



# INTELLECTUAL PROPERTY SPOTLIGHT

## INTRODUCTION

We are pleased to present the latest edition of our IP Law page, highlighting key developments in Indian Patent Law, including the Delhi High Court's seven-step framework for applying Section 3(m) of the Patents Act, 1970. This edition examines the Delhi High Court's seven-step framework for distinguishing a purely intellectual exercise from a genuine technical implementation, with practical illustrations ranging from Sudoku puzzles to combustion engines and computer-implemented methods.

## CAN YOU PATENT A "THOUGHT"? THE DELHI HIGH COURT DRAWS THE LINE UNDER SECTION 3(M)

Indian patent law draws a seemingly straightforward line: an exercise performed purely in the human mind cannot be patented. Section 3(m) of the Patents Act, 1970 excludes from patentability **"a mere scheme or rule or method of performing mental act or a method of playing game."**

On paper, the rule appears simple. A person should not be able to obtain a twenty-year monopoly over a method of thinking, reasoning, calculating or making a decision.

The difficulty begins when the "thinking" is no longer confined to the human mind. What if the method involves a computer? What if an analytical process interacts with sensors, circuitry or control systems? What if software performs the calculation and produces a tangible technical result? And, at the other end of the spectrum, can an otherwise purely intellectual exercise become patentable simply because its result is printed on a piece of paper?

Where, then, does a purely intellectual exercise end and a patent-eligible technical process begin?

The Delhi High Court has now attempted to draw that line.

In **T-Mobile International AG v. Controller General of Patents (2026:DHC:6266)**, the Court has formulated a structured seven-step test for applying Section 3(m), accompanied by practical illustrations, from solving a Sudoku puzzle to controlling a combustion engine to help the Indian Patent Office distinguish an excluded mental act from a genuine technical invention.

T-Mobile's patent application had been refused by the Controller of Patents under both Section 3(k), which concerns, among other things, computer programmes per se, and Section 3(m), relating to mental acts and methods of playing games.

T-Mobile challenged the refusal before the Delhi High Court. By an order dated 26 February 2026, the Court remanded the matter to the Patent Office for reconsideration. The Court, however, saw a larger issue. There was no sufficiently structured methodology for determining when Section 3(m) should be invoked. In the larger public interest, it retained the matter to address this gap and appointed an amicus curiae to assist it.

After considering the legislative history of Section 3(m), Indian judicial precedents and foreign patent-office decisions, the Court formulated comprehensive guidelines centred around a seven-step test.

## The Seven-Step Test-

### 1. Construe the claim

The starting point is the claim itself, which must be interpreted in light of the specifications and in the manner in which it would be understood by a person skilled in the art. In other words, before asking whether something is a mere mental act, one must first determine what has actually been claimed.

### 2. Exclude genuine product claims

Genuine product claims, for example, an apparatus or device are not schemes or methods and therefore cannot be rejected as mental acts under Section 3(m).

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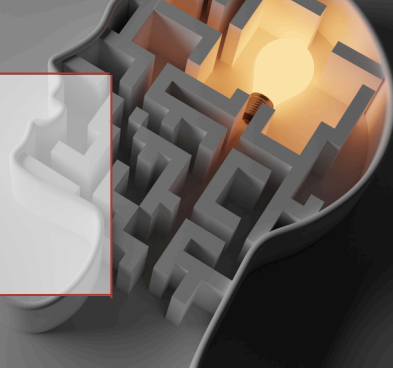
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### 3. Identify the monopoly claimed

For a process claim, the examiner must look at the claim as a whole rather than dissecting it into individual steps. The Court said that merely finding one step in a process that involves calculation, reasoning or another mental activity does not make the entire invention a “mental act”.

### 4. Is the claimed monopoly nothing more than a mental act?

The examiner must ask a relatively simple question: can the claimed process, in substance, be performed merely by thinking, reasoning, calculating, judging or deciding? If the answer is yes, the claim may fall within Section 3(m).

If, however, the claim when read as a whole requires physical means integrated into the method, and interaction between physical components such as hardware and software produces a tangible output or product, Section 3(m) should not apply.

### 5. Simply adding a physical element does not save a mental act

The Court was careful not to allow applicants to circumvent Section 3(m) simply by attaching a nominal physical step to an otherwise purely intellectual exercise. The physical means must be integrated into, or actually used in performing, the claimed process.

### 6. Section 3(m) addresses a different question from novelty and inventive step

Whether a claim is a prohibited mental act is an inquiry distinct from whether the invention is new or inventive.

Section 3(m) determines whether the claimed subject matter falls within a statutory exclusion. Novelty and inventive step are separate tests of patentability.

### 7. Computer-implemented methods belong under Section 3(k)

The Court also drew an important boundary between Sections 3(m) and 3(k).

A computer-implemented method should not be rejected under Section 3(m) merely because it involves computation, analysis or decision-making. Such inventions must be examined, where appropriate, under the separate statutory framework of Section 3(k) dealing with computer-related inventions.

This distinction assumes particular importance as more inventions involve software, algorithms and computer-assisted processes.

## From Sudoku to a Combustion Engine

One of the strengths of the judgment is that the Court did not leave its seven-step framework floating at the level of legal abstraction. It used practical illustrations to show how the test should operate.

### The Sudoku Puzzle

Consider a method of solving a Sudoku puzzle through logical deduction.

If no apparatus or computer is required and there is no tangible output, the entire process can take place inside the human mind. It is therefore a mental act excluded under Section 3(m).

### The Nuclear Reactor

The Court considered another, rather more sophisticated, example: determining the optimum arrangement of fuel bundles in a nuclear reactor core.

If the claimed monopoly extends only to analytically determining the optimum arrangement without physically loading the fuel bundles or employing apparatus for measuring performance, the process remains capable of being carried out intellectually. The technical sophistication of the subject matter does not, by itself, make the analytical exercise patentable.

### A Combustion Engine

The position changes where the process necessarily involves physical means.

The Court illustrated this through a process involving preheating fuel in a combustion engine using a fuel-heating device, sensing engine parameters through sensors and controlling the engine through control units.

Here, the physical components are not decorative additions. They are necessary for carrying out the process itself.

Such a claim is therefore not excluded as a mental act under Section 3(m).

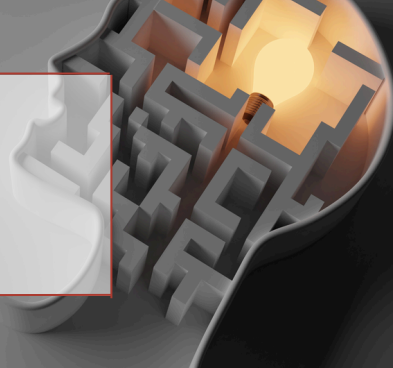
### A Computer Determining an Optimal Circuit-Board Layout?

A computer-implemented method for determining an optimal circuit-board layout based on a computer program should not be rejected as a mental act under Section 3(m).

That does not automatically mean that the invention is patentable. It means that the correct inquiry lies under Section 3(k).



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### **Moving a claim outside Section 3(m) is not the same as granting it a patent.**

It simply means that the claim must be tested under the correct statutory provision

### **Why This Matters in the Age of AI**

The judgment arrives at a particularly significant moment. AI systems increasingly perform tasks that resemble human reasoning such as classification, prediction, optimisation, recommendation and decision-making.

The Court's framework reminds us that patent law is not really concerned with whether a machine appears to "think". The more useful inquiry is whether the patent seeks to monopolise the reasoning or analytical process itself, or whether it claims a technical implementation involving the necessary physical or technological means.

That distinction is likely to assume greater importance as inventions increasingly combine AI, software, algorithms and physical systems.

### **Importance of the Judgment for the Patent Office and Applicants**

There are lessons here for both the Patent Office and patent applicants.

For examiners, the judgment introduces a disciplined framework. The mere presence of calculation, analysis, optimisation, reasoning or decision-making in a claim should not automatically invite a Section 3(m) objection. The substance of the claimed monopoly must first be identified.

For applicants and patent practitioners, the message is equally important. Where an invention genuinely involves technical implementation — through physical components, hardware-software interaction, sensors, circuitry, control systems, signal processing or tangible technical outputs — the claims should clearly articulate those elements and, importantly, their functional relationship with the claimed process.

At the same time, merely sprinkling a claim with words such as "computer", "processor", "display" or "print" will not necessarily take it outside Section 3(m).

### **A Much-Needed Course Correction**

The judgment is a progressive and welcome development in Indian patent jurisprudence. It gives the Indian Patent Office clear norms for applying Section 3(m), rather than permitting the provision to be invoked mechanically whenever a patent claim contains an element of calculation, reasoning, analysis or decision-making.

The framework laid down by the Court is particularly timely. As inventions increasingly sit at the intersection of software, algorithms, AI and physical technology, the boundary between an intellectual process and its technical implementation will only become more important.

Almost every sophisticated technology may, at some level, involve calculation, reasoning or what we loosely call "thinking".

**The real question is whether the patent seeks to monopolise the thought itself or a genuine technical implementation of it.**

The Delhi High Court's seven-step framework gives the Indian Patent Office a much clearer compass with which to draw that line.

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