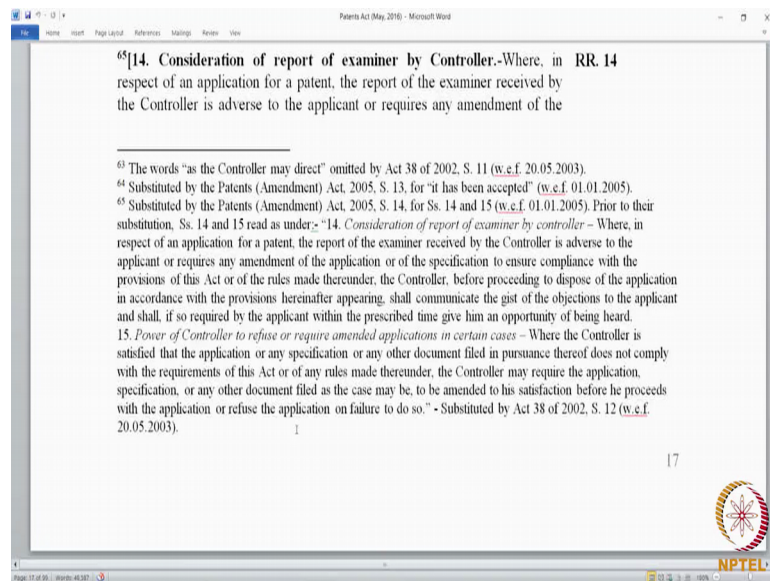


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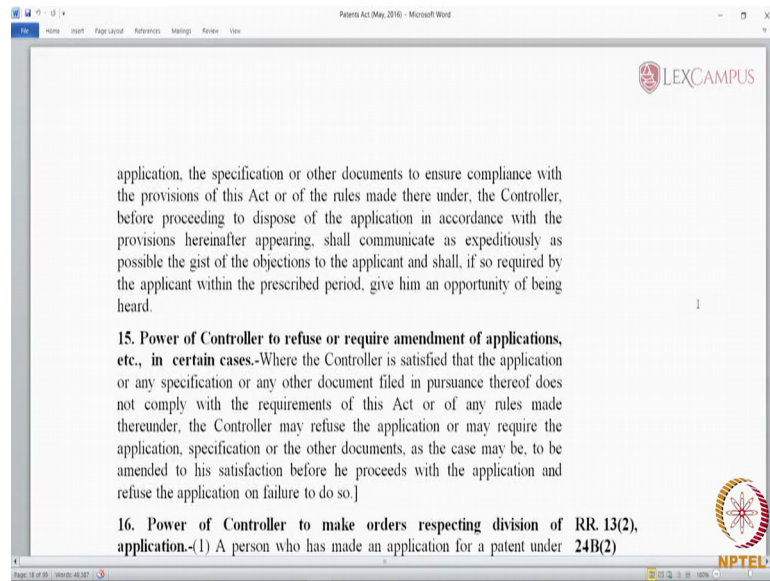
**Lecture - 33**  
**Patent Prosecution: Publication and Examination - II**  
**Consideration of Report of Examiner**

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Section 14: consideration of report of the examiner by the controller. Under section 13 the examiner prepares the report and the report is now sent to the controller. Section 14 states that where in and respect of an application for a patent the report of the examiner received by the controller is adverse to the applicant or requires any amendment of the application.

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Now, the specifications or other documents to ensure compliance with the provisions of this act or of the rules made there under the controller before proceeding to dispose of the application in accordance with the provisions. Herein, appearing shall communicate as expeditiously as possible the gist of the objections to the applicant and shall if no if so, required by the applicant within the prescribed period give him an opportunity of being heard.

Section 14 if you go to the patent of its website there are controllers decision 1000s of decisions have now been posted many of the decisions are opinions of the controller opinions that are given either granting a patent or rejecting an application. So, these are the patent of his decision what we call the controllers decisions most of the controllers decision will start with the section 14. Herein, the controllers decision will say that there was a section 14 herein and later on the decision could be passed under section 15.

Section 14 comes into operation it is important to understand this section 14 comes into operation when the report received by the controller is adverse to the applicant this is when it comes into operation if the report received by the controller is perfectly fine there is nothing adverse to the applicant and is most likely would result in a grant then the proceeding or the situation mentioned in 14 does not apply. Section 14 kicks in only when the report of the examiner received by the controller is adverse to the applicant or requires any amendment. So, amendment is again an indication that something is not

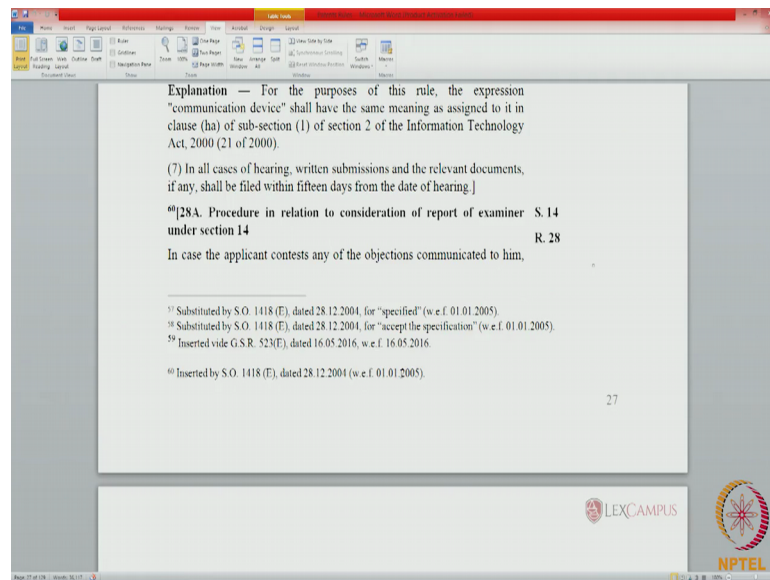
perfect an adverse report is again an indication that something is not perfect. So, section 14 triggers or kicks in instances where the application is not in perfect order either the report says something adverse against the applicant or it requires the documents the specification and other documents file requires amendment to comply with the act.

Now, under section 14 once the report is adverse or the examiner as indicated certain amendments need to be made before proceeding to dispose of the application the controller shall one communicate the gist of the objections and if the applicant. So, requires give the applicant a herein. So, what will be the controller do the controller on understanding that there is in the report is adverse to the applicant or the report requires the applicant to mix amendments will communicate the gist of the objections to the applicant and give the applicant an opportunity of herein the applicant if the applicant requires the herein.

So, this is all section 14 is about section 14 is normally used by the controllers to give the applicant herein. So, when an applicant receives a section 14 notice most likely the section 14, notice will say that what are the objections that the applicant needs to get over or what are the adverse observations given by the examiner. So, this will be communicated to the applicant.

So, section 14 is only a process by which the controller can intimate the objections and call the applicant for a herein section 14 does not give a the power to pass any orders there is no order that can be passed under section 14, whereas section 15 gives the controller the power to pass order the power to refuse an application comes under section 15.

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Rule 28 A procedure in relation to consideration of report of examiner under section 14 we had seen that the examiner sends a report to the controller under section 14 the report is actually sent covering aspects of section 12 and 13, but the consideration of the report by the examiner by the consideration of the report by the controller is dealt with in section 14. And we had seen in section 14 that when the controller receives the report from the examiner and the controller finds that it is adverse to the applicant or requires any amendment to the application.

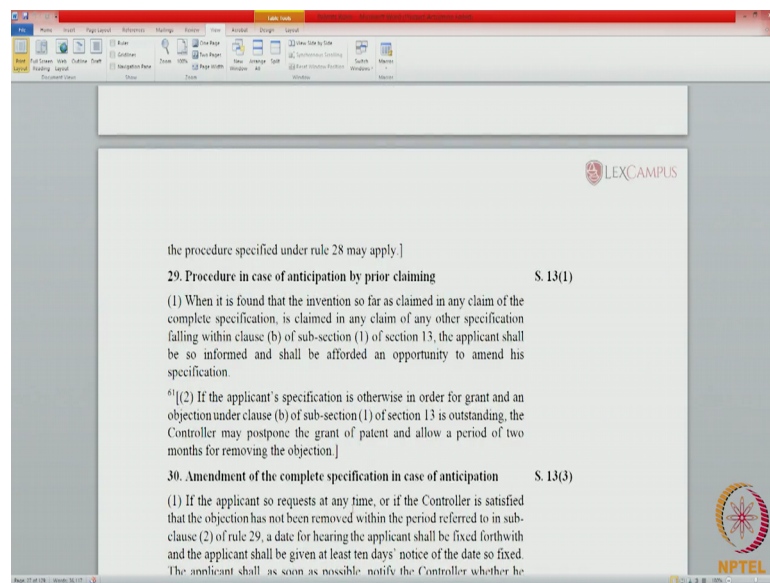
Now he receives the report of the examiner and the controller feels that there is something adverse to the applicant in the report in the sense that the con examiner had made certain observation which may not result in the grant of a patent that is why we say it is adverse the findings of the examiner are adverse to the applicant or the examiner has indicated that it requires an amendment.

So, we understand an adverse report as something saying that certain things are not patentable certain conditions of patentability have been not been met or it falls within certain exemptions of patentability or the application does not satisfy certain things mentioned certain requirements under section 10. The examiner could also say for instance if the best method is not disclosed which is a requirement under section ten the examiner can say that they can be an appropriate amendment to introduce the best method this is one thing which is the examiner can say. So, that is why we find in the

language of section 14 that if the controller finds the report of the examiner to be adverse to the applicant or it requires an amendment of the application. So, these are the two instances where the controller can call for a herein. So, the examiner's report has something adverse in it or it requires an amendment then the controller can call for a herein.

Now, what is the procedure to be followed in relation to consideration of the report of the examiner under section 14 it is a very simple procedure we had seen in detail how rule 28 operates. Rule 28 pertains to the procedure in case of anticipation by prior publication we saw how the objections are communicated and on what basis they are done and time is given there is a notice period and there is a herein the same procedure applies in case of 20; rule 28 also the rule says.

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In case the applicant; cannot test any of the objections communicated to him the procedure is specified under rule 28 may apply. So, it is the same thing. So, the objections that an applicant would deal in case of section 13 those objections under section 13 that is sec objections to the regard to anticipation the manner in which he would deal with the patent office is the same whether it is an objection for prior publication anticipation by prior publication under section 13 or an objection under section 14 and we saw that the objections could be any adverse finding or requirement of

amendment. So, the procedure the objection is communicated the reply is given then notice is called for herein.

This procedure will be same regardless of whether it is an objection under section 13 anticipation by prior publication or whether it is an adverse finding or an requirement for or the examiner makes a requirement for amendment. So, we understand that when an examiner makes an objection be it on anticipation on amendment on any other adverse finding the controller will communicated to the applicant, and the applicant will get the same opportunity to defend.

So, he can file is reply and request for a herein the controller will give a notice period subject to a certain conditions. And there will be a based on the notice there will be a herein. So, this procedure is the same regardless of whether the examiners objections pertain to anticipation or whether it pertains to amendment or any other adverse finding.