

ROADMAP FOR PATENT CREATION

TYPES OF PATENT

LECTURE 21

A very warm welcome in the first module of week 5 of the Course, roadmap for patent creation, titled “Types of patent”

In this module we will be discussing what are the different types of patent. We have seen types as product patent and process patent in one of the earlier modules. There are other types as utility patent, design patent, plant patent, but these types you will not find in India. As India does not have a utility patent system. With reference to design and plant patent, we have separate Acts as protection of plant varieties and Farmers’ right Act and Industrial designs Act dedicated for these two kinds. In USA under patent system only plants and designs are protected. This is just to give you a broad idea about the difference in patent system in India and USA. So considering the Indian patent system we have only two types of patent as product patent and process patent. Now moving further you will come across various types under these two broad categories. As

- Ordinary patent
- Divisional patent
- Conventional patent
- International patent
- National phase of patent
- cognate patent
- patent of Addition

Let us check one by one these types

1. Ordinary patent: What is the meaning of the ordinary patent? Ordinary patent is a normal patent which any applicant can file in the patent office as per the jurisdiction. It may be provisional or complete. What is the meaning of the provisional patent? The provisional patent is the patent where the applicant submits the application without a claim part... whenever the applicant is still working on the invention but he/she is sure to complete the work within a stipulated time, to secure the priority patent applicants opt for filing of a provisional patent. What is that time limit? Those details we will see when we will see the patent filing system in India in the upcoming module. After provisional patent filing, the applicant has to file a complete specification. Complete specification follows a complete structure or anatomy of a patent as discussed in the earlier module. So if any one is filing this provisional or complete it is generally called as an ordinary patent. Next is a divisional patent. What is the meaning of it? One of the major rules of patent is “unity of invention” what is the meaning of that? Unity of invention means that one patent will claim only one invention.

Now if while drafting applicant put together more than one invention then examiner request applicant to divide this patent This is divisional patent application Now question is then for that divisional patent what will be the priority date? We know priority date? Do you remember? Priority date is the date when the patent is filed first time. Now what is first time? You will say patent will filed only once ...no if you plan to file patent in various countries, then there will be more than one application date or patent filing date So the date on which you file the patent first is the priority date from that date the life of patent is counted...What is life of patent? 20 years Ok So we were talking about divisional patent So in this case applicant have to divide the patent and one will be parent patent and the other is patent of addition

Now applicant himself also do this division and claim priority from the parent patent...So this divisional patent ...to follow the rule of unity of invention Now next conventional patent application What is this now So under paris convention one of the clause is that members of the paris convention will get the same tretement as the citizen of that country...with reference to patent prosecution Now How this system of conventional patent filing works Let us check that So as Indian citizen your priority country generally will be India So as per jurisdiction you will file the patent in india patent office Now if you want to get the patent in other countries which are member of paris convention then you have to file the patent in those patent offices withing 12 months. Timeline is important One day delay rather one hour delay also does not allow you to take the benefit of the system With this system you get 12 months time to file patent in other patent offices...So anyone can decide on the probable market in other countries and file the patent Now suppose you filed patent in inida on 1jan 2019 and you realized that you have potential market in usa Europe and Africa then you have 31st dec 2019 as time of 12 months before this time you have to file the patent in these three paten offices You will get the benefit of securing your priority.

Next is international patent..what is the meaning of this We know ther eis nowrld patent then you will say how there can be international patent Please note international patent is the systemgoverned by WIPO, to facilitate the easy patent filing in many countries with more extended timeline...what is meaning of more extended timeline...It is in comparison to conventional patent system In conventional patent system you are getting 12 months window Here in this system you get 30 or in some cases 31 months window So suppose you file patent in india on 1st January you can now get the time of 30 months That is 30 june 2021 is now the deadline for you if you file the pct application

So there is mandate of filing of pct application What is pct Patent cooperation treaty Through this the pct system is accepted by members of pct. The details of pct we will see in upcoming module we have dedicated one full module for this Now there are various benefits of pct over conventional This is especially useful if you are not sure about the market in other countries and if you have constrain of funds for patent filing in other countries. Next

is national phase patent Now once you file pct application Then by the end of 30th month or 31st month as applicable you have to file the national phase patent in the patent office that particular country So remember pct gives you easy way of filing along with extended timeline...you have to file the patent in the country offices as per your planning....this filing you to finish by the deadline of 30 months or 31st Again remember patent system follows strict deadlines If you miss the date you completely loose on the opportunity There are various ways but it may cost you financially as well as you may loose the priority..

We will not go in these details here but remember that patent system is the well harmonized system and follows strict deadlines Next is cognate patent This is interesting Let us check what is it Now suppose you are working on one project You know securing priority is very important and you also know first to file rule So what one can do that he /she can file more than one provisionals So suppose the work is started on 1 jan 2019 on 30 march some very interesting out our received by the inventor so he /she will file the provisional for that Work is continued suppose on 18 may next something important outcome is perceived so the applicant filed the provisional for that Then suppose in august 20 third new thing comes up so the applicant file thoidr patent patent here... suppose on October 13 fourth new outcome comes so applicant file patent now here if the unity of invention is not hampering then applicant can collate all these four provisional and can file single complete before 31st dec this application is cognate.

In this case the application date of first patent will be considered the priority date of this cognate application so here 30 march 2019 will be the priority date of the invention So this cognate patent application And remember provisional patent filing is very easy Inventor himself can file it We have already mentioned that earlier So you can afford to file this provisional patent filing only thing is you may have to give four times statutory fee as in this above mentioned scenario in patent filing attorney fee is high...so only for complete specification you can use the service of attorney and as said it is recommended to use the service of attorney as you are researcher may not understand intricacies of claim drafting... so okay we will not go in this details here...coming to cognate multiple provisional filing provide benefit it helps you to secure the priority that is important.

As remember in the world you probably are not the only one working on the problem at a time there may be possibility that 10 scientists or people are working on it...and first to file is important So this is cognate patent application Now next one the last one is patent of addition Now what is this.... This is the invention which is related to your parent patent so you have mentioned something in the parent patent and further when working on the same problem you invent something then you can file patent of addition giving reference of the parent patent thus you get the priority of the parent patent Thus this is the patent of addition So to summarise there are

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okay here is one interesting video enjoy this fine moving further we have seen what are the different types of patent now can we list what you can patent? We know criteria for patent based on this you have some guess We know Product and process patent and just mentioned 7 types So you probably have guessed We will list down here these types So it can be

- Process or Method
- Machine or Apparatus
- Article of Manufacture
- Composition of Matter
- Chemical Compounds
- Physical Mixtures
- And then any Improvements of the Above

I guess this gives you now clear picture above the what can be patented...Also you know now what are the different types of patent So much information Fine With this we come to the end of this session. Now in next session we will see what is the patent filing procedure See you in the next session.

thank you!

