

# ROADMAP FOR PATENT CREATION

## CAPSULE VERSION

### LECTURE 20

A very warm welcome in the fifth module of week 4 of the Course, roadmap for patent creation- Capsule version Describe Intellectual Property & Intellectual Property Rights in one sentence. IP is creation of mind/intellect. When Acts are applied onto the creativity, Rights are created which are called as IPR which rights are granted by Sovereign of the state.

Distinguish between Intangible property & industrial property.

A. Intangible property is divided into intellectual property & intellectual capital. Within intellectual property lies industrial property & copyright & related rights. Industrial Property is linked with business activity. And Patent is a type of industrial property. That is, industrial property is a subset of intangible property.

Q. What are the kinds of Intangible property apart from intellectual property?

A. Goodwill is another type considered under Intangible property prevalent in developed countries.

Q. Consider an example of washing machine. How does it incorporate copyright in it?

A. Washing machine has several components & programmes by the incorporation of which, the machine gives an output. Intellectual efforts have gone in the making of all those components & programmes. Here, Industrial design will help to compete in the market. Different types of machines like Whirlpool, LG, fall under type of IP trademark. For every machine, there is a manual which includes instructions for use. This manual is a Copyright material. That is, all types of IP are involved in a product.

Q. If an employee develops a product & wants to file a patent for that, who gets the ownership; employee or the employer? Can there be co-ownership?

A. The employee uses the resources of the organization, and hence the policies of the organization will decide the ownership or shares/royalty. Eg- If a professor at IIT develops a product, the inventor is the professor but the assignee is IIT. And assignee gets all the rights as assignee is the owner of that IP.

Q. What rights does a student in an academic institute get for their invention?

A. At most of academic institutes, including IIT, the student gets the inventor ship & appreciation but the assignee/owner is IIT. But if the student/employee has developed something on their own using their own resources which is out of their academic profile, then they can have their own patent (ownership of that patent).

Q. If invention is published by the inventor, can they file a patent for the same later?

A. First to File rule stands legitimate & anything violating it shall not be patentable. Publication or commercialization before filing patent, under no circumstances can be considered for patent. Hence, before starting for research, a strategic planning is necessary.

Q. Invention is patentable but not Innovation. Justify the statement.

A. As per Act, section 2 definition is to be followed, i.e. Novelty. Innovation is just incremental changes in the existing product. Eg. In an existing product, the position of plate in the product is changed without any modification in the product but the output due to that has increased substantially (say 80 folds than the previous position of plate). Here, this part can be claimed for patent. Therefore, innovations with incremental changes linked with efficiency & economic benefit are patentable if follows clauses & definitions of Indian Patents Act, 1970.

Q. What are the Kind codes given by Indian Patent Office?

A. There are 2 kind codes in Indian patent system- A & B. Apart from that, for PCT applications, P & R are also given.

Q. Which is the biggest repository of patents?

A. For public patent databases, Espacenet is the best platform.

Q. Explain Pat Informatics in the simplest way possible.

A. The use of data in effective way to benefit oneself or the organization by exploring the data which is available in the databases like Espacenet etc. Through Pat Informatics, a person can use the available information to search for assignee for collaboration or internship etc. to further his/her career and so on

Q. How much money does an inventor, patent attorney filing the claim earn out of the process?

A. Through various stages of patent filing, the experts involved in it earn accordingly.

Eg. Patent Search report is charged from Rs. 8,000 to Rs. 15,000. Provisional patent filing is charged from Rs. 10,000 to Rs. 25,000 by attorney. Complete specification is further charged from Rs.30,000 to Rs. 150000. FER drafting costs 7,000-15,000. Search report & complete specification requires expert/professional. A single patent can fetch enough to establish an organization. (eg. Genentech) On an average, a single patent can make an inventor earn crores when commercialized effectively.

Q. How to know if the idea being explored by you is not in market or has not been successfully worked out yet?

A. Patent analytics help to know the technology trend i.e. how the technology is moving. The technology trend of past few years can be taken to identify if you had also been thinking in the direction where technology is moving.

Q. As a student what career opportunities one can explore in the field of patent?

A. There are 3 main areas to explore-

1. Patent Drafting & prosecution.
2. Patent Analytics.
3. Patent Litigation.

If you have any further queries please drop an email or post on the forum. See you in the next session

Thank you