

**Patent Drafting for Beginners**  
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**Lecture - 39**  
**Methods or Process Claims**

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## Method or Process Claims



Method or process claims, we had seen the details about an apparatus claim. Now the apparatus claim is what we had already mentioned; falls within the ambit of a product claim in India. And the method or process claim falls within the ambit of process claims. So, we had already mentioned that there are 2 broad classes of claims which are allowed in India. So, the product and the process map over apparatus claims which is a terminology predominantly used in the united states, and a method or process claim is the other category which is commonly used all over the world. It is either called a method claim or a process claim.

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## Structure

Easier than apparatus claims;

Structural cooperation not needed

Elements are the steps in process claim-scope is not an issue

General rules discussed before will apply

Chemical , Mechanical, Electrical



Now the structure of a method or a process claim is easier than an apparatus claim. So, you should all the lessons that we learnt in drafting an apparatus claim will hold good here. Because claims at the end of the day form follow certain principles which are common regardless of the class. The structure is easier because there is no need for you to demonstrate structural cooperation. In a apparatus claim, if there are elements a b and c, you have to show how a b and c cooperate with each other; functionally, structurally, structurally.

That is not needed because in a method claim or a process claim the elements are the steps in the process. Because the elements are not devices or parts moving parts as it would be in a apparatus claim. It is much easier to describe it, because you are just going to describe the process. If it is a machine how the machine works. So, the focus here is on the steps or on the processes. So, that is why we say that the elements in a process claim are the steps or the sequences that the process has to go through to complete it.

So, the process also has another inherent advantage that you need not worry about ordering it finding a logical order which we were trying to do for the apparatus claim. The logical order is their inbuilt, because the processes simply will not function is that particular order is not followed. And the scope is also not an issue you need not worry about having a broader claim and narrower claim, whether you should use a broader term. Because the process is what it is so, you just by following the process you can claim the process.

So, the general rules as we have discussed which apply for apparatus will apply for method or process claims as well. Now the method of process claims can also be under different categories; fields of invention, chemical, mechanical, electrical.

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## Structure

Steps of method don't need drawings

May include flow-diagram

Combination of steps, best method disclosure

Exceptions:

method of agriculture, treatment, playing game



Now, let us look at the structure the steps of the method do not need drawing. This is inherent for a method or a process claims. They do not need drawings, but an apparatus claims would require drawings if it has moving parts. But you may include a flow diagram if it is required. But drawings are not required the way it is required for a apparatus claim.

Now, most of the time a process is a combination of steps, what we call a combination process patent. For a combination of steps, you need to describe the combination and the steps in detail, and also disclose the best method. That is a statutory requirement you need to disclose the best method. There are exceptions to what the kind of method of method claims that you can have, you cannot claim a method of agriculture there is a bar under the act, the method of treatment, a method of playing a game. Barring these exceptions, you could claim a method claim for any thing for which you could claim in apparatus.

But though method claims are bared, and an equipment in agriculture can be patented, because it is in apparatus and apparatus that is used for a treatment or a surgical process

can be patented apparatus for playing a game, what we call a toy can also be patented. So, the restriction on method patents are only 2 few fields under the patents act.

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Elements

Steps


Verb in the **-ing** form

**"Heating** the solution"

**"Separating** the mixture"

**"Covering** the metal with a layer of \_\_\_\_"

Sequences must be described



Now we had mentioned the elements of a claim covering a process are the steps. Now usually you use the verb form ending with to show that there are the steps to to show the steps you use the verb form heating the solution, separating the mixture, covering the metal with a layer of something.

Now, these will tell you that they are steps that have to be done. Now the sequences must be described.

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## Types

Chemical Processes

Dependent claims

Claim 1: "...an acid...."

Claim 2: "A process... as recited in claim 1, wherein the acid is hydrochloric acid"

Electrical:

"detecting" "charging" "connecting"

Computer-Related inventions + Business Method

- Achieves something other than merely appropriating the algorithm;
- Business methods not patentable - Yahoo Case.



Now, there are different types of claims, chemical processes, they can be dependent claims; like, in a chemical process if an acid is described in claim 1. Claim 2 can be a process as recited in claim 1, wherein the acid is hydrochloric acid.

So, you describe the genus which you explained in claim 1, and make it more specific in claim 2. So, dependent claims in covering chemical processes could have further details about the invention. In electrical claims, you would use commonly used words for describing a process will be detecting, charging, connecting and other such words which you would come across amongst electrical inventions.

In computer related inventions and business methods, in India, as far as they achieve something other than merely appropriating the algorithm the claims can be granted. But we have a specific exception on business methods, because business methods are not patentable under the act. And we have a case which is called the yahoo case, which describes the prohibition of a business method patent.