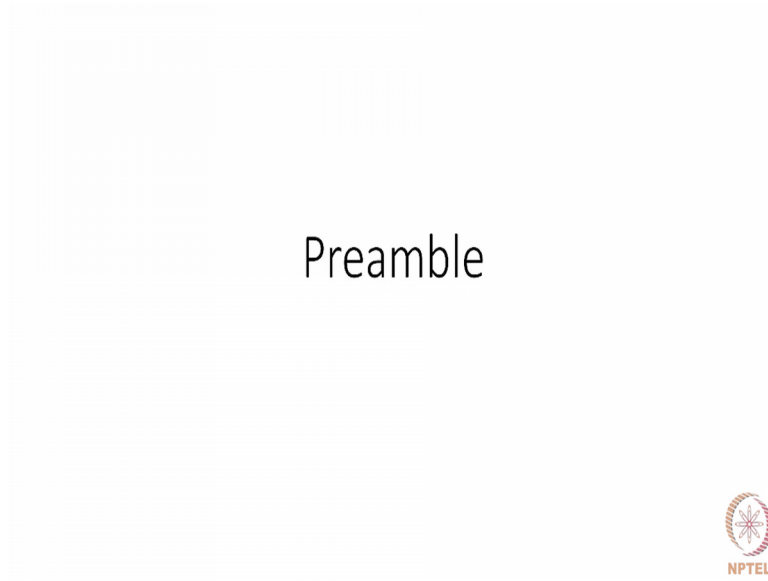


**Patent Drafting for Beginners**  
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**Lecture – 29**  
**Preamble**

Preamble.

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We are already covered that the claim would comprise of 3 parts.

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## Field of invention

- Preamble should define the field of invention
- Statutory class of the claim- IPC code determines the class
- Not treated as a claim limitation (restricting the scope)
- An element in the body can derive **antecedent basis** from the preamble, may be an essential component of the claim (advisable not to rely on preamble for antecedent basis)
- Shorter preamble preferred



Preamble the transition and the body. The preamble usually covers the field of the invention. Because it is what introduces the claim, that is the first part of the claim that you get to read. So, it should ideally define the field of the invention. It could also get into the statutory class of the claim; see, what we are already seen in the IPC code. The IPC code can determine the class. So, it could also if the preamble has to given more details about the invention, it could also cover a particular class or a subclass.

Usually what is stated in the preamble is not treated as a claim limitation. By that, we mean it does not restrict the scope of the claim. Whatever you find in the preamble usually is not used to restrict the scope. But there are some cases where words used in the preamble could be used for restricting the scope of the claim. We are already mentioned that what is covered in the body part is what is being claimed. The preamble only gives an introduction to the field or to the field of the invention.

So, any limitation in the preamble will not be treated as a claim limitation. But an element in the body can derive antecedent basis, a concept which will be explaining soon from the preamble, may be an essential component of the claim. It is advisable not to rely on the preamble for antecedent basis. Now you may recite a element in the body and choose to mention it in the preamble. Now that can have certain consequences, but if you do not want something to be a claim limitation, you will ideally not mention it in the preamble. A shorter preamble for that reason is preferred.

(Refer Slide Time: 02:36)

## Preamble and Title

- Preamble and body should be consistent with each other together to form the whole claim
- Title can be modified to create the preamble
- Too broad a preamble may not be advisable

“ A pen comprising.....”

- Breadth of the preamble - “a cap to cover the writing tip”

“Pen” or “Pencil” = “writing device”



The preamble could also be related to the title in some way. The preamble and the body should be consistent with each other, together to form the whole claim, the body should be a continuation of what comes after the preamble. The title can be modified to create a preamble, if you see the title it is normally less than 15 words. So, the title could form in some cases, the starting point for creating a preamble. Too broad a preamble may not be advisable; for instance, a pen comprising will be too broad preamble, because pens have been in use, and have been patented for quite some time.

So, it may be you know a ballpoint pen or a fountain pen, it could be more specific. The breadth of the preamble can also cover a larger group of inventions. If you see, if a pen includes a cap to cover a writing tip, or if it is a pencil which includes a cap to cover the writing tip. Instead of using a pen or a pencil, you could cover a writing device. So, a writing device comprising a cap to cover the writing tip would be much broader than a pen comprising a writing tip or a pencil comprising a cap to cover the writing tip. So, in a sense, when you use the word writing device, in the preamble, instead of the word pen or pencil, you expand the breadth of the preamble.

(Refer Slide Time: 04:48)

## Limitations in the Preamble

- Avoid limitations in the preamble
- No need to include the object of the invention in the preamble
- Not possible to capture all objects in preamble
- Title shall disclose the specific features of the invention, whereas preamble has to define the field of invention



Limitations in the preamble, it is advisable to avoid limitations in the preamble the limitations should come if at all in the body. There is no need to include the object of the invention in the preamble though in some cases, you will find examples of including the object of the invention. How the reason for that is that the invention may have multiple objects. It may solve many problems, and the object of the invention would be it would not be possible to mention all the objects in the preamble. If we just mentioned that you could use the title as the starting point of the preamble, but title serves a distinct purpose. The title shall disclose the specific features of the invention that is a requirement under the act. Whereas, the preamble has to define the field of invention.

So, in cases where that disclosing the specific features, and defining the field of the invention do not match title may not be the right place to start draft of start as a draft for a preamble.

(Refer Slide Time: 05:55)

## Claim limitation

- Claim limitation may appear in the preamble:

*Karsten Manufacturing Corp v. Cleveland Golf Co.* 242 F.3d 1376,  
where “**correlated set**” appearing in the preamble was treated as a  
claim limitation.

All the claims began with the words “**an improved correlated set of  
iron-type golf clubs**”.



Claim limitation, a claim limitation may appear in the preamble. Now for instance in this case, karsten manufacturing corporation versus was cleveland golf. The word correlated set appeared in the preamble. Now because it appeared in the preamble it was treated as a claim limitation.

Now, all the claims in this case began with the words an improved correlated set of iron type golf clubs. So, the word correlated set, because it came within the preamble it was used as a for limiting the claim, the claims were read narrowly. Now there are 2 rules when it comes to preamble there are 2 rules on limitation that you need to bear in mind.

(Refer Slide Time: 06:33)

## Two Rules on limitation

- If a limitation in the preamble is for limiting the scope of the claim, it should be repeated in the body.
- If a limitation in the preamble is not for limiting the scope of the claim, it should be omitted from the preamble.



One if a limitation in the preamble is for limiting the scope of the claim, it should be repeated in the body. So, what you mentioned in the preamble? To limit the scope of this claim, it has to be reiterated or repeated in the body as well. So, that it is very clear, that the limitation that you have incorporated is not something which you mentioned inadvertently in the preamble, it has to come in the body.

So, what you say in the preamble should come should be repeated in the body. Rule number 2. If a limitation in the preamble is not for limiting the scope of the claim. Now you do not want to limit the scope of the claim by mentioning something in the preamble. Then, that limitation should be omitted from the preamble. You should not mention anything like in the earlier example a correlated set. You should not be mentioning it if you do not want that to limit the scope of the claim. Rather, it is say for to mention correlated set in the body part of the claim.

(Refer Slide Time: 07:46)

## Types of Preambles

- A process..
- An apparatus..
- A process for purifying honey...
- A device for cutting paper...
- A biodegradable pesticide delivery system...
- A composition for the detection of a specific chemical substance in a testing fluid...



Types of preamble. As we said preamble is nothing but an introductory statement; which introduces the invention. Now it could be as simple as a process, explaining the process, an apparatus detailing the apparatus, a process for purifying honey; which is a process with a function in the process accompanied by the function of what the process is for a device for cutting paper again a device with an accompanying function. A biodegradable pesticide delivery system. Again, it is something which tells you more about what the pesticide delivery system is about it is the, it is a pesticide delivery system, which is also biodegradable. Or it could be something like a composition for detecting detection of a specific chemical substance in a testing fluid.

Now, this tells us it is a composition, but it also tells what the composition is for. It is for detection of a specific chemical substance in a different environment; which is a testing fluid. So, this is a much more detailed preamble, it could have been perfectly fine if the applicant had mentioned it as composition, but we will understand that as there are more patterns in a particular field, the need for a more detailed preamble would arise now preamble with a function.

(Refer Slide Time: 09:12)

## Preamble with function

- Context can be indicated in th preamble

“Apparatus for (mention the purpose), the apparatus comprising....”

- Dependent claims should have the same preamble as their parent



Now, in such cases, where the preamble also describes a function, it describes the context of the invention, the context can be integrated in the preamble for instance, an apparatus for mention the purpose for which it is used for farming for cutting the apparatus comprising.

So, you said in the preamble, and you also said you repeat that it is the apparatus. So, that it is not mistaken for the purpose. So, an apparatus for farming the apparatus comprising and it proceeds; so, it it describes the function. But when you describe the function it is better to repeat the class of the claim in this case it is an apparatus again. Dependent claims should have the same preamble as their parent. If there are a series or one dependent or a series or a group of dependent claims, which take it is origin from a particular parent an independent claim, then the preamble has to be the same. You cannot have a dependent claim which has a preamble which is different from it is parent. That could lead to ambiguity.



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## Example

- Example of a long preamble:

A dispensing top for passing only several kernels of a popped popcorn at a time from an open-ended container filled with popped popcorn, having a generally conical shape and an opening at each end, the opening at the reduced end allows several kernels of popped popcorn to pass through at the same time, and means at the enlarged end of the top to embrace the open end of the container, the taper of the top being uniform and such as to by itself jam up the popped popcorn before the end of the cone and permit the dispensing of only a few kernels at a shake of a package when the top is mounted on the container.



Now, let us look at an example of a long preamble. A dispensing top for passing only several kernels of a popped popcorn at a time from an open-ended container filled with popped popcorn, having then the thing proceeds what is highlighted in red is the preamble. So, you will understand that the preamble gets longer, if it describes the function and it also sets the field of it is operation.