

Intellectual Property
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Lecture – 25
Requirements of a Patent Application

Now, we will look at the Requirements of an Application.

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Requirements of Application

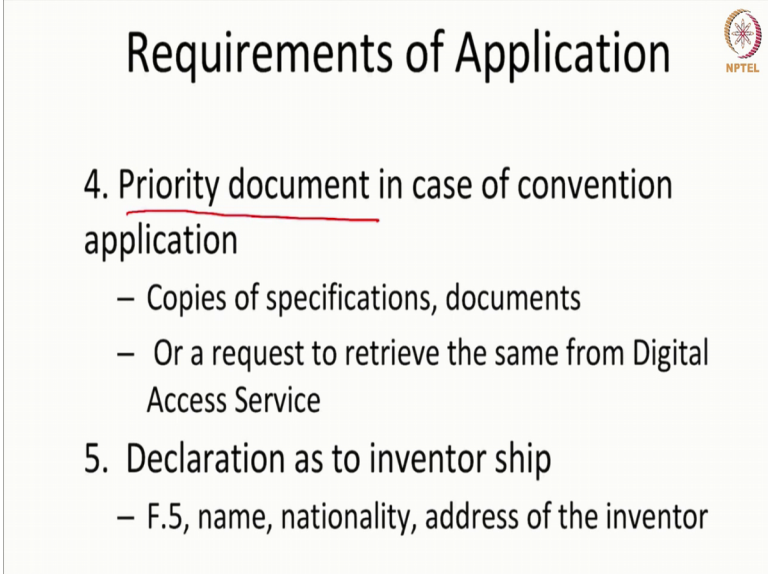
1. Provisional or complete specification [F.2]
 - Provisional specification provides for priority
 - File complete specification within 12 months
2. Drawings
3. Foreign filing details of the said invention
 - Statement and undertaking: Form 3

First, there the patent application has to be accompanied by a provisional or a complete, and we had mentioned the difference between a provisional and a complete. If you follow the option of filing a provisional first, then within a period of 12 months you have to follow it up with by filing a complete specification. So, the provisional specification will get you the priority, but provided you follow it up by filing a complete specification within 12 months.

Now, the second requirement while filing an application is the requirement of drawings. You need to have drawings if your invention can be described through drawings. For instance, most mechanical inventions, inventions involving mechanical and moving parts, may require drawings. Even if you do not file the drawings, the patent controller can ask for drawings, when the patent officer is prosecuting your patent application.

Third thing that you need to provide to the patent office while filing an application is, details with regard to foreign filing. If you had filed an application in India and followed it up with applications around the world, foreign applications, then you need to keep the Indian patent office informed, as to, the possession of those applications. Now this is more like, the patent office would like to know how other patent officers are dealing with the same application. So, there is a statement of undertaking under Form 3 which an applicant has to file.

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Requirements of Application

4. Priority document in case of convention application

- Copies of specifications, documents
- Or a request to retrieve the same from Digital Access Service

5. Declaration as to inventor ship

- F.5, name, nationality, address of the inventor

The fourth thing the applicant has to file along with this application is the priority document. In some cases, there could be a priority document which is a document filed in a foreign patent office. Now when you follow the convention application route or the PCT route, you file a priority document. Based on the priority document, you get a priority and then you enter different countries.

So, whatever priority document that you used in the case of a convention application, copies of that has to be provided to the Indian patent office. Then, there has to be a declaration, with regard to inventor ship, as to who the inventor is; the name, nationality, and address of the inventor.

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Requirements of Application

6. Power of attorney application made by patent agents
 - Form 26 or power of attorney
7. Fees
8. Proof of right if application made by assignee (Removed)

Then a power of attorney has to be filed or Form 26, instead of the power of attorney, authorizing the patent agent to deal on your behalf. Then, the required fees have to be paid; and the proof of right, the right to make an application has to be given. Now, this earlier, it had to be done along with filing the application. Now that provision has been removed, you have been given time to file a proof of right, even after you make the applications. A proof of right can now be filed even after you make the application. Now, proof of right, we had already discussed this. When an inventor assigns his invention to another person, say the employer or the company where he works, then the company, when it files in patent application, it has to show the proof of right. How did the applicant give the invention? And that has to be demonstrated with documents.