

COMMISSIONER OF PATENTS
v
ARISTOCRAT TECHNOLOGIES AUSTRALIA PTY LTD ACN 001 660 715
[2026] HCADisp 15
S153/2025

1 The applicant seeks special leave to appeal from the judgment of the Full Court of the Federal Court of Australia (Beach, Rofe and Jackman JJ) which allowed the respondent's appeal from a judgment of the Federal Court of Australia (Burley J) concerning the assessment of manner of manufacture under s 18(1A)(a) of the *Patents Act 1990* (Cth). The decision of Burley J was given following remitter after an earlier judgment of a differently constituted Full Court (Middleton, Perram and Nicholas JJ) in the same matter was affirmed by operation of s 23(2)(a) of the *Judiciary Act 1903* (Cth) due to an equal division of the members of this Court in *Aristocrat Technologies Australia Pty Ltd v Commissioner of Patents* (2022) 274 CLR 115.

2 In light of the background to this application, there is insufficient reason to doubt the correctness of the decision of the Full Court. A grant of special leave to appeal is not in the interests of the administration of justice in circumstances in which that Full Court applied established principles concerning the assessment of manner of manufacture and reached a unanimous and clear conclusion as to characterisation. There is therefore no utility in a grant of special leave to consider the operation of rules of precedent concerning s 23(2)(a) of the *Judiciary Act*.

3 Special leave to appeal is refused with costs.

Gageler CJ
Gordon J
Edelman J
Steward J
Gleeson J
Jagot J
Beech-Jones J

5 February 2026