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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 14 August 2025
Pronounced on: 5 January 2026

\+ FAO(OS) (COMM) 123/2025 & CM APPLs. 49211/2025, 49212/2025 & 49213/2025

AUTOMAT IRRIGATION PVT. LTD.
AND ORS .....Appellants

Through: Mr. J. Sai Deepak, Sr. Adv. with Mr. Avinash Sharma, Ms. Somya Chaturvedi, Mr. Shrey Sharma, Mr. Shreesh Chadha, Advs.

versus

AQUESTIA LIMITED & ANR. .....Respondents

Through: Mr. Pravin Anand, Ms. Vaishali Mittal, Mr. Siddhant Chamola and Mr. Gursimran Singh Narula, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

% JUDGMENT
05.01.2026

C. HARI SHANKAR, J.

1. This appeal is directed against judgment dated 1 August 2025, whereby a learned Single Judge of this Court has allowed IA 41112/2024, filed by the respondent as the plaintiff in CS (Comm) 860/2024[1]. The learned Single Judge has, in the impugned judgment,

[1] **Aquestia Limited v. Automat Industries Pvt. Ltd. & ors**

held that the Fluid Control Valve[2], manufactured by the appellants and sold under the name "Hydromat Valve", infringed Indian Patent IN 427050[3] of the respondent.

2. The appeal was strongly contested even on the aspect of issuance of notice and grant of interim relief.

3. We have heard Mr. J. Sai Deepak, learned Senior Counsel for the appellants and Mr. Pravin Anand, learned Counsel for the respondents, at length on these aspects and reserved orders thereon.

4. Ergo, this order.

5. We are conscious of the judgment of the Supreme Court in ***Wander Ltd v. Antox India P. Ltd***[4] which advises against interference with interlocutory orders passed by the Commercial Court in intellectual property matters, especially where the order involves an element of discretion. The relevant paragraph from ***Wander*** may be reproduced, thus:

> "14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion *except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle.* Appellate court will not reassess the material and seek to reach a conclusion different from

[2] "FCV" hereinafter
[3] "IN'050", also referred to as "the suit patent" hereinafter
[4] **1990 Supp SCC 727**

> the one reached by the court below *if the one reached by that court was reasonably possible on the material*. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal *solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion.* If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in ***Printers (Mysore) Private Ltd. v. Pothan Joseph***[5]:
>
> > "... These principles are well established, but as has been observed by Viscount Simon in ***Charles Osenton & Co. v. Jhanaton***[6] '...the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case'."

6. ***Pernod Ricard India Pvt Ltd v. Karanveer Singh Chhabra***[7] reiterates this principle.

7. We have examined the present appeal and considered the rival submissions of learned Counsels, keeping in mind the declaration of the law in para 14 of ***Wander***. Having done so, we are of the opinion, for the reasons which would presently become apparent, that the impugned order of the learned Single Judge suffers from a basic misunderstanding of the nature of the invention forming subject matter of the suit patent and the manner in which the product of the appellants are fundamentally different from the subject matter of the suit patent.

8. As we are passing this order at an *ad* interim stage, we do not

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[5] **AIR 1960 SC 1156**
[6] **1942 AC 130**
[7] **2025 SCC OnLine SC 1701**

propose to enter in detail into the factual aspects, and intend – whether we succeed or not – to restrict this order to noting the grounds on which, in our opinion, the impugned judgment deserves to be stayed.

9. To our mind, the impugned judgment suffers from two errors of principle, which affect the conclusion.

10. The first is in the decision, of the learned Single Judge, to limit the infringement analysis to the portion, of Claim 1 in the suit patent, which *follows* the words "characterized in that". The learned Single Judge has relied on an earlier decision, also by a learned Single Judge of this Court, in ***Guala Closures SPA v. AGI Greenpac Ltd***[8]. For reasons which we would elucidate in greater detail hereinafter, we are of the view that such an approach would be contrary to the law as it exists in India. As a result, other distinguishing features between Claim 1 in the suit patent and the FCV of the appellants, notably the length of the inlet and outlet chambers, has not been addressed in the impugned judgment. This is significant, as it also, consequently, ignores the fact that the very technology on which the FCV forming subject matter of the suit patent, and the FCV of the appellants, was based, was fundamentally different.

11. The second error in the impugned judgment of the learned Single Judge, in our considered opinion, arises because of a conflation, in the said judgment, between the diaphragm and the sealing bridge which form parts of the FCVs forming subject matter of

[8] **2024 SCC OnLine Del 3510**

the dispute and, most significantly, the nature of the curvature of the sealing bridge in the two FCVs. This qualifies as an error on principle, as it pertains to the basic understanding of the suit patent, *vis-à-vis* the features of the appellants' FCVs.

12. As this order is being passed at the stage of issuance of notice, and is *ad interim* in nature, we do not propose to advert to other aspects of the matter, which we would defer to the final hearing of the appeal.

13. We may briefly explain the error in the impugned judgment, thus:

(i) The learned Single Judge has held the appellants' FCVs to be infringing Claim 1 in the Suit Patent. The Suit Patent had 26 claims, of which Claims 2 to 26 were dependent on Claim 1. Claim 1 read thus:

> "1. A fluid control valve comprising:
>
> a valve body (22) configured with an inlet port (24) extending into an inlet chamber (30), and an outlet port (26) extending from an outlet chamber (32). wherein the inlet chamber (30) and the outlet chamber (32) are partitioned by a sealing bridge;
>
> a control chamber (111) accommodating a flexible sealing diaphragm deformable between a sealing position in which the sealing diaphragm sealingly bears over the sealing bridge and seals a fluid flow path extending between the inlet chamber (30) and the outlet chamber (32). and an open position in which fluid flow along the flow path is enabled; and

> wherein an inlet path extending through the inlet chamber (30) along the fluid flow path is longer than an outlet path extending through the outlet chamber (32) along the fluid flow path, the fluid control valve **characterized in that the sealing diaphragm is asymmetric with respect to an apex thereof, and a portion of the sealing diaphragm extending from the apex over the inlet path has larger area than a portion of the sealing diaphragm extending from the apex over the outlet path**."

(ii) Thus, the elements of Claim 1 are

(a) a valve body,

(b) an inlet port extending into an inlet chamber,

(c) an outlet chamber extending into an outlet port,

(d) a control chamber,

(e) a flexible sealing diaphragm in the control chamber, which is deformable between

(i) a sealing position in which the sealing diaphragm sealingly bears over the sealing bridge, thereby restricting fluid flow, and

(ii) an open position in which the fluid flows freely through the valve,

(f) an inlet path (through the inlet chamber) which is longer than the outlet path (extending through the outlet chamber),

(g) a sealing diaphragm which is asymmetric with respect to the apex, and

(h) the portion of the sealing diaphragm extending from the apex over the inlet path having a larger area than the portion of the sealing diaphragm extending from the

apex over the outlet path.

(iii) The learned Single Judge has, in paras 17 and 19 of the impugned judgment, observed as under:

> "17. In ***Guala Closures (supra)***, it was also held that the crux of the invention claimed in the claims of a Complete Specification is described where the expression 'characterized' is used in the claim. The relevant portion is set out below:
>
> > "*46. Whenever the expression "characterised" is used in a claim it is meant to describe the invention. Such characterisation forms the crux of the invention. The same has been explained in the claim construction segment of* "Landis on Mechanics of Patent Claim Drafting" *by Robert C. Faber, Third Edition, as under:*
> >
> > *"In European country applications, including* ***claims separating prior art elements from the inventive contribution by a transition phrase, the transition phrase is usually translated into English as something like "characterized in that" or "characterized by comprising.""***"
> >
> > [Emphasis supplied]
>
> *****
>
> 19. It is a settled position of law that the novel features of a patent are described from the 'characterized' portion of the claim. In the present case, the novel features of the aforesaid claim are set out below-
>
> **1. Asymmetric Sealing Diaphragm**
>
> "…the sealing diaphragm is asymmetric with respect to an apex thereof…"
>
> - The portions on either side of a central apex are different in geometry.
>
> **2. Differential Diaphragm Surface Areas**

> "…a portion of the sealing diaphragm extending from the apex over the inlet path has larger area than a portion… over the outlet path."
>
> - The diaphragm covers more area on the inlet side than the outlet side."
>
> (Emphasis in original)

(iv) We are unable, *prima facie*, to agree with the learned Single Judge in his observation that any especial consideration is to be assigned to the part of the Claim, as contained in the Complete Specifications in a patent application, following the words "characterized in that". Patent law, in India, follows a strict statutory regime, contained in the Patents Act, 1970, which does not envisage any especial consideration being granted to any part of the Claim, or the Complete Specifications, of a patent, in the course of construction or interpretation thereof. Chapter III of the Patents Act deals with "Applications for Patents" and their specifications and particulars. Section 7(1) requires every patent to be made in the prescribed form. "Prescribed", as per Section 2(u)(C), means prescribed as in the Patents Rules, 2003. Rule 13(1) of the Patents Rules requires every specification to be made in Form 2, as annexed thereto. In respect of the "Claims" in the Complete Specifications, Form 2 merely stipulates that the Claims should start with the preamble "I/We claim" and be on a separate page.

(v) There is, therefore, nothing, in the Patents Act or the Patents Rules, which justifies restricting the construction of the

Claim, in a granted patent, to the part of the Claim which follows after "characterized in that", unless the Complete Specifications themselves say so. Insofar as the decision in ***Guala Closures***, rendered by a learned Single Judge of this Court, is concerned, the Court has, in para 45 of the report, specifically noted that it was *admitted* by the plaintiff in that case that the inventive feature of Claim 1 was emphasized in the "characterized" portion of the claim. The decision, further, relies on the judgment of the UK Court of Appeal in ***Virgin Atlantic Airways Ltd v. Premium Aircraft Interiors UK Ltd***[9]. A bare reading of the extract from ***Virgin Atlantic Airways***, in ***Guala Closures***, reveals that the UK Court of Appeals rendered its decision in the context of Regulation 29(1) of the Implementing Regulations applicable in the UK, which provided thus:

> "The claims shall define the matter for which protection is sought in terms of the technical features of the invention. Wherever appropriate, claims shall contain:
>
> (a) a statement indicating the designation of the subject-matter of the invention and those technical features which are necessary for the definition of the claimed subject-matter but which, in combination, are part of the prior art;
>
> (b) a characterising portion - preceded by the expression "characterised in that" or "characterised by" - **stating the technical features which, in combination with the features stated in sub-paragraph (a), it is desired to protect.**"
>
> (Emphasis in the original)

[9] **[2009] EWCA Civ 1062**

The emphasized words from ***Virgin Atlantic Airways*** themselves reveal why the principle, therein, cannot apply to patent law in India. There is no provision, in the Patents Act, or the Patents Rules, or in Form 2 annexed thereto, analogous to Regulation 29(1) of the UK Implementation Regulations.

(vi) Section 10(4) of the Patents Act enumerates the contents of the complete specification in an application for grant of a patent, and requires, in clause (c), the complete specifications to "end with a claim or claims defining the scope of the invention for which protection is claimed". That is all. The manner in which the claims would define the scope of the invention is entirely left to the inventor. There is, in fact, no requirement, in Indian patent law, for the claims, as worded in the complete specifications, to even incorporate a "characterization" element.

(vii) ***Guala Closures***, in fact, cited the following passage from the judgment of a Division Bench of this Court in ***F. Hoffmann-La Roche Ltd v. Cipla Ltd***[10]:

> "66. Before we apply the aforenoted legal position to the facts of the instant case we need to discuss the legal position concerning construction of claims. In the decision reported as ***FH & B v. Unichem Laboratories***[11] it was held that specifications end with claims, delimiting the monopoly granted by the patent and that the main function of a Court is to construe the claims without reference to the specification; a reference to the specification being as an exception if there was an ambiguity in the claim. Claims

[10] **225 (2015) DLT 391 (DB)**
[11] **AIR 1969 Bom 255**

must be read as ordinary English sentences without incorporating into them extracts from body of specification or changing their meaning by reference to the language used in the body of the specification. In a recent decision in ***Merck v. Glenmark***[12] the Division Bench held that claim construction to determine the coverage in the suit patent has to be determined objectively on its own terms with regard to the words used by the inventor and the context of the invention in terms of the knowledge existing in the industry. Abandonment of an application cannot remove what is patented earlier nor can it include something that was excluded earlier and that a patent is construed by the terms used by the inventor and not the inventors subjective intent as to what was meant to be covered. Merely because an inventor applies for a latter patent that is already objectively included in a prior patent, but which inventor subjectively feels needs a separate patent application, doesn't mean it is to be taken at face value and therefore neither Section 3(d) or abandonment of subsequent patent application can be used to read into terms of prior application, which has to be construed on its own terms. In the decision reported as ***Edward H. Phillips v. AWH Corporation***[13] it was held that claims have to be given their ordinary and general meaning and it would be unjust to the public, as well as would be an evasion of the law, to construe a claim in a manner different from plain import of the terms and thus ordinary and customary meaning of the claim term is the meaning of the term to a Person of Ordinary Skill in the Art as of effective date of filing of the patent application. In case of any doubt as to what a claim means, resort can be had to the specification which will aid in solving or ascertaining the true intent and meaning of the language employed in the claims and for which the court can consider patent prosecution history in order to understand as to how the inventor or the patent examiner understood the invention. The Court recognized that since prosecution is an ongoing process, it often lacks clarity of the specification and thus is less useful for claim construction. The Court also recognizes that having regard to extrinsic evidence such as inventor testimony, dictionaries and treaties would be permissible but has to be resorted to with caution because essentially extrinsic evidence is always treated as of lesser significance in comparison with intrinsic evidence. In the decision reported

[12] **(2015) 63 PTC 257**
[13] **415 F. 3d 1303**

> as ***Pfizer v. Ranbaxy***[14] the Court held that the statements made during prosecution of foreign applications are irrelevant as they are in response to unique patentability requirements overseas. The Court also held that the statement made in later unrelated applications cannot be used to interpret claims of prior patent. In the decision reported as ***Glaverbel SA v. British Coal Corp***[15]. the Court held that a patent is construed objectively, through the eyes of a skilled addressee. The Court also held that the whole document must be read together, the body of specification with the claims. But if claim is clear then monopoly sought by patentee cannot be extended or cut down by reference to the rest of the specification and the subsequent conduct is not available to aid the interpretation of a written document."

Notably, there is nothing, in ***Roche***, either, which treats the "characterization" portion of the claim, in the complete specifications, as containing the entirety of the inventive features of the invention.

(viii) The Patents Act, curiously, does not define "infringement", though it makes reference thereto. Section 48 of the Patents Act, however, delineates, in its two clauses (a) and (b), the rights that flow from grant of a patent. Clause (a) entitles the patentee of a product patent to prevent third parties, without his consent, from making, using, offering for sale, selling or importing for those purposes, *that product* in India". It is *this act* which is actionable as infringement in Indian patent law; nothing more, nothing less. If, therefore, *the patented product* is dealt with, in the manner envisaged in clause (a) of Section 48, without the consent of the patentee, it amounts to infringement.

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[14] **457 F.3. 1284 (United States)**
[15] **1995 RPC 255 (UK)**

(ix) It is for this reason that infringement, in the context of product patents, is to be assessed, in India, by comparing the defendant's product with the plaintiff's patented invention. For this, one has to compare the claim, as specified in the complete specification of the suit patent, with the defendant's product. In this context, apropos claim construction, the Supreme Court, in ***Bishwanath Prasad Radhey Shyam v. Hindustan Metal Industries***[16], held:

> "43. As pointed out in ***Arnold v. Bradbury***[17] the proper way to construe a specification is not to read the claims first and then see what the full description of the invention is, but first to read the description of the invention, in order that the mind may be prepared for what it is, that the invention is to be claimed, for the patentee cannot claim more than he desires to patent. In ***Parkinson v. Simon***[18] Lord Esher, M.R. enumerated that as far as possible the claims must be so construed as to give an effective meaning to each of them, but the specification and the claims must be looked at and construed together."

Viewed any which way, therefore, the *claim* has to be construed, holistically and in its entirety. We, therefore, are of the *prima facie* view that the impugned judgment errs, on principle, in concentrating, while examining the aspect of infringement, of the features of Claim 1 in the suit patent as contained in that part of the Claim which follows the "characterization" portion thereof.

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[16] **(1979) 2 SCC 511**
[17] **(1871) 6 Ch A 706**
[18] **(1894) 11 RPC 483**

(x) When one compares the entirety of Claim 1 of the suit patent with the appellant's product, the difference between the two becomes starkly apparent.

(xi) We deem it appropriate, in this context, to reproduce the following paragraphs from the plaint and the written statement, before the learned Single Judge:

From the plaint:

> "19. As evident from the specification of the patent, as well as from the affidavit of the Plaintiff's expert which is being filed along with the plaint, the invention as contained in independent claim 1 of the suit patent, is able to achieve the following advantages:
>
> a. Since the outlet chamber has a smaller sectional area, compared to the inlet chamber, and the corresponding smaller section area of the sealing diaphragm extending over the outlet chamber as compared with the section area of the sealing diaphragm extending over the inlet chamber, the drifting of the diaphragm into the outlet chamber is prevented or substantially eliminated.
>
> b. As per the claimed configuration, the valve is more sensitive to operation under low pressure, i.e., will displace into its open position also at low pressure compared to diaphragm having symmetry over its flow axis.
>
> c The asymmetric **configuration** results in faster responding of the diaphragm and shifting **between** the open/closed position as a result of the small control chamber **volume**.

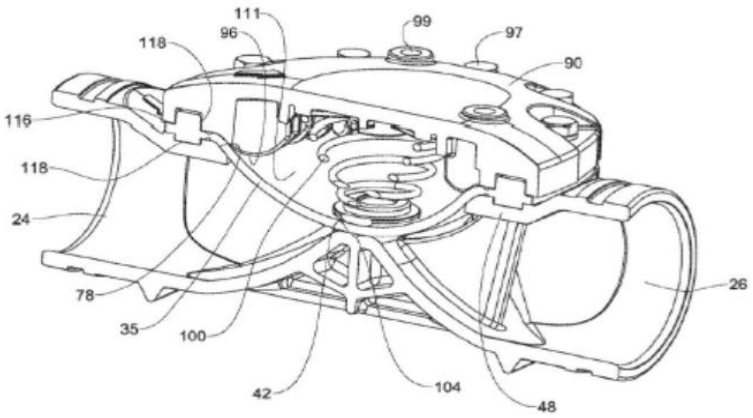

Fig. 6B

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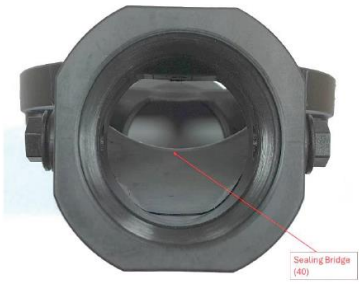
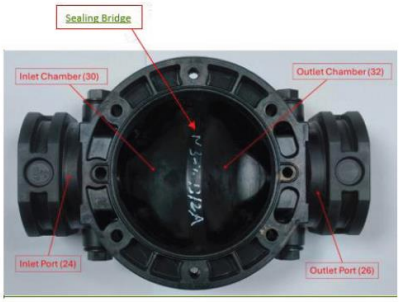
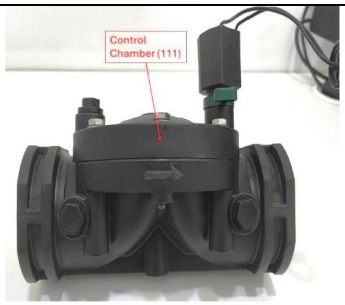
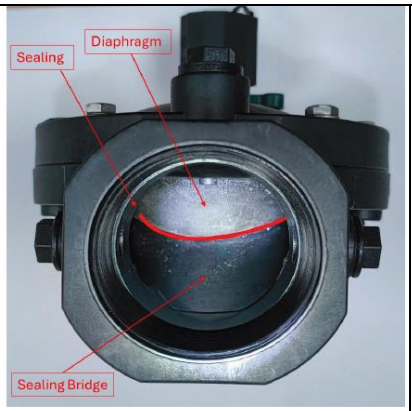
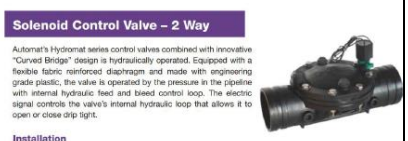
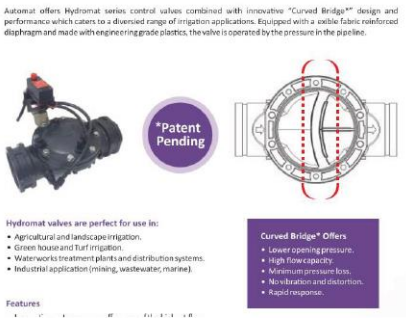
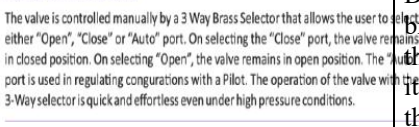
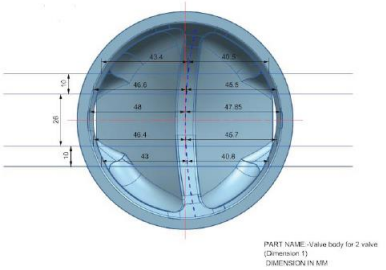
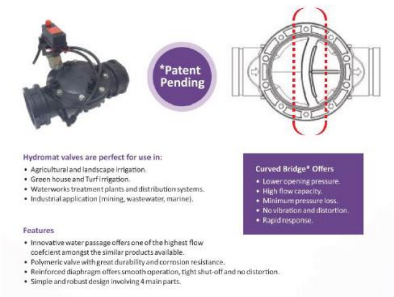
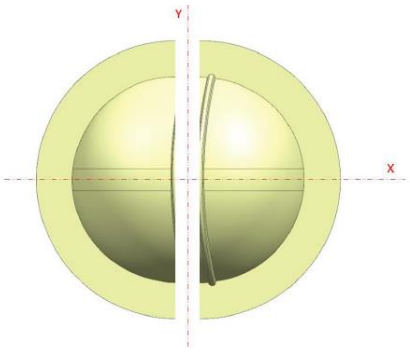
"43. To demonstrate infringement of the suit patent, the Plaintiff conducted measurement of the Defendants' products, and has mapped the features of the Defendants' product to the claims of the suit patent. Defendant's brochure, providing various details of the Defendant's product has also been relied. Defendant's brochure for Hydromat Valves has also been annexed along with the present suit. An affidavit of the expert, which is being filed in the present proceedings, compares claim 1 of the patent, with the features of the product of the Defendants, and confirms infringement of the patent. The mapping between the claim of the patent and the product, as provided in the affidavit is also reproduced below:

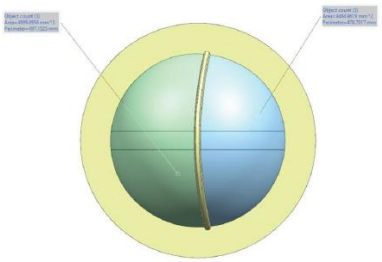
Features of IN'050	Features of infringing product	Mapping (Yes/No) Remarks
Feature 1.1 A fluid control valve, comprising: a valve body (22)		Yes The defendants' valve includes a valve body.

Feature 1.2 configured with an inlet port (24) extending into an inlet chamber (30), and an outlet port (26) extending from an outlet chamber (32),		Yes The Defendants' valve's inlet port extends into an inlet chamber and an outlet port extends into the outlet chamber.
Feature 1.3 wherein tl inlet chamb (30) and tl outlet chamber (3 are partitioned l a sealii bridge;	 	Yes The Defendants' valve's inlet and outlet chamber is partitioned by a sealing bridge.
Feature 1.4 a control chamber (111) accommodatin g a flexible sealing diaphragm		Yes Defendants' valve and its brochure reveals the presence of control chamber accommodati ng a flexible sealing diaphragm.

Feature 1.5 deformable between a sealing position in which the sealing diaphragm sealingly bears over the sealing bridge and seals a fluid flow path extending between the inlet chamber (30) and the outlet chamber (32),	 age 5 of the Hydromat Installation Manual  Page 2 of the Defendant's brochure for Hydromat Valves 	Yes The Defendants' valve has a sealing bridge over which the diaphragm is configured to be sealed. Further, sealing bridge is provided between the inlet chamber and the outlet chamber. Defendant's Installation Manual also admit to have designed "Curved Bridge" in the Hydromat Valves. Defendant's brochure for Hydromat Valve also admit the existence of curved sealing bridge.
Feature 1.6 and an open position in which fluid flow along the flow path is enabled; and	Page 3 of the Defendant's brochure for Hydromat Valves 	Yes Defendants' brochure and the valve itself reveal the valve is capable of being in open position to enable flow of the fluid

		along the fluid flow path.
Feature 1.7 wherein an inlet path extending through the inlet chamber (30) along the fluid flow path is longer than an outlet path extending through the outlet chamber (32) along the fluid flow path,	 (Photograph of the Defendants' Valve Body)  (Image – 1 secured after 3-D Scan of the Defendants' Valve Body) Page 2 of the Defendant's brochure for Hydromat Valves  Page 7 of the Hydromat Installation Manual	Yes A visual inspection of the Automat valve and brochure shows that an inlet path is longer than an outlet path. Defendants' valve has a curved shape and position of the sealing bridge which causes a larger inlet area than outlet area, and has longer inlet paths than outlet paths. Furthermore, a fluid flow path even when compared at an inlet path and correspondin g outlet path extending therealong in measurement s of a 3-D Scan of the Defendants' Valve Body clearly demonstrates that each inlet path is longer than its correspondin

	Solenoid Control Valve Automat's Hydromat series control valves combined with innovative "Curved Bridge" design is hydraulically operated. Equipped with a flexible fabric reinforced diaphragm and made with engineering grade plastic, the valve is operated by the pressure in the pipeline. The valve opens and closes drip tight in response to an electrical signal.	g outlet path Defendant's brochure admits deployment of curved shape sealing bridge in the valve.
Feature 1.8 the flui control valve characterized in that th sealing diaphragm is asymmetric with respect t an apex thereof,	 In the above image of the Defendant's diaphragm, the Apex thereof is indicated  Image of diaphragm secured through a 3D scan of the Defendants' product, split along the Y-axis through the apex and separated for visual inspection.	Yes A visual inspection of the sealing diaphragm and the brochure reveals that the sealing diaphragm is asymmetric with respect to the apex. The asymmetry is even visible when splitting the diaphragm along the Y-axis through the apex. A visual inspection of the valve also makes it clear that the rib is displaced towards the outlet side

		(and not forming a centre line) that results in the outlet side of the diaphragm to have a smaller area compared to the inlet side.
Feature 1.9 and a portion of the sealing diaphragm extending from the apex over the inlet path has larger area than a portion of the sealing diaphragm extending from the apex over the outlet path.	  (Measurements of Diaphragm obtained through 3-D Scan)	Yes A visual inspection of the sealing diaphragm and the brochure reveals that diaphragm portion over the inlet path has a larger area than the diaphragm portion over the outlet path. Furthermore, measurements of a 3-D Scan of the Defendants' diaphragm show that the area over the inlet is larger than the area over the outlet (in the specific valve, ~4900 mm2 compared to ~4485 mm2).

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53 The description of the Defendants' alleged invention in IN '536 contains admissions, which indicate that the invention is not novel, and is unpatentable in view of the Plaintiff's prior patent. In fact, they demonstrate that the Defendants' product infringes the Plaintiff's patent. Particularly, the Defendants' in the IN'536 patent have admitted the following:

a **Feature 1.1 -** A fluid control valve comprising a valve body (22)

Defendants at para [001] of the IN'536 patent admit presence of feature 1.1 i.e., "a fluid control valve".

b **Feature 1.2 -** configured with an inlet port (24) extending into an inlet chamber (30), and an outlet port (26) extending from an outlet chamber (32)

Defendants at para [0010] of the IN'536 patent admit presence of feature 1.2 i.e., inlet port [111] extending into an inlet chamber [109], and an outlet port [112] extending from an outlet chamber [110]

c **Feature 1.3 -** wherein the inlet chamber (30) and the outlet chamber (32) are partitioned by a sealing bridge;

Defendants at para [0025] of the IN'536 patent admit "wherein the inlet chamber [109] and the outlet chamber [110] are partitioned by a curved sealing bridge [108]"

d **Feature 1.4 -** a control chamber (111) accommodating a flexible sealing diaphragm

Defendants at para [0025] of the IN'536 patent admit "a control chamber [113] accommodating a flexible sealing diaphragm [103]"

e **Feature 1.5 -** deformable between a sealing position in which the sealing diaphragm sealingly bears over the sealing bridge and seals a fluid flow path extending between the inlet chamber (30) and the outlet chamber (32),

Defendants' at para [0010] of the IN'536 patent admit "deformable between a sealing position in which it sealingly bears over the curved sealing bridge and seals a fluid flow path extending between the inlet chamber [109] and the outlet chamber [110]."

f **Feature 1.6 -** and an open position in which fluid flow along the flow path is enabled;

Defendants' at para [0010] of IN'536 patent admit "and an open position in which fluid flow along the flow path is enabled"

g **Feature 1.7 -** and wherein an inlet path extending through the inlet chamber (30) along the fluid flow path is longer than an outlet path extending through the outlet chamber (32) along the fluid flow path,

Defendants' at para [0031] of IN'536 patent admit that "the curved sealing bridge [108] and diaphragm [103] rib is in a curve shape that makes for the valve an enlarged area at the upstream side of the valve".

As demonstrated in paragraph 43 above, the curved shaped and position of the sealing bridge of the valve cause longer inlet paths than outlet paths. This clearly demonstrates the false nature of the Defendants' statements in their own patent specification

h **Feature 1.8 -** the fluid control valve characterized in that the sealing diaphragm is asymmetric with respect to an apex thereof,

Defendants' at para [0029] of IN'536 patent admit that "Figure 5 of sheet 4 illustrate an isometric view of the diaphragm [103] which enabled with a curve shape rib." - As demonstrated in paragraph 43 above, the curve shapes of the bridge and diaphragm cause asymmetry.

i **Feature 1.9 -** and a portion of the sealing diaphragm extending from the apex over the inlet path has larger area than a portion of the sealing diaphragm extending from the apex over the outlet path.

Defendants' at para [0031] of IN'536 patent admit that "Referring to figure 6, the curved sealing bridge [108] and diaphragm [103] rib is in a curve shape that makes for the valve an enlarged area at the upstream side of the valve while maintaining the same passage length at both the upstream and downstream path of water from the curved sealing bridge [108]."

From the written statement

"6. The Answering Defendants, through their research and development, have made innovations in, among other things, the field of valves, which are patented. It is submitted that Defendant No. 4 is the patentee of IN478536, the details of which are provided herein below:

PATENT NO. IN 478536

S.NO	PARTICULARS	
1.	Title of the Patent	A Fluid Control Valve
2.	Patentee	Tushar Jain
3.	Inventors	Yitzhak Orlans, Durga Pada Ghosh
4.	Date of filing in India	04/09/2021
5.	Application No.	202111040139
6.	Date of publication	17/09/2021
7.	Date of First Examination Report	25/03/2022 [plaintiff's patent is cited as prior art]
8.	Date of Reply to First Examination Report	07/06/2022
9.	Hearing Notice issued by Patent Office	14/08/2023
10.	Detailed Submissions by the Defendant No. 4 in support of hearing held by Patent Office on 06/10/2023	19/10/2023
11.	Date of Grant	07/12/2023
12.	Date of Expiry	04/09/2041

7. It is pertinent to mention that the First Examination Report of the Defendant's patent application mentioned the Plaintiff's patent bearing no. WO2017212481 as prior art. Said WO201 7212481 is the worldwide publication of the said application bearing no. PCT/IL2017/050625, from which the suit patent originates. Amongst others, the following differentiating factors providing novelty to the product of the answering Defendants were cited in the Reply to the First Examination Report dated 07/06/2022, which are being reproduced in brief hereinbelow:

(i) The cited prior art of the Plaintiff does not disclose

a 'curved sealing bridge';

(ii) The 'curved sealing bridge' has technical advantages including significant reduction of energy loss on account of the water flow that it creates. Further the curved sealing bridge also allows valve regulation action to be substantially more precise and stable by avoiding vibration during high pressure differential applications and/or low rates.

8. That thereafter, the Indian Patent Office also issued a notice for hearing dated 14/08/2023 to the Defendant No. 4 on account of non-satisfaction with the reply to the First Examination Report. The Indian Patent Office again cited the prior art of the Plaintiff as described above as an objection to the grant of patent to the answering Defendants. The answering Defendant No.4 thereafter attended the hearing before the Indian Patent Office on 06/10/2023 and filed their detailed written submission before the Indian Patent Office on 19/10/2023 whereby the following inter alia claims regarding distinguishment from the prior art of the Plaintiff were made:

"The applicant would like to submit that it is apparent from the above mentioned figure that D1 (Plaintiff's prior art) has a straight sealing bridge. Also D1 recites that a length measured along the sealing bridge is substantially similar to a double length of the inlet chamber. According to a particular example the sealing bridge is extends about a diameter, as mentioned in lines 14-16 of page 3 of D1, which clearly shows that the sealing bridge is straight. However, the sealing bridge of the present application does not extend about a diameter rather it is slight offset from diameter at the ends and curved in nature. Thus D1 fails to disclose a curved sealing bridge [108] provided between the inlet chamber [109] and the outlet chamber [110], as claimed in present application. Also fails to disclose that a control chamber [113] accommodating a flexible sealing diaphragm [103] deformable between a sealing position in which it sealingly bears over the curved sealing bridge [108] and seals a fluid flow path extending between the inlet chamber [109] and the outlet chamber [110]. Since D1 fails to disclose each and every feature of claim 1 of the present application. Thus the claims of the present application are novel over the disclosure of D1.

The applicant would like to submit that it is apparent from the above mentioned figure that in D1 has a straight sealing

bridge. Thus in D1 there is no teaching and suggestion about a curved sealing bridge [108] provided between the inlet chamber [109] and the outlet chamber [110], as claimed in present application. Controller refers in hearing notice that D1 discloses "a partitioning valve seat 40 disposed there between, said partition wall extending substantially normal to the flow path extending between the inlet port and the outlet port, with a concave sealing surface 42". The applicant would like to submit that the concave sealing bridge is different from curved bridge. In close position the wall of diaphragm expands and form a dome shape which belongs to a concave surface and any bridge provided on this surface is also looking concave due to shape of diaphragm wall, which does not mean that sealing bridge is in curved shape. Due to this the bridge; over concave extended wall of diaphragm of D1 is not equivalent to curved sealing bridge. The bridge of D1 attains this shape only due to the expansion of valve. No disclosure provided any hint about its curved nature.

The Ld. Controller objected that the term "curved" is very generic term, some specification such as circular or essential need to be provided. For this, the applicant world like to submit that the circular or elliptical shape belongs to a closed figure, a line cannot be circular or elliptical. It can only be straight or curve. Similarly, concave or convex shape can be provided on a surface, a line type configuration cannot be made concave. Moreover, a bridge is a line type structure, it can be made concave until it is provided on a concave surface which happens in D1 where a straight line bridge becomes concave because the diaphragm takes the shape of concave upon expansion. But in originality when the valve is in open position and diaphragm is inflated then it is in shape of straight line, which is clearly indicated in the figure. Moreover, none of the figure of D1 indicated that the sealing bridge is curved..... Thus the claims of the present application are inventive and non-obvious over the disclosure of D1."

Thus, the answering Defendants had provided a detailed explanation regarding the distinguishing and novel features of the product of the answering Defendants sought to be patented.

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11. The Defendants' invention is directed to a fluid control valve, which precisely accommodates a high flow of fluid with minimum pressure loss and ex-facie, there is no infringement of the suit patent. The inventiveness of the

Defendant's product, as exemplified in Claim 1 of the Defendant's 536 patent, is presented below:

"A fluid control valve for accommodating the high flow of water with minimum pressure loss, comprising: a valve body [100] which adjust an amount of the fluid flowing through the flow path; an inlet chamber [109] configured in the valve body [100] extended through an inlet port [111], and an outlet chamber [110] configured in the valve body extended through an outlet port [112], characterized in that; a curved sealing bridge [108] is provided between the inlet chamber [109] and the outlet chamber [110]; and a control chamber [113] accommodating a flexible sealing diaphragm [103] deformable between a sealing position in which it sealingly bears over the curved sealing bridge [108] and seals a fluid flow path extending between the inlet chamber [109] and the outlet chamber [110].

12. The Answering Defendants submit that at least the features after the expression "characterized in that" demonstrate the uniqueness of the Defendant's invention/product. However, Defendants deny that only these features alone define the inventiveness of the invention in the Defendant's '536 patent.

*****

15. It is submitted that Plaintiff can prove infringement only if all elements of the above Claim 1 are present in Defendant's product. The Defendant's product does not contain: (a) "an inlet path extending through the inlet chamber along the fluid flow path is longer than an outlet path extending through the outlet chamber along the fluid flow path", and does not contain the element (b) "wherein the sealing diaphragm is asymmetric with respect to an apex thereof', and (c) further does not contain the element "a portion of the sealing diaphragm extending from the apex over the inlet path has larger area than a portion of the sealing diaphragm extending from the apex over the outlet path".

16. The Defendant's product is based entirely on the Defendant's '536 patent. Defendants' product does not have an asymmetric sealing diaphragm with respect to an apex. Instead, the sealing diaphragm of the Defendant's product is symmetrical. Furthermore, Defendant's product does not have an inlet path extending through the inlet chamber along the fluid flow path that is longer than an outlet path extending through the outlet chamber along the fluid flow

path. Instead, the inlet and outlet paths of the Defendant's product are equal. The Defendant's product does not have a portion of the sealing diaphragm extending from the apex over the inlet path having a larger area than a portion of the sealing diaphragm extending from the apex over the outlet path. Accordingly, for at least these reasons, the Defendant's product does not infringe Claim 1 of the '050 Patent.

*****

18. Even otherwise, without prejudice, it is submitted that the above three features of Claim 1 are essential to the invention of the suit patent, and thus, the absence of any of these elements results in a finding of non-infringement.

"the sealing diaphragm is asymmetric with respect to an apex thereof' and "a portion of the sealing diaphragm extending from the apex over the inlet path has larger area than a portion of the sealing diaphragm extending from the apex over the outlet path."

19. That Claim 1 recites, in part, that "the sealing diaphragm is asymmetric with respect to an apex thereof'. Similarly, Claim 1, in part, recites, "a portion of the sealing diaphragm extending from the apex over the inlet path has larger area than a portion of the sealing diaphragm extending from the apex over the outlet path". These features are interconnected by the nature of the configuration. In the ordinary sense, "asymmetric" means "having two sides or halves that are not the same; not symmetrical."

20. The drawings of the '050 Patent illustrate an "asymmetric" sealing diaphragm in Figs. 5B and 5C, which are reproduced in the annotated form below:

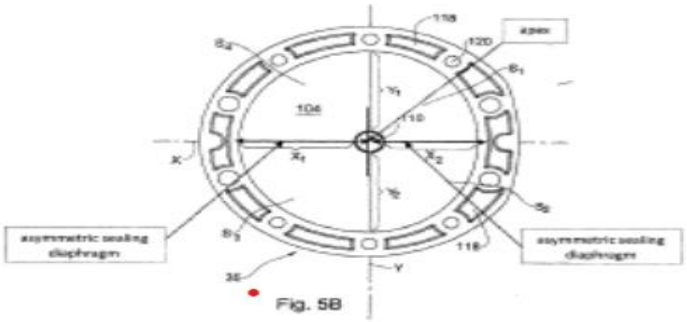


Fig. 5B

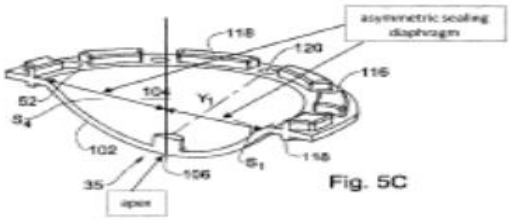


Fig. 5C

21. Consequent to the same, one portion of the sealing diaphragm area is larger than the other, as can be exemplified from Figures 6C and 7C of the suit patent:

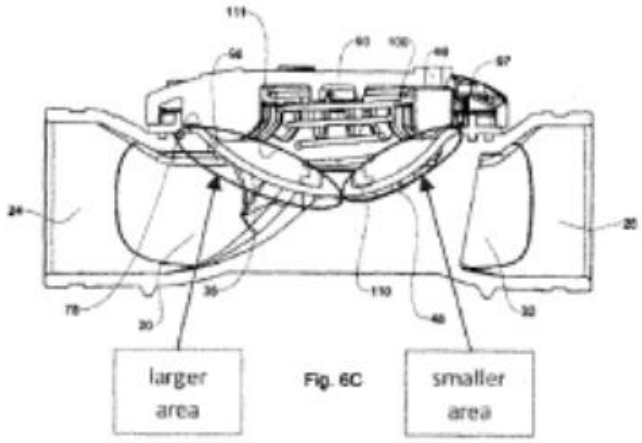


Fig. 6C

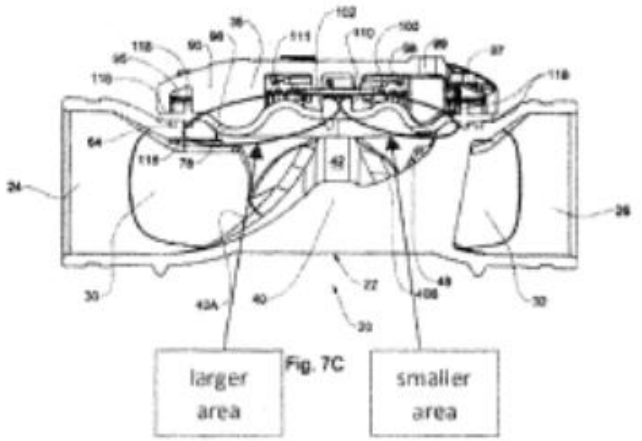


Fig. 7C

*****

24. As exemplified in Figures 5 and 6 of the Defendant's '536 patent, the sealing diaphragm of the Defendant's product is symmetrical with respect to an apex thereof, and the portion of the sealing diaphragm extending from its apex over an inlet path through the inlet chamber and the portion of the scaling diaphragm extending from its apex over an outlet path through the outlet chamber have the same areas:

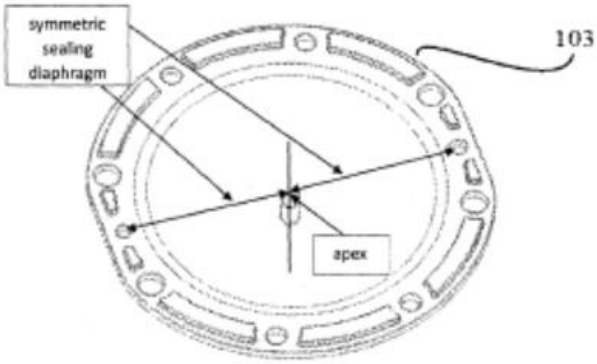


Figure 5

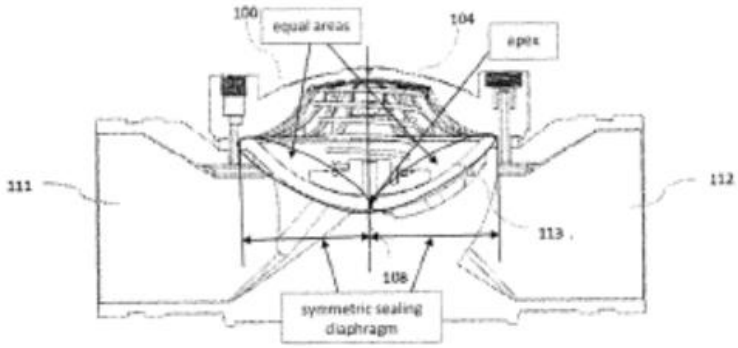


Figure 6

"an inlet path extending through the inlet chamber along the fluid flow path is longer than an outlet path extending ' through the outlet chamber along the fluid flow path"

25. Claim 1, in part, also requires that "an inlet path extending through the inlet chamber along the fluid flow path is longer than an outlet path extending through the outlet chamber along the fluid flow path." Again, from the nature of the construction, this feature is intrinsically connected to the features discussed above. The Defendants' product does not have an inlet path longer than an outlet path. Instead, the inlet and outlet paths of Defendant's product are equal.

26. The inlet path is longer than the outlet path in the suit patent, which can be seen with reference to Fig. 3A of the suit patent as exemplified below:

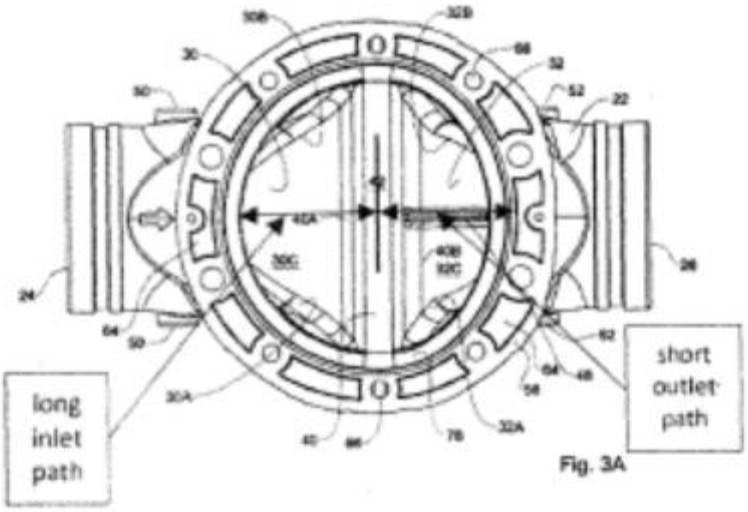


Fig. 3A

27. In context, as exemplified in Figure 2 of the Defendant's '536 patent, the inlet and outlet path in the Defendant's product have equal lengths:

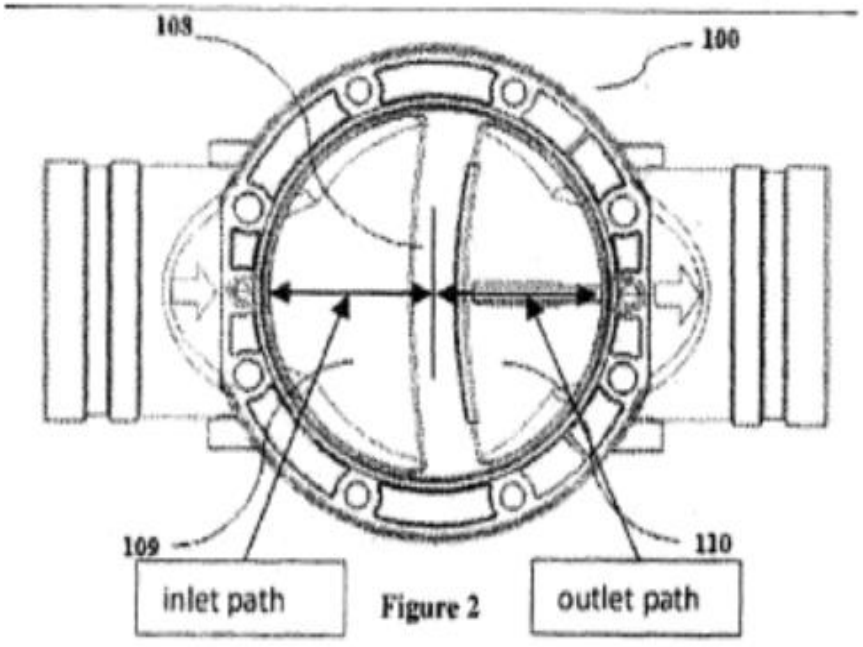


Figure 2

*****

30. It is, thus, submitted that by the Plaintiff's own admission before the USPTO, the features of an "asymmetric" sealing diaphragm, as well as the "longer" inlet path and "larger area" of the sealing diaphragm in the

inlet, are presented as critical features differentiating the invention of the suit patent over the prior art.

31. Without prejudice to, and independent of the above, the feature of "sealing bridge" in Claim 1 of the suit patent is be construed as a "sealing bridge" that is concave in the Y-axis, i.e., the axis perpendicular to the flow of fluid (being X-axis). Defendants' product does not infringe because it has a curved sealing bridge or is concave in the X-axis (in the direction of flow of fluid).

32. It is a fundamental principle of claim construction that claims are always construed in the light of the specification. It is equally settled law that a patentee cannot claim more than what he has invented. Similarly, claims cannot be construed to cover something already in prior art. Sealing bridges in control valves are already well-known and established. It is a conventional component. In all embodiments of the specification of the suit patent, for instance, as seen in Fig.2 of the suit patent, the sealing bridge is curved/concave in the direction perpendicular to the flow of fluid. It is vertical/perpendicular to the flow of the fluid but curved on a different axis. The specification requires that the sealing bridge (40), also referred to as the partitioning wall, is "extending substantially normal to the flow path" (page 8, lines 8-10). The sealing bridge (40) in the suit patent extends substantially normal to the flow path extending between the inlet port (24) and the outlet port (26), with a concave sealing surface (42) in the direction perpendicular to the flow. The specification does not disclose any other embodiment whatsoever."

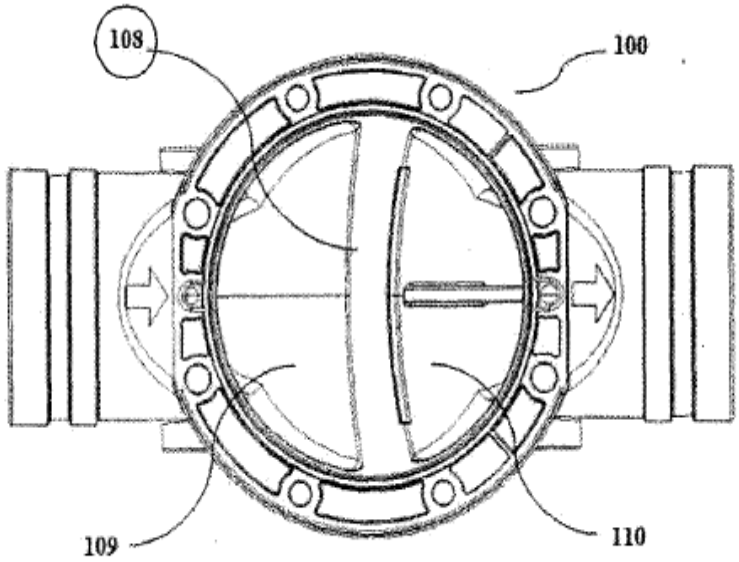


Figure 2

(xii) From a reading of the above averments, seen in the light of the accompanying drawings, the difference between the FCV of the appellants and the respondent becomes apparent. The learned Single Judge, in our considered opinion, has erred in failing to notice that there are *two* types of curvature involved, and has conflated the concavity in the curvature of the sealing diaphragm with the concavity in the curvature of the sealing bridge, both of which are on different axes, perpendicular to each other. The sealing diaphragm is concave in every case, as it has to be given the shape of the FCV itself. The learned Single Judge has, in the impugned judgment, to our mind, failed to notice that, in the case of the appellant's FCV, *there is an additional curvature of the sealing bridge along the direction of flow of water, which is conspicuously absent in Claim 1 in the suit patent.* This, we feel, is a fall out of the decision of the learned Single Judge to treat the "characterization" portion of

Claim 1 as pre-eminent.

(xiii) Apropos curvature of the sealing bridge, which the appellant has emphasized as the most prominent novel and inventive feature of its FCVs, the learned Single Judge has held thus, in paras 39 and 40 of the impugned order:

> "39. It has rightly been argued on behalf of the plaintiff that the curved shape of the sealing bridge would not be a relevant feature to determine infringement, as Claim 1 is directed to a sealing bridge regardless of the fact whether the sealing bridge is curved or not. In any event, the dependent Claim 9 of the suit patent provides that one of the embodiments of the sealing bridge can be that of a curved/concave shape.
>
> 40. Therefore, the argument that the curved sealing bridge is a novel and distinguishing feature, not covered by the suit patent, in my *prima facie* view, is contrary to the language of the suit patent itself. Claim 1 of the suit patent makes no distinction between curved or straight sealing bridges, and dependent Claim 9, in fact, expressly contemplates a curved or concave sealing bridge as one of the embodiments. In fact, there is a specific admission in paragraph 32 of the written statement filed by defendants no. 2 and 4 that the suit patent includes a curved/concave sealing bridge. The relevant extract from the written statement filed by the defendants no. 2 and 4 is set out below:
>
> > "32. It is a fundamental principle of claim construction that claims are always construed in the light of the specification. It is equally settled law that a patentee cannot claim more than what he has invented. Similarly, claims cannot be construed to cover something already in prior art. Sealing bridges in control valves are already well-known and established. It is a conventional component. *In all embodiments of the specification of the suit patent, for instance, as seen in Fig.2 of the suit patent, the sealing bridge is curved/concave in the direction perpendicular to the flow of fluid.* It is vertical/perpendicular to the flow of the fluid but

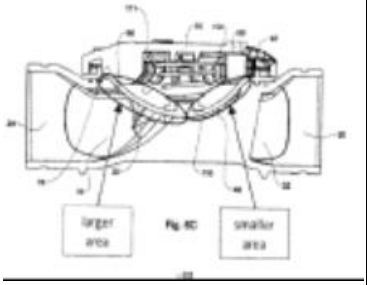
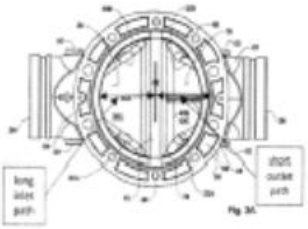
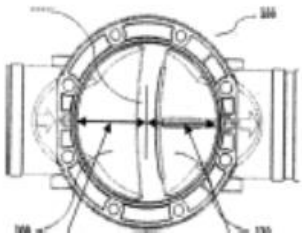
> curved on a different axis. The specification requires that the sealing bridge (40), also referred to as the partitioning wall, is "extending substantially normal to the flow path" (page 8, lines 8-10). The sealing bridge (40) in the suit patent extends substantially normal to the flow path extending between the inlet port (24) and the outlet port (26), with a concave sealing surface (42) in the direction perpendicular to the flow. The specification does not disclose any other embodiment whatsoever."
>
> (Emphasis in original)

Section 10(2) of the Patents Act stipulates that any drawings which may be provided along with the complete specifications would be deemed to form part thereof. Para 32 of the written statement filed by the respondent specifically pointed out, in the italicized portion thereof which the impugned judgment itself emphasizes, that the curvature of the sealing bridge, in the suit patent, was *perpendicular to the flow of the water, along a different axis,* whereas the curvature in the case of the appellant's FCV was *in the direction of the flow of the water*. Though this aspect has been emphasized, and re-emphasized, by the appellant, before the learned Single Judge, both in its written statement as well as in its written submissions, there is no finding thereon. Nor, for that matter, has it been traversed in the pleadings of the respondent either.

(xiv) This aspect has thus been elucidated in the written submissions of the appellant, filed before us:

> "iii. Importantly, the concept of curved sealing bridge in the Appellants' product is entirely different from that of the Respondent and the Respondent is trying to mislead the Court by stating that the Appellant has used the word curved and concave interchangeably. The difference in

inventive concept of the two patents i.e. Respondent's patent IN '050 and the Appellant's patent IN '536 is explained herein below with the help of diagrams.

<table>
<tr><th>RESPONDENT'S PATENT IN '050</th><th>APPELLANT'S PATENT IN '536/PRODUCT</th></tr>
<tr><td>It has one curved sealing bridge (Concave from top) over which the Respondent cannot have any protection as this is already known in the prior art and this sealing bridge is mentioned in the pre-characterized portion of the claim. The curvature here refers to the concave shape of the sealing bridge where the diaphragm rests
 
 
A perusal of this figure would show that the curved sealing bridge in IN '050 is a straight line</td><td>This curvature of the sealing bridge (Concave from top) is a very basic design of the curved sealing bridge as well as the diaphragm because this protrusion of the diaphragm rests on the curved sealing bridge.
 
The curved sealing bridge in IN '536 means that the sealing bridge in addition to being concave from the top is also curved to the direction of the flow of water.
This inward curvature in the sealing bridge reduces the turbulence in the water by reducing the Reynold's number which helps in the better functioning of the valve
The length of the inlet path is same as the length of the outlet path</td></tr>
<tr><td colspan="2">The Appellants have changed the shape of the sealing bridge whereas the Respondent's alleged invention changes the shape of the diaphragm by making it asymmetrical.</td></tr>
</table>

We find ourselves *prima facie* in agreement with this submission.

(xv) Another aspect on which, in our opinion, the view of the learned Single Judge does not appear to be correct is the length of the inlet and outlet paths. Claim 1 in the suit patent specifically claims that the "inlet path extending through the inlet chamber along the fluid flow path is longer than an outlet path extending through the outlet chamber along the fluid flow path". ***Biswanath Prasad Radhey Shyam*** tells us that the complete specifications have to be seen first, before adverting to the claim, and not *vice versa*. The impugned judgment does not, however, advert to the complete specifications, to understand the claim. Further, as the difference in distance between the inlet and outlet paths, which is a prime feature of Claim 1 in the suit patent, does not figure *after* the "characterization" part of the Claim, the impugned judgment, to our mind, does not appropriately address this aspect, especially as, in para 24, the features of the suit patent have thus been identified:

> "24. From the above extracts, the following features of the suit patent can be discerned:
>
> *24.1. The inlet path of the fluid control valve is longer than the outlet path along the flow axis, and the inlet radius of the diaphragm is greater than the outlet radius.*
>
> *24.2. The outlet chamber has a smaller cross-sectional area compared to the inlet chamber, and correspondingly, the portion of the sealing diaphragm extending over the outlet chamber is smaller in area than that extending over*

the inlet chamber.

24.3. The asymmetric configuration prevents or substantially reduces drifting or buckling of the diaphragm into the outlet chamber, enhances sealing integrity, and enables the diaphragm to open at lower pressure differentials compared to a symmetric diaphragm.

24.4. The reduced volume of the control chamber in this configuration facilitates faster responsiveness of the diaphragm during transitions between open and closed positions."

Thereafter, however, the impugned judgment does not proceed to examine whether, apropos features 24.1 and 24.2, as identified, the appellant's product is mapped on the suit patent. Even while proceeding to refer to the claim mapping in the plaint, the learned Single Judge has only considered the mapping with respect to Features 1.8 and 1.9, in para 33 of the impugned judgment, without referring to any of the other features of the inventions.

(xvi) To understand the feature, of Claim 1, relating to difference in the length of the inlet and outlet flow paths, we may refer to the following recitals, in the complete specifications of the suit patent:

(a) <u>In the Summary</u>

"A first aspect of the disclosure is directed to a fluid control valve comprising a valve body configured with an inlet port extending into an inlet chamber, and an outlet port extending from an outlet chamber, wherein the inlet chamber and the outlet chamber are partitioned by a sealing bridge; a control chamber accommodating a flexible sealing diaphragm deformable between a sealing position in which

it sealingly bears over the sealing bridge and seals a fluid flow path extending between the inlet chamber and the outlet chamber, and an open position in which fluid flow along the flow path is enabled; and *wherein an inlet path along the fluid flow path is longer than an outlet path along the fluid flow path. Likewise, an inlet radii of the sealing diaphragm is longer than an outlet radii of the sealing diaphragm. This arrangement results in that the diaphragm can be disposed into its open position also at significantly low pressure differentials and likewise, drifting of the diaphragm into the outlet chamber is more unlikely to occur.*"

(b) <u>In the Detailed Description</u>

"Attention is directed to the drawings 1 to 7, illustrating a flow control valve generally designated **20,** according to an example of the present disclosure. The valve **20** comprises a valve body **22** with an inlet port **24** and a coaxially extending outlet port **26,** where in the illustrated example said inlet port **24** and outlet port **26** are of similar cross section.

The inlet port **24** extends into an inlet chamber **30,** and the outlet port extends from an outlet chamber 32, with a partitioning valve seat **40** disposed therebetween, said partition wall extending substantially normal to the flow path extending between the inlet port and the outlet port, with a concave sealing surface **42.** It is noted that the inlet chamber **30** has a greater section area than the outlet chamber **32,** and further it is noted that the inlet chamber **30** and the outlet chamber **32** are of greater section than the respective inlet port **24** and outlet port **26.**"

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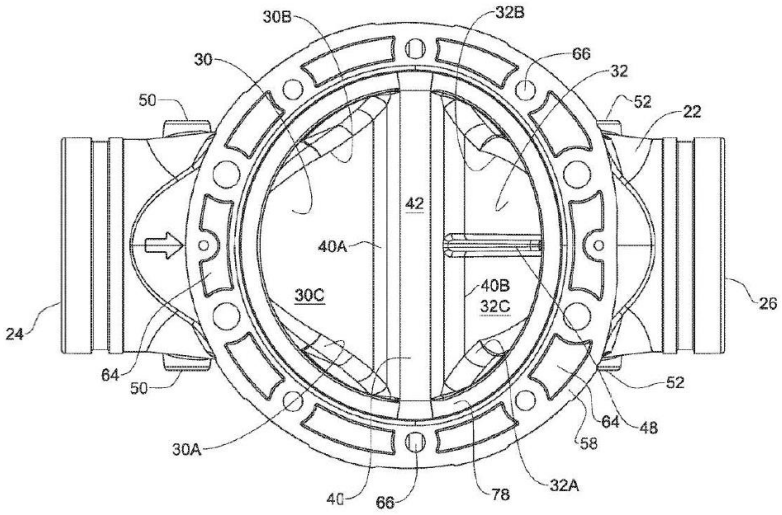

Fig. 3A

It is clear, from a bare glance at the above Figure 3A, that the difference in the length of the inlet and outlet paths, represented as "30" and "32", arises out of the asymmetric nature of the chamber – which necessitates, in turn, an asymmetric diaphragm which would seal the chamber in the "sealing" position. As against this, in the case of the appellant's FCV, the inlet and outlet paths are of the same length, as is shown from the following diagram:

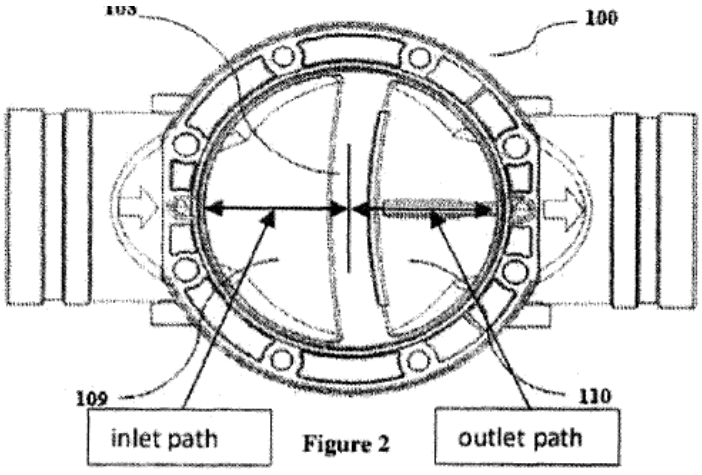

Figure 2

The learned Single Judge has entirely ignored this aspect of the matter, thereby failing to notice a significant, and more than sufficient, distinction between the FCV forming subject matter of the Claim in the suit patent and the appellant's FCV.

(xvii) The learned Single Judge has further, to our mind, erred in holding that the diaphragm, in the appellant's FCVs, was asymmetric. An asymmetric diaphragm is one of the main features of the suit patent. To understand this asymmetry, one may advert to the following recitals in the complete specifications of the suit patent:

(a) <u>From the summary</u>

> "A second aspect of the present disclosure is directed to a diaphragm seal for a diaphragm 30 valve, the diaphragm seal being made of a resilient material and having an asymmetric shape."
>
> The diaphragm has a generally round and domed shape encircled by a peripheral clamping portion, wherein the domed shape is a symmetric along a flow axis thereof extending along a flow direction between an inlet side and an outlet side thereof.

(b) <u>From the Detailed Description</u>

> "Turning now to the diaphragm **35** (independently shown in Figs. 5A to 5C), it is made of a resilient material and has a generally round shape, though non-symmetrical along a flow axis thereof, having a fist axis X and a second axis **Y,** the first axis **X** corresponding with the flow axis of the valve, and the second axis **Y** corresponding with a sealing axis, wherein $\mathbf{X_1} > \mathbf{X_2}$. According to the particular illustrated example $\mathbf{Y_1} = \mathbf{Y_2} \geq \mathbf{X_1} > \mathbf{X_2}$. However according to 30 another example $\mathbf{Y_1} = \mathbf{Y_2} > \mathbf{X_1} > \mathbf{X_2}$.

*****

The arrangement is such that the smaller section area of the outlet chamber, as compared with the inlet chamber, and the corresponding smaller section area of the sealing diaphragm extending over the outlet chamber as compared with the section area of the sealing diaphragm 10 extending over the inlet chamber results in preventing or substantially eliminating drifting of the diaphragm into the outlet chamber. In addition, another result is that the valve is more sensitive to operation under low pressure, i.e., will displace into its open position also at lower pressure as compared with a diaphragm having symmetry over its flow axis. Furthermore, a result of the asymmetric configuration is faster responding of the diaphragm and shifting between 15 open/closed position as a result of the small control chamber volume. This arrangement provides that the non-symmetric diaphragm drifts less than a corresponding symmetric diaphragm (circular), whereby the valve has improved performance for opening also at low operating pressure As compared to a diaphragm at which **$Y > X_1 = X_2$,** e.g., as the case is using an oval diaphragm."

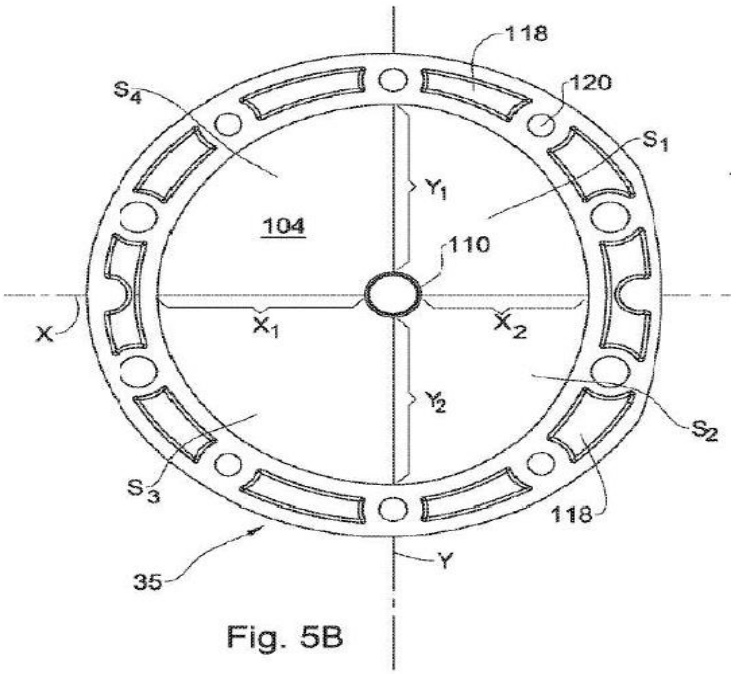

Fig. 5B

Thus, the asymmetry in the diaphragm is *per se*, and not linked

to the portion of the diaphragm which covers the inlet or outlet paths. More specifically, there is nothing, in the element of diaphragm asymmetry as contained in Claim 1 in the suit patent, which links it to the shape of the sealing bridge. *Also, most importantly, the asymmetry of the diaphragm is along the X axis, and not along the Y axis.* As against this, the diaphragm, in the case of the appellant's FCVs, is perfectly symmetrical along both axes, as is apparent from the following Figure, which formed part of the written statement filed by the appellants:

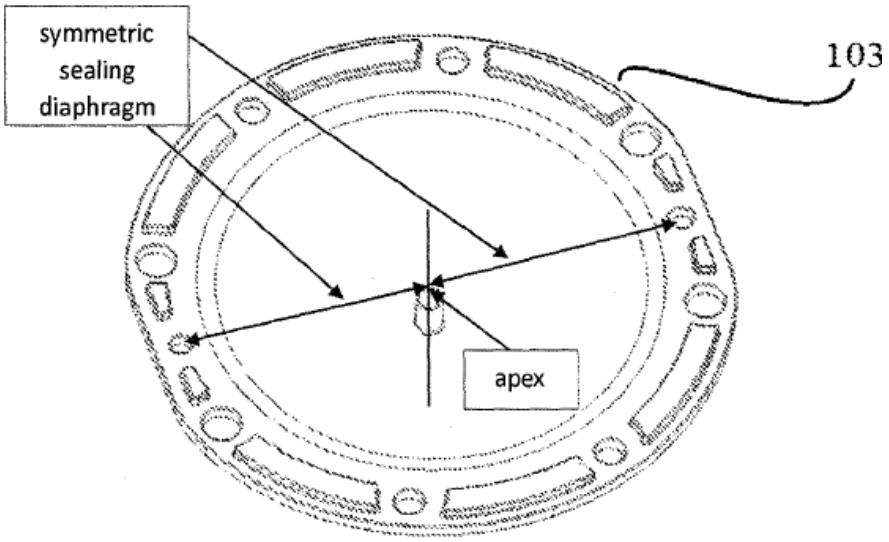

Figure 5

The impugned judgment, however, fails to notice this fact.

14. The impugned judgment, therefore, *prima facie* suffers from the following errors of principle:

(i) The judgment restricts its infringement analysis to the part of Claim 1 which follows *after* the words "characterized in that", which is not justified by the Patents Act, or the law laid down by the Supreme Court in ***Biswanath Radhey Shyam***. The impugned judgment, for this, relies on an earlier judgment of a learned Single Judge of this Court in ***Guala Closures*** which, in turn, relies on the judgment of the UK Court of Appeal in ***Virgin Atlantic Airways*** which, in turn, is based on Regulation 29(1) of the UK Implementing Regulations, to which there is no parallel in India's statutory patent regime.

(ii) As a result, the impugned judgment has entirely omitted to consider the fact that, unlike the difference in length between the inlet and outlet chambers, which forms the very basis of the technology on which the suit patent is based, the inlet and outlet chambers in the case of the appellant's FCVs are of equal length, as the appellant's FCVs regulate water flow by way of a curved sealing bridge, and not different inlet and outlet chamber lengths.

(iii) The finding, in the impugned judgment, that the sealing diaphragm is asymmetrical is also, *prima facie*, contrary to the record, and is based on an erroneous appreciation of the symmetry of the diaphragm with respect to the sealing bridge, whereas the two are entirely different and distinct aspects of the FCVs.

15. *Prima facie*, therefore, the FCV forming subject matter of the suit patent is different and distinct, not only in its main features, but even in the guiding technology whereby fluid flow is regulated. The impugned judgment, being based on a *prima facie* erroneous application of the law and the facts, is liable to be stayed.

Conclusion

16. For the aforesaid reasons, let notice issue in the appeal, as well as in CM 49211/2025, returnable on 9 February 2026. Notice is accepted by Mr. Pravin Anand.

17. We dispense with the requirement of exchange of pleadings in the appeal. However, the respondents are at liberty to file response in CM 49211/2025 within four weeks with advance copy to the appellant, who may file rejoinder thereto within four weeks thereof.

18. Learned Counsel are also directed to file written submissions in the appeal, not exceeding five pages on each side, accompanied by duly indexed compilations of any judicial authorities on which they may seek to place reliance, within four weeks, after exchanging copies with each other.

19. Renotify in the Supplementary List on 9 February 2026 tentatively for disposal of the appeal itself.

20. Till the next date of hearing, the operation of the impugned judgment shall remain stayed.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

JANUARY 5, 2026
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