
(2020) 12 IPAB CK 0016

In the Intellectual Property Appellate Board

Case No : Original Application No. 38 Of 2012/PT/CHN

Dr. Degapudi Janardhana Reddy

APPELLANT

Vs

Controller Of Patents And Designs

RESPONDENT

Date of Decision : 31-12-2020

Acts Referred:

Patents Act, 1970 — Section 2(1)(l), 2(1)(j), 13(1)(a), 15, 57, 59, 117A

Citation : (2020) 12 IPAB CK 0016

Hon'ble Judges : Manmohan Singh, J; Dr. B.P. Singh, Technical Member

Bench : Division Bench

Advocate : Hari Subramaniam

Final Decision : Allowed

Judgement

1. The present appeal is filed under Section 117A of the Indian Patents Act, 1970, against the order dated 25/01/2012, passed by the Respondent,

being the Assistant Controller of Patents & Designs, under Section 15 of the Indian Patents Act, 1970, refusing to grant the Appellants' Indian

patent application no. 532/CHE/2005.

2. It is the case of the appellant that:

2.1 The Impugned Order is violative of the principles of natural justice. As previously submitted, the Respondent relied upon D4 (which is a link to an

abstract of an article published on the internet) and D5 (a diagram illustrating general data driver architecture) in the notice of hearing dated 08 August

2011 and in the Impugned Order, respectively. In other words, the Appellant continued to encounter new prior art citations raised against the present

application up to and including the actual order of refusal of said application.

2.2 The respondent kept on adding new citations in every subsequent

examination. Issuing fresh citations in an incremental manner is equivalent to shifting the goalposts, and in contrary to the spirit of the law.

2.3 Said acts of the Respondent have resulted in the Appellant not being afforded an opportunity to consider D5. As it happens, D4 and D5 are not at

all relevant to the consideration of inventive step of the present invention. Unfortunately, the Appellant was apprised of the Respondent's reliance

on D4 only on the issuance of the hearing notice, and of the Respondent's reliance on D5 after the application had already been refused. The

Appellant was thus compelled to detail its submissions against said cited art in its appeal brief, oral appellate proceedings and subsequent written submissions.

2.4 Reliance is placed on the judgment of the Hon'ble Supreme Court of India in Union of India vs. Tulsiram Patel and Ors. AIR 1985 SC 1416.

The judgment states in relevant part that:

¶97. The rule of natural justice with which we are concerned in these Appeals and Writ Petitions, namely, the audi alteram partem rule, in its

fullest amplitude means that a person against whom an order to his prejudice may be passed should be informed of the allegations and charges against

him, be given an opportunity of submitting his explanation thereto, have the right to know the evidence, both oral or documentary, by which the matter

is proposed to be decided against him, and to inspect the documents which are relied upon for the purpose of being used against him, to have the

witnesses who are to give evidence against him examined in his presence and have the right to cross-examine them, and to lead his own evidence,

both oral and documentary, in his defense..¶

2.5 Reliance is also placed on the order of this Hon'ble Board in Tibotec Pharmaceuticals Ltd. vs. The Controller of Patents and Designs Order

No. 82 of 2015 in OA/24/2011/PT/DEL, which held that:

¶9. The reading of the impugned order passed by the Assistant Controller of Patents & Designs reveals that the Controller relied on the

objection raised for lack of inventive step and the insufficiency of disclosure during examination by citing prior arts namely US 6248775 and CA

2472133. But the fact remains on the basis of the perusal of the FER dated 11.06.2008 there is not a whisper made about the above said so called

prior arts. It is pertinent to note at this stage in respect of US 6248775 there is no mention about the said prior art even in the hearing notice or the

same was revealed on the date of exact hearing and the same is mentioned for the first time only in the impugned order.â??

â??10. It is seen that in the hearing notice, the prior art cited was entirely different as the same reveals that they have sought to rely the prior art

mentioned is US 6428775 which is nothing to do with the present patent of the appellant and the same is related to â??Makeup remover

compositionâ?. The yet another infirmity found on the face of the impugned order is that the other two prior arts CA 2472133 and WO 99/67417 have

been mentioned only in the hearing notice and no adequate and reasonable opportunity was given to the appellant to give their reply or explanation.

Therefore, it is crystal clear that the Assistant Controller has placed reliance on a wrong prior art and also over looked the fact of not furnishing the

specific objections relating to the prior arts relied by the Controller for arriving at the conclusion to the effect of rejecting the application on the ground

of lack of obviousness and inventive step. Therefore, we have no hesitation to hold that the impugned order was passed in flagrant violation of

principles of natural justice and the entire impugned order is vitiated on that ground..â??

2.6 It is submitted by the appellant that the aforementioned decision of the Honâ??ble IPAB describes facts identical to those of the present case.

The legal principles highlighted by Honâ??ble Board in the cited decision thus apply squarely to the Respondent.

2.7 It is submitted, therefore, that the Respondent has passed the Impugned Order in violation of principles of natural justice in view of the well-settled

judicial precedent, and the same ought to be set aside.

2.8 The Respondent has thus taken the view that D1 or D3 must be combined with D2 in order to render the present invention obvious. In other

words, neither D1 nor D3 alone (or in combination with only each other) are sufficient basis for the Respondent to deem the present invention obvious.

The Impugned Order states that D2 is the essential document, whose disclosures, when combined with either D1 or D3, lead to the conclusion that the

subject matter of the present application lacks inventive step. Copies of D1 (US 2004/0160736 A1), D2 (EP 1577862 B1) and D3 (EP 1408402 B1)

are attached herewith as EXHIBITS F, G and H respectively.

2.9 The sole ground for refusal of the present application in the Impugned Order is obviousness. The Respondent has implicitly deemed the subject

matter of the present application to be novel (the ground of novelty has not been raised in the Impugned Order). The Respondent has not combined

the teachings of D1 and D3 with each other, or cited them as independent, stand-alone prior art documents. Instead, the Respondent has analyzed the

prior art and concluded that either D1 or D3 must be combined with D2 in order to render the present application obvious. Thus according to the

Respondent either:

D1+D2 or D3 + D2

make the invention obvious, and not D1 alone, or D3 alone, or D1 +D3. Therefore, the burden to be discharged by the Appellant is to show that D2

does not - alone or in combination with D1 or D3 - make the subject matter of the present application obvious.

2.10 The Appellant previously submitted to the Honâ??ble Board that D2, which is an EP application, was published on 21 September 2005. The

present application was filed on 05 May 2005 (which is also the date of priority of the present application). Therefore D2, as a post-published

document, may not validly be cited against the present application as prior art. The Respondent has completely ignored this fact, and in doing so, has

erred gravely. D2 has a publication date of 21 September 2005, which is almost five months after the priority date/date of filing of the present

application, which is 05 May 2005. Thus, the teachings or disclosures of D2 are irrelevant to analyze the inventive step of the subject matter of the

present invention.

2.11 It is humbly submitted that Section 13(1)(a) of The Patents Act, 1970, clearly states that an invention in any claim of the complete specification

may be anticipated only by publications before the date of filing of Applicantâ??s complete specification. The same is bolstered by the definition of a

new invention in Section 2(1)(I), which states that â??new inventionâ?? means any invention or technology which has not been anticipated by

publication in any document or used in the country or elsewhere in the world before the date of filing of patent application with complete specification

i.e., the subject matter has not come into the public domain or that it does not

form part of the state of the art.

2.12 In *Bishwanath Prasad Radhey Shyam v. Hindustan Metal Industries* AIR 1989 SC 1444, the Honâ??ble Supreme Court has observed:

â??â?|25â?|Whether the ""manner of manufacture"" patented, was publicly known, used and practiced in the country before or at the date of the patent? If the answer to this question is 'yes', it will negative novelty or 'subject matter'. Prior public knowledge of the alleged invention which would disqualify the grant of a patent can be by word of mouth or by publication through books or other mediaâ?|â??

2.13 Thus, a document may only anticipate or render an invention obvious if it was published before or on the date of filing of a patent. Publication

even one day after the date of filing or date of priority will negate the utility of said document from serving as relevant prior art.

2.14 Therefore, it is amply clear that the present invention cannot be arrived at from the teachings of the cited art. Admittedly, D1, D2 and D3 are by

themselves incapable of providing any teachings or disclosures which may render the present invention obvious in light of said teachings. Additionally,

D2 ought not to have been relied upon since it was published after the date of filing of the present invention. The present invention thus is inventive,

and not obvious in view of the cited art. It is respectfully submitted that the Impugned Order therefore ought to be set aside.

2.15 However, during oral proceedings on 23 December 2020, the Honâ??ble Board has correctly pointed out that PCT/JP2003/016032, i.e. the

international publication corresponding to D2, was published on 22 July 2004 as WO 2004/061806. This date precedes the priority date of the present application.

2.16 It is respectfully submitted that we believe D2 may have been cited against the present application (instead of its corresponding international

application) since D2 as nationalized in Europe could differ in its disclosures from the international application PCT/JP2003/016032 published as WO

2004/061806. This humble submission is made in view of the fact that some jurisdictions, such as Europe, permit added matter and other amendments

to the description and claims of the PCT International Application before it is entered into the national phase.

2.17 Without prejudice to the foregoing, however, and in view of the instructions

of the Honâ??ble Board on 23 December 2020, the Appellant is

pleased to distinguish D2 from the present application on merits on the basis of the prior publication of its corresponding PCT international application.

2.18 Before proceeding to the differences between D2 and the present application, the Appellant humbly takes the opportunity to reiterate the differences between D1 and D3 on the one hand and the present application on the other hand.

2.19 The Respondent quotes portions of D1 and concludes on page 6 (second paragraph) of the Impugned Order that D1 recites the â??mechanical

constructional features of the integrated dual display unit claimed in claim 1â? of the present invention. The Respondent further quotes portions of D3

and concludes (Impugned Order, page 7, second paragraph) that D3 teaches the features of integrated dual display unit as well as single signal source

from display graphic processor at base unit for driving two side displays. The Respondent further concludes that in view of the teachings of D1 or D3

it is obvious for a person skilled in the art to arrive at an integrated dual display unit with back to back mechanically secured displays.

2.20 It is humbly submitted that D1 teaches the mechanical coupling of two separate video monitors, hinged together on a pivot joint. This dual display

unit simply refers to two separate screens, no different in terms of wiring and hardware from two independent video display monitors. This is evident

from Figure 3 of D1, reproduced below for reference. The dual display screens of the present invention are truly integrated through wiring and

hardware, in a manner such that the CPU of the laptop computer is unaware that there are two screens, but both screens simultaneously display

replica displays in real time.

FIGURE 3 OF D1

2.21 D3 on the other hand discloses a method of image copy from one screen to the other in two sets of monitors or display devices. The document

discloses a software or application driven means to copy on a non-volatile display an image from the primary, volatile display. It is the Appellantâ??s

respectful submission that this technology differs from the present invention in the fact that it is driven by software or computing, while the dual display

of the present application requires no computing power. The Appellant further respectfully submits that one of the two displays of D3 is non- volatile,

which remains accessible to the viewer when the device is switched off so that the viewer may access a single static display for quick reference or

information. Contrary to this disclosure, the slave display of the present invention dynamically replicates in real time the exact display of the master

LCD screen. Both screens are live, volatile displays and are not for use once the device has been switched off.

2.22 Unfortunately, the Respondent has also failed to appreciate that D1 and D3 refer to the interconnection of two video monitors (generically

termed as video displays) using commonly known video signals such as VGA (Video Graphic Array). The present invention comprises LCD (liquid

crystal display) screens in a dual-display unit. It is respectfully submitted that such an arrangement is not an integrated dual display unit. It is submitted

that Respondent failed to appreciate that D1 and D3 do not teach an integrated dual display.

2.23 As instructed by the Honâ??ble Board, the differences on merits between D2 and the present application are now presented herein below:

2.24 D2 RELATES TO DIFFERENT TECHNOLOGIES, SOLVES A DIFFERENT PROBLEM AND TEACHES AWAY FROM THE

PRESENT INVENTION

2.24.1 The present invention relates to an integrated back to back dual display LCD screen for a laptop or notebook computer. The dual displays in

question are replica displays, fully integrated purely through hardware, such that two persons are able to view identical displays while sitting on

opposite sides of the computer, instead of next to each other as they would have to do with a conventional laptop with a single display. This invention

enables users to display presentations and other data to viewers with ease, and may be used in teaching, clinical meetings, sales presentations and the

like. Figure 2 of the present specification, reproduced below, illustrates this:

2.25 THE PHRASE â??DUAL DISPLAYâ?? HAS DIFFERENT MEANINGS IN D2 AND THE PRESENT INVENTION

2.25.1 It is further submitted that while the phrase â??dual displayâ? is used in respect of the subject matter of both patent documents, the phrase

refers to two entirely different types of displays in each document. As stated by the Respondent in the Impugned Order, D2 teaches a â??dual

display panelâ? (page 7, penultimate paragraph of the Impugned Order, wherein

the Respondent has reproduced excerpts from D2). In this regard,

Figure 1 of document D2 is reproduced below:

FIGURE 1 OF D2

2.25.2 According to the invention in D2, the subject flip phone comprises a dual display panel 1003 interposed between the first housing 1001 and

second housing 1002, as seen in Figure 1 of D2 above. When the dual display panel 1003 overlaps the first housing 1001, the second display screen

1008 of the dual display panel 1003, i.e., only a single display screen, is used. When the dual display panel 1003 overlaps the second housing 1002, the

third display screen 1101 of the dual display panel 1003 as well as the first display screen 1005, i.e., two display screens are used (D2, page 3, column

3, paragraph [0016]).

2.25.3 Further, when the invention of D2 is used with two display screens (i.e. as the dual display claimed in D2) different images are displayed on the

first and third display screens 2102 and 2101. This is seen in Figure 2B of D2, reproduced below for reference. It is clear that in dual display mode,

this invention teaches two screens - one of which is a subset of the other - which flip open horizontally to form a single, large screen for wide screen

display. As discussed on page 3, column 3, paragraphs [0017] and [0018] of D2, the single screen display may be used for displaying a relatively small

amount of information, such as calls, emails or display in low-power consumption mode. The dual display, which is seen in Figure 2B below, may be

used, for instance, for displaying a film or a television programme. That is, in the dual display mode, one image is divided into two images, one of which

is displayed on the third display screen 2101 and the other of which is displayed on the first display screen 2102.

FIGURE 2B OF D2

2.25.4 In the present invention on the other hand, the dual display is literally back to back. As the Figure 4 of the present application reproduced below

illustrates, the two screens are positioned on either side of the top housing flop or lid of the laptop. The screens are integrated through hardware in a

manner such that the image on the slave display (facing the viewer) is a replica of the image on the master display (facing the user or presenter). In

other words, this dual display does not provide a single large screen for one image spread over the two screens as in D2.

Instead, it provides two separate screens with replica displays of the same content. As stated in the description of the present application, the present invention is directed to providing a method for simultaneous viewing of the screen by the presenter as well as the client, who are sitting opposite to each other.

Figure 4 of the Present Application

2.26 THE DUAL DISPLAY OF D2 IS CONTROLLED BY SOFTWARE, WHILE THE DUAL DISPLAY OF THE PRESENT INVENTION

REQUIRES NO COMPUTING POWER

2.26.1 It is further submitted that D2 discloses a method of controlling two or more display panels using a central processing unit (the CPU). In other

words, the display panels of D2 are controlled by software, as is the case with any mobile phone technology. The dual display of the mobile phone

devices of D2 is implemented through a switch block (labelled as 3015 in Figure 3 of D2). Figure 3 of D2 illustrates that the two screens are

interconnected by the switch 3015 and no buffer is disclosed between the two sides of the single panel. In this regard, paragraphs [0040] to [0048]

describe the working of the device in single and dual display modes, explaining the signal triggers when the switch is off, and when it is on, leading to

the corresponding operation (or shut down) of the dual display panel:

2.26.2 On the other hand, the integrated dual display of the present invention requires no computing power at all. The two displays of the present

invention, which are replicas of each other, are integrated through hardware in such a manner that the CPU of the laptop or notebook computer in

question does not know that two LCD screens are connected to it instead of one. The application or software programme running on the laptop

computer of the present invention has no control over the replica image being displayed on the slave display of the laptop computer of the present

invention. Part of the inventive merit of this aspect lies in the fact that it may be incorporated into laptop and notebook computers without a change in

operating systems, programming or software. Figures 6 and 7 of the present application (reproduced below) as well as the section entitled

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS in the present application both describe and illustrates this hardware

extensively. It may be noted that these figures were inadvertently missed from

the original specification as filed but were subsequently restored by the Appellant during the examination process when the error was pointed out by the Respondent.

Figure 6 and 7 of the Present Application

2.27 HIGH SPEED BUFFERS AND THE DIFFERENCES BETWEEN THE BUFFERS OF THE PRIOR ART AND THOSE OF THE

PRESENT INVENTION

2.27.1 In addition to the integrated dual display LCD screens, the present invention also contains high speed output buffers connected to the LCDs. As

explained in the specification of the present application (in the section entitled DETAILED DESCRIPTION OF THE PREFERRED

EMBODIMENTS) the colour signals RGB of each 6 bits which are outputted by the VGA card from the display drive sub-systems of the computer

are buffered by three corresponding high speed buffers and are connected to the LCD2.

2.27.2 Similarly, the three vital signals CLK, HSYNC and VSYNC are also buffered by these high speed buffers and connected to LCD2. The other

signals of LCD1, i.e., DENB (Data Enable Signal), R/L (Horizontal Image Shift Direction select signal) and U/D (Vertical Image Shift Direction

select signal) are all buffered and connected to LCD2 via an analog switch (item 13 in Figure 6, above). This analog switch facilitates the directional

change of image in LCD from right to left and upside down by grounding the lines of LCD2. The high speed buffers allow a second LCD to be wired

with the first in order to have replica displays on both screens.

2.27.3 In the Impugned Order, the Respondent has inferred from the D2 that it teaches dual displays employing driver circuits (Impugned Order,

pages 7 to 9). Specifically, the Respondent reproduces portions of D2 which refer to disclosures regarding a dual display panel which comprises a first

source signal line driver circuit and a first gate signal line driver circuit. The Respondent then relies on D5, which it refers to as representing the

“fundamentals in technology”. In this regard, a diagram from D5, to which a web link is provided in the Impugned Order, is reproduced in the

Order by the Respondent.

2.27.4 The Respondent infers from D5 and the above diagram that any driver circuit in a digital interface commonly includes output buffers for driving

signals. The Respondent further concludes on page 9 that a combination of D2 and D5 therefore established that the drivers of D2 must include

buffers, making the use of such buffers obvious in the present invention.

2.27.5 The Respondent has failed to appreciate that D5 pertains to an analog driver, used in conjunction with analog LCD-TFT displays. Laptop

screens of the kind used in the present invention are of the digital LCD- TFT type. This fact is common knowledge in the art. The Respondent has

unfortunately failed to recognize the vast and crucial differences between digital and analog screens, but a person of skill in the art would not mix the

two types of technologies or consider them at all interchangeable.

2.27.6 As a matter of fact, the terminology used in D5 itself makes this clear. The term DAC in the above diagram is a commonly used acronym for

Digital to Analog Convertor. The signal output by the DAC is an analog signal. This analog signal is input to a buffer.

2.27.7 It is further respectfully submitted that the term "buffer" is a generic name used in the field. However, the actual design and type of buffer

to be used varies with the application. D5 teaches a general presentation in the field of analog LCD-TFT driver systems, whereas the present

application discloses the use of digital LCD-TFT displays. D5 teaches analog signal buffering by means of operational amplifiers. A person of skill in

the art would be equipped to recognize the difference between operational amplifier type buffers and other buffers simply by studying the symbols in

the circuitry. The triangular symbol clearly represents as operational amplifier (which has two inputs and one output). It is worth noting that D5 also

does not refer or relate to a dual panel display.

2.27.8 The Respondent has drawn similarly misguided conclusions with regard to the disclosures of D4, which was cited in the Hearing Notice. The

Respondent states that D4 teaches or represents the "common general knowledge" of the application of high speed buffers as output buffers in

the field of flat panel display. The Respondent further infers that a combination of D2, D4 and D5 teaches that a driver circuit for driving signals to the

display panel would, generally speaking, employ output buffers, and such output buffers could easily be the high speed buffers of the present invention

(Impugned Order, page 9, third paragraph).

2.27.9 It is worth noting that D4 refers to the design and fabrication of a Very

Large Scale Integration Chip (VLSIC) which has very little to do with the internal hardware of the LCD screens of a laptop notebook computer. It is respectfully submitted that the Respondent has failed to appreciate that drivers and buffers are entirely different, and different driving circuits employ different types of buffers. In addition, the circuitry of D2 (i.e. the first source signal line driver circuit and a first gate signal line driver circuit) is entirely irrelevant to laptop or notebook computers. As any person of skill in the art would recognize, laptop notebook computers do not employ line or gate signals and the hardware in laptop computers is significantly distinguishable from the circuitry employed in mobile phones.

2.27.10 Further, the present invention discloses two LCD-TFT screens and only one set of buffers is used between the two screens, while the other LCD-TFT is directly connected. If the inventors of the present invention were to take their cues from documents D2, D4 and D5, they would be forced to use two sets of buffers "one each for each LCD screen.

3. Let's now consider the order of the learned Controller:

It can be very well understood that the electronically integrated dual display unit is synonymous to integrated dual display unit as it is a fundamental knowledge that the dual displays cannot display or copy the images without being electronically connected with the display controller.

Hence, it is obvious for a skilled person in the art to arrive at an integrated dual display unit with the back to back displays mechanically secured and mechanically fixed to the base unit as defined in claim 1 of the present application from the disclosure of D1 or D3.

The above extracts from the description of D2 brings out the dual display employing the driver circuit. The above figure and the IEEE reference bring out the common general knowledge in the field of driver circuit for TFT-LCD display panel. In a nutshell, all the above proves that the driver circuit for driving the signals to the display panels employs output buffers in general and such output buffers can be high speed buffers for high speed driving of the signals.

The argument of the applicant during the hearing was that the buffers described

in the present application are no way connected to prevent lag but they are provided for source unloading and the simultaneous displays are possible through the inventive buffering action.

Even though it is agreeable from the applicant's explanation that the buffers are provided for source unloading, the applicant has not brought out the significance in using high speed buffers and its buffering action rendering the subject matter of this application to be inventive in comparison to the technology already exists in the field.

Hence, from the combined teachings of the invention in (D1 or D3) & D2 and the general state of the art, it is obvious for a skilled person in the art to adopt the knowledge of the display drivers (commonly incorporated with buffer circuit) employed for dual display panel in D2 and apply the same to an integrated dual display unit of D1 or D3 to arrive at a product as disclosed and claimed in the subject matter of the present application.

In view of the above, it is concluded that the alleged invention lacks in inventive step. Therefore, I hereby refuse the instant application under section 15 of the Patents Act, 1970 as the subject matter of the alleged invention does not constitute an invention under the provisions of section 2(1)(j) of the Patents Act, 1970.

4. Firstly, the respondent has not relied on either D4 or D5 in his refusal order. We have analyzed possible reasons for the respondent to go for multiple examinations in the instant case. It is observed that the instant application was filed with the following claims which convince us about the multiple examination reports. We suppose, the appellant should have noticed this.

5. Then, the claims were amended on 21/12/2010 as shown below:

6. Later on 29/04/2011, the claims were again amended to:

7. Finally the claims, as they are on record, after the last amendment on 02/09/2011, read as follows:

8. Therefore, the submission of the appellant with regard to natural justice appears settled after the order of the respondent and particularly so when so many amendments of claims have been on records. The objections are likely to vary with each variation of claim sets.

9. Secondly, the order of the learned Controller relies upon three documents D1,

D2 and D3. Earlier the appellant argued only upon one issue that the citation D2, which is common in both the sets, i.e. D1+D2 or D3+D2 and hence is a very important document; but it is not a valid citation, as its date of publication is later than that of the present invention. It was pointed out by this Board that though D2 i.e. EP 1577862 was published on 21/09/2005; it was also published as WO 2004061806 on 22/07/2004 and hence it becomes prior publication.

10. Thereafter, the learned counsel of the appellant argued and pointed out the differentiating features of the invention over the citations.

11. We have gone through the submissions and the complete specification filed in respect of the instant patent application and found that the points of

their arguments are not substantially based on their description. The Complete specification has been amended and still the first page thereof shows

“Amended Specification”. Further, the appellant submitted their arguments that their invention is based wholly on hardware architecture without

help of any kind of software. Such a stance is absent from the description. The word “software” features in initially filed specification only

twice, though without describing the argued subject matter, as under:

This will popularize the use in better ways and to understand and exchange ideas at ease. Also this invention opens up unlimited possibilities of usage

with proper software written to utilizes this feature in areas such as teaching, clinical meetings, sales presentation to name a few.

In accordance with yet another aspect of invention one of the displays can be switched off while not in use or when not required either by software or

by hardware.

12. We observe that even after substantial amendments allowed by the Patent Office for both description as well as claims, the existing set of claims

appears to miss many argued submissions. The principal claim does not show inter connectivity of individual feature(s) by which the workability of the

invention could be determined. Further, the omnibus claim has not been covered by any appropriate “statement of invention” in the description,

as it was allowed, then, at IPO.

13. We are of the opinion that the applicant should be given one more chance to submit amended set of claims to the respondent, based on the

amended and allowed description on record. While doing so, the learned

Controller may allow such feature(s) to be incorporated in the description which are though present in the drawings but are absent from the description and vice versa, remaining within the four walls of section 57 read with 59 of the Patents, Act 1970. The appellant is directed to file the amended set of claims, maintaining consistency with the description, within 3 weeks from the issuance of this order.

14. Hence, we set aside the order of the Learned Controller dated 25/01/2012 and remand back the case to him. He shall take into account their amended set of claims and decide the case on merit in accordance with law, within 3 months from the issuance of this order and after giving an opportunity of being heard, if so required, by the appellant.

15. Keeping in view the above facts and circumstances, the instant appeal is allowed. No cost.