

INDIAN INSTITUTE OF TECHNOLOGY KHARAGPUR

RAJIV GANDHI SCHOOL OF INTELLECTUAL PROPERTY LAW

National Moot Court Competition, 5th Version – 2024

[February 9-11, 2024]

MOOT PROPOSITION

Republic of Jambudeep and its Legal System

1. The Federal Democratic Republic of Jambudeep (hereinafter referred to as FDRJ) is a multi-racial, multi-lingual, multi-cultural and multi-religious federal democratic state. FDRJ's laws are in *pari materia* with that of India including the practices and principles of private international law. FDRJ, a member of World Trade Organization, has fully implemented its international obligations under the Berne Convention, Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, WIPO Copyright Treaty, WIPO Performances and Phonograms Treaty, and Beijing Treaty on Audiovisual Performances. Moreover, FDRJ's patent office was following a specific guideline known as "Guidelines for Examination of Computer Related Inventions" for the examination of patent applications in the field of computer related inventions so as to foster uniformity and consistency in the examination of such applications. This guideline is a replica of "Guidelines for Examination of Computer Related Inventions (CRIs) of 2017" applicable in India.

Pandit Pravek Joshi – An Exponent of Classical Music

2. Pandit Pravek Joshi is an eminent exponent and vocalist of Hindustani Classical Music. Pandit Joshi received his *talim* (training) from Ustad Aabid Khan, a celebrated and world-renowned vocalist belonging to *Jaipur-Atrauli Gharana*. During his three-decade long career as a vocalist and music teacher Pandit Joshi learned, imbibed and adopted the best practices of the other *Khyal*, *Dhrupad* and *Thumri Gharanas*. Apart from the Hindustani Classical Music, he is an erudite scholar of Carnatic Music (Karnāṭaka Saṃgīta) and well-versed in its theoretical nuances and intricacies. Pandit Joshi received FDRJ's highest civilian award “Jambudeep Ratna” in 2018.

Teaching Manual and IPR therein

3. For the last two decades, Pandit Joshi is engaged in the teaching of Hindustani Classical Music particularly *Khyal*. Many of his *shishyas* (students) have established themselves as renowned vocalists. For imparting training, Pandit Joshi developed and employed certain methods based on a holistic understanding and synthesis of various ancient musicological texts including Sangita-Ratnakara (संगीतरत्नाकर) and the teachings of Purandara Dasa (known as the “father of Carnatic Music”).

4. Thiru Elisaiyan Adigaman, a computer engineer by profession and a diligent student of Pandit Joshi mooted the idea of reducing the training methods used

by Pandit Joshi into a written manual. Accordingly, Pandit Joshi and Thiru Adigaman started working jointly on the proposed manual of music training. Thiru Adigaman created an exhaustive schematic flow chart using his computer engineering knowledge and then the *Guru* and *Shishya* meticulously arranged the training methods into that scheme with detailed explanations and examples. After working for several years, during the difficult days of Covid pandemic Pandit Joshi and Thiru Adigaman completed their work. Pandit Joshi and Thiru Adigaman published the manual book titled “Sastriya Sangeet Shiksha Pranali” on September 1, 2020. As joint authors and joint owners of the said book, Pandit Joshi and Thiru Adigaman obtained copyright registration in respect of the book as a literary work under the relevant provisions of the Copyright Act, 1957 and the Copyright Rules, 2013 of FDRJ. As the book meticulously explained and narrated the step-by-step music learning methods in unprecedented details, it was very useful to unguided music aspirants. In general, the book was well appreciated by the music learners as they were unable to access music schools due to lockdown. However, there were a number of critical voices raised from the well-known musicological quarters terming the book as a mere assembly of known methods and facts.

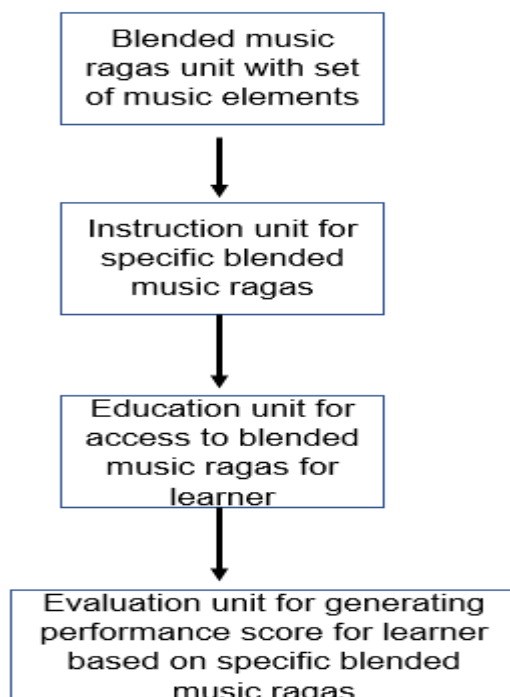
5. Before publishing their book, pursuant to the advice given by the lawyers on August 1, 2020, Pandit Joshi and Thiru Adigaman applied for a business method patent in the U.S.A. after obtaining a foreign filing permission from the

FDRJ's Patent Office. The U.S. Patent and Trademark Office (USPTO) issued a patent on July 1, 2022. A representative Claim is provided below.

Claims at the USPTO

1. A system for imparting blended music over a network, the system comprising:
a portal, the portal accessible over the network and comprising:
a blended music raga unit, operable to:
receive a music contribution comprising a set of music elements from Hindustani ragas and the set of music elements from the Melakarta ragas; and
generate instruction output relating to a specific portion of the music elements at the portal over the network;
an education unit, operable to provide a set of music elements for learning blended music at the portal for access to learner;
an evaluation unit, operable to generate score from the education unit for the learner.

Fig 1. System of imparting blended music ragas (Representative Figure Only)



Music Bots Private Limited (MBPL) and its AI Tool

6. In 2019, Thiru Elisaiyan Adigaman and Pandit Joshi established a startup named “Music Bots Private Limited” (hereafter MBPL) and registered it under the relevant provisions of the Companies Act, 2013. MBPL was primarily engaged in the business of developing Artificial Intelligence applications capable of imparting Hindustani as well as Carnatic Classical music training to the prospective learners in a remote mode.

7. During the month of October 2020, Pandit Joshi and Thiru Adigaman decided to use the music training methods in an AI application. On November 1, 2020 Pandit Joshi and Thiru Adigaman (in their personal capacity) granted permission to their company MBPL to use the music training methods in the AI algorithm through a formal license, although requests for such license were refused to other license seekers without any cogent reasons. The license was an exclusive license. The relevant license terms read as under:

The Licensee agree and understand that all background intellectual property forming subject matter of the instant License Agreement shall be jointly owned by the Licensee and the Licensors.

The Licensors and the Licensee further agree and understand that all foreground intellectual property forming subject matter of the instant License Agreement shall be jointly owned by the Licensee and the Licensors.

The instant License Agreement shall remain in force in perpetuity.

8. After obtaining the license, the programmers of MBPL started developing a deep learning algorithm structured on Pandit Joshi's methods. Ultimately, the programmers of MBPL developed a system that apart from imparting training, possessed the additional feature of evaluating the performance of its users, and giving them human-like voice instructions and feedbacks to correct their usual mistakes. On December 1, 2020, Pandit Joshi, Elisaiyan and MBPL applied for a patent in respect of the same to the Patent Office of FDRJ. The Patent Office FDRJ issued a patent on December 1, 2022 and a representative Claim is provided below.

Claims at the Patent Office of FDRJ

1. A system for imparting blended music over a network, the system comprising:

a portal, the portal accessible over the network and comprising:

a blended music raga unit, operable to:

receive a music contribution comprising a set of music elements from Hindustani ragas and the set of music elements from the Melakarta ragas; and

generate instruction output relating to a specific portion of the music elements at the portal over the network;

an education unit, operable to provide a set of music elements for learning blended music at the portal for access to learner.

2. A method for processing blended music raga over a network, the method comprising:

receiving a combination of set of music elements at a portal, the music elements comprising a set of music elements from Hindustani ragas and set of music elements from the Melakarta ragas, and the portal being accessible over the network; and

generating instruction output of the blended music raga at the portal; accessing of the blended music raga by the learner over the portal.

E- Adhyayana Private Limited (EAPL) and its activities

9. In 2015 Smt. Chandrani Sen, a Chemistry teacher by profession started an educational technology company named E-Adhyayana Private Limited (EAPL). During the initial days, EAPL was engaged in teaching of all the science subjects for grade 11 and 12 students through its online videos and various other state-of-the-art e-teaching and learning tools and applications. Later, EAPL developed and launched e-teaching and learning tools for all other subjects and disciplines including the arts and commerce for grade 11 and 12 students. All the services provided by EAPL were paid services. On March 2020, EAPL had a user base of around 2 Lakh students.

10. Due to the outbreak of the Covid pandemic and the lockdown that followed, like all other activities teaching and learning pursuits were severely affected. The aspirants who were interested in learning Hindustani and Carnatic Classical music encountered serious difficulties. During May 2020 Smt. Chandrani Sen approached Pandit Joshi and Thiru Adigaman to advise her in developing e-teaching and learning tools and platform for imparting *talim* in Hindustani and Carnatic Classical music. Surprisingly, after few initial online meetings with Pandit Joshi and Thiru Adigaman, Smt. Chandrani Sen abruptly stopped communicating with them. As such no further progress or negotiations could take place in this regard.

11. The National Education Policy of FDRJ declared during the Covid times announced several incentives including income tax rebates to the companies engaged in e-teaching activities. During January 2023, EAPL launched a comprehensive e-teaching and learning app called “E-Raga Talim” for imparting training in Hindustani and Carnatic Classical music. By end of January 2023 “E-Raga Talim” had 50,000 paid users.

12. Pandit Joshi and Thiru Adigaman got to know from several quarters that “E-Raga Talim” incorporated and used the music training methods narrated in “Sastriya Sangeet Shiksha Pranali” with apparent cosmetic variations and supplements. Moreover, it had certain additional feature and modules taken from Western Classical musicological texts.

The Allegation of Infringement, Legal Disputes and Trial

13. Upon being advised by their lawyers Pandit Pravek Joshi, Thiru Elisaiyan Adigaman and Music Bots Private Limited (MBPL) on February 1, 2023 sent a “cease and desist” notice to Smt. Chandrani Sen and her company E-Adhyayana Private Limited (EAPL) calling upon them to immediately stop the use of the e-teaching and learning app called “E-Raga Talim”. However, they neither acted nor responded.

14. The major business activities of the defendants were conducted within the geographical limits of FDRJ and the computers servers were located in the State of Samatata being one of FDRJ's twenty-nine states situated on the south-eastern part of the country. Notably, there were a considerable number of subscribers of "E-Raga Talim" in the U.S.A. On April 1, 2023, Pandit Joshi, Thiru Elisaiyan Adigaman and Music Bots Private Limited (MBPL) filed a suit against Smt. Chandrani Sen and her company E- Adhyayana Private Limited (EAPL) before the Ordinary Original Civil Jurisdiction of the High Court of Judicature at Fort Chanakya in Samatata. It may be noted that the Original Side Rules of the High Court of Judicature at Fort Chanakya in Samatata is an exact replica of the Original Side Rules of the High Court at Calcutta. The details of the suit and their outcomes at trial are given below.

Plaintiffs:

1. Pandit Pravek Joshi
2. Thiru Elisaiyan Adigaman
3. Music Bots Private Limited (MBPL)

Defendants:

1. Smt. Chandrani Sen
2. E- Adhyayana Private Limited (EAPL)

Allegation No. 1: Defendants' app "E-Raga Talim" infringes copyright in the book "Sastriya Sangeet Shiksha Pranali"

Following Questions were raised with regard to Allegation No. 1 during trial:

1. Does “Sastriya Sangeet Shiksha Pranali” constitute an original work of authorship?
2. What is the scope of non-literal copyright protection in the “Sastriya Sangeet Shiksha Pranali”?
3. Do the methods used by the plaintiff constitute *scènes à faire*? Are they otherwise fall within the merger doctrine of copyright?

Allegation No. 2: Defendants’ app “E-Raga Talim” infringes the patent right of the plaintiffs in their FDRJ patent.

Defense: The defendants’ responded by filing a counter claim of revocation.

Following Questions were raised with regard to Allegation No. 2 during trial:

1. Is the patent valid?
2. What is the scope of patent protection in the system Claims?
3. Does the “Doctrine of Equivalence” or alternatively the “Doctrine of Pith and Marrow” have any application in this case?

Allegation No. 3: Since there were a considerable number of subscribers of “E-Raga Talim” app in the U.S.A., thus the plaintiffs’ U.S. patent was apparently violated in the U.S.A. and part of the cause of action had arisen in FDRJ. Arguing *forum non conveniens* the plaintiffs urged the Court to apply the U.S Patent Law and provide remedy to them.

Following Questions were raised with regard to Allegation No. 3 during trial:

Can the violation of foreign patent be tried in the FDRJ?

Verdict of the Trial Bench of the High Court:

1. No infringement of Copyright.
2. Patent Revoked. Therefore, the issue of infringement of patent had not arisen and therefore not discussed.
3. The Court found that even if the allegations of infringement of the plaintiffs’ U.S. Patent were considered to be true but yet those allegations do not result in an actionable cause in FDRJ.
4. The case was dismissed with cost.

The Letters Patent Appeal before the Division Bench

15. Being aggrieved and dissatisfied with the judgment and order of the trial judge in the aforementioned suit, the plaintiffs therein filed an appeal before the Division Bench of the High Court of Judicature at Fort Chanakya in Samatata. The division bench dismissed the appeal and found no error in the application of law.

The Appeal before the Supreme Court of FDRJ

16. Being aggrieved and dissatisfied with the judgment and order of the appellate and trial Courts, the plaintiffs/appellants therein filed a Special Leave Petitions (SLPs) before the Supreme Court of FDRJ. The SLP was duly admitted. The case has now come up for final hearing. The Court agreed to hear the following issues:

- 1. Whether the app “E-Raga Talim” infringes copyright in the book “Sastriya Sangeet Shiksha Pranali”.**
- 2. Whether the patent granted to the plaintiffs/appellants in FDRJ is valid. If yes, whether “E-Raga Talim” infringes the patent right of the plaintiffs in their FDRJ patent.**
- 3. Whether a foreign patent can be enforced in FDRJ on the ground of *forum non conveniens* and occurrence of partial cause of action.**

General Instructions

- ✓ **The arguments should be focused on the issues stated herein.**

However, nothing prevents you from raising other relevant issues.

- ✓ **The technical correctness of the musicological narration, software and AI cannot be challenged.**
- ✓ **The Procedural correctness cannot be challenged.**

