perspectives. https://www.globalpatentfiling.com/blog/India-s-Patent-Filing-Trends-In-Light-of-Regional-and-Global-Perspectives

standards, particularly for blockchain, AI, and ML technologies.[765]

In actuality, this means that innovators must put in more effort when creating applications that highlight the technological issue, its solution, and its quantifiable advantages. Even if the fundamental Section 3(k) barrier still exists, current case law and administrative practice indicate that patent protection for legitimate software-enabled technological advancements is now more attainable than it was previously.

Major Findings, Conclusion and Suggestions

Based on the analysis presented in the above chapters, the researcher has identified the following key findings:

i. The understanding of Section 3(k) in India has changed in nature to being more subtle and effect based contrary to the notion of being largely formal and limited. The recent 2017 and 2025 CRI Guidelines at section 3(k) direct examiners to assess the technological impact or technical contribution of computer-implemented innovations instead of disqualifying them on the basis of their reliance on software only. This shift has created space of real computer-related innovations without allowing business practice and abstract algorithms.

ii. One significant turning point in this shift has been the *Ferid Allani* lawsuit. The 2019 Delhi High Court ruling and the 2020 IPAB rule made it clear that even inventions that extensively rely on computer programs might be patent-eligible if they demonstrate technical benefit or development. The 2025 CRI Guidelines and other High Court rulings clearly expand on this logic, therefore establishing the technical-effect/technical-contribution test as the cornerstone of Indian software patenting procedure.

iii. Strong growth in domestic patenting and a more encouraging institutional environment is demonstrated by current filing data and regulatory actions. In just five years, the number of patent applications has almost doubled, with residents now making up the vast majority of filers. Official declarations also show a 44% increase in IP filings overall. Even because CRIs are not disclosed individually, this larger "IP growth curve" indicates that the patent system including how it handles computer-related inventions is increasingly playing a key role in India's innovation strategy.

Conclusion:

Following the essential findings, the researcher has come up with the following conclusion that the software patenting is transforming in an intentional, albeit gradual, manner in India. Until recently, the courts mostly rendered the application of Section 3(k) as exclusionary, and software or algorithms would lead to immediate denials. Not every invention made using computers is forbidden, as seen in the 2017 CRI Guidelines, and more to the point, the so-called *Ferid Allani* rulings, which shifted the emphasis to the technical effect and technical contribution. The 2025 CRI Guidelines, in its turn, also support this strategy; it particularly covers AI, ML, and other innovative technologies. At the same time, the results of empirical evidence provided by the IP India Annual Report 2024-2025 and associated policy statements show that domestic applicants are on the forefront of the booming growth of patenting activity. The existing framework is apparently moving toward the right balance between avoiding too broad software monopolies and fostering actual software-enabled technical innovation even though both interpretive challenges around key notions such as technical effect and disclosure obligations of AI-related CRIs remain.

[765] *Allani Ferid v. Assistant Controller of Patents & Designs*, OA/17/2020/PT/DEL (Intellectual Property Appellate Board July 20, 2020). https://spicyip.com/wp-content/uploads/2020/08/Ferid-Allani-20.07.2020.pdf

Suggestions:

As per the results and the conclusion of the research work, the researcher would suggest the following recommendations:

i. The Patent Office should publish a short, summary practice notes or explanation paper which describes the meaning of the term technical effect and the meaning of the term technical contribution in **Section 3(k)**. It ought to have positive and negative examples based on CRI Guidelines and determined cases. These concepts are now scattered in numerous documents, and it may make both the applicants and examiners confused. A standard reference document would assist the applicants, especially small organizations to make superior applications, enhance uniformity in examination and reduce unnecessary lawsuits by definitional problems.

ii. IP India may consider publishing simple, summary information about applications involving CRI, namely how many applications are submitted, considered, and rejected under Section 3(k) each year and how many applications are granted. This would not involve any revelation of any secret data and would expand on the improved reporting that was displayed in the 2024- 2025 Annual report. With the assistance of transparent data on CRIs, researchers and policymakers would be capable of tracking the work of the software patent regime in practice, evaluating the impact of guideline changes and judicial decisions, and developing specific training or policy interventions where potential bottlenecks were identified.

iii. Another enhancement would be to reform the very **Section 3(k)** in order to establish a more explicit statutory foundation of the existing case-law-based and guideline-based approach. The first option could be to add an explanation after Section 3(k) which says that an invention that, in principle, consists of a technical contribution or is technically relevant in a technical area is not viewed as a computer program per se. The definition of the terms in **Section 2** could include a corresponding change in the definition of the terms technical effect and technical contribution. This would mean that Section 3(k) would be perceived less broadly, the Act would be more in harmony with existing practice and would provide more explicit guidance on primary legislation to applicants and examiners than one would get by simple soft-law guidelines.

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