INTELLECTUAL PROPERTY SPOTLIGHT

INTRODUCTION

We are pleased to present the latest edition of our IP Law page, sharing important updates, key developments, and practical insights on Intellectual Property, all tailored to help you stay updated in the field of Indian Patent Law. Curated by our IPR Law Practice Group, the page is to keep you updated about the latest developments in this dynamic field.

DECODING INDIA'S NEW CRI GUIDELINES – A DEEP DIVE INTO THE FUTURE OF TECH PATENTS

The Indian Patent Office (IPO) has issued new Guidelines for the Examination of Computer Related Inventions (CRIs). This is an important document for innovators, technology companies, and legal professionals working at the intersection of law and technology. Our objective in this note is simple: to explain the guidelines in clear and practical terms. Patent law in the digital domain is often surrounded by jargon, statutory exclusions, and dense case law. Here, the aim is to simplify the key changes, highlight the judicial foundations that shaped them, and illustrate through examples what kinds of inventions may or may not be patentable under the new framework. The guidelines reflect a more practical and jurisprudence-aligned approach to patenting in the digital age. This is an attempt to provide a structured narrative of the salient features of these guidelines, and a comparison with the position under the earlier 2017 framework.

Technical Contribution as the Core Test

Section 3(k) of the Patents Act, 1970 excludes "Computer Programs Per Se" from patentability. The new guidelines, however, make it clear that inventions implemented through Computer Programs are not to be rejected outright. The central test is whether the invention demonstrates a technical effect or a technical advancement.

Judicial Precedents

The jurisprudence leading up to this change is important. In Ferid Allani v. Union of India & Ors. (Delhi High Court, 2019, W.P.(C) 7/2014), the Court held that Section 3(k) excludes only Computer Programs "per se" and not all inventions involving software. If an invention provides a technical contribution, it is not barred from protection. Similarly, in Microsoft Technology Licensing LLC vs Assistant Controllers of Patents (2023:DHC:3342), the court reiterated that inventions should not be rejected merely because they use algorithms or computer programs. The Patent Office should examine if the invention produces a technical contribution. In Raytheon Company vs Controller of Patents (2023:DHC:6673), the court held that insistence on 'Novel Hardware" has no basis in law and the Patent Office should apply the test whether an invention delivers a technical effect.

What can count as Technical Effect

The guidelines now explicitly list factors that can indicate technical effect such as higher speed or reduced latency, more efficient use of resources, improved system reliability or architecture, enhanced security of data, and control of industrial processes or physical devices.

To illustrate, a method for generating marketing leads from browsing data, or a mathematical formula for predicting stock prices, would not qualify as they remain in the category of abstract business methods. A blockchain scheme for financial risk hedging also falls into the same excluded category. On the other hand, a network routing algorithm that reduces packet loss by improving data transmission, or an AI model that controls a robotic arm to achieve greater surgical precision, would be patentable. Similarly, a compression technique that reduces storage requirements

The information contained in the newsletter is provided for information purposes only, and should not be construed as a legal advice on any matter.

© 2025 Kochhar & Co.

without loss of quality, or a cybersecurity protocol that enhances encryption while reducing computational load, would both qualify as demonstrating technical contribution.

The key shift from the 2017 position is that novel hardware is no longer a prerequisite. A software-based invention may qualify for patent protection so long as it delivers a verifiable technical effect.

Addressing Emerging Technologies

Perhaps the most striking change in the new guidelines is the explicit treatment of inventions concerning Artificial Intelligence, Blockchain, and Quantum Computing, domains which were not addressed in the 2017 guidelines.

For inventions relating to Artificial Intelligence and Machine Learning, algorithms and models by themselves remain unpatentable. Patentability requires that the algorithm be applied to a concrete technical problem and produce a measurable benefit at the system level. Thus, a machine learning model designed to predict stock prices remains unpatentable as a business method. But an AI-driven battery management system that extends the life of an electric vehicle battery, or an AI model that improves the resolution of medical imaging to aid diagnosis, would both be patentable as they provide clear technical effects.

In the case of Blockchain Technologies, the guidelines maintain the exclusion for pure business or financial applications. However, technical innovations within the blockchain framework may qualify. A blockchain system for peer-to-peer lending would be excluded as a business method. By contrast, a new consensus protocol that reduces transaction latency, or a blockchain-based secure identity system that improves authentication speed, would both be recognised as patentable technical contributions.

As regards Quantum Computing, the guidelines draw a clear distinction between algorithms and system-level applications. A quantum algorithm for factorisation of large numbers would be unpatentable, as it remains an abstract algorithm. But a quantum secure communication system that prevents eavesdropping, or a quantum simulation technique for drug discovery that yields tangible improvements in research outcomes, would qualify as demonstrating technical advancement.

This recognition of frontier technologies represents a major step forward. The 2017 guidelines were silent on these fields, leaving much ambiguity for applicants. The 2025 guidelines provide explicit pathways for examination.

A Structured Examination Methodology

Another important feature of the new guidelines is the introduction of a structured methodology for examination. Patent examiners are now required to follow a three-step test: first, identify the substance of the invention; second, determine whether it falls within the exclusions of Section 3(k); and third, assess whether it contributes a technical effect. This process aims to bring uniformity and consistency in decision-making. It enhances transparency for applicants and reduces the element of subjectivity or discretion which was prevalent in the earlier practice. The 2017 framework lacked this structured approach, resulting in inconsistent outcomes.

Sufficiency of Disclosure

The guidelines also stress the need for detailed disclosure of the invention. An applicant must now explain with specificity how the claimed Technical Effect is achieved. In the case of AI, this may include disclosure of the network architecture, the datasets employed, and the training methods used. For Blockchain inventions, the consensus mechanism and cryptographic details must be clearly described. For Quantum Computing, the physical system in which the algorithm is implemented must be disclosed. The position under the 2017 guidelines was more general and less demanding. The present framework raises the standard by requiring a level of technical depth that ensures the invention is fully enabled and capable of being practised by a skilled person.

What is New Compared to 2017

Taken together, the changes reflect several significant departures from the earlier position. The new guidelines move from abstraction to specificity, with concrete examples and direct references to frontier technologies. They integrate case law, especially Ferid Allani (2019), into examination practice. They replace an ad-hoc system with a transparent three-step methodology. Most importantly, they remove the insistence on novel hardware, clarifying that a software invention can pass muster if it produces a verifiable technical effect.

Conclusion

The new CRI guidelines provide welcome clarity and predictability. They shift the emphasis from form to substance, from rigid labels to real technical contribution. For innovators in India, this opens the door to securing meaningful protection for genuine software-driven inventions. For the patent system, it strengthens India's capacity to adapt to rapidly changing technologies and to play a more confident role in the global innovation ecosystem.

Contributed by:

Mr. Tarvinder Singh - Senior Partner in the Firm's Intellectual Property Rights (IP) practice
Ms. Neha Garg - Senior Associate

Contact us at: gurgaon@kochhar.com

© 2025 Kochhar & Co.