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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-11-2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

CMA(PT) No. 57 of 2024

CNR: {HCMA011032762024}

Skillz Platform Inc
having its office at 6625 Badura Ave, Las Vegas NV 89118 United States of America, through Mr.Raja J of REMFRY and SAGAR, First Floor, Block-B, Chaitanya Imperial Building, 610, Anna Salai, Teynampetai, Chennai - 018, India.

Case QR

..Petitioner(s)

Vs

Assistant Controller of Patents and Designs
having its office at Patent Office Intellectual Property Building, G.S.T Road, Guindy, Chennai - 032.

..Respondent(s)

PRAYER: This Appeal is filed under Section 117A of the Patents Act, 1970, to allow the present appeal and issue an order setting aside the impugned order dated 03.05.2024 for being unjust, illegal and arbitrary and consequently issue direction to the respondent to grant a patent on the Patent Application No.201747007769, or in the alternative an order be passed setting aside the Impugned Order dated March 05, 2024, passed under Section 15 of the said Act by the respondent refusing to grant a patent pursuant to the Appellant's Application No.201747007769 and allowing the appeal in terms of claims filed as Auxiliary Request (Annexure -H) with the present Appeal. The appellant be allowed to amend, add or alter any ground of appeal and also be permitted to place on record relevant material including evidence in the form of an affidavit, written submissions and synopsis of case law.

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For Petitioner(s): Mr.Vineet Rohilla,
Mr.R.Dayashariff for
Mr.D.Subin

For Respondent(s): Dr.V.Venkatesan,
Senior Central Government
Standing Counsel

JUDGMENT

Heard learned counsel for the appellant, Mr.Vineet Rohilla and Dr.V.Venkatesan, learned Senior Central Government Standing Counsel for the respondent.

2. The learned counsel for the appellant states that the patent application was rejected by the impugned order dated 06.03.2017 by the Patent office, Chennai, as against which the present appeal CMA(PT) No.57 of 2024 has been filed. The leaned counsel would bring to my notice that along with the appeal, the petitioner has sought for an amendment of the claim by omitting the method claim and persisting with the system claim. He would point out to the impugned order and contend that the impugned order has considered the application in a consolidated manner, without segregating the system and method claims. He would therefore states that the omission of the method claim will certainly have a possible impact on the system claim which is now being continued to be persisted with, by the appellant. He would therefore state that

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necessarily, the Patent Controller will have to reconsider the original impugned order.

3. The learned counsel for the respondent however states that the respondent has passed a very detailed and well considered order, dealing with each and every claim of invention and has rightly put Section 3(k) and 3(m) against the appellant. He would therefore state that there is no necessity to remit the matter for fresh consideration.

4. I have carefully considered the submissions advanced by the learned counsel on either side.

5. This Court in in *Optimedica Corporation Vs. Assistant Controller of Patents and Designs,* in *(T) CMA (PT) No.23 of 2023, dated 23.04.2024* and *TVS Motor Company Limited Vs. The Controller of Patents and Designs and another,* in *CMA(PT) No.24 of 2023, dated 08.02.2024,* taking into account that the claim has been amended pending the appeal, held that the matter requires to be remitted to the Controller for fresh consideration. Though the amendment is in the nature of merely omitting one of the claims and persisting with the system claim alone, in my considered opinion, it will certainly have an impact on the final conclusion of the Controller, with regard to whether the patentee is entitled to grant of patent or not. For this limited purposes, I am

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inclined to allow the appeal and remit the matter to the respondent for fresh consideration by a different Patent Controller, restricting the examination to the system claim alone.

6. The learned counsel for the respondent would bring to my notice that the Controller *per se* may not be able to take a final call, since the system claim involves certain scientific information which is beyond the ambit of the Patent Controller and necessarily, the Patent Controller will have to take the assistance of any scientific adviser in terms of Section 115 of the Patent Act, 1970.

7. The learned counsel would therefore state that this Court may grant necessary liberty to the respondent to take the advice/opinion of the scientific advertiser and services of any Professor from IIT or IIM may be permitted to be availed of. However, the learned counsel for the appellant states that there are decision of the Delhi High Court laying guidelines and in view of the claim now being restricted to only the systems claim, there may not be any requirements for the opinion or advice from any experts/professors. In any case, in the event of the Patent Controller being of the opinion that a scientific adviser's opinion is required, despite the explanation and judgments relied on by the appellant, being not satisfactory, then the Patent Controller is at liberty to seek such opinion or advice from my professor at IIT Madras. The remuneration of the expert shall however be met only by the respondent. On remission, the matter

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shall be the decided within a period of four months from the date of receipt of the copy of the order.

8. In fine, this Civil Miscellaneous Appeal is ***allowed*** with the above direction. No costs.

11-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

RKP
To
The Assistant Controller Of Patents And Designs
having its office at Patent Office Intellectual Property Building,
G.S.T Road, Guindy, Chennai - 032.

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P.B.BALAJI, J.

RKP

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