

Patent Drafting for Beginners
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Lecture – 20
Patentability Search Report

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Contents of the Report

- Subject matter of the Search
- References constituted from the search
- Discussions on relevant references
- Patentability Criteria
- Conclusion
 - Favourable
 - Negative
 - Neutral



The patentability search report; once the patentability searches are done, the searcher would generate a report. The report will usually cover the following things; one it would detail the subject matter of the search, it would detail the references that the searcher came across during the search, it would have a discussion on the references that are more relevant. And it would also contain a brief discussion on the patentability criteria what is novelty, what is inventive step and what is industrial application?

The report will have a conclusion whether the convolution is a favorable one favorable we mean that the invention can be patented the conclusion could be a negative one stating that the invention cannot be patented or may not be patentable. And the conclusion could also be neutral saying that there is a fair chance it can be patented, but they could also be objections to it and the report will end after the conclusion with the rider saying that there are this report has certain limitations.

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Limitations of Negative Report

- Report may be wrongly generated
- Negative report could be used in Litigation in a suit
- There is no perfect search



Now, there are reasons why some professionals do not communicate patentability search report; when the search turns out to be negative; in the sense that the results of the search states that you cannot patent this invention.

Now, the reason why they do not communicate it is one they could have been wrong the professionals while doing the search they could have been wrong and they do not want to give the client something in writing to say that this particular invention cannot be patented.

Additionally this information if it props out could be used in litigation against the client at a later stage to state that; this client actually got a report saying that it is not patentable and still went ahead and patented it and got the patent granted by some means. And we had already mentioned that there is no such thing as a perfect patentability search. So, the report; a negative report is normally not given in writing, some professionals just communicated over the phone for this reason.