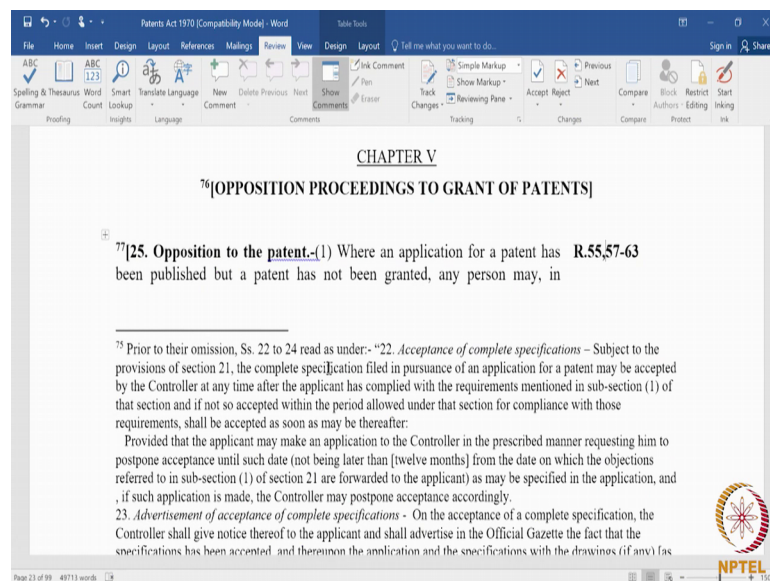


**Patent Law for Engineers and Scientists**  
**Prof. Feroz Ali**  
**Department of Management**  
**Indian Institute of Technology, Madras**

**Lecture - 40**  
**Patent Prosecution: Opposition**  
**Introduction to Opposition to Grant of Patents**

(Refer Slide Time: 00:16)



Opposition proceeding to grant of patents: section 25 deals with opposition to the patent. Section 25 1 deals with opposition before the grant, which means a case where you can oppose an application a patent application it is also commonly called pre grant opposition. And section 25 2 deals with post grant opposition or opposition after the grant of a patent. So, the main difference between these two types of opposition is one happens before the grant, and the other happens after the grant.

Pre grant oppositions the rules are much relaxed as you would see the status of opponent is also much wider and the it is a summary proceeding, now we have decisions of the high court where they have held the rule of pre grant of opponent or the person who opposes before the grant is that of a person who aids the examination. So, he is actually like a person who helps the examination of the patent. So, in law we have amicus curiae something similar to that, the friend of the court. So, he can be regarded as a friend of the patents office, because he helps or aids in the examination. Post grant is different,

because in a post grant opposition the post grant opponent gets a party status. There are forms there are fees to be filed.

So, he is regarded as a party. And post grant opposition is regarded as an inter partes proceeding, the tips agreement under the WTO has different kinds of proceeding and one of the proceedings inter partes between parties. The contentious proceeding is called as an interpartes proceeding. The post grant opposition qualify for that. Pre grant may not qualify for inter partes proceeding, because a pre grant opponent does not have a status of a party. He does not file fees for instance or he does not have a remedy in appeal.

So, if the pre grant opponent loses the opposition there is no remedy in appeal. He cannot file an appeal to the IPAB that is not open for the pre grant opponent, this the loss quite settle now because of a few decision of the high courts. So, be it pre grant opposition or post grant opposition they can be initiated on common ground, the grounds are common grounds. The grounds are common all the ground for pre grant opposition and post grant opposition are common. The only difference being the point at which you raise those grants. So, when in pre grant you will raise all those ground when they application is still an application and it is not materialized into a grant.

In a post grant opposition you would raise the same grounds, but after the grant and the procedure is also different for pre grant, and post grant there is an opposition board that is constituted for the post grant which is not there for the pre grant.

So, as we go we will be able to see these to procedures are in greater detail. And we will also tell you how the law has evolved. And we will also share some details about how the current practices happen.