

ROADMAP FOR PATENT CREATION

WHEN TO PUBLISH AND WHEN TO PATENT (CONFIDENTIALITY)

LECTURE 32

A very warm welcome in the second module of week 7 of the Course, roadmap for patent creation, titled “When to publish and when to patent (confidentiality)” The previous scenario (decade back) was “publish or perish!” but now the scenario is that “patent then publish otherwise perish!” Publications and patent filing both are very important. In the academic Institute's mostly the importance is given to publications. Remember the first to file rule. Hence it is important to file patent before publication. Novelty aspect and confidentiality aspect are most important. If confidentiality is maintained then it is possible to maintain novelty.

Here we deal with five scenarios-

- Research Scholar
- Scientists employed in Research & Development
- Engineering/ Science Students involved in any project/ competitions which are going on in the college level or schools.
- MSME
- Professionals like doctors and engineers.

Scenario 1: Research scholars Students who are working in an academic Institute are under the pressure of providing 2-3 publications. Without the publication students will not get degree. This is a rule that most of the academic Institute's follow considering getting the best output from the students. Different Journals are ranked and the students generally follow the ranking to publish. How should one plan to file patent without publishing? In the research process in academic Institute generally there are seminars where the students are assessed. Every year the students have to give the progress report about their research. When discussing/ presenting the research progress, the group who is there to assess is generally a closed group. Here one needs not to worry about confidentiality. In case of doubt one can just insist for restriction on the attendance of the discussion/presentation, i.e. only certain people are allowed to attend who shall give in writing to keep the things confidential which

are being shared by the student being assessed. Generally the academic Institute will follow the confidentiality as a policy but if it's not followed then the student should insist on making up processes in such a way that the close group will take care of not losing the confidentiality. Whenever one is thinking of a publication, it should be remembered that communicating for publication in a very good paper takes one year at least. Hence before communicating with a publisher, the provisional filing should be done. But after that, before publishing the second paper one must look for potential patent within their research and file a provisional of it. Use the tools discussed in week 4 and if not sure then discuss with supervisor or with professors who are in IP System of the Institute. The appointment of the professor who is in charge of IPR cell or staff members who are working in that area shall be taken to discuss the queries and doubts whether a provisional shall be filed or not.

In case if provisional filing is missed before communication then as already stated it takes 8-12 months' time while the review processes of publication are going. Meanwhile the provisional shall be filed before the paper gets published. Similarly after each year as the research progresses, one must follow the same guidelines to file before publishing in order to perform a robust research and come up with excellent outcome in the form of Publications and Patents. During thesis submission, the electronic copy is to be submitted to the library. The confidentiality can be kept here by writing a letter clearly stating that this thesis shall be kept confidential and not made available publicly till the patent filing procedure is going on. The Supervisor/ Dean's signature or any other higher authority's signature, if required, can be taken on it. When defense is scheduled and if the patent is not yet filed then one must make sure to take a signature on document stating to keep the confidentiality.

As a research student it is advisable to take caution in all stages as the research progresses and as the researcher works for years in a domain, there is always a very high possibility of obtaining potential patents.

Scenario 2: Scientists employed in Research & Development (R&D) Data research scientists who work in research organization are continuously in the research process of creating something new. They must be diligent and should determine/identify the potential IP.

Scenario 3: Engineering/Science college student They have a project in one of the semesters. If they are doing a very good project and are sure that their project is novel, then they can take the help of their teacher and think about the possibility of filing a patent

through college. An expert's help can be taken or the students themselves can file a provisional if sure of

fulfillment of all the criteria needed for patent. After the provisional filing one can take help of Patent attorney/expert for filing a patent. Student shall be careful while participating in any competitions. One may be allured for big prize money in order to solve any problem but the student shall provide the solution only after provisional patent filing or else he/she will lose that opportunity.

Scenario 4: MSME Major aim of MSMEs is to promote their product and so they will not do research publication but they may do publication related to their product. On the organization's website or in any exhibition there is a possibility for marketing of product and because MSMEs are working hard in creating product or marketing, they may miss to file patent or identify the importance of IP. It is hence suggested that when their product is almost ready or when they are sure about potential patent, a provisional shall be filed before the marketing phase, i.e. before going into the public domain.

Scenario 5: Doctors or Engineers who are Employed Surgical methods are not patentable but instruments and diagnostic tools are patentable. While working with/handling particular instrument continuously one gets skilled in it and simultaneously identifies the shortcomings of the existing technology. During which they may find the solutions or improvements and come up with novel diagnostic tools. If it is something that nobody's practicing, then the provisional can be filed with the help of an IP expert or by the applicant himself/herself. Video With this we come to the end of this session. See you in the next session.

thank you!

