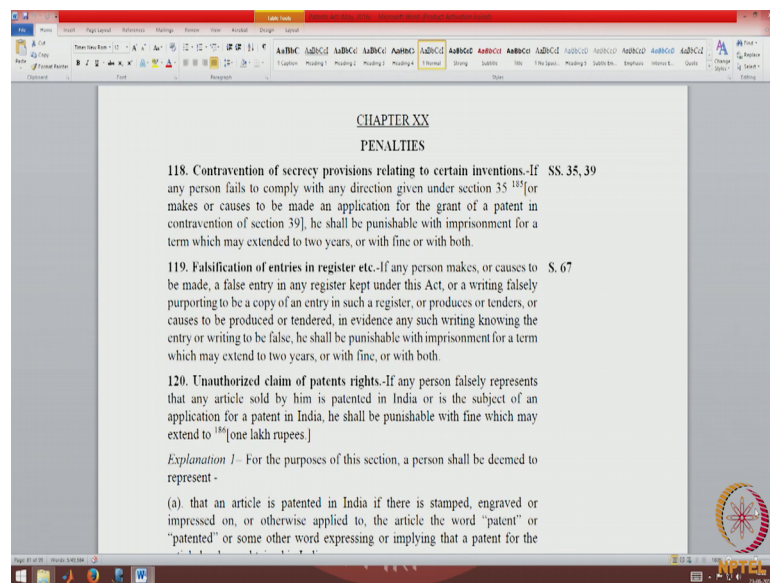


**Patent Law for Engineers and Scientists**  
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**Department of Management**  
**Indian Institute of Technology, Madras**

**Lecture - 59**  
**Patent Office and Patent Prosecution**  
**Penalties**

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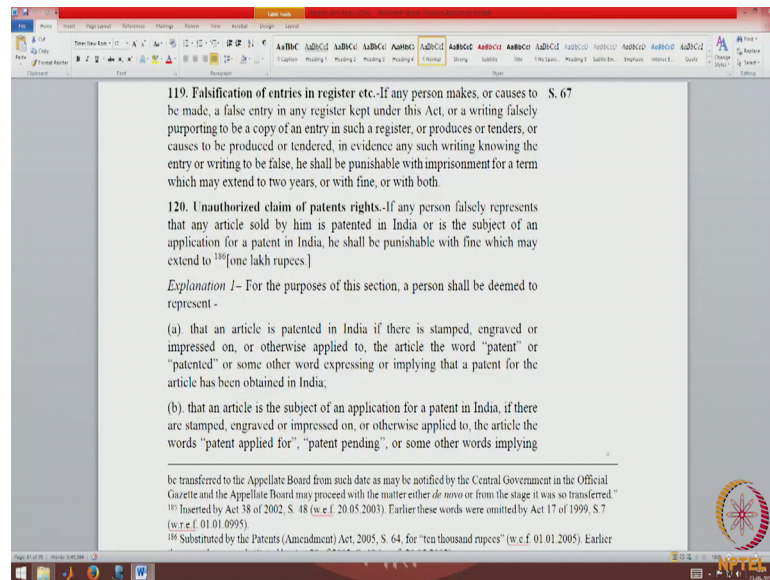


Penalties: the patent law has certain penalties if there are certain violations under the patents act. Infringement is not a criminal act; the patents act does not make infringement patent infringement an act that is that can be visited with criminal sequences. Whereas, under the copy write act, copy write infringement can have certain criminal implications. Here you could be tried in the criminal court and they could be punishment which could amount to imprisonment.

Now, we do not have that provision in patents act. A patent infringement is not a criminal offense, it is not been made into a criminal offense unlike copy write infringement. Now, 118 talks about the contravention of secrecy provisions; we have already seen that there are certain secrecy provisions which could be issued an a direction if it is issued if it is not complied with or a person contravene section 39 that is where he needs to take prior permission before filing an application abroad. He shall be punishable with imprison in for a term which makes him to 2 years or fine or both.

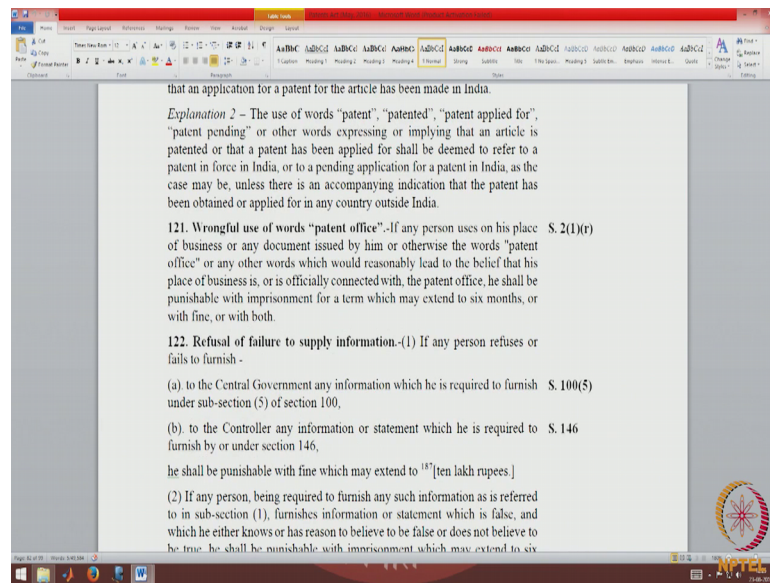
So, there is criminal consequences in the form of one imprisonment that can come in case of section 35 non-complain with section 35 and contravention of the of section 39. Now 119 talks about: falsification of entries in the register. Again that is something that is punishable with imprisonment.

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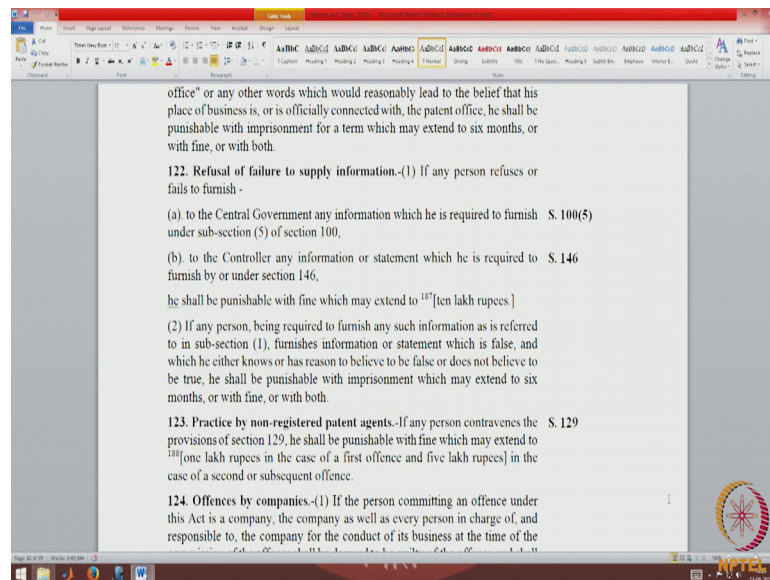
120 talks about unauthorized claims of patent right. That is if a person falsely represent an article sold to him boths will him to patented in India or is a subject of a patent application then that is misrepresentation So that can punishable with fine which may extend up to one lack rupees. So, these offenses are punishable only with fine there is no imprisonment to this provision.

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Then wrongful use of the word patent office can be punishable with imprisonment for a term which may extend up to 6 months or fine or with both. Refusal to supply information, Now, there are provisions where a person is can be obligated to supply an information section 100 subsection 5 and section 146.

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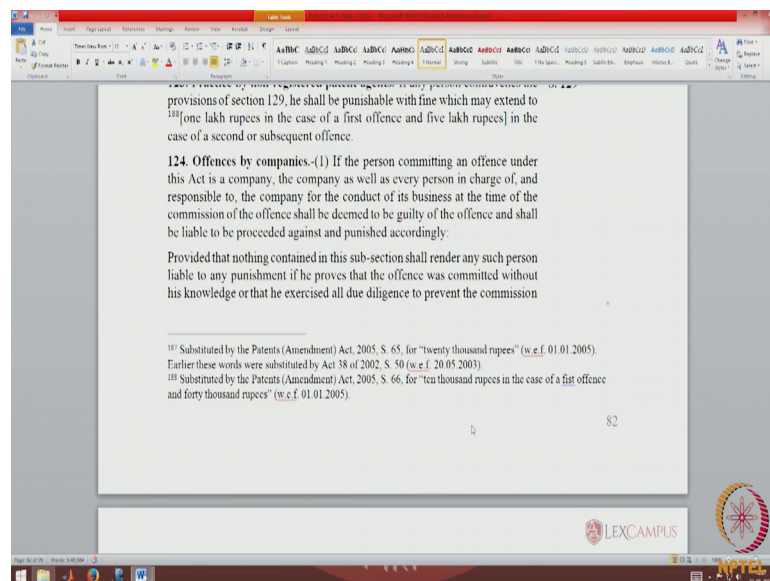
In such cases the person may be punishable with a fine that may extend up to 10 lacks. And if he fails to furnish such information or he furnishes information of statement

which is false, then he shall be punishable with infringement which may extend up to 6 months.

So, the information that is been sort for in 122 1 if that turns out to be false then they could be punishment. So, here is a provision where there is an initial fine and if the information that is been provided tends out to be false then there could be imprisonment. 123 talks about: the practice of non-registered patent agents. Patent agents are the only professionals who can practice before the patent office. Any contravention of the provisions under section 129 shall be punishable with one lack rupees for the first offense and 5 lacks for the second and subsequent offense.

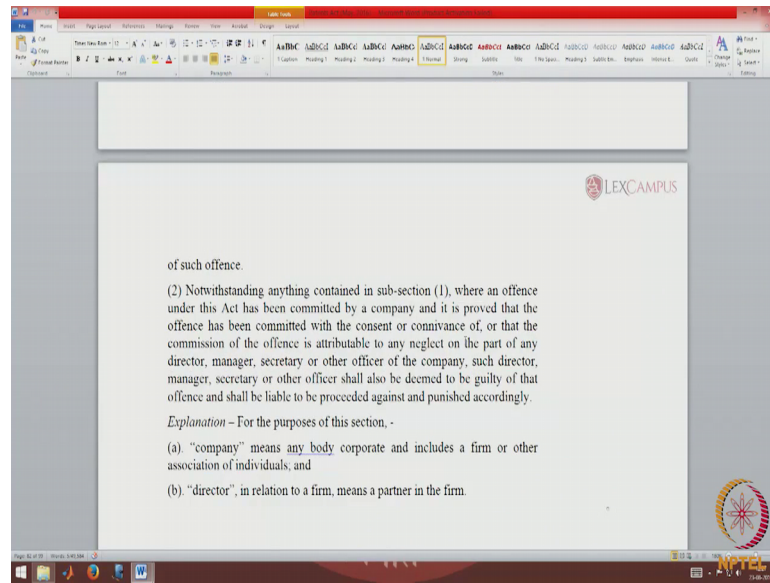
So, patent agent if someone pretends to be a patent agent or acts as a patent agent without being one without clearing the exam being registered as a patent agent there could be a fine of one lack rupees for the first offense and a fine of 5 lack rupees in the second and subsequent offense there is again no infringement in this case.

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Now, an offense by company the normal course is that the person who is responsible for the conduct of his business will be deemed guilty of the offense.

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of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation* – For the purposes of this section, -

- (a) "company" means any body corporate and includes a firm or other association of individuals, and
- (b) "director", in relation to a firm, means a partner in the firm.

Now what amongst to a company it means anybody corporate form partner and director and all these things are given in the explanation.