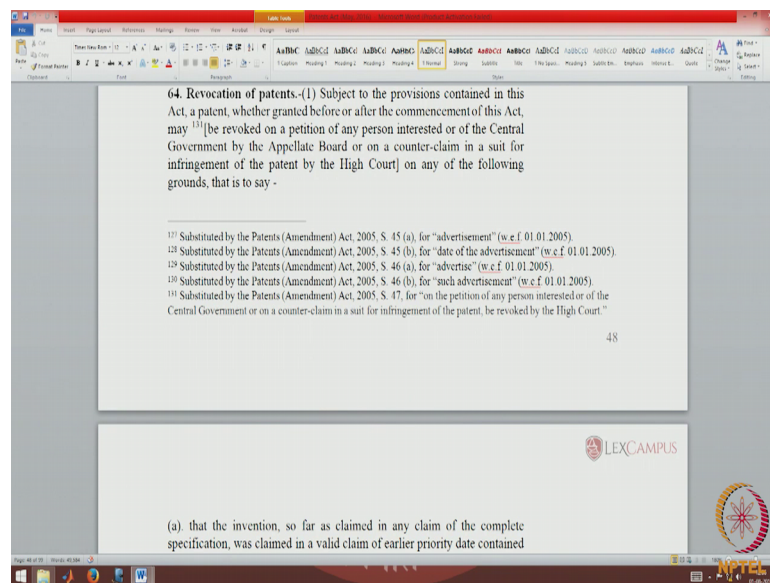


Patent Law for Engineers and Scientists
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Lecture - 54
Patent Office and Patent Prosecution
Revocation of Patents

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Revocation of patents section 64 deals with revocation of patents. Revocation of patents can be understood in the context of opposition of patents because opposition is a proceeding similar to revocation, but the proceeding happens at the patent office and we saw that there are two types of oppositions. The opposition could be to an application what we call an patent application. That is proposed before it is grant and it is also called pre-grant opposition or the opposition could be one year after the grant what is known as the opposition after the grant or the post-grant opposition. Now, these two types of opposition are proceedings by which you can challenge the validity of the patent before the patent office.

Revocation are proceedings or revocation proceedings are proceedings either before the Intellectual Property Appellate Board, what is called the Appellate Board or the High Court which has taken cognizance of an infringement proceeding. There is a pending infringement suit. In that proceeding, the high court can entertain an revocation

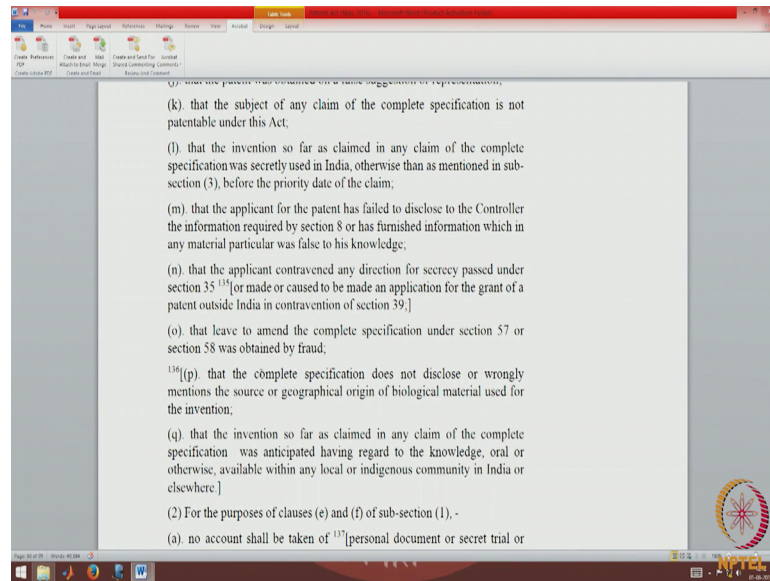
proceeding. So, revocation of patents can either happen before the appellate board or in the high court. They are similar to opposition proceedings because some of the grounds to overlap grounds of opposition and the grounds of revocation do overlap. They are similar because these grounds could be used to challenge the validity of a patent. So, the common theme for opposition as well as the revocation that is section 25 and section 20 and 64 is the fact that these proceedings can be used to check the validity of a patent or you could even crop them broadly as invalidation proceedings.

So, invalidation proceedings which includes opposition and revocation fall into the category of proceedings where you can invalidate a granted patent infringement proceedings. This is the other aspect of patents infringement proceedings which are taken to enforce the patent. So, infringement proceedings are taken by the patentee or a person who is an exclusive licensee who is interested in enforcing the patent. So, infringement proceedings are you can look at infringement proceedings and invalidation proceedings as two sides of the same coin, the coin being the patent infringement proceedings are used to enforce the patent to make people pay license fee on the patent to stop people from doing certain things covered by the patent. All these proceedings are what we call infringement proceedings you want to enforce your right. On the other side of the coin, you have invalidation proceedings which comprises of as we mentioned opposition proceedings and revocation proceedings now invalidation proceedings are proceedings by which you can question the validity of a patent.

So, on one side the patentee would like to enforce the patent and on the other side, when a patent is being enforced, you can question the patent by saying that this right should not be enforced because this right was improperly granted. There is no valid right in the first place. For instance, a person can raise a issue that this patent lacks inventive step. There is no inventive step. So, it was granted by the patent office, but I am not questioning the inventive step or a person may say that this patent does not have novelty, it does not satisfy the requirements of novelty. So, in all these grounds, what is essentially being done is the validity of the patent is being questioned, validity of a granted patent. So, you will see in 64 that many grounds of 64 overlap over the grounds of 25. So, we understand 25 and 64 together following forming a group or a set of proceedings what we together call invalidation proceedings or validity of a patent is checked.

So, the grounds of revocation are much more expensive than the grounds of opposition. So, you will find that if you compare the grounds of opposition and the grounds of provocation, the grounds are more expensive. Historically there are some reasons why the grounds are more expensive because earlier before the intellectual property was created, the high court were the only courts that were vested with the power to revoke a patent. The high court where the only courts or the only forum where you could challenge the validity of a patent. So, because the high courts could get into the matter in the form of a legal dispute, they could adduce expert evidence, they could appoint scientific advices and you could have trial examination, cross examination because the legal procedure provided them to get into great detail about the invention and the surrounding circumstances. One explanation is that the grounds or revocation are much more expensive than the grounds of opposition. Opposition happens at the patent office. The controller who sits in the position though he has the powers of the civil court, but the controller may not exercise all the powers of a civil court because of certain administrative reasons and we have not known of any of the decisions from the patent controller, where the patent controller has subjected a party to cross examination or where the party was cross examined in front of the controller. We have not seen any decision, but I just tell you that the expertise of these two bodies are different. The controller who mans the patent office and the high court which is staffed by judicial members and you will see one of the reasons for challenging a patent is on the ground of fraud amendment that is carried out by fraud. You will just see it here. Yeah we have it here.

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O, the leave to amend the complete specification under section 57 of 58 was obtained by fraud. Now, this is not a ground of opposition in 25. If you see fraud cannot be pleaded as a ground for a position. Again the reason lies because of the expertise of the organization, the high court and originally 67 64 was a power which was exclusively with high court. After the intellectual property appellate board was created, that power part of that power was also transferred to the intellectual property appellate board. In any case the chairman of the intellectual property appellate board by law has to be a person who has been a retired high court judge. So, we could find that you would still be able to apply these proving fraud is difficult and there are procedures to be followed. A fraud is to be proved, fraud has to be specifically pleaded and there has to be the burden of discharging proof of fraud is much higher than it is in any other case because fraud goes to the conduct of a person whereas, all the other aspects we are just looking at documents and comparing state of the art with the invention whether there is been inventive step. This goes to the conduct of a person. The body that decides or that adjudicates on a fraud has to be sufficiently acute to look into this ground. So, that is one explanation as to why we have more grounds of revocation than we have grounds of opposition.

Now, let us look at section 64. The host of grounds we will just quickly take you through. Now, the 64 tells us that a patent that is been granted under the act, so 64 applies only for

granted patents can be revoked on a petition of any person interested or of the central government.

So, there are two categories of people who can approach with the revocation petition. It can be a person interested by a person interested. We mean a person who is defined as a person interested under the act and who has some interest in the technology or in the area of the invention or of the central government itself this specific provision by which the central government can revoke a patent. So, the central government is also included when there are issues concerning national interest and security, the central government can revoke a patent. So, any interested person or the central government can by petition request for the revocation of a patent and the request for revocation can happen in two places. Either they can request the patent to be revoked by the appellate board Nd that i instance number 1. By the appellate board, you have to file a revocation of a patent and now we have appellate board rules. We have two sets of appellate board rules. Intellectual property appellate board rules for patents and there are different forms, there are different proceedings for that and all that is detailed in the rules.

So, one you can request a revocation of a patent by a petition to the appellate board that is what we call an original preceding, though appellate board that the name of the body is the appellate board, the appellate board also has certain original powers or original jurisdiction. The power of a body is to decide appeals to put it a plain language. There are decisions from another body, a subordinate body, the patent office, all the central government matters in appeal are decided by the intellectual property appellate board. So, the appellate board gets his name because it sits in appeal over subordinate body that is largely the patent office and in some cases, the central government, the appellate board also has original powers. When we say original power, we refer to the fact that they need not be in earlier order passed by and subordinate body to be taken up in appeal. You can directly approach the intellectual property appellate board for certain reliefs.

So, when you directly approach not by way of an appeal, appeal is the controller as passed in order under section 15, you are aggrieved as a applicant. You want to appeal. That is again there is an order which you challenge. So, that is why we call it an appeal or the control of passes an order under section 20, 5, 4. Revoking your patent pursuant to a post grant opposition, again there is an order. You take the order in appeal. Now, all these proceedings are appellate proceedings or proceedings where the body that decides

the appellate board decides using its appellate jurisdiction or its jurisdiction or its power to decide appeals the intellectual property. Appellate board also has a direct power to take a petition from a person which is not in the form of an appeal. So, revocation is one such petition where the appellate board can directly take a matter even in the absence of an order by a subordinate body.

So, revocation is one such proceeding where the appellate board can exercise its original jurisdictions and when we say original jurisdiction, we refer to the fact that an application can directly be filed to the appellate board for a relief rather than agitating an earlier order by a subordinate body like the patent controller for an appellate relief.

So, revocation can be by a petition to the appellate board or counterclaim in a suit for infringement of a patent by the high court. Now, this is a second category where you can raise the revocation of a patent under the grounds mentioned in section 64 as an issue. Now, the second place where you can raise revocation in grounds is a counterclaim in a suit for infringement. So, counterclaim we understand that as a claim against another claim in a suit for infringement of a patent suit. For a infringement of a patent is a proceeding where the patentee files a suit to enforce his patents. We have already mentioned a patent is like a coin and there are two sides of the coin. On one side, the patent can be enforced through certain proceedings what we call infringement proceedings and on the other side, the patents validity can be questioned by third parties what we call invalidity proceedings.

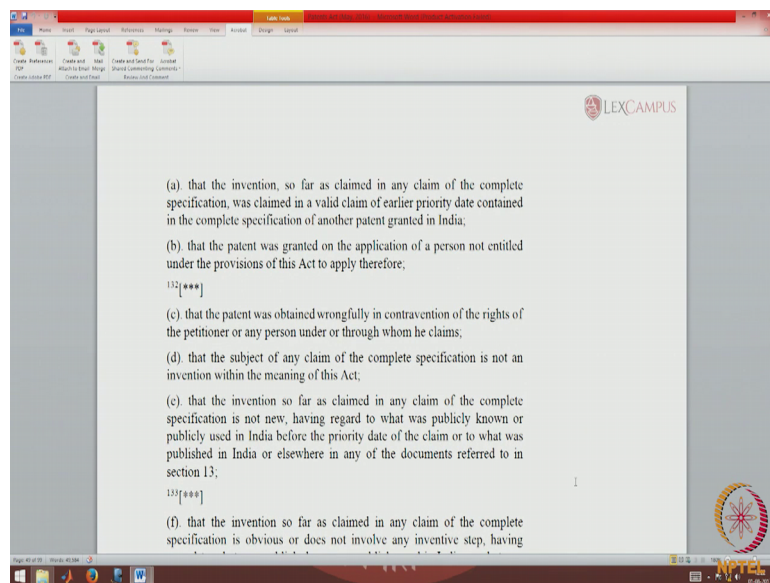
So, a revocation is a kind of invalidity proceeding. So, when patentee has already enforced his right or the patentee has already approached to the court to enforce a patent, in that case or in that suit, a third party or the infringer against from the cases filed can raise a counterclaim. Now, counterclaim is a claim for another claim or a claim against a claim. So, the claim in an infringement suit is that the infringer is infringing the patent. The counter claim would be that let it be that the infringer has infringing, but the patent is invalid.

So, how can they be infringement of an invalid patent? So, that is the counter claim. Can they be infringement of an invalid patent, can an invalid patent be used to stop a person from doing things or for claiming damages? So, this is a counterclaim. When somebody tries to enforce a patent against you, you challenge the validity of a patent saying that

you have no right to enforce against me. So, the counter claim is another way in which you could raise the grounds of revocation, but for that there is a prerequisite before the appellate board. You can directly approach the appellate board with a revocation petition, but to approach the high court, there has to be a pre-existing infringement suit. That is the only difference; the grounds remain the same. The only requirement is that if you have to approach the high court, there has to be a pre-existing infringement suit which tells you that high court proceeding is on revocation of patents are not determined by the person who raises them because you cannot choose the court somebody that the patentee has already chosen a court and filed a case against you. You can only go and defend your case. While you are defending the case, you can also challenge the patent.

So, in most cases the patentee will decide which high court the patentee would approach and the infringer will have to raise the defense what we call the counter claim. The claim being the infringement itself, the counter claim is the invalidity of the patent and I have already mentioned just imagine these two proceedings are two sides of the same coin.

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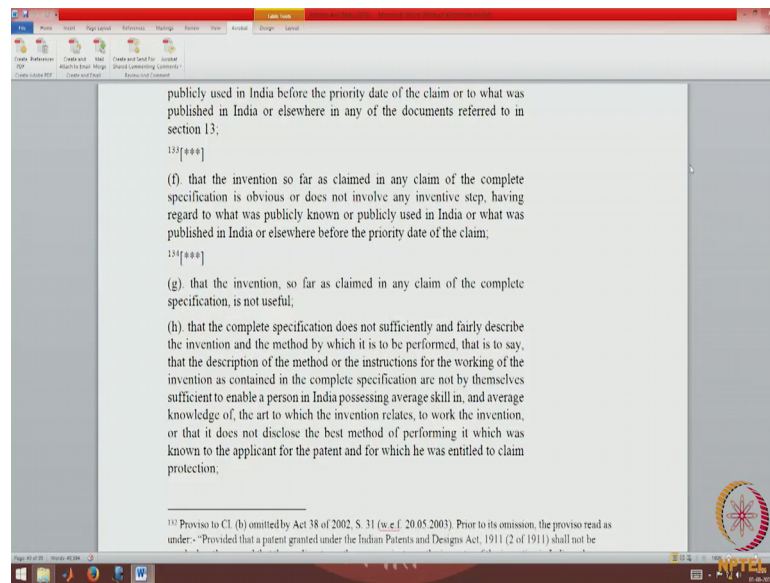
Now, what are the grounds that can be raised because there is an overlap on the opposition grounds. I am going to quickly take you through this and you can always look into the grounds of opposition and the lecture on opposition, so that you can get details from that. The first ground is that the claim was claimed in a valid claim of earlier priority contained in the complete specification of any patent granted in India. This is

what we call prior claiming. We had covered prior claiming in opposition, the grounds of opposition, where a claim is claimed prior in time. We will say that the prior claim anticipates the latter claim. So, it is a ground of anticipation and it is a ground that comes under the lack of novelty when a claim is already claimed before of an earlier priority date. So, prior claiming is the first ground. The second ground is a person was granted a patent application or a patent application not entitled under the provisions of the act to apply.

So, this ground covers the fact that a person who is not entitled to apply has applied and we know from section 6, the person who are entitled to apply are covered under section 6. So, if it is being done by a person who is not entitled to apply, there could be a ground for revoking the patent. The patent was wrongfully obtained in contravention of the rights of a petitioner or any person through whom he claims. Wrongful obtainment or the fact that invention was wrongfully obtained or the patent was wrongfully obtained is again a ground that is covered in opposition. D, the subject matter of any claim of a complete specification is not an invention within the meaning of this act. Not an invention is covered under section 3. The title of section 3 is what are not inventions.

Now, if there is an invention that is granted which contravenes any of the grounds under section 3, it could be objected by raising this ground 64 1 D saying that what is covered in the subject matter of a claim is not an invention within the meaning of the act. So, we relate back to section 3 for this. E, the invention claimed in claim is not new having regard to what is publicly known or publicly used in India before the priority date or what was published in India or elsewhere in documents referred to in section 13. Now, this is lack of novelty because it says not new which negates novelty and the novelty analysis is done by looking at what is publicly known or publicly used in India or what is published anywhere. There is a category of documents they use that is the category of documents in section 13, but section 13 as we have seen already is an exhaustive list of documents. So, it covers almost everything published anywhere. So, the novelty analysis is done as per the section by looking at what is published by what is known or what is used before the priority date.

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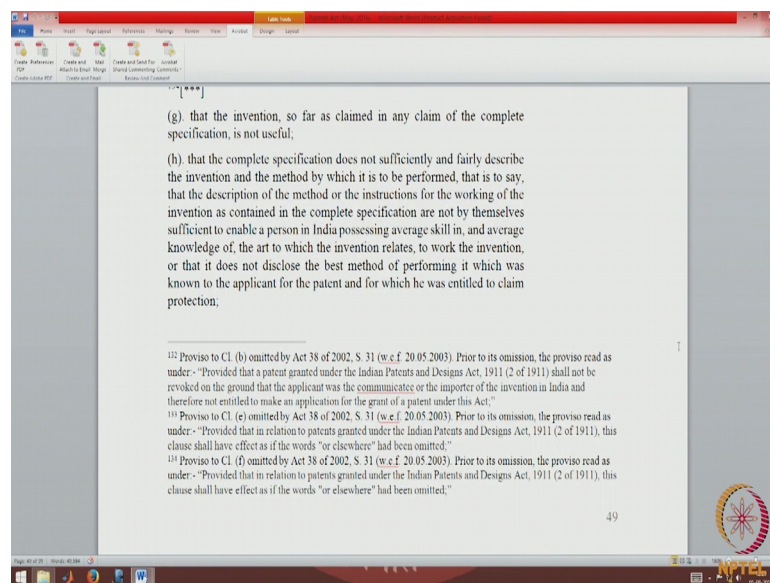


F, the invention so far has claimed in any claim of a complete specificant is obvious or do not or does not involve any inventive step. So, what is obvious or not involving inventive step is could be a ground. The section continues to say that having regard to what was publicly known or publicly used or published in India or elsewhere. So, again the three categories are mentioned that inventive step has to be demonstrated by what is publicly known, publicly used or what was published. Now, we know from the definition of inventive step that the yardstick of inventive step is based on what is obvious to a person skilled in the art. So, the test of obviousness will come in and we had seen the problem and solution approach in determining inventive step. We had also the seen the winds of interest. So, all those tests would be applied in determining whether what is publicly known or publicly used or published in India was obvious to a person based on the publication whether the invention would have been obvious. So, this again involves the analysis from the viewpoint of a person skilled in the art.

G, what is claimed is not useful. Now, this brings in third aspect of patentability. The definition of an invention under the patents act says that the invention has to be new should involve an inventive step that is novelty, an inventive step and it should be capable of industrial application. Capable of industrial application is what we generally called as utility or usefulness. So, if an invention is not useful or if it does not involve industrial application or you cannot make multiple copies of it, see that is a requirement for any patent to be granted 20 year life. You should be capable of replicating it in the

manner in which it has been disclosed. So, if that is not satisfied and there are some issues pertaining biological inventions where the issue of utility has been raised and in the sense that whether you could replicate them successfully in a manner in which where it can be regarded as industrial applications. So, there are some issues and certain fields of technology, but largely most inventions pass the test of utility. They are deemed or to be capable of industrial application and this is not a serious grounds on which patents are normally invalidated.

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Now, the next ground h brings an sufficiency which is another ground and we had discussed that sufficiency is an internal ground which the patent specification has to satisfy its states and the specification does not sufficiently and fairly describe the invention and the method by which it is to be performed. Now, this is not something that goes to the claim rather it goes to the entire complete specification. So, the invention, the complete specification has to sufficiently and fairly describe the invention and the method by which it is to be performed. So, the method should be disclosed in a way in which a person skilled in the art can do it.

Now, there is a further expansion that is to say that the description of the method or the instructions for the working of an invention as contained in the complete specification are not by themselves sufficient to enable a person in India possessing average skill in an average knowledge of the art to which the invention relates toward the invention in

summary. This means what is disclosed in the invention, what is disclosed in the complete specification is not sufficient to enable a person. So, from this we get a requirement in patent law called enabling disclosure. So, enabling disclosure is a requirement in patent law, where the disclosure made by the patentee or the applicant should be of such a nature that it enables his peer what we call enables a persons skilled in the art in this particular provision. You will find the word average skill being used, but we understand that as a person skilled in the art.

Now, what should the disclosure do? The disclosure should enable a person skilled in the art to work the invention. So, he should be able to read the specification and come up with a invention. If he read the specification and if he does everything that he knows because he is a person skilled in the art, he would know how to work the invention and do the steps for getting towards invention and if he is yet not able to come up with a invention, then this ground can be applied. Then, the complete specification it can be said that the complete specification does not sufficiently and fairly describe the inventions. It would have been possible for the person skilled in the art to come up with the invention and work the invention. So, this is tied to an age old principal in patent law that the exclusivity 20 or exclusivity is granted to the patentee in lieu of the disclosure that he makes.

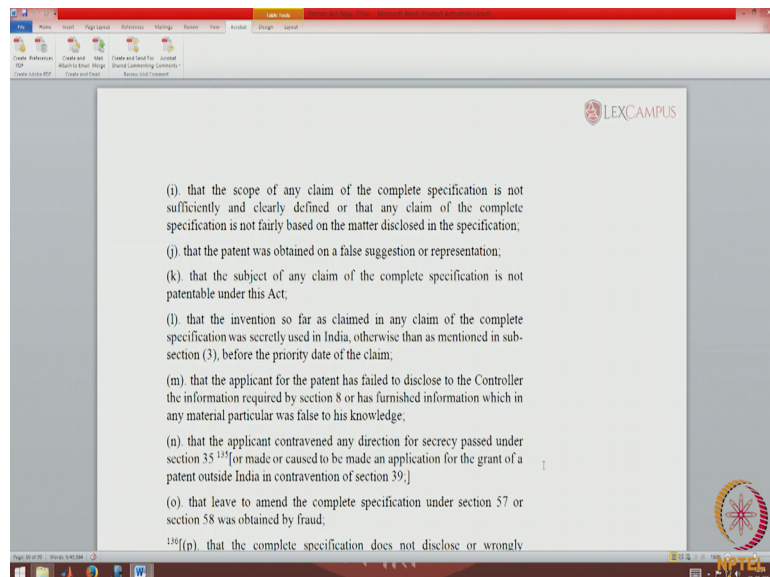
The disclosure should be a disclosure that teaches a person on how to come up with an invention and it is also in a way tied to the inventive step itself because an inventive step is supposedly a step which a person skilled in the art could not have taken. If he could have taken that step, then we would say that it is obvious to a person skilled in the art and obviously, there is no inventive step. So, when we understand the inventive step as a step that in person skilled in the art cannot take, then the law would oblige the patentee to disclose that step in a way in which the person skilled can do it after the expiry of the patent. So, the patent law when it grants an exclusivity for 20 years, the grant is done in return of a complete disclosure by the patentee on how his technology works.

If the battery completely discloses it, the law also protects the patentee from others copying it because his disclosure is complete and it is there in the public domain by the mechanism of infringement proceedings. So, if after the disclosure, somebody copies his invention, the patentee can enforce the patent by way of infringement suits. So, the enabling disclosure is tied to the concept of an inventive step because inventive step is

proved. When a person skilled in the art is not able to come up with the invention, it is not obvious to him. So, when something is not obvious to the person skilled in the art, you have to make it clear for him to do the invention and that making clear of a to person on how to come or how to come up with the invention or how to work the invention is what is called an enabling disclosure.

So, patents specifications need to have an enabling disclosure and it is requirement under section 2 and not having an enabling disclosure is a ground for revoking a patent under section 64 1h.

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I, the scope of any claim is not sufficiently or clearly defined or that any claim of the complete specification is not fairly based on the matter disclosed. There were two things here. One is definiteness i.e. the claims have to be definite. We saw in the language of section 10 that a claim have to be clear and succinct claims if they are not clear, then they could be ambiguity in constructing the claim and that could be a reason for patents not performing their notice function. Every claim in the patent performs a notice function. It gives notice to the world at large as to where the borders of an intellectual property, that is in this case it is a patent where the borders or the contours of a patent are or where the borders or contours of an invention are.

So, when the patent claim performs the function of telling third parties as to where the border of the patent is or what is the scope of the intellectual property covered by the

patent, it requires the claim to be in a definite language. The claim has to be definite and they cannot have ambiguity in it. So, this requirement that it is that complete the claim is not sufficiently or clearly defined. If it is not sufficiently or clearly defined, it could be a ground for revocation. So, we saw that sufficiency is tied to the specification itself the complete specification, whereas definiteness that is 64 1 i is tied to the claim. It is not tied to the entire specification. So, you need to understand sufficiency or sufficiency comprises of we can look at two concepts in sufficiency. One what we already mentioned in enabling disclosure and the second is best method which was also mentioned there that the patentee has to disclose the best method of working the invention.

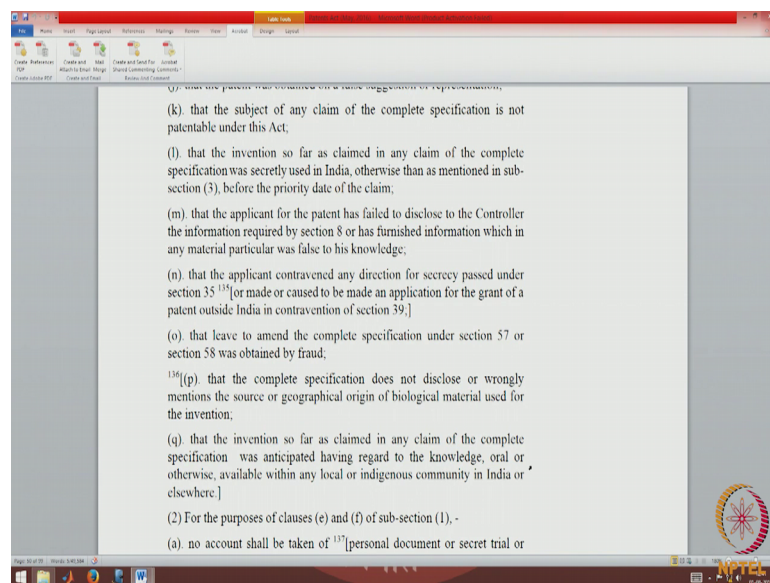
So, any enabling disclosure and best method together form the category what we call sufficiency and sufficiency is tied to the complete specification itself whereas, definiteness or the fact that the claim should not be ambiguous is tied to the claim. So, section 64 1 i, the first part requires the claim to be clearly defined. If they are not clearly defined, it could be a ground for revocation. So, this concept is called definiteness. The second part says that the claim of a complete specification is not fairly based on the matter disclosed or the fact that the claims have to be fairly based on the matter disclosed something which we already seen. So, there has to be a connect or there has to be the claim should flow from the matter that is disclosed. So, if it is not there, if the claims are not based on what is disclosed in the specification, it could be a ground for revocation. So, in this clause we have two concepts. One the claims have to be definite which means they cannot be ambiguous language within the claim to fair bases. Fair bases is a comparison of the claim to the disclosure that is already being made. If the claim uses certain language, incorporate certain parts, has certain equipments or missionary which is not mentioned in the disclosure, then we say that the claim is not fairly based on that matter disclosed.

A claim ideally should only cover what is in matter disclosed in the specification. So, if there are certain chemical substances used in the preparation of the claimed compound, those chemical substances which have preceded in the descriptive part of the specification should figure in the claim. If the patentee needs to make a claim, the patentee cannot now mention other chemical substances which he has never described in his specification. So, whatever you claimed in the claim has to be fairly based or it has to go back or related to what you have disclosed. The next ground j, the patent was obtained

by false suggestion or representation again this involves the contact of the party. As we mentioned this would require burden of proof that is ideally discharged before a court of law and not before the controller of patents. In fact, there is no similar ground for opposition under section 25.

K, the subject of any claim of a complete specification is not patentable under this act. Now, we saw what is not in invention under the act earlier. Now, this to not patentable under the act, this pertains to inventions under section 4 relating to atomic energy 1 a claim what was claimed in a complete specification was secretly used in India, otherwise as mentioned in subsection 3 before the priority date of the claim. Now, secret use does not amount to anticipation. We have already seen that in the context of section 29, 30, 31 onwards, we had seen in the chapter on anticipation that if somebody does something secretly has NDA, Non-Disclosure Agreement between few people or things are done confidentially that cannot be used for questioning the lack of novelty of a patent, but the category of secret use has been disclosed in subsection 3. So, if what is claimed in a claim has been secretly used in India before the priority date of the claim that could be a ground for revocation, otherwise that is mentioned in subsection 3. So, we will soon look at what subsection 3, the categories in subsection 3 are.

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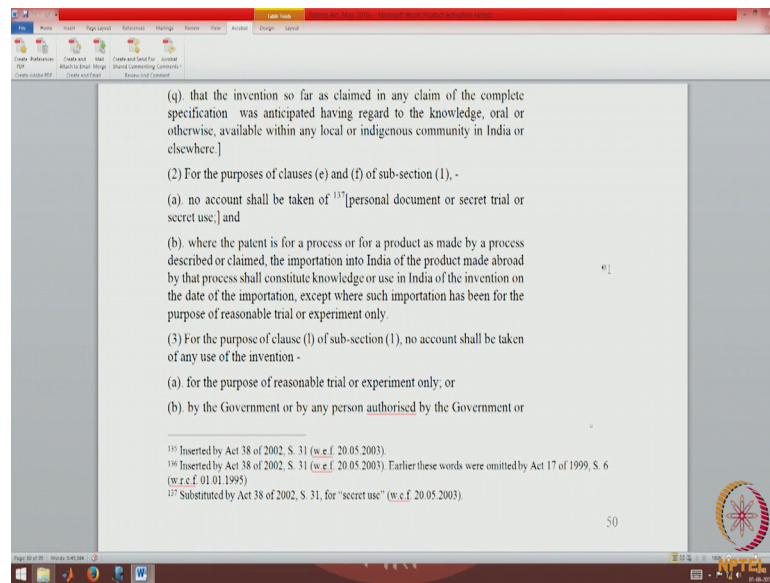


M, the applicant for a patent failed to disclose to the controller information required under section 8 which is filing of form 3 or has furnished information which is in any

maticular material particular was false to his knowledge. We had seen similar ground of opposition in section 25. N, the applicant contravened any direction for secrecy passed under section 35 or made or cost to be made an application for the grant of a patent outside India in contravention of section 39. Now, where a secrecy provision is passed and the applicant contravenes the secrecy provision, then that be a ground for revoking the patent after it is granted. There is no similar ground for opposition. Now, if the applicant had made an application outside India without seeking the permission, without getting the foreign filing license as they called it now if that happens again that could be a ground for revoking the patent. So, what are the consequences of and resident in India filing an application without seeking the permission of the patent office. One consequence could be that if the patent is granted, it can be revoked on that ground alone 64 1. O, the leave to amend the complete specification under section 57 or 58. Two provisions which deals with amendment was obtained by fraud. Now, before you file amendment, you need to take permission for getting the amendment that is what we call the leave to amend.

So, in the leave to amend, you normally state the reasons for the amendment. So, if the reasons for the amendment is obtained by fraud or by playing fraud on the patent office or on IPAB or on the court that could be ground for revocation p that the complete specification does not disclose, wrongly mentions the source of geographical origin of the biological material he used for the invention. There is a similar provision in opposition as well. Q, the invention so far has claimed in claim of a complete specification was anticipated with having regard to knowledge overall or otherwise available within any local or indigenous community in India or elsewhere. This is anticipated by traditional knowledge. There is a similar provision in the grounds of opposition as well.

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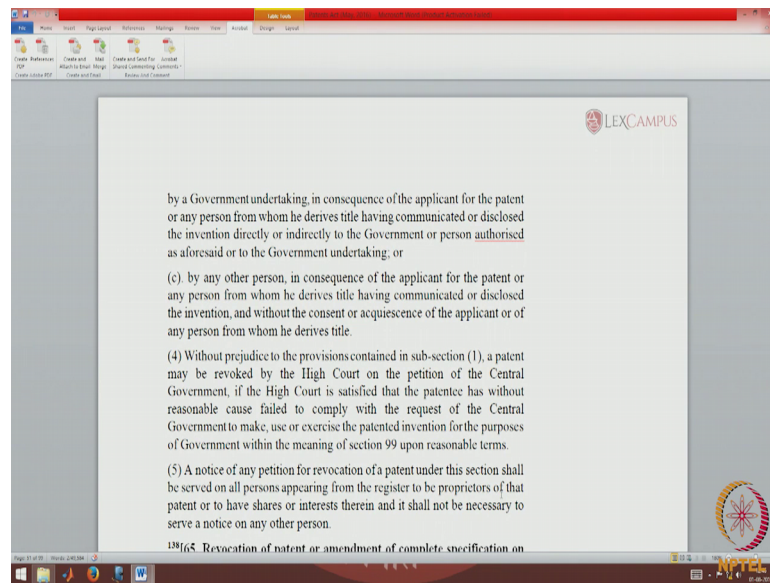


Now, subsequent 2 say that in deciding the grounds of revocation in e and f, no account shall be taken of personal documents, sacral trial or secret use. Now, in determining lack of novelty or lack of inventive step, personal documents secret, trials secret use shall not be taken into account.

B, where the patent is for a process or for a product has made by a process described or claimed the importation into India of the product, made abroad by the process shall constitute knowledge or used in India of the invention on the date of importation, accept by the importation has been for the purpose of reasonable trial or experiment only. So, if you import a product into India that could constitute knowledge or use in India which could challenge the validity of a patent. It could amount to anticipate by prior knowledge or prior use. Importation can amount to prior knowledge or prior use. The only case where it exempted is if the importation was for the purpose of the reasonable triall or experiment. So, the importation happen, but not with a objective of commercial sale, but for experimental use or for research reasonable trial.

Now, we had seen that no account shall be taken, we had seen the sub clause 3, here we had seen this in l secretive use in India can amount to anticipation except for instances mentioned in subsection 3. Now, subsection 3 is here for the purposes of clause 1 of sub section l clause l of section 1. No accounts shall be taken of any use of the invention for the purpose of reasonable trial or experiment only.

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Just like the importation if the use of the invention, the secret use was for reasonable trial or experiment, then that cannot invalidate the patent by a government or a person authorized by a government in consequence of the applicant for the patent from whom he derives slightly as communicated directly or indirectly to the government or a person authorized as aforesaid or to the government undertaking.

If there is some communication to the government or the invention is disclosed to the government that can even if it is done secretly, that cannot amount to a ground for invalidating the patent and see any other person in consequence of applicant for the patent or any person from whom he drives title having communicated or disclose the invention without consent or acquiescence of patents application from whom derives title. Now, any communication that is done without the consent of the applicant of the patentee or the applicant, again that will not amount to a ground for invalidating a patent.

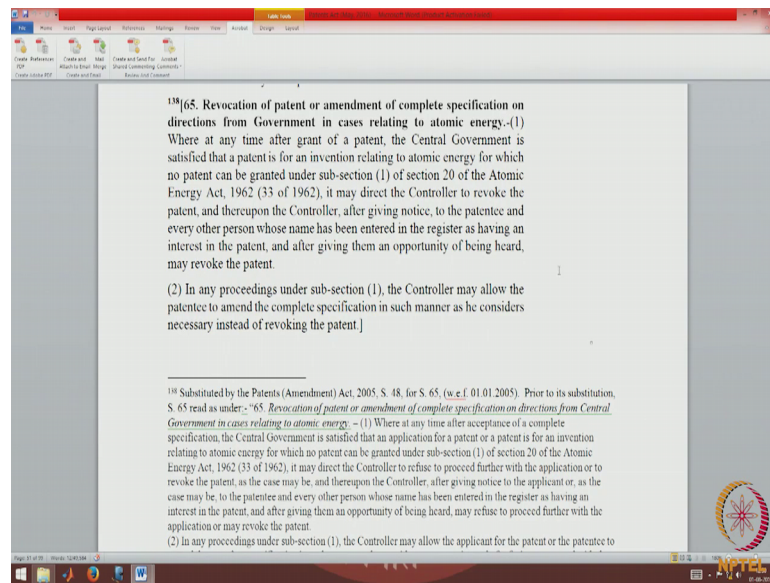
Now, we had seen that in anticipation there is a ground where disclosure without the consent of the patentee will not amount to anticipation and we had seen that in section 29 in anticipation by previous publication, when the previous publication is communicated without the consent of the patentee, then that will not amount to anticipation. Similarly, anything that is done without the consent of acquiescence of the patentee or the person from whom he drives title will not amount to a ground for invalidating the patent, this will fall within the realm of the permitted secret use for gives a patent can be revoked by

the high court on a petition by the central government. Now, we had seen that the parties who can approach a patent for revocation are person interested or the central government. Now, the central government approach the power, the high court for revocation. Now, this power is given for the central government to directly approach the high court. So, if a question is asked under which provision of the patents act can an entity do not say a person or entity approach the high court directly with a petition for revocation, it is this.

64, a petition, a patent may be revoked by the high court on a petition and not a counter claim in an infringement on a petitions of the central government. If the high court to satisfy that the patentee has without reasonable cost fail to comply with a request of the central government to make use or exercise, the patent invention for the purpose of the government mentioned section 99 upon reasonable terms. Now, 99 we will come to it later. 99 deals with government use and acquisition of invention. Government just how they can take over property, landed property for public purposes, the government can also acquire or use patented inventions. So, if there is a failure to comply with the request of a central government under section 99, the central government can approach the high court seeking a revocation of the patent 5 a. Notice of any petition for revocation of a patent under the section shall be served on all persons are appearing from the register to be the proprietors of that patent and to have shares or interest there in.

So, when you file a petition for revocation either before the appellate board or you have taken a counter claim in an infringement suit, you are obliged to serve the notice of the revocation to all the person whose name appear in the register of patents as proprietors of that patent who ever is shown as an owner notices has to be sent to all of them.

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Now, 65 deals with revocation of a patent or amendment of a specification on directions from central, from the government. In cases relating to atomic energy, we saw that patents pertaining to a atomic energy cannot be granted under section 4 and there are grounds under which it can be a post under section 25 and grounds under which it can be revoked a patent if so granted can be revoked under section 64.

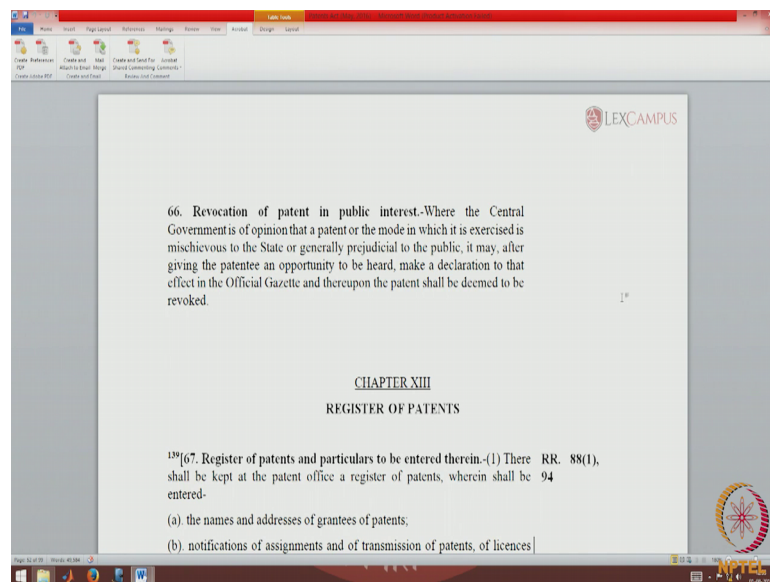
Now, 65 tells us that where at any time after the ground has the patent, the central government is satisfied that the patent is for an invention relating to atomic energy under subsection 1 of section 20 of the atomic energy act 1962 which finds a mention in section 4. It may direct the controller to revoke the patent and there upon the controller after given notice to the patentee and every other person whose name has been entered in the register as having an interest in the patent and after giving them an opportunity of being heard may revoke the patent.

So, if a patent covering atomic energy has been granted, the central government can direct the control to revoke the patent. So, it is just a direction. So, this is not a petition. It is just a direction issued by the central government to the controller and upon receiving the direction from the central government, the controller will give notice to the people parties who are interested, give them a hearing and then, revoke the patent. Now, instead of revoking the patent if the controller feels that the patent can survive, if something is amended, then the controller may amend, allow the amendment of the complete

specification instead of revoking the patent this is mentioned in 65 2. So, we had seen that where the controller can exercise his discretion and we had seen there are cases under section 15 where he can exercise his discretion, either he can refuse the application or grant the application.

Similarly under section 25 4, he can maintain the patent, he can revoke the patent or he can amend the patent. Here you find under 65, he can either revoke the patent or he can amend it. So, where ever the controller feels that he can exercise his discretion, he has to hear the parties and he may allow the patent to continue with amendment or he may revoke it.

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Revocation of a patent in public interest 66 gives the central government special power to revoke patents, where public interest is affected. 66, it reaches where the central government of the opinion that a patent or the mode in which it is exercised is mischievous to the state or generally prejudicial to the public. It may after giving opportunity of an patentee an opportunity of being heard make a declaration to that effect in the official gazette and their upon the patent shall deemed to be revoked.

Now, this is a fast track preceding. It does not involve any raising of ground, it does not involve the controller in the earlier provision involving atomic energy. You saw the central government had to direct the controller. Direct the controller will send notice to the parties here and then, may either amend or revoke. This 66 is probably quickest way

to revoke a patent if central government feels that there is a need to revoke it and now, this does not involve anything except for giving an opportunity to be heard to the other party and once the other party, the patentee or the interested parties are heard, the central government will make a declaration to that effect in the official gazette. Now, there is a similar provision by the central government can make a declaration for the grant of a compulsory license. So, this is the quickest way in which a patent can be revoked and once the declaration is made in the official gazette, the patent will be deemed to have been revoked.