

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction
ORIGINAL SIDE

AID/8/2022
ARIANA COMMUNICATIONS OPC PVT LTD
VS
CONTROLLER OF PATENTS

BEFORE:
The Hon'ble JUSTICE RAVI KRISHAN KAPUR
Date : 2nd January, 2023.

Appearance:
Mr. Arindam Das, Adv.

Mr. Sailesh Mishra, Adv.

Mr. Indrajeet Dasgupta, Adv.

The Court: This appeal is directed against an order dated 7th April, 2022 passed by the Assistant Controller of Patents and Designs dismissing Patent Application No.47/KOL/2014 (the impugned order) filed by the appellant titled “Apparatus and Method for Byte-wise CRC Computation”.

Briefly, the appellant had sought registration of a Code namely, Cyclic Redundancy Code (CRC) which is computed for a stream of data bits by dividing that stream of data bits by a generator polynomial which is a binary number. The computed CRC is then appended to the data and is used to check the integrity of data in communication and storage devices. The subject invention belongs to the technical field of CRC computation device. Presently, CRC is

computed using a Look Up Table consisting of pre-computed remainder values or using a hardware which is configured for a specific generator polynomial.

It is contended that subject invention does not require any Look Up Table and at the same time can be used to compute CRC for any arbitrary generator polynomial. The appellant also contends that there are three advantageous features of the proposed invention namely (a) It does not require any pre-computed or pre-determined Look Up table, (b) It works for any arbitrary or programmable generator polynomial and (c) It requires minimal number of logic gates.

The grievance of the appellant is that in passing the impugned order, the Controller considered only two of the three proposed advantageous features of the subject patent. It is also alleged that the Controller misconstrued the claim of the appellant in finding that the *“the actual invention as claimed by the applicant lies in generation of polynomial to minimize the hardware realization which is a programmable instructions driven”*. Moreover, the Controller failed to consider the invention as a whole.

On behalf of the respondent authorities it is fairly submitted that all the grounds alleged to be inventive steps and having advantageous features have not been dealt with in the impugned order.

I find that the Controller has failed to take into account the contentions raised on behalf of the appellant insofar as the inventive steps and advantageous features of the subject patent are concerned. The Controller also

failed to consider the invention and the technical advantages of the subject patent as a whole. The Controller also considered only one of the three advantageous features to determine the scope of independent claim. The impugned order is also unreasoned.

Chapter 9 of the Manual of Patent Office, Practice and Procedure provides as follows:

The “obviousness” must be strictly and objectively judged. While determining inventive steps, it is important to look at the invention as a whole.

Accordingly, the following points need to be objectively judged to ascertain whether, looking at the invention as a whole, the invention does have inventive step or not:

- i. Identify the “person skilled in the art”, i.e. competent craftsman or engineer as distinguished from a mere artisan;*
- ii. Identify the relevant common general knowledge of that person at the priority date;*
- iii. Identify the inventive concept of the claim in question or if that cannot readily be done, construe it;*
- iv. Identify what, if any, differences exist between the matter cited as forming part of the “state of the art” and the inventive concept of the claim or the claim as construed;*
- v. Viewed without any knowledge of the alleged invention as claimed, do those differences constitute steps which would have been obvious to the person skilled in the art or do they require any degree of inventive ingenuity?*

An invention ought to be considered as a whole rather than considering parts of it in isolation. In other words, it is not sufficient to draw the conclusion that a claimed invention is obvious merely because individual parts of the claim taken separately are known or might be found to be obvious. The impugned order also does not take into account the subject invention as a whole.

In view of the aforesaid, the impugned order dated 7th April, 2022 is erroneous and is set aside.

The matter is remanded back to the respondent authorities to consider Patent Application No.47/KOL/2014 afresh in accordance with law after giving a right of hearing to the appellant.

The respondent authorities are also requested to complete the hearing within a period of three months from the date of communication this order. In hearing the matter afresh the Controller shall not be bound by any observation made on the merits of the controversy.

With the aforesaid directions, and to the aforesaid extent AID/8/2022 stands allowed.

(RAVI KRISHAN KAPUR, J.)