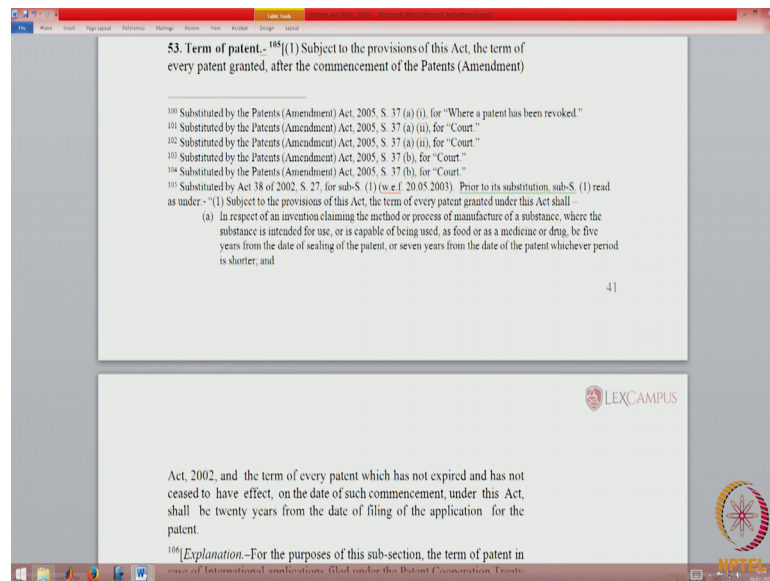


Patent Law for Engineers and Scientists
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Lecture - 51
Patent Prosecution: Practice at the Patent Office
Term of Patent

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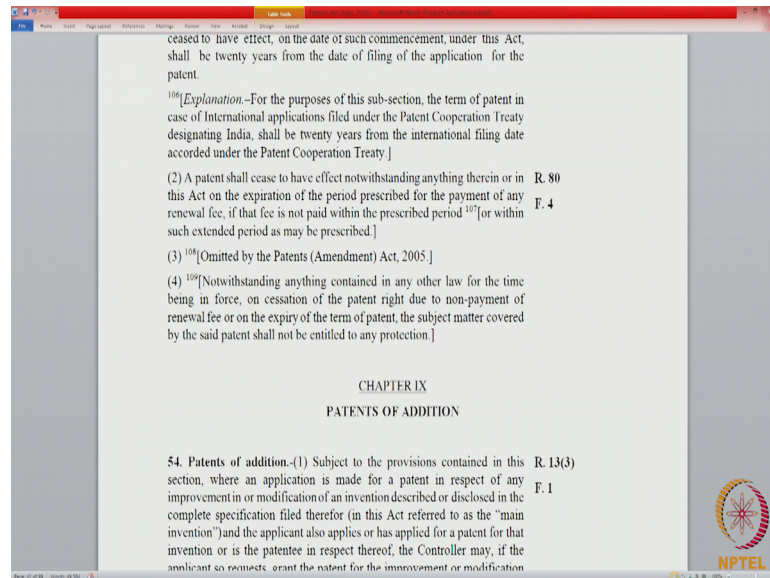


Section 53; term of patent a term of patent refers to the 20 year term during which the patent is said to be alive by payment of renewal fees and during which the patent can be enforced against third parties now we are already mentioned a patent can be enforced with regard to the rights of a patentee mentioned in section 48. So, if there is any contravention of those rights mentioned in section 48 a patentee can take action to enforce the patent against parties for violating his rights, but this can happen only during the term of the patent.

Because once the patent term expires the 20 year period expired the exclusivity granted to the patentee will cease to exist. So, the term of the patent refers to the time during which the patent remains alive by which we mean the official charges that have to be paid for keeping the patent; patent alive have been paid and the patent is capable of being enforced against third parties. So, this refers to the 20 year time period from the grant from the date application of a patent till the patent expires.

So, this refers to the term of a patent 53 one subject to the provisions of this act the term of every patent granted after the commencement of the patents commencement act 2002 and the term of every patents which has not expired and has not cease to have effect on the date of such commencement under this act shall be 20 years from the date of filing of the application for the patent.

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So, 20 year term patent is computed from the date of filing of the patent. So, the 20 year period starts from the date of filing of the patent. Explanation for the purpose of this subsection, the term of a patent in the case of an international application filed under pct designating India shall be 20 years from the international filing date accorded under pct the patent cooperation treaty.

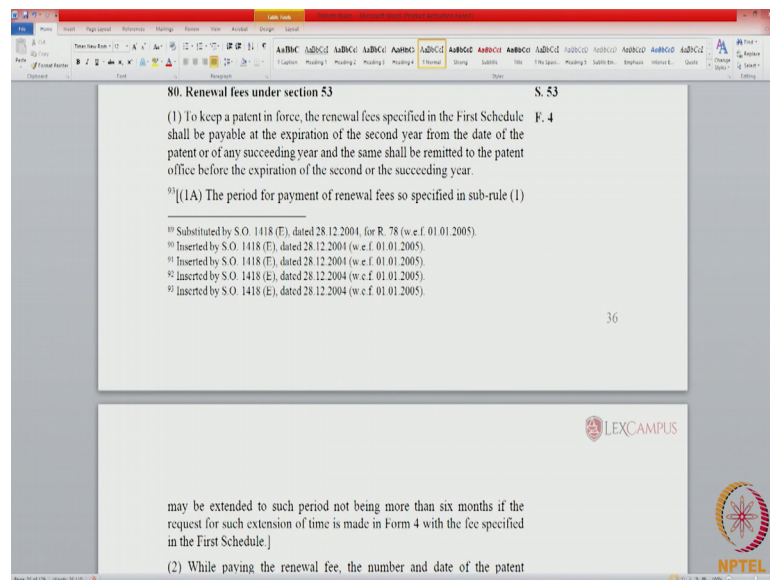
So, in the case of pct, the 20 year period will be from the international filing date 2 a patent shall cease to have effect not withstanding anything there in or in this act on the expiration of the period prescribed for the payment of any renewal fee if the renewal fee is not paid within the prescribed period or within such extended period as maybe prescribed.

Now, patents remain in affect so long as the renewal fees are paid. So, if the renewal fees are not paid then the patent will laps and you cannot enforce a patent that has lapsed due to nonpayment of renewal fee. So, the patent self cease to have effect which means you cannot enforce a patent in the court of law when we say a patent shall cease to have

affect it simply means that the patentee cannot file an infringement soon. So, that is import of ceasing to have effect. So, your ability to find an infringement suit will depend on whether you have kept the patent alive by paying the renewal fees.

Four notwithstanding anything contained in any other law for the time being enforced on cessation of a patent right due to nonpayment of renewal fees or on expiry of the term of the patent the subject matter covered by the set patent shall not be entitled for any protection this is what we mentioned you cannot enforce the patent if the patent are ceased to have an effect due to nonpayment of fee or the term has expired. So, the patent shall not be entitled to any protection means you cannot file an infringement suit to enforce the rights under the patent.

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Rule 80 it talks about renewal fees under section 53 1 to keep a enforced the renewal fees specified in the first schedule shall be payable at the expiration of the second year from the date of the patent or any such succeeding year and the same shall be remitted to the patent of a before the expiration of the second or succeeding year.

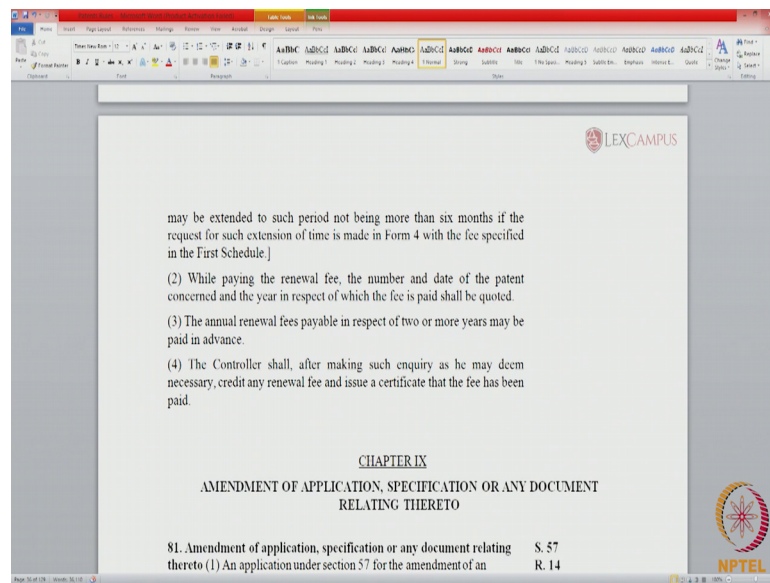
Now, you saw the word date of a patent section forty five deals with date of patent and the date of the patent shall be the date on which the application for patent was filed the filing date is the date of the patent now date of the patent is relevant for filing the renewal fees. So, it is the second year from the date of filing or any succeeding year and

it shall be remitted to the patent office before the expiration of that year or the succeeding year.

So, it has to be paid on a regular basis to keep the patent active or alive the period of payment one a the period of payment of the renewal fees was specified in sub group one may be extended to such not being more than 6 months if the request for such extension of time is made in form 4 with the prescribed fee.

Now, you could extend the payment of fees by not more than 6 months you need to take an extension for payment of the fees then the time with in which you can seek an extension is 6 months and it is done by taking form 4, form 4 is generally used for seeking time for extension of time. So, you would make a request under form 4.

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While 2 while paying the renewal fee the number and date of the patent concerned and the year in which in respect of which the fee is paid shall be quoted.

Now, this is for administrative purposes the date and the number of the patent and the year for which you are paying should be quoted three the annual renewal fees payable in respect of 2 or more years may be paid in advance. So, there is a provision for paying the renewal fee in advance you can paid it in advance for the controller shall after making such enquiry as he may deem necessary credit any renewal fee. And issue a certificate

that the fee has been paid again an certain administrative measures with regard to payment of fees.