

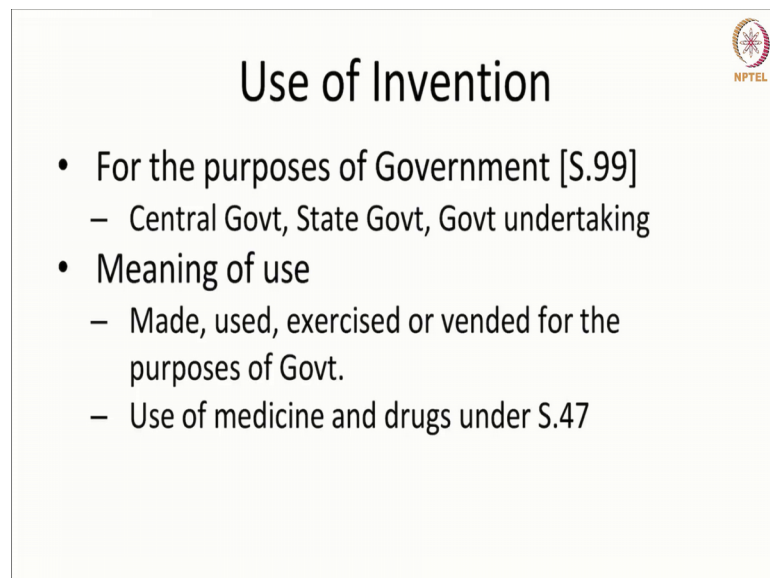
**Intellectual Property**  
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**Lecture – 38**  
**Government Use and Acquisition**

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Government Use and Acquisition, the government has the power to use certain inventions that are covered in a patent. This could be done for the purposes of the

government the central government, the state government or a government undertaking can initiate these proceedings. The meaning of government use has been defined as something that is made used exercised or vended for the purpose of the government. So, if there is an invention that is being made, used, exercised or vended for the purposes of the government. And that invention is covered by a patent then the government can seek, the pattern for government use or it can also acquire the invention.

Just how the government has the power to acquire land in certain circumstances the government also has the power to acquire patent which is an intellectual property. Now use of a medicine or drugs under section 47 is regarded as one such instance of a use.

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## Use of Invention




- Payment of royalty to the patentee [S.100]
  - No royalty: tested on behalf of government before priority date
  - Royalty: if not tested on behalf of Govt, use after grant of patent
- Authorization by Govt
  - Before or after grant, to any person
  - Notify the patentee

The procedure for the government to acquire requires the payment of royalty to the patentee. So, if the government is going to use or acquire an invention then royalty has to be paid. Now however, no royalty is required to be paid if it is tested on behalf of the government before the priority date.

Now, the priority date is the date on which the patent application is filed or the priority document is lodged. If the government tested the invention before the priority date, then there is no liability on the government to play royalty. This is because the government tested it before the patent crystallized or before a application for a patent was even filed. Now if the; if it is not tested on behalf of the government then for all the use after the grant of the pattern , the government is liable to pay royalty to the patentee.

Now, this requires authorization by the government. The government can authorize before or after the grant any person to use the invention and the government shall also notify the patentee about such use.

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## Use of Invention


- Right of third parties [S.101]
  - Third party agreement shall not restrict the use of the invention by Govt
  - Provide for making of payments
- No copyright infringement on Govt use
- Compensation for Govt use

Now third party rights are also factored in when the government uses the invention. A third party agreement shall not restrict the use of the invention by the government, for instance; the patentee has an agreement with licensee, that the patentee will not give this to anybody else, but the licensee you know such a third party arrangement we will not affect or restrict the use of the, but if the third party is a beneficiary who would be entitled to receiving the payment, then such arrangements can be made for making payments to the third party.

There can be no copyright infringement on government use and compensation for government use is something that will be given.

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## Acquisition of Invention



- Acquire invention for public purpose [S.102]
  - Publish a notification in Official Gazette
  - Notice to be given to person having interest
- Compensation to such person to be paid
  - In case of default, to be decided by HC

Acquisition of an invention, the government can acquire invention for public purposes. It shall publish a notification in the official gazette and notice shall be given to people having interest in the application. Compensation shall also be paid in case of default of comp payment of compensation the issue shall be decided by the high court.