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Decoding Section 3(K): The Evolving Landscape For Software And AI Patent

Authors: Pritivika Jaishi and Vibha Kulkarni[1]

Abstract

Section 3(k) of the Indian Patents Act, 1970, which excludes "computer programs per se" from patentability, has posed challenges for innovators in the software and artificial intelligence (AI) patenting. There has been a recent evolution in the patent landscape towards a more nuanced approach which differentiates algorithms from genuine technical inventions. This article outlines the origin, trajectory of Section 3(k), and its scope through case laws, legislative intent and comparative analysis with jurisdictions such as the United States and the European Union. It also traces the administrative pendulum reflected in the evolving CRI guidelines from 2013 to the recent landmark 2025 guidelines which aims on providing a structured framework for examining technology inventions involving AI), Machine Learning (ML), Blockchain, and Quantum Computing. Ultimately, the development in the patent landscape reflects India's attempt to harmonize its patent regime with global standards.

Keywords – Section 3(k), inventions, technical effect, patentability, computer related inventions

1. Statutory Basis and Legislative Purpose

The advent popularity of software and, more recently, AI in India is regulated by complex legal issues, judicial interpretation, and administrative directives. For an innovation to meet the criteria of an invention it must satisfy the criteria defining what an "invention" is and fall into any of the categories excluded from patentability.

[1] Students at ILS Law College.

Section 2(1)(j) of the Indian Patents Act, 1970 defines an "invention" to be "a new product or a process involving ? step and capable of industrial application"[2]. The definition outlines three fundamental conditions essential for patentability: the invention must be novel (new), it must possess a non-obvious technical advancement that is not evident to someone with technical expertise (inventive step), and it must have a practical use in an industry (industrial applicability)[3]. Only after meeting these conditions under Section 2(1)(j), can the patent examination procedure move on to Section 3 of the Act. Modern interpretations of Patent law highlight the importance of Section 3(k) in its overall application.

1.1 The Structure of Exclusion: Section 3 of the Indian Patents Act, 1970

Section 3 of the Indian Patents Act, 1970 outlines subjects that are considered trivial or contrary to public order, morality, public health, or scientific discoveries that are not considered as "inventions" and consequently not patentable[4]. It aims at the legislative policy to prevent the monopolization of fundamental principles, abstract ideas, and areas that are deemed important for public order.

Section 3(k) of the Patents Act excludes mathematical methods, business methods, computer programs per se or algorithms from patentable inventions. The position of Section 3(k) within the Act implies that the exclusion of these specific computer-related innovations was a deliberate policy decision aimed at setting limits on patent protection, avoiding the patenting of purely abstract or theoretical ideas, which are typically considered public knowledge[5]. The goal is to ensure that patents are granted only for genuine technological innovations and not for ideas that are more appropriately protected under other IP regimes like copyright.

Section 3(k) states "a mathematical or business method or a computer programme per se or algorithms[6]." A close interpretation of this clause highlights a structural divide. The restrictions on a "mathematical or business method" and "algorithms" are absolute. However, there is no inclusion

[2] The Patents Act, 1970 (Act 39 of 1970), s. 2(1)(j).
[3] Patent Office of India, Questionnaire on Exceptions and Limitations to Patent Rights.
[4] The Patents Act, 1970 (Act 39 of 1970), s. 3.
[5] Kaustubh Kumar, "Analysis of Section 3(k) of the Patents Act in light of Case Studies", available at: https://www.globalpatentfiling.com/blog/Analysis-of-Section-3-k-of-the-Patents-Act-in-light-of-Case-Studies (Visited on September 19, 2025).
[6] *Supra* note 3, s. 3(k).

of a computer programme and it is qualified by the Latin term "per se" which means "by itself" or "as such". This careful selection suggests that a computer programme by a mere collection of instructions or code is not patentable, but it may be patentable if it is combined with other things or has some technical effect. This distinction is the foundation through which the entire jurisprudence on software patentability in India emerged. The legislature recognized the dual nature of software: an abstract set of instructions that is not patentable and a functional component that can be patentable if it leads to a tangible, technical outcome.

1.2 Origin of Section 3(k): TRIPS Compliance and the 2002 and 2005 Amendments

The introduction and evolution of Section 3(k) was not a domestic policy initiative but was a direct consequence of India's efforts to align its intellectual property framework with its obligations under the Annexure 1C of the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement), which is the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).The TRIPS Agreement was signed by India in 1994 and mandates the member states to provide patent protection for all technology related fields without discrimination. This created a significant policy challenge for India, which had to align its international obligations with the strategic interests of its rapidly growing domestic software and Informational Technology Industry, an industry model profiting from open-source models and a relatively generous intellectual property regime. This led to the Patents (Amendment) Act, 2002[7].

At the time, the erstwhile Minister of Commerce and Industry, Shri Murasoli Maran, referred to the TRIPS compliance as a "masterpiece of ambiguity, couched in the language of diplomatic compromise," emphasizing the need for a law that adheres to the international laws while safeguarding national interests and the public health[8].

The most authoritative source for understanding the legislative intent behind Section 3(k) is the Report of the Joint Parliamentary Committee (JPC) on the Patents (Second Amendment) Bill,

[7] Swaraj Paul Barooah, "The Ping-Ponging Paradigm of Patenting Computer Programmes in India ("Software Patenting" 1999-2020)", SpicyIP, Feb. 12, 2020, available at: https://spicyip.com/2020/02/the-ping-ponging-paradigm-of-patenting-computer-programmes-in-india-software-patenting-1999-2020.html (Visited on September 19, 2025).

[8] India- Court clarifies the criteria of 'Technical Contribution' in relation to computer-related inventions", Mirandah Asia, Mar. 12, 2025, available at: https://www.mirandah.com/india-court-clarifies-the-criteria-of-technical-contribution-in-relation-to-computer-related-inventions/ (Visited on September 19, 2025).

1999[9]. This report recommended adding the word “per se” to the exclusion clause because, while a computer programme may include other elements that can be patented, the programme itself, is not intended for patenting. This interpretation indicates that the amendment sought a nuanced exclusion rather than a complete ban. The inclusion of “per se” created strategic ambiguity, allowing for a grey area that fulfilled TRIPS requirements while providing the judiciary and the Indian Patent Office with flexibility in interpreting the complex issue of software patentability.

The Patents (Amendment) Ordinance 2004, attempted to provide a clearer distinction by amending Section 3(k) to exclude: "a computer programme per se other than its technical application to industry or a combination with hardware"[10]. This change allowed patents for software with “technical application” a standard similar to “technical effect” test in Europe[11]. However, this approach faced severe criticism from software industry stakeholders and others, who feared that it would lead to the monopolization of software by multinational corporations and hinder domestic industry growth.

As a result, the Patents (Amendment) Act, 2005[12] was enacted to eliminate the ambiguity and restore Section 3(k) to its original wording. This amendment aimed to maintain a flexible, judiciary-driven standard rather than introducing a rigid framework.

2. The Judicial Response: Crafting the "Technical Effect" Doctrine

The statutory definition for “computer programme per se” led to multiple judicial interpretations on shaping software patentability. Through a series of landmark precedents, the court has developed a robust legal standard and established a definite test to overcome the ambiguity caused by Section 3(k) of the Act.

[9] Barooah, *supra* note 7.
[10] The Patents (Amendment) Ordinance, 2004 (Ordinance 7 of 2004).
[11] C. G. T., "Section 3(k) Compliance: Why Inventions as 'Instructions' Face Patent Challenges", De Penning & De Penning, Oct. 20, 2023, available at: https://depenning.com/blog/section-3k-compliance-why-inventions-as-instructions-face-patent-challenges/ (Visited on September 19, 2025).
[12] The Patents (Amendment) Act, 2005 (Act 15 of 2005).

2.1 From Abstract Idea to Technical Solution: The Emergence of a Guiding Principle

The main challenge for the courts was to create a test to distinguish between a non-patentable "computer programme per se" from a patentable computer-related invention (CRI). The judiciary developed a doctrine of "technical effect" and "technical contribution". This doctrine highlights that if a computer programme produces a tangible effect or makes technical contribution, it has a patentable technical effect[13].

Technical effect can be comprehended as a real-world, measurable improvement in the technical field beyond mere automation of manual or business processes. Over time, jurisprudence and administrative guidelines have provided examples of what constitutes a valid technical effect[14].

2.2 Landmark Precedents: Charting the Course of Interpretation

- ***Enercon India Ltd. v. Aloys Wobben*:** This case involved a method for controlling a wind turbine to maximize power generation during turbulent winds. The patent was challenged on the grounds that the method was an unpatentable algorithm under Section 3(k). The IPAB rejected this stating that the invention was a technical process designed to achieve a technical result i.e. maximization of power output. The Board ruled that the use of a computer or microprocessor to control a technical operation, such as adjusting the pitch of the blades of a turbine in milliseconds, could not qualify as a "computer programme per se" or mere algorithm. This decision was crucial in establishing that inventions where software is used to control physical devices and achieve a real technical result are patentable[15].
- ***Accenture Global Service Gmbh v. The Asst. Controller of Patents & Designs:*** The decision of Intellectual Property Appellate Board was one of the earliest cases to directly address the IPOs over reliance on "novel hardware test". The patent application of the appellant for a system that developed internet-hosted business applications was rejected by the Controller, who relied upon a non-statutory test that a hardware implementation of a novel function is not patentable if the hardware per se is known. The IPAB overturned this by stating that the test

[13] Decoding Section 3(k) of the Indian Patent Act: Challenges and the Road Ahead for Software and AI Patents", DexPatent, Jun. 18, 2025, available at: https://dexpatent.com/insights/2025/06/18/decoding-section-3k-of-the-indian-patent-act-challenges-and-the-road-ahead-for-software-and-ai-patents/ (Visited on September 19, 2025).
[14] C. G. T., *supra* note 10.
[15] *Enercon India Ltd. v. Aloys Wobben*, 2010 SCC Online IPAB 194.

utilized by the Controller was “ill founded” and lacked support in the Act. By sending the case to the controller for reconsideration, the decision of the IPAB highlights that it does not mandate the requirement of a novel hardware or a special modification or adaptation of an existing hardware for patentability. The mere absence of novel hardware could not be a bar to patentability for a software-based invention[16].

- ***Ferid Allani v. Union of India*:** This case marked the turning point in the development of software patent law in India. The patent application, for a "method and device for accessing information sources and services on the web," was repeatedly rejected by the IPO and the IPAB under Section 3(k) prohibition. In this landmark judgment, the Delhi High Court overruled these rejections. The court specifically grounded its decision in the JPC Report of 2001, upholding the intent of the legislators to allow for certain software-based inventions. It categorically ruled that the prohibition is only for "computer programmes per se" and that all inventions that demonstrate a "technical effect" or "technical contribution" become patentable, whether they are implemented in software or not[17]. The judgment in Ferid Allani made the "technical effect" doctrine the authoritative legal test, thus shifting the approach towards that of innovative interpretation of Section 3(k).
- ***Comviva Technologies Limited v. Assistant Controller*:** The Court held that an invention of the patent application resulted in a technical advancement and provided technical solutions to a technical problem, particularly enhancing the security of electronic payment transactions. It highlighted the patentability of computer related inventions in India and a necessity of understanding the distinction between business methods and technical inventions[18].
- ***Blackberry Limited v. Controller of Patents and Designs:*** The Court relied on the extract from Terell on the Law of Patents, 19th Edition (South Asian Edition), which highlights the conditions for implementation of computer programs that are patentable. It stated that “two types of technical advantages which are attributable to computer programs may suffice for patentability. The first is where the program solves a problem within the computer itself. The second is where the effect of the program is not merely within the computer but where the

[16] *Accenture Global Service Gmbh v. The Asst. Controller of Patents & Designs*, OA/22/2009/PT/DEL and M.P. No. 118/2012 (2013).
[17] *Ferid Allani v. Union of India*, 2019 SCC OnLine Del 11867.
[18] *Comviva Technologies Limited v. Assistant Controller of Patents & Design*, 2024 SCC OnLine Del 8096.

beneficial consequences feed into other devices[19].” The rationale was that the invention provided a clear technical effect by optimizing storage, enhancing device capability, and improving user experience in a tangible way that went beyond mere algorithm. The court held that any invention that enhances a device does not fall under Section 3(k) of the Patent Act[20].

The judicial interventions reflect a clear pattern. The courts took the role of de facto legislators by creating and delimiting the "technical effect" test to fill the ambiguity left by the legislative regime. Through judicial interpretation, the “technical effect” test has become the mandatory standard of the IPO. However, systemic drawbacks appear since the IPO has at times shown resistance to fully adopt the evolved judicial standard, as the “novel hardware” test has been prominently used in some cases. The interplay between judicial interpretation and administrative inconsistency has had the effect of necessitating constant judicial oversight and has been largely responsible for the need to establish a universal administrative guideline.

3. The Administrative Pendulum: The CRI Guidelines Saga

The Indian Patent Office adopted a process to develop an exhaustive examination framework for computer related inventions. The framework has changed considerably over time. The administrative evolution is exemplified by different and contradictory versions of the Guidelines for Examination of Computer Related Inventions (CRIs)[21].

3.1 The Quest for Uniformity: The Manual of Patent Office Practice and Procedure (MPPP)

Before the CRI guidelines, the primary guidance for patent examination was the Manual of Patent Office Practice and Procedure (MPPP)[22]. The Manual tended to interpret Section 3(k) restrictively. The 2010 Manual suggested that for a method involving a computer program to be patentable, it must have limiting hardware features and if a program runs on a general-purpose computer, then

[19] Blackberry Limited v. Controller of Patents and Designs, 2024:DHC:6571.
[20] Gaurvi Arora, "INDIA: Delhi High Court Clarifies the 'Technical Effect' Requirement Under Section 3(k) of the Patents Act", C&C IP, Mar. 2, 2025, available at: https://www.candcip.com/single-post/india-delhi-high-court-clarifies-the-technical-effect-requirement-under-section-3-k-of-the-paten (Visited on September 19, 2025).
[21] Office of the Controller General of Patents, Designs & Trademarks, Revised Guidelines for Examination of Computer-related Inventions (CRIs) (2025).
[22] Office of the Controller General of Patents, Designs & Trademarks, Draft Manual of Patent Office Practice and Procedure (2010).

it would not be patentable. The interpretation had rigid emphasis on the hardware often leading to the application of a de facto "novel hardware" test by examiners[23].

3.2 A History of Fluctuation: The Computer Related Inventions (CRI) Guidelines

The "ping-ponging paradigm" of the Indian software Patent Policy is most evident with the sequence of CRI guidelines published by the Indian Patent Office during 2013 and 2017. Each guideline was a different approach to maintain a balance between promoting innovation and preventing the monopolization of abstract ideas[24].

Draft CRI Guidelines 2013: The CRI Guidelines clarified that business methods, mathematical methods, as algorithms are not patentable. However, a new term "technical effect" was introduced in the CRI Guidelines. The move was a step forward from the rigid "novel hardware" requirement. The guidelines suggest that if a computer program when running on a general-purpose computer produced a "further technical effect" beyond the normal software and hardware function, then it might be patentable. This was a significant approach aligning with the European Patent Office[25].
CRI Guidelines 2015: The 2015 guidelines recommended for examining claims "as a whole" and highlighted that a computer program demonstrating industrial applicability should not be denied patents. It was highly criticized for being contrary to Section 3(k). Thus, the guidelines were ordered to be kept in abeyance by the then Controller General, Mr. Om Prakash Gupta until the issues[26].
CRI Guidelines 2016: It was a reaction and a change to previous CRI guidelines. These guidelines introduced a very restrictive stance of a rigid three-stage test for examining CRIs, where the contribution must be both the computer program and the hardware. It stated that the software "in themselves" is never patentable and the claim must involve "novel hardware" to be eligible[27].
The Revised CRI Guidelines 2017: The 2017 guidelines highlighted what constitutes a "technical

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[23] WIPO Committee on Development and Intellectual Property, *Annex II: The Scope of the Exclusion from Patentability of Plants and Patentability, or Exclusion from Patentability, of Software-Related Inventions*, Document No. CDIP/13/10 (2014).
[24] Barooah, *supra* note 7.
[25] Office of the Controller General of Patents, Designs and Trade Marks, Guidelines for Examination of Computer Related Inventions (CRIs) (2013).
[26] A quick history of CRI Guidelines in India", SFLC.in, Feb. 23, 2016, available at: https://sflc.in/quick-history-cri-guidelines-india/ (Visited on September 19, 2025).
[27] Id.

effect" and what would be considered a non-patentable "computer programme per se". This guideline was the operative framework for many years and instrumental in laying the principles by the High Courts and emerging at a judicial consensus[28].

4. The 2025 CRI Guidelines: A New Charter for High-Tech Inventions

The revised guidelines for the examination of Computer Related Inventions (CRIs) were released on June 29, 2025, to handle patents with more precision in India. It aimed at expanding and clarifying the application of section 3(k) of the Indian Patents Act, 1970 which excludes "mathematical methods, business methods, computer programmes per se, or algorithms" as patentable inventions[29]. The revised guidelines introduced Section 5 which provides patent examination procedures specific to emerging technologies – Artificial Intelligence (AI), Machine Learning (ML), Deep Learning (DL), Blockchain and Quantum Learning.[30] Applications involving computer programs or software components faced objections under this section as its interpretation largely relied on the dictionary meanings for undefined terms. On the contrary, the revised guidelines have incorporated judicial interpretations to explains key terms and its framework is backed by landmark judicial precedents. This has provided transparency and consistency to both examiners and applicants. The guideline clarified that if the invention provides technical solution through genuine technical efforts, it can avoid exclusion under the clause of Section 3(k) even if it is done using a computer program. This would ensure more robust patent protection for artificial intelligence, digital innovations, and software.

The guidelines have provided with a structured approach to patent examination where the assessment is to be based on novelty, inventive step, industrial applicability and sufficiency of disclosure. Novelty determination was proposed by the Hon'ble Delhi High Court in the judgement *Telefonktiebolaget Lm Ericsson (Publ) vs Lava International Ltd*[31]. The novelty approach emphasises that inventive features should be distinct from prior art and technical components

[28] PA Legal, "What's New in the Revised 2025 CRI Guidelines? (Part 1)", available at: https://thepalaw.com/patent/whats-new-in-the-revised-2025-cri-guidelines-part-1/ (Visited on September 19, 2025).
[29] The Patents Act, 1970 (Act 39 of 1970), s. 3(k).
[30] Guidelines for Examination of Computer Related Inventions, 2025 (Office of the Controller General of Patents, Designs and Trade Marks, India, 2025), s. 5
[31] Telefonktiebolaget Lm Ericsson (Publ) vs Lava International Ltd, 2016 CS(COMM) 65

should be give special focus. The inventive step evaluates whether the invention involves technical advancement and is applied in practice and not just abstract. Industrial application demands a concrete and practical application deriving concrete benefit rather than speculative or hypothetical possibility. Under Section 10 of the Act, requirement for "sufficiency of disclosure"[32] which demands the applicant to specify "what" and "how" about the invention. These tests determine what makes an invention a "mathematical method" or an "algorithm", and when provided technical improvement they are moved outside the exclusion. Thus, when Artificial Intelligence (AI), Machine Learning (ML), Deep Learning (DL), innovations transform the abstract mathematical concepts like formulas or a theoretical construct into tangible application in real world scenarios, then these innovations can be patentable.

AI related inventions are categorised as AI generated inventions and AI assisted inventions. AI generated inventions are not patentable under Section 6 of the Patents Act, as the inventor is required to be a "person"[33]. However, AI assisted inventions are patent – eligible, provided they fulfil the criteria provided in the guidelines. This motivates inventors to claim the patent as AI assisted with full documentation, also fulfilling the requirements of Section 6 of the Act[34]. Therefore, AI assisted inventions are generally excluded under Section 3(k) of the Act.

5. AI inventorship Conundrum: Legal and Philosophical Challenges

AI inventorship faces numerous legal and philosophical challenges in modern intellectual property law regarding responsibility, creativity, and rights. The Device for the Autonomous Bootstrapping of Unified Sentience, also known as DABUS[35] patent raised the question whether AI can be considered as an inventor. The matter was tested in several courts where no legislation considered AI invention as patentable. According to Section 6 of The Indian Patents Act, 1970, an inventor or an assignee should be a "person"[36]. As Indian law does not regard AI as a legal entity, it cannot claim under intellectual property rights. Section 2(1)(j)[37] of the Act specifies that for a patent to be

[32] The Patents Act, 1970 (Act 39 of 1970), s. 10
[33] The Patents Act, 1970 (Act 39 of 1970), s. 6
[34] The Patents Act, 1970 (Act 39 of 1970), s. 6
[35] Saravanan A and Deva Prasad M, "AI as an Inventor Debate under the Patent Law: A Post-DABUS Comparative Analysis" 47(1) EIPR (2025) (Forthcoming 2025).
[36] The Patents Act, 1970 (Act 39 of 1970), s. 6
[37] The Patents Act, 1970 (Act 39 of 1970), s. 2(1)(j)

invested, it should involve an inventive step with human ingenuity. The dilemma lies in who should be credited for the invention or who will be the owner of patent rights. AI cannot own property, accept responsibilities, transfer rights or be held accountable for misconduct. There could arise disputes over AI user and AI developer regarding the patent rights. This could also challenge the scope of intellectual property rights, discouraging innovators and creators.

As seen in the case of DABUS, the major concern of the court was the inventor, i.e. AI not being a legal entity or a natural person to attain or transfer rights. This becomes a major legal challenge to AI innovations to attain patent under The Indian Patents Act, 1970[38]. The other moral implications lie in the moral rights of the inventor and should lie with the inventor. However, AI not being a legal entity makes it challenging to claim moral rights as with these rights comes the ethical and moral responsibility. Another challenge being the ownership of the economic rights arising out of the patent which traditionally belongs to the inventor.

The UK, US, EU courts do not consider AI inventions patentable whereas, countries like South Africa and Australia have recognised AI inventions. By extending patent protection to AI generated inventions, major legal requirements of assessment test must be satisfied. The satisfaction of novelty, inventive step or sufficiency of disclosure becomes challenging as AI has the access to unlimited resources and information. Thus, there is a genuine concern regarding how adequately the patent law can manage the patentability of the AI generated inventions given the legal and moral challenges.

6. Generative AI and Patent Law: Navigating New Complexities

Generative AI is reshaping the landscape of patent law due to complexities around AI inventorship. In US the United States Patent and Trademark Office (USPTO) has established that AI inventions can be patented only if they meet the criteria of "inventive concept"[39]. Something similar has also been established by the European Patent Office (EPO) where it insists on innovation having a clear application. In India, the court has clarified in various precedents that only those innovations would

[38] The Patents Act, 1970 (Act 39 of 1970)
[39] USPTO's Latest Eligibility Guidance for Artificial Intelligence Patents, available at:https://thompsonpatentlaw.com/eligibility-artificial-intelligence-patents/ (Visited on September 18, 2025)

be granted patent who have a technical contribution and human inventorship. However, there is an increased dispute over what counts as genuine human inventorship.

The Other hurdles include strict applicability of assessment criteria. Complexity arises regarding the distinction of technical innovations which are applicable in real world from that of broad mathematical concepts and algorithms. The court simply states that if abstract concepts like the algorithms are transformed into a patent- eligible invention, then they can be classified as "inventive concept". This narrows down the scope of patentability of AI inventorship. Another complexity may arise regarding confidentiality of the innovation due to the use of generative AI until it receives patent. The infringement of AI technologies like machine learning techniques, deep learning techniques may lead to disputes under intellectual property rights. These form the key challenges for practitioners.

7. Best Practices for Patent Drafting and Prosecution in India

The recent amendments and updated guidelines for computer-related and AI inventions have raised standards and has provided clarity for the four-fold criteria of assessment, making it easier for practitioners to understand the complexities of process and be excluded under section 3(k). The patent drafters need to closely work with the inventors to understand their invention and its application to satisfy the patentability requirement. To remove the invention from Section 3(k) exclusions, the Indian Patent Office expects the technical implementation details for AI related inventions.

For patent prosecution the inventor must comply with the revised 2025 CRI guidelines and provide detailed technical disclosure. The inventor is expected to provide explanation of the application of the invention and cite examples. The inventor can engage with the patent attorneys experienced in patent drafting and filing to ensure compliance, precision and defensibility of your rights.

The inventors should refer to the following guidelines:

- **Revised CRI Guidelines**: Introduced in 2025, the guidelines provide stepwise methodologies, technology specific requirements, and greater clarity to align Indian AI patentability with global best practices[40].
- **Draft Patent (Amendment) Rules**[41]: It has been released by the Department for Promotion of Industry and Internal Trade (DPIIT) in 2025 which aims at modernizing the Indian patent framework and ensuring benefit to innovators and businesses.
- **Manual of Patent Office Practice**: It provides a practical guide for effective prosecution.

8. A Comparative Perspective: India, the EPO, and the US[42].

The legislation of India, US and Europe does not entirely recognize AI inventorship as patentable however, they have a distinct approach to patent eligibility and procedural aspects.

a. Criteria for patentability: In India the assessment is based on novelty, inventive step, industrial applicability and sufficiency of disclosure. In US the essential requirement is the novelty, industrial applicability, and non -obviousness. The EU requires the invention to be assessed on the basis of novelty, non-obviousness, inventive step and utility of the invention by a person.

b. Eligible subject matter:

India - The section 3(k) of the Indian Patents Act, 1970 excludes computer programs "per se" and algorithms.

US – Allows software and business method patents if not mere abstract concepts.

Europe – Allows software patents that are technical in application.

c. Inventorship: In India the Section 6 of The Indian Patents Act, 1970 specifies the inventor to be a "person"[43]. The same criteria are seen in the US and Europe.

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[40] Press Information Bureau, "Patent Office (CGPDTM) releases Revised Guidelines for Examination of Computer Related Inventions (CRIs)", available at: Press Release: Press Information Bureau (visited on September 18,2025)

[41] Publication of Draft Patent (Amendment) Rules, 2025, available at: https://www.indiaip.com/articles/singles/Publication-of-Draft-Patent-Amendment-Rules-2025 (visited on September 19,2025)

[42] US, EU and Indian Patent Laws: A Comparative Study, available at:https://corpbiz.io/learning/us-eu-and-indiaan-patent-laws-a-comparative-study/ (visited on September 19,2025)

[43] The Patents Act, 1970 (Act 39 of 1970), s. 6

India through its clear guidelines and legislations focuses heavily on the technicality and contribution for patent eligibility, while the US focuses more on the practical utility. All three nations mandate the inventor to be a natural person, and AI cannot be considered as inventor.

9. Synthesizing the Evolving Landscape: From Ambiguity to Nuanced Predictability

The evolution of patent landscape is derived from the state of uncertainty to structured technology specific frameworks, and legal precedents clarifying eligibility standards and disclosure requirements across Indian jurisdictions. The patent offices are now addressing ambiguity with respect to the recent 2025 CRI guidelines in India which emphasises on the technical contribution and real-world application for AI and Computer Related inventions.

These updates foster transparency in decision-making and be par with international approaches. The courts and administrative tribunals are emphasising on precedents to clarify core concepts. Patentability for AI and software inventions remains highly contextual. Only those inventions which lead to technical advancement are patentable. This has created certain disputes and uncertainties for innovators. However, these specifications regarding eligibility have resulted in considerable progress as it has widened the ambit of AI inventorship for the inventors and businesses.

The way forward is the integration of AI in practice. The companies are broadening their protection by entering into collaboration, cross industry applications to drive innovation and avoid disputes. The evolving landscape thus shows that global convergence is offering applicants not absolute certainty but a nuanced, sector specific predictability rooted in technicality and legal standards.

10. Recommendation for the stakeholders

The stakeholders to maximise their patent value should integrate the revised CRI Guidelines into patent drafting and disclosure to avoid being rejected. To satisfy the global eligibility criteria they should frame specifications around the invention's contribution and practical application. They need to ensure that the patents are meticulously drafted to be enforceable in court. The stakeholders can maximise their benefit by updating their skills in AI, analytics, new software tools. They need

to foster interdisciplinary collaboration among inventors, business teams, etc to ensure comprehensive protection and strategic portfolio development.

The international collaborative initiatives like Memorandum of Understanding (MoU) on Bilateral Cooperation between the Office of the Controller General of Patents, Designs and Trademarks (CGPDTM) and the European Patent Office (EPO) for a one-year Work Plan[44]. Such cooperation strengthens the frameworks by facilitating technology transfer, harmonise examination standards and support economic development.

Conclusion - Balancing Innovation, Competition, and Public Interest

The evolution of the Section 3(k) of Indian Patent Act, 1970 clear shift that aligns with global best practices. According to WIPO's Technology Trends 2019 Report on Artificial Intelligence, AI-related patenting activity is growing rapidly with more than half AI inventions published after 2013, which indicates the acceleration in innovation in the field of Artificial Intelligence[45].The Organization for Economic Co-operation and Development(OECD) reports also highlight that Artificial Intelligence, machine learning Hand other digital technologies patenting activities have grown at a faster pace in the past decade[46].The 2025 CRI guidelines it's a significant attempt to introduce transparency, predictability and uniformity in computer related inventions. The interpretations of Section 3(k) of the Patent Act created inconsistencies that discouraged innovators and the judicial interpretation of the technical effect doctrine has essentially aligned India's Patent Law to the international practice[47]. The incorporation of the judicial precedents in the 2025 guidelines creates a structured framework for the practitioners.

[44] Memorandum of Understanding on bilateral co-operation between Office of the Controller General of Patents, Designs and Trade Marks (CGPDTM) and The European Patent Office (EPO), November 29, 2006.
[45] World Intellectual Property Organization, *WIPO Technology Trends 2019: Artificial Intelligence* (2019)
[46] OECD, *OECD Science, Technology and Innovation Outlook 2021: Times of Crisis and Opportunity* (2021)
[47] Shamnad Basheer and Prashant Mani, "Demystifying Section 3(k): A Study on Indian Software Patenting Practice," (2020) 16 *Indian Journal of Law and Technology*

India's stance on AI inventorship remains cautious and internationally aligned. Policy guidance from NITI Aayog emphasises that India must balance incentives for innovation with safeguards for public interest, particularly to prevent excessive monopolisation of fundamental algorithms that underpin AI development.[48]The evolving framework around Section 3(k) reflects India's effort to build a patent system that is globally relevant yet sensitive to domestic technological realities. While challenges remain particularly in distinguishing abstract algorithms from technical contributions, the combined impact of judicial intervention, administrative guidelines and international cooperation has created a coherent and innovation centric patent environment. This trajectory positions India to promote technological progress, attract investment, and safeguard public interest.

[48] NITI Aayog, National Strategy for Artificial Intelligence – #AIforAll (2018), pp. 45–48.