



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF THE CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment

भारत सरकार/Government of India

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Case No. 14341/1101/2023

In the matter of -

Masoom Reza

...Complainant

Versus

The Controller General of Patents,
Designs and Trademarks (CGPDTM),
Intellectual Property India,
Mumbai

...Respondent

1. Gist of the Complainant:

1.1 Shri Masoom Reza, a person with 100% Visual Impairment filed a Complaint dated 23.07.2023 regarding inaccessibility issue of the Intellectual Property Office website "Online Filing of Trade Mark system", <https://ipindiaonline.gov.in/trademarkefiling/user/frmLoginNew.aspx>, for users with screen readers.

1.2 The login page of the online filing of Trade Mark system requires users to provide their login credentials and complete a Captcha verification process before proceeding. Regrettably, the current Captcha implementation poses significant barriers to accessibility for individuals who use screen readers such as JAWS or NVDA. Although an Audio Captcha option is provided, yet it fails to announce the capitalization of specific letters. Consequently, users who are visually impaired, cannot discern which letters are capitalized. As an example, when the Captcha presents a combination such as "13wC9," the Audio Captcha does not indicate that the letter "C" is capitalized, rendering even the Audio Captcha option ineffective

and inaccessible. It is crucial to address this matter promptly to ensure equal access to the services for persons with visual disabilities.

1.3 Additionally, on the “Search Index of Registered Trade Mark/ Application” and “the Public Search Trade Mark”, retrievable at <https://ipindiaservices.gov.in/eregister/eregister.aspx> and <https://ipindiaservices.gov.in/tmrpublicsearch/frmmain.aspx>, respectively, the users are required to solve image captcha without any option for an audio captcha alternative. This absence of an audio captcha further exacerbates the accessibility challenges faced by persons with visual disability, hindering their access to the required information and services smoothly and efficiently.

1.4 On 27th June 2023, he raised this issue by mailing a formal complaint to the Nodal Officer (Disability), Shri Piyush Garg, and the Office of CGPDTM, Mrs. Poonam Singh. However, he did not receive any response despite reminder on 15.07.2023.

1.5 The Complainant sought the following reliefs-

- (i) To enhance the accessibility of the Online Search/Filing of Trade Mark system;
- (ii) To provide an audio captcha alternative on all the pages, enabling individuals with visual impairments to access and utilize these resources/services effectively;
- (iii) To ensure that the Audio Captcha option accurately announces the capitalization of letters, allowing individuals who rely on screen readers to complete the Captcha verification process; and
- (iv) Any other suitable measures which this Court deems fit.

2. Notice issued to the Respondent:

2.1. In exercise of the mandate and the functions of this Court under sections 75 and 76, a Notice dated 27.07.2023 was issued to the Respondent for forwarding their comments within 30 days in the light of the statutory provisions for digital accessibility. However, despite issuance of Reminder on 25.09.2023 no response was received.

3. Seeking current status from parties:

3.1 This Court vide email dated 13.06.2025 sought the current status of the matter from both parties. Vide email dated 16.06.2025, the Respondent sought a copy of the Complaint. However, no reply was received from the Complainant.

4. Hearing:

4.1 A hearing was conducted on 10.07.2025 in hybrid mode and following parties were present:

Sl. No.	Name and Designation of the Party/Representative	Parties	Mode
1.	Masoom Reza	Complainant	Online
2	Shri Saroj Kumar, Jt. Controller of Patent and Design	Respondent	Online

5. Proceedings of the hearing:

5.1 At the outset, the Complainant contended that CAPTCHA operates as an entry barrier, and unless fully accessible, persons with visual impairments are effectively denied their statutory rights. The Respondent submitted that the matter pertains solely to a trademark and not to a patent. He further contended that the issue was not significant enough to warrant the intervention of this Court, and that the complainant could have resolved it by simply sending an email to the concerned officer. Respondent further submitted that certain issues related to the accessibility of the audio CAPTCHA has been addressed and the remaining issues will also be addressed in due course. The Complainant clarified that the audio CAPTCHA remains inaccessible as it does not indicate capitalization of alphabetic characters, rendering accurate input impossible. The complainant also submitted that, prior to approaching this Court, he had sent emails to the Respondent. He strongly opposed the Respondent's contention that the issue was minor, asserting that an inaccessible CAPTCHA constitutes a significant barrier for visually impaired persons. He further stated that similar issues have been raised before the Hon'ble Supreme Court, various High Courts, as well as this Court, thereby demonstrating the seriousness and significance of the matter.

6. Observations

6.1 Having considered the complaint, the reply, the rejoinder, and the record of hearing, this Court is of the view that the grievance raised in the present case is

not merely an individual inconvenience. It raises a larger issue of digital accessibility of public-facing services, which is a statutory obligation under the Rights of Persons with Disabilities Act, 2016.

6.2 The statutory framework is clear. Section 40 requires that the Central Government, in consultation with the Chief Commissioner, “formulate rules” laying down standards of accessibility for, inter alia, information and communications, including appropriate technologies and systems. Section 42 requires the appropriate Government to ensure that “all contents ... are in accessible format” and to take measures concerning accessible electronic media and universally designed electronic goods. Section 46 further requires service providers, whether Government or private, to provide services in accordance with the accessibility rules “within a period not exceeding two years” from notification of such rules, subject to extension in accordance with law.

6.3 Rule 15 (1) (c) (iii) covers “Accessibility for the ICT products and services (Part I and II)”, and the Government has stated that the Department of Telecommunications and the Ministry of Electronics and Information Technology will adopt BIS standards for accessibility on ICT products. The relevant BIS norm is IS 17802, titled “Accessibility for the ICT Products and Services”. The BIS preview of the standard states that IS 17802 Part 1 specifies accessibility needs across visual, auditory, speech, physical, neurological, cognitive, language and learning barriers and lays down generic technical requirements for ICT products and services to meet those functional performance statements. BIS records also show IS 17802 Part 2 as the standard on determination of conformance.

6.4 Therefore, accessibility of websites, applications and ICT-based public services is not left to administrative discretion. Once ICT accessibility standards have been brought into the statutory framework through Rule 15 and BIS standards, compliance is a matter of legal obligation and not a matter of charity, convenience or future policy preference.

6.5 The position has now been authoritatively clarified by the Hon’ble Supreme Court in *Rajive Raturi v. Union of India*. In its judgment dated 08.11.2024, the Supreme Court held that the RPwD Act creates a mandatory compliance mechanism on accessibility; that Section 40 uses obligatory language; that Sections 44, 45, 46 and 89 indicate enforceability and consequences; and that Rule 15, could not remain merely persuasive or aspirational, observing that creating a minimum floor of accessibility cannot be left to the altar of “progressive

realization.” The Court also emphasized integration of assistive technologies and accessible digital interfaces across public and private platforms.

6.6 The importance of digital accessibility has been further reinforced by the Hon’ble Supreme Court in its combined Order dated 30.04.2025 in *Pragya Prasun & Ors. v. Union of India & Ors.* and *Amar Jain v. Union of India & Ors.*, wherein it reiterated the mandatory nature of accessible ICT services under the RPwD Act, 2016. The Hon’ble SC actually likened digital accessibility to the Fundamental Right of Right to Life under Article 21 of the constitution and held that the digital accessibility is integral to dignity and meaningful access.

6.7 The legal principle emerging from the above decisions is that where essential or public-facing services are delivered digitally, the platform itself must be accessible. A person with disability cannot be compelled either to abandon the service, or to depend on others, merely because the digital architecture was designed without accessibility. Such exclusion defeats the mandate of Sections 40, 42 and 46 of the Act, read with Rule 15 and the notified ICT standards.

6.8 In the considered view of this Court, once the law requires accessible ICT standards and the Supreme Court has recognized accessibility as an enforceable right rather than an aspirational goal, the Respondent establishment cannot take shelter behind general statements of technical difficulty, future upgrades, vendor dependence or administrative inconvenience. It must show concrete compliance, time-bound corrective steps, and accountability.

7. Recommendations / Directions

7.1 The Respondent is recommended to undertake a fresh accessibility audit of the impugned digital platform(s), including website, mobile application, portal, login workflow, OTP flow, document upload, image verification, CAPTCHA, audio/visual prompts, form fields, downloadable documents, helpdesk and grievance channels, strictly with reference to the statutory framework noticed above and the ICT accessibility standards under Rule 15 (1) (c) read with BIS IS 17802. The identified auditor must be from the DEPwD panel of digital access auditors.

7.2 The said audit shall specifically identify whether the digital service is accessible to persons with visual impairment, low vision, hearing impairment, locomotor disability, speech disability, neuro-divergent users and persons using assistive technologies such as screen readers, magnification tools, keyboard-only

navigation, caption support or alternative input devices.

7.3 If any barrier is found, the Respondent shall prepare and place on record a time-bound compliance plan indicating:

- (a) the defect/barrier identified;
- (b) the statutory or technical standard attracted;
- (c) the corrective step proposed;
- (d) the officer/vendor responsible; and
- (e) the outer timeline for compliance.

7.4 Pending full compliance, the Respondent shall ensure that the Complainant and other similarly placed persons with disabilities are not denied access to the service. For that purpose, the Respondent shall provide an equally effective alternative accessible mechanism, including assisted completion, human override/review, accessible helpline support, email-based or offline submission option, or such other reasonable accommodation as may be necessary.

7.5 The Respondent shall also designate a nodal officer for digital accessibility compliance and place on record the details of the officer along with the grievance escalation mechanism available to persons with disabilities.

7.6 A compliance report, along with supporting material, including audit findings, screenshots, accessibility certification/testing material, user-flow corrections, and the timeline of implementation, shall be submitted to this Court within 90 days from receipt of this Order.

7.7 In terms of Section 76 of the Act, if the above recommendations are not accepted, the Respondent shall communicate a reasoned reply for such non-acceptance. Attention is also invited to the consequences contemplated under the Act for continued non-compliance with accessibility obligations.

8. The matter is accordingly closed with the above observations and recommendations.

(S. Govindaraj)
Commissioner for Persons with Disabilities