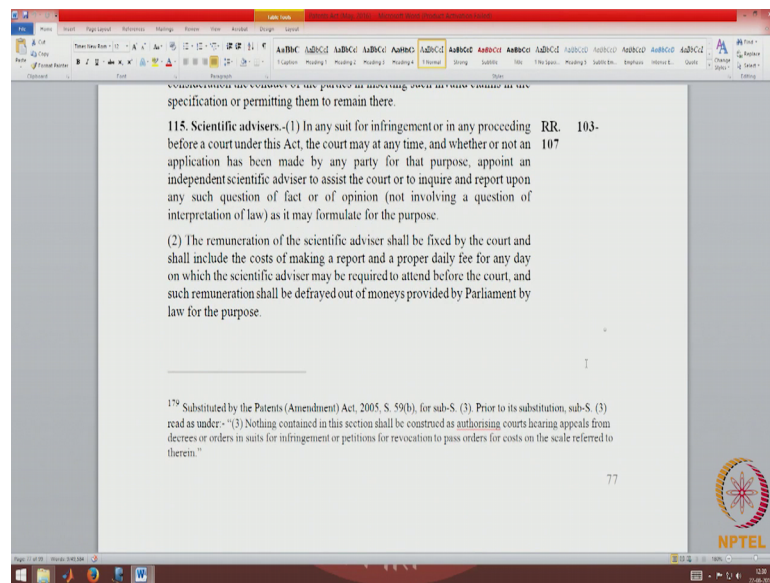


**Patent Law for Engineers and Scientists**  
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**Lecture - 75**  
**Patent Enforcement, International Arrangements & Other Miscellaneous Provisions**  
**Scientific Advisors**

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Now, 115 talks about scientific advisors; often we have this apprehension how the courts of law which are largely man by judges who are not trained in the science, how is that they can decide disputes where they could be issues of scientific facts involved.

Now, a scientific advisor is the answer to that problem. 151 states that in any suit for infringement or any proceeding before a court under this act which includes declaratory suit 105 106 which includes suits pertaining to ownership there are operations where the co owners can approach a court of law to finally, determine matters pertaining to ownership of patents.

In any of the those proceedings the court may at any time whether or not an application has been made by any party for that purpose, which means a court can on its own what we say sumoto do this or on an application made by the parties appoint an independent

scientific advisors. So, the scientific advisor has to be an independent advisor, if the scientific advisor is appointed on the 115.

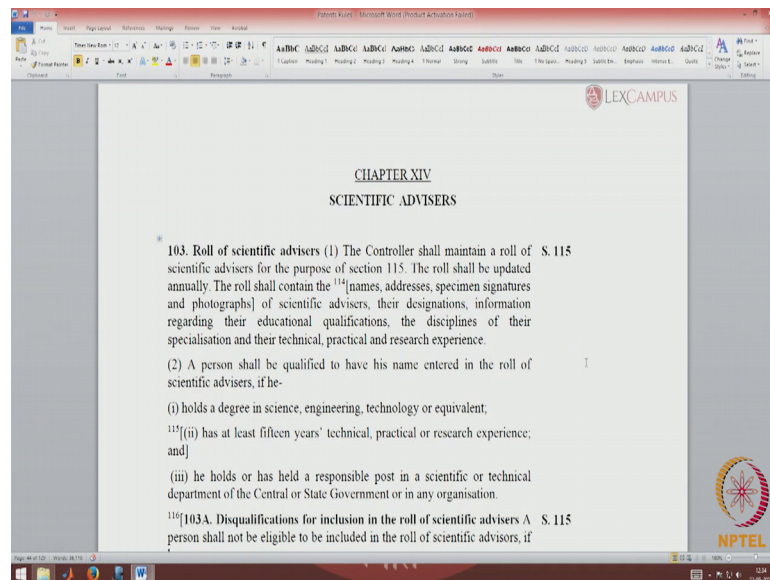
Parties are free to bring their own party advisers or a party expert witnesses from their side, but 115 pertains to an independent scientific advisor to assist the court. So, the role of the scientific advisor is to assist the court. So, this solve the issue in some way with regard to how will the court look into scientific facts, which may not be within the realm of their knowledge for expertise.

To assist the court and to enquire and report upon any such question of fact or of an opinion, not involving your question of interpretation of on law as it may formulate for that purpose. So, the assistance that the court gets us or will pertain to, a question of fact or of an opinion, which does not involve a question or interpretation of law; so, the questions of law and interpretations of law are out of the purview of the task assigned to a scientific advisor. So, the scientific advisors will advise on scientific facts and give opinion based on their technical expertise.

Now, against it is the task of the court to formulate the question on which it requires assistance. So, if there is a disputed fact and courts are equipped or the legal processes equipped to determine issues of fact, is there is an issue of fact and the two conflicting opinion from either side, the court may appoint a scientific advisor to give his opinion on that set of or on that question of fact. So, the court has to formulate the question, the scientific advisor should not be allowed to give an opinion on the case itself that is not the objective of appointing a scientific advisor, a scientific advisor since his job is to assist the court or to enquire and report upon a question of fact.

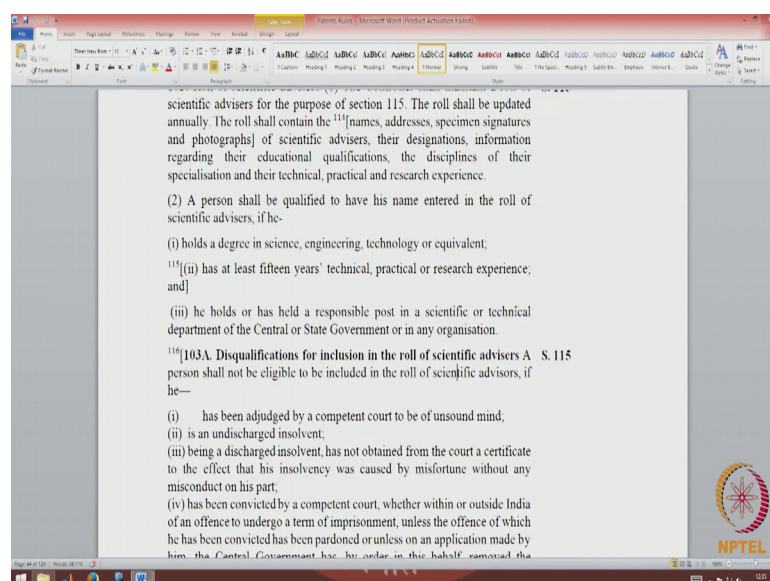
The question of fact should be formulated by the court and communicated to the scientific advisor. 115 2 states at the remuneration of the scientific advisor shall be fixed by the court and shall include the cause of making the report, and a proper daily fee for any day on which the scientific advisor may be required to attend before the court, and such a remuneration shall be defrayed out of the moneys provided by the parliament by law for the purpose. So, the scientific advisor because he has to be an independent person is a largely taken from the roll of scientific advisor, which is maintained by the patent office. Now I will soon look at that role.

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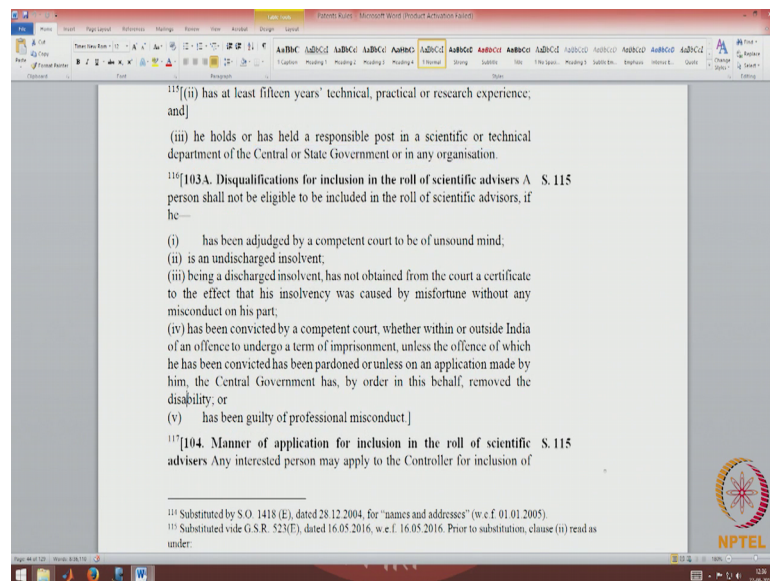
So, it largely comprises of people who are in some form of government service and who have now expert knowledge in a particular field. Rule 103 tells us that there is a roll of scientific advisors which is maintained by the controller and the roll shall be updated annually the roll shall contain name address basement signatures and photographs, their designation information relating to education qualification other disciplines of the specialisation and their technical practical, and research experience. So, it is in an exhaustive list of. So, it becomes easy for the court to identify a scientific advisor based on this rule that is kept by the controller.

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Now, a person who is qualified to have his name entered into the roll, if he holds a degree in science engineering technology or equivalent, has at least 15 years of technical practical and research experience and holds or has held responsible posting in the scientific or technical department of the central or state government or in any organisation. So, this is a requirement the person should have been in service with the state government or central government or any organisation, and the person should have sufficient knowledge and expertise and even research experience in the field.

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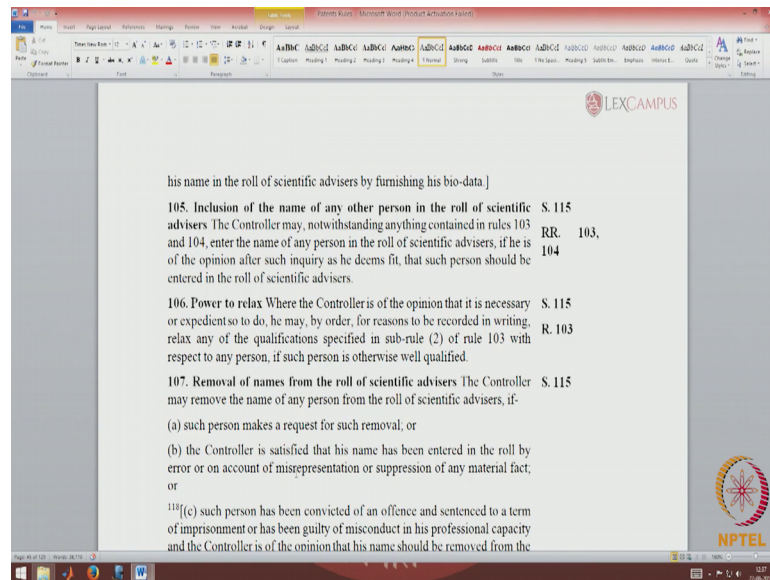


Now, 103A talks about certain disqualifications, what if they are entered or a person's name should not be entered into the roll if the person has the following disqualifications he has been adjudged by a competent court to be of unsound mind, is an undischarged insolvent, which means he is bankrupt and he has dues. Being a discharged insolvent has not obtained from the court a certificate to the effect that his insolvency was caused by misfortune, without any misconduct on the spot.

So, if he was a discharged insolvent then he should get a certificate showing from the court saying that in his insolvency was not because of his conduct, and if he has not done that then he is not eligible to be a scientific advisor, has been convicted by a competent court whether within or outside India for an offence, to undergo a term of imprisonment unless the offence for which he has been convicted has been pardoned or unless on an application made by him the central government has been

ordered remove the disability, or he has been guilty of professional misconduct. So, these all are large sum of the moral issues. So, if a person has any of this these disability, the person will not be entitled to be on the to be included in the roll of scientific advisor.

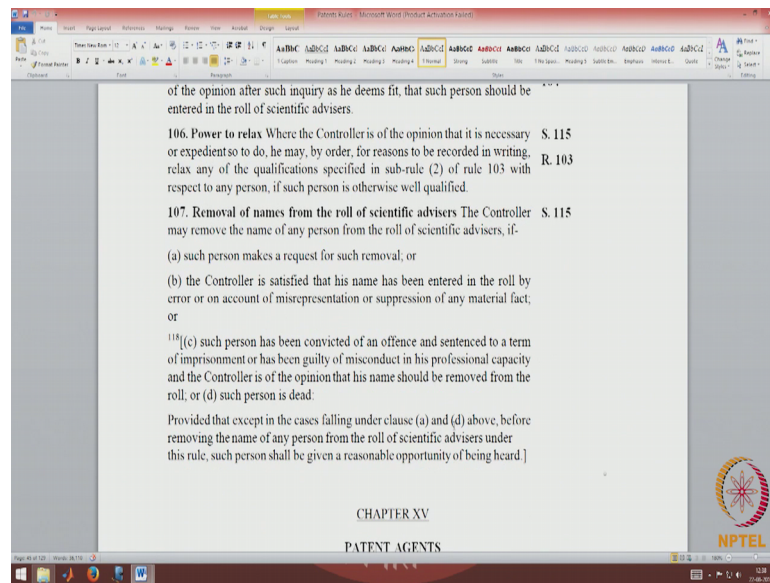
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104 details and manner of making application for the inclusion or any person may apply to the controller and furnish the bio data. Now the controller may in 105 enter the name of a person in the roll of scientific advisor, if he is of the opinion after such query as such percent should be entered. So, even if a person does not apply to the controller, the controller can include names if the controller feels that such persons could act as scientific advisors in assisting the court.

Power to relax the way the controller is of the opinion that it is necessary or experience to do so, he may buy order for reasons and recording and record and writing relax any of the qualifications mentioned in sub rule 2 of rule 1 01 with respect to any person.

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So, if there are not in a scientific advisor on a particular field of technology, the controller has the power to relax requirements and there is also a procedure for removal of names of the scientific advisor from the roll.

Now, one the controller can remove if a person makes a request for search removal or if the person is often the control is satisfied that the name was entered on account of a miss representation of separation of material fact or such person has been convicted for an offence and sentence to a term of infringement there imprisonment. So, is be he is a convicted for a criminal offence or has been guilty of misconduct in his professional capacity, and the controllers of the opinion that is name should be removed from the roll or the such person is dead.

So, these are the conditions on which a person's name can be removed.