



II **TechnoLegal** National Moot Court Competition

LET ' S LITIGATE INVENTIONS

MOOT PROBLEM



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1. The Republic of Dravida (hereafter Dravida) is a country in South Asia. It is known for having the world's longest constitution. Many features of the Constitution of the Republic of Dravida are lifted from various constitutions of Common Law countries and are largely inspired from precedents and legislations set up in England. Dravida was England's colony for nearly three centuries till it gave Dravida independence in 1947. Dravida's constitution came into implementation on January 26, 1950. England was a country in Western Europe and is known for colonising more than half of the world and its influence can be observed in the culture of its former colonies. In 1950 England became United Kingdom of Great Britain and Northern Island (hereafter the UK). Since then the country is a part of four different nations, namely: England, Scotland, Wales and Northern Ireland but the UK continues to boast the rich cultural heritage associated with its English history.
2. In the present times, i.e., 2017 Dravida is the fastest growing economy in the world. Cinton Tech Pvt. Ltd (Cinton) produces orthodontic appliances in Dravida. The company is one of the leading companies in the dental market of Dravida. In 2007, Cinton issued a patent on its teeth aligners named "ORTHODENTA" (Fig. 1). The aligners configured to be placed successively on the patient's teeth and to incrementally reposition the teeth from an initial tooth arrangement, through a plurality of intermediate tooth arrangements, and to a final tooth arrangement. The tooth arrangement should be done in a well-arranged manner and if the calculations go wrong the aligners will not be able to fit on the teeth of the patient.
3. Seeing the economic rise in Dravida, Johnson Dentals United Kingdom (JDUK) a dental company incorporated in Scotland, UK opens a subsidiary company in Dravida,

Johnson Dentals Dravida (JDD). JDD makes its aligners named "OTHODENT" (Fig. 2) through the following process. JDD scans physical models of the patient's teeth and creates a digital recreation of the patient's initial tooth arrangement. This digital recreation is electronically transmitted to JDUK, where the position of each tooth is manipulated to create a final tooth position. JDUK then creates digital data models of intermediate tooth positions. One intermediate tooth position is created for each incremental aligner. JDUK then transmits these digital models electronically to JDD. JDD subsequently converts the 3D prints of these digital models into physical models.

4. M/s. JDUK has its factory located in the United Kingdom and has a fully owned subsidiary JDD in Delhi, India. JDUK has been granted a patent in the year 2009 being Patent No. 456437 in India for the aligner in various countries being New Zealand, UK, USA, Russia, Japan and China . One of the relevant claims in the patent is as below:-

1. A method for treating a patient's teeth, comprising:

receiving an initial configuration of the patient's teeth;

determining a final configuration of the patient's teeth;

designing a movement path for at least one of the patient's teeth from the initial

configuration toward the final configuration;

dividing the movement path into a plurality of successive treatment steps, each

having a target configuration for one of the patient's teeth;

receiving a profile for the patient, the profile comprising at least one of a number

of meals, a sleeping pattern, a dental hygiene level, or whether the patient is a

smoker; and

producing two or more redundant disposable dental aligners for each of at least one of the treatment steps to move the one of the patient's teeth to the target configuration, wherein the number of aligners produced for each of the at least one of the treatment steps is selected at least partially in response to the patient's profile, wherein the profile comprising one or more lifestyle factors selected from the patient's eating habits, sleeping pattern, dental hygiene and smoking habits;

wherein the two or more produced aligners for each of the at least one treatment steps are delivered to the patient at one time and have a material property optimised for usage of a limited duration of not longer than one week, and

wherein the two or more redundant disposable aligners for each of the at least one treatment steps are aligners of substantially identical shape.

5. JDUK sells these aligners under a brand “OTHODENT” which is registered trademark in India, USA, Europe, China, Russia, Japan and New Zealand. JDUK through JDD has sold few teeth aligner in India and across the world. The product was found to be very effective and the users never had any complaints with regard to the functionality and results from the product.
6. Owing to the huge demand for the teeth aligners, which was nearly about 50 lakh units and the failure of JDD to meet the growing demand due to the import restrictions since their manufacturing unit is in the United Kingdom; Cinton approached JDD., for technical assistance and license manufacturing of their patented aligner “OTHODENT” in India on 20th January 2008.
7. However, JDUK declined to grant the licence of manufacture for reasons best known to them. As per the records available, JDD had supplied only 2 lakh units against the huge

demand in India at the rate of Rs. 400,000 a piece (approximately Rs.24 Lakhs per unit).

Cinton was on other hand manufacturing the same piece at Rs. 40,000/- each.

8. In the second week of November 2017, a technical team of JDD visited 'Teeth Line Products' in Mumbai to set up a teeth aligner. In the process of inspection of the place inside the factory, the JDD team was shocked to see that two manufacturing device for teeth aligners already working at 'Teeth Line Products' were exact copies of their product OTHODENT and were further surprised to note that the infringing product was named as “ORTHODENTA” which was deceptively and phonetically similar to “OTHODENT”. The technical team found out that the infringing separators were supplied to 'Teeth Line Products' by Cinton.
9. Based on the above, JDD filed a suit of infringement against Cinton at the Saket District Court. Subsequently, based on the suit filed by JDD, Cinton filed a counterclaim against JDD at the High Court of Delhi on the ground that the accused “articles” upon which the jurisdiction was based, were transmissions of the digital data sets from the UK to the India and hence not patentable.

TECHNO***LAWGY**

Issues:

1. Whether the digital data transmitted from the UK to the India by JDD amounts to importation under the Patent's Act, 1970?
2. Whether the patent of JDD be revoked by the counterclaim by Cinton?
3. Whether a compulsory license can be granted to Cinton?
4. Whether the product of the Cinton infringes the trademark of the JDD?
5. Whether the importation of data fall within the purview of the Information Technology Act, 2000 (2008)?

Note: The laws of Dravida are para materia to laws of India

TECHNOLOGY

The logo consists of a large blue capital letter 'O' on the left. To its right, the word 'RTHODENTA' is written in a bold, blue, sans-serif font. The 'O' is significantly larger than the letters in the word.

ORTHODENTA

(Fig. 1)

The logo features a large red capital letter 'O' on the left. To its right, the word 'THODENT' is written in a bold, sans-serif font. The letters 'T', 'H', and 'D' are red, while 'O', 'E', and 'N' are blue. The 'O' is significantly larger than the letters in the word.

THODENT

(Fig. 2)