

## Article Information

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## NOW the final algorithm: High Court refuses special leave in Aristocrat

***The High Court has put to bed a long-running dispute between Aristocrat and the Commissioner of Patents, refusing to grant special leave to appeal the Full Court’s unanimous finding that computer implemented inventions can be patentable subject matter.***

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### Background

The saga between Aristocrat Technologies Pty Ltd, a major developer of electronic gambling machines, and the Commissioner of Patents commenced in 2018 when a delegate of the Commissioner of Patents found that the claims of four innovation patents owned by Aristocrat were not patentable subject matter.<sup>[1]</sup>

The central issue was whether the patents, which were each entitled “A system and method for providing a feature game” and claimed particular configurations of electronic gaming machines, could constitute a manner of manufacture. The Commissioner held the view that the inventions as claimed were mere schemes or sets of rules for playing a game implemented using generic computer technology and could therefore not be patentable subject matter.<sup>[2]</sup>

The case progressed to the High Court before being remitted back to the primary judge for determination, a decision which was then subsequently appealed by Aristocrat.

On appeal, the Full Court held that the claims were in fact patentable and concluded that it was

*“...too rigid and narrow an approach to say that that implementation of an idea in a computer, using conventional computer technology for its well-known and well-understood functions, cannot constitute a ‘manner of manufacture’.”<sup>[3]</sup>*

The Full Court’s decision resulted in the Commissioner’s application for special leave to appeal to the High Court.

For more information on the procedural history of the matter and a summary of the Full Court’s decision, please see our previous Insight [here](#).

### High Court’s Decision & Key Takeaways

The High Court unanimously refused the Commissioner’s application for special leave to appeal, on the basis that the “Full Court applied established principles concerning the assessment of manner of manufacture and reached a unanimous and clear conclusion as to characterisation”. There was therefore insufficient reason to doubt the correctness of that decision.<sup>[4]</sup>

The decision provides clarity to patent applicants that computer implemented inventions can constitute patentable subject matter. Provided that the claimed invention contains patentable subject matter and can be construed according to ordinary means of patent construction, there is no reason why computer implemented inventions cannot be patentable.

IP Australia is now working with stakeholders to update the Patent Manual of Practice and Procedure to reflect the Full Court’s decision, and is calling for submissions. Any changes will be essential reading for patent attorneys, patent litigators and intellectual property practitioners more generally.

Piper Alderman has a nationally recognised intellectual property and technology team, with experience in patent litigation. Please contact Tim O'Callaghan, Partner, if you require intellectual property advice.

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[1] *Aristocrat Technologies Australia Pty Ltd v Commissioner of Patents* [2025] FCAFC 131 [3].

[2] *Ibid* [59].

[3] *Ibid* [131].

[4] *Commissioner of Patents v Aristocrat Technologies Australia Pty Ltd* [2026] HCADisp 15.