

# ROADMAP FOR PATENT CREATION

## HOW TO READ PATENTS? II

### LECTURE 14

Welcome back in the 4<sup>th</sup> module of the week 3 of the course roadmap for patent creation. We are discussing how to read patent document in this module. We have already started this discussion in the previous module. This module is continuation of the same. In last module before leaving I gave you an activity. to write down a brief about this patent document. I hope all of you have done that activity. Kindly keep that activity sheet with you along with the patent document.

We would be discussing in detail each head in this module and also would be telling what one should keep in mind while reading or drafting the patent document. And just like the previous module I would be giving you an activity. During this module we will check in detail the various heads, what all it should contain and how the reference patent document has these in them. Kindly follow this module vigilantly. We start with **title**. The prime requirement of title is that it should indicate the subject matter relating to invention. Title should disclose the particular feature of the invention and should not exceed 15-16 words in general. These requirements can find its mention in section 10(1) of the patents act and rule 13 (7). So let us check the patent document. ....//

While filling the document till now no objection has been raised for lengthy or non-precise titles but its always advisable to have a precise title. As seen in this patent document title should be apt and subtle. No irrelevant matter should be put in title. Simple language specifically describing the needful is needed. Fancy expressions should be avoided. Also abbreviations, terms like “patents”, qualitative terms should be avoided. This document has the best title description. As mentioned, short, crisp and precise and also explaining the patent subject matter; i.e. “ORAL CARE SYSTEM”. So, now we move to another heading which is name of applicant and addresses followed by the nationality. As we have already understood that patent in territorial right therefore these information are important.

Preamble to the Description: A Provisional specification should start with a preamble "The following specification describes the invention." A Complete specification should start with a preamble "The following specification particularly describes the invention and the manner in which it is to be performed." Let us the document. ....//

**Field of invention** is the next head which basically aims at reflecting upon the scope of the invention. It highlights the area to which the invented technology applies. Generally, this head starts with “The invention relates to...”. This head can provide broad area of the technology claimed. ....// Here the terms used, specifically tries to explain the invention in higher degree of detail. Hence, the term like more specifically or more particularly aim at giving little precise and detail account. Though one should avoid giving details of invention here. The field of invention should contain general description and words or expression which might limit the scope of protection of invention should be avoided. After field of invention the document has **background** as the next head.

In this head the basis of invention is mentioned. As to what is the basic requirement or need for this invention and in what context it should be read. This is very important section of any patent document. This section basically has three themes. First where it goes on explain the problem with the existing technology then in the second theme it explains the existing problems and it includes all the work previously done to solve those problems. The third theme is where the inventor says that how the current invention solves those problems. In some applications background is also written as “**state of the art in the field**” as head.

This section helps in identifying the status of the claimed technology and also identifies the patents, publications or any pending patent application if any relating to the field. In short, background also gives us the prior art relating to the patents/ inventions. Through prior art it highlights the problems which existed in the technology earlier. It narrates down the previous and current technology in the claimed domain and also tells what the issues with them. Hence, in background one will always find the mention of problem in the prior art. All this information is collectively referred to as prior art. It is not necessary to specify closest prior art in the background section in India. Describing prior arts generally is sufficient without specifically identifying them. Due care must be exercised as acknowledgement of something as prior art may act as estoppels during prosecution of the application. A few effective strategies techno legal expert may follow while drafting the state of the art section include

- Avoiding the use of the term “Prior art” per se while describing the state of the art or anywhere in the patent specification.
  - The state of the art section should not label anything as “the invention” while describing prior art(s). The section should not be titled as “State of the art for the invention”. Inclusion of the word invention may limit the interpretation of the inventive subject matter to the disclosed prior art.
  - The state of the art should only highlight the problem that the invention solves. It should not be used to describe solution of the identified problem. For instance, the section should not include sentences such as “there is need for systems and methods that allow automatic transfer...”
- Care is taken so that the state of the art does not limit the scope of the invention in any manner to any particular field of use.
  - Even though the motive of the section is to knock-out all related prior art by describing its disadvantages, one should be careful not to use any derogatory statement for any prior art. So let us check the document ////////////////////////////////////background

In some patent document you may observe the part as “object of the invention” “Object of the invention”, refers to objective of the invention, it refers to what the invention aims to achieve. It highlights the technical problems associated with the existing technology and aims at providing a

solution for that by bringing out the differences between the invention and the related prior art. It may

say as , “The principal object of the invention is...”, “Another object of the invention is...”, “A further object of the invention is...”, etc. This object of the invention is followed by the **brief summary**. In this section the technolegal expert talks about how the issues are solved through the claimed invention. In background inventor tells that what are the issues and problems which exists. Hence in summary section the inventor summarizes invention and points out at the solutions which the invention offers to the existing issues. Summary is also called as ‘brief summary’, “Statement of invention”. In this section the novelty aspect is highlighted. Here the technolegal expert put forwards the novel and unique feature of the technology. Here he/she explain the implementation of the invention. This section describes invention in accurate, readable, informative, understandable and very concise manner.

When we see this reference patent document, in the summary section we can find out 8 texty paragraphs. In this section the inventor has the chance to explain its invention in the best possible manner. The technolegal expert explains every part through explaining various embodiments and further in the 14<sup>th</sup> paragraph puts an disclaimer sort about scope of invention being broad. Let us check the document // summary Few best practices generally followed while drafting the summary are: summary can aim at stating the exact nature, operation and purpose of the invention that would be of assistance in understanding the patent in future patent searches.

- this section generally avoids heading as “the invention”, rather it is preferably labelled as “Summary” rather than “Summary of the invention” The section generally never recite advantages or other aspect or any other matter that might limit the scope of the invention.
- The statement cannot include any legal or claim language.
- Generally Statement of the invention is broad enough such that alternative embodiments and implementations for the same or more elements are possible for the invention.

So, now we have covered almost half of the reference patent document. We have discussed title, field of invention, background and brief summary. I hope things are getting little vivid for you. In case of doubts kindly re read and watch our previous videos. Now, I would like you to take out your activity sheet and read whatever you have written. Does it follow the same line as the patent document, comparing it with your understanding as per this module? Would you like to modify it if given a chance? Hold that thought there. Now, think about something which you are working on, in your laboratory, or you might have seen any video of latest technology, or you might feel some technology needs to be updated. Everyone of us might have some kind of thought were certain technology needs improvement or change. Write it down on the activity sheet. Now I request you to check the other patent documents you have retrieved after the first module check these parts which we have discussed here....you can find a variety of writing style however same pattern will

followed...We will continue this exercise and our quest of reading patent document till our next module.To lighten your mood check this video.....See you in the next module ....

Thank you.