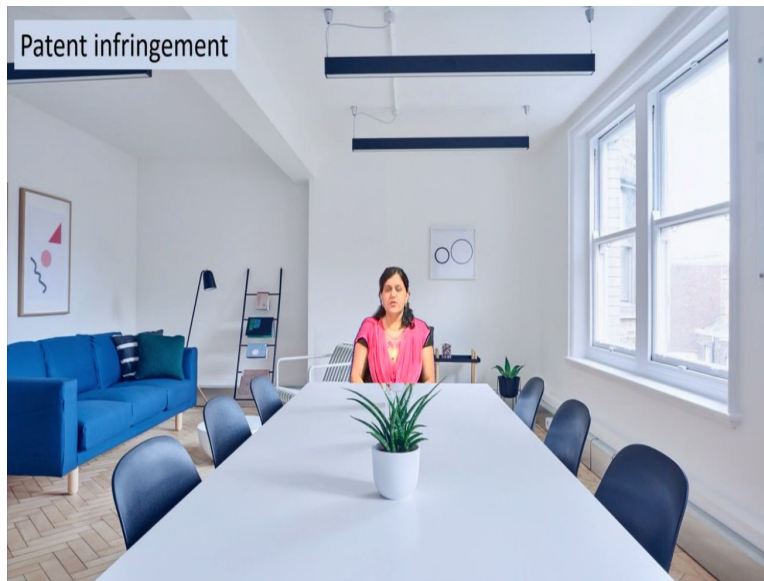


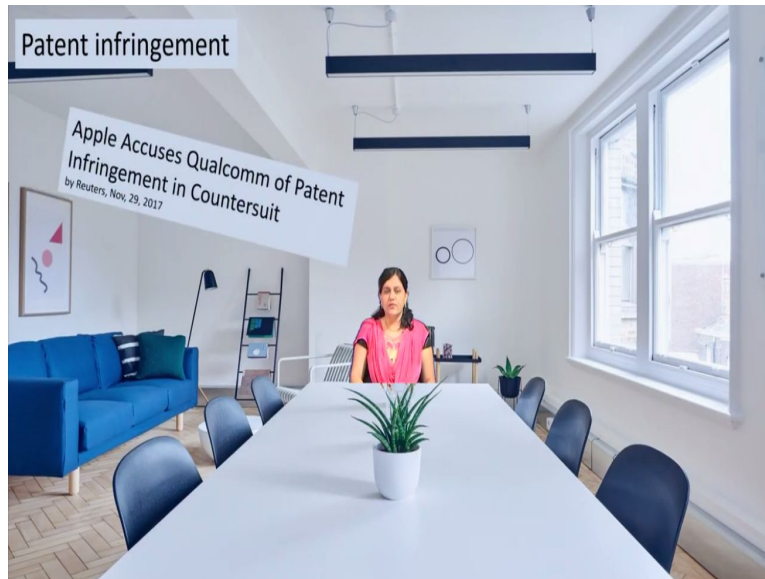
Entrepreneurship and IP Strategy
Professor Gouri Gargate
Rajiv Gandhi School of Intellectual Property Law
Indian Institute of Technology Kharagpur
Lecture No 17
Patent Infringement

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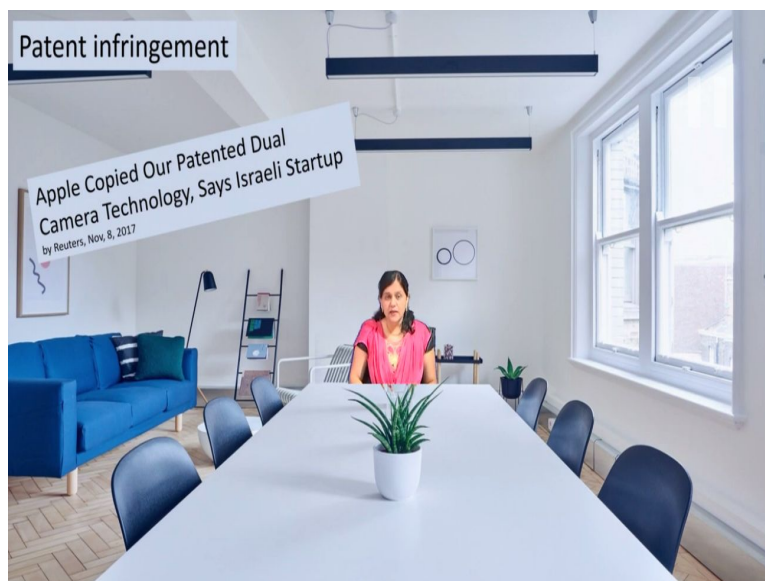
A very warm welcome in the second module of week four of the course Entrepreneurship and IP Strategy, titled Patent Infringement. Now here, when we say patent infringement, we see a few examples of patent infringement, and then we will go in deeper what that patent infringement is.

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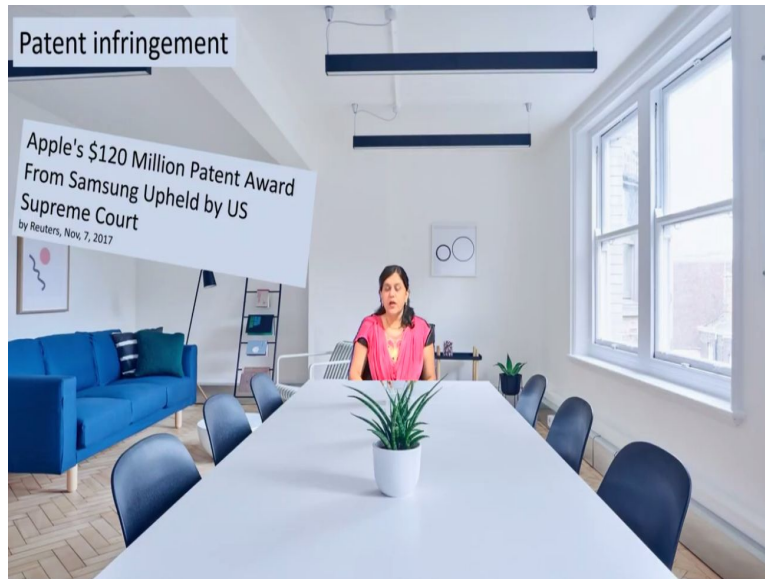
So check, Apple accuses Qualcomm of patent infringement in counterfeit.

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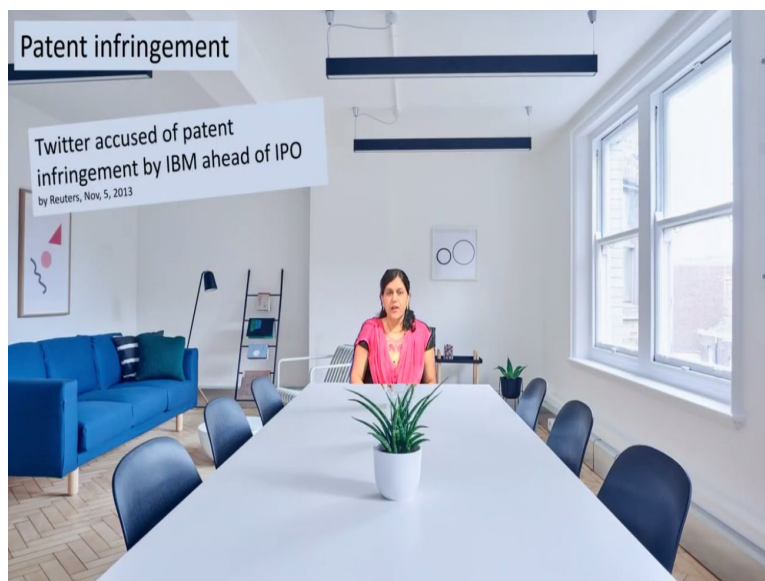
Apple copied that our patented dual camera technology says Israeli startup.

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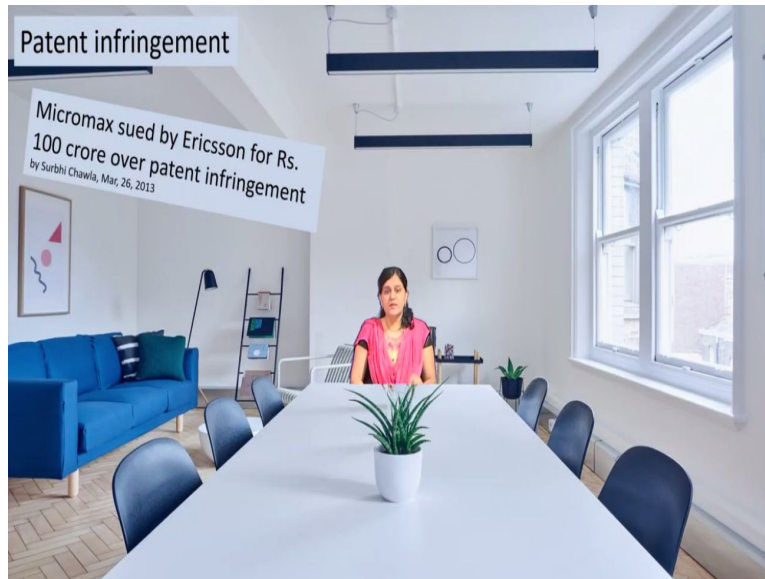
Apple's 120 million dollar patent award from Samsung upheld by US Supreme Court.

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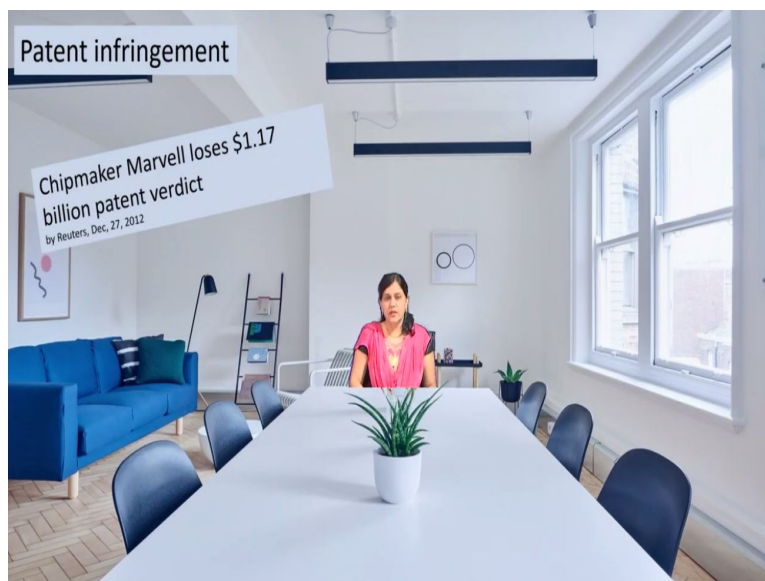
Twitter accused patent infringement by IBM ahead of IPO.

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Micromax sued Ericsson for 100 crore rupees over patent infringement.

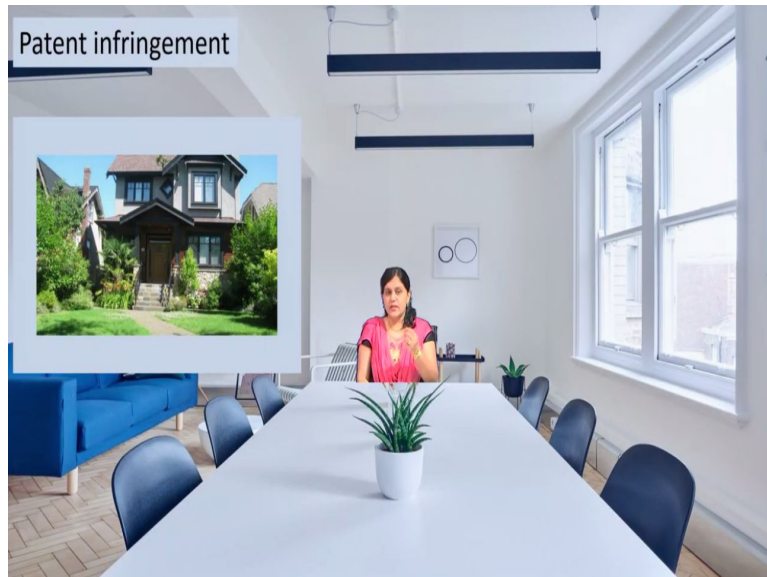
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Chipmaker Marvel loses 1.17 billion dollar patent verdict. So these are the examples of Patent Infringement cases. And you can appreciate here that the amount of wealth or money which is investment in a patent infringement, and you can see the damages, which are what we can say the organization or any individual has to give, if they what we can say they for they, they lose the case of patent infringement.

Now, if this is a cost involved, we will say that, please do not enter into patent litigation, there should be you should not do patent infringement, that is the best way. But we will see what exactly infringement, infringement is and how exactly that what is a, which is a jurisdiction and all other details, just in a few minutes. Now, how that patent infringement is a what we can say, what is a litmus test? Or what is that patent infringement exactly?

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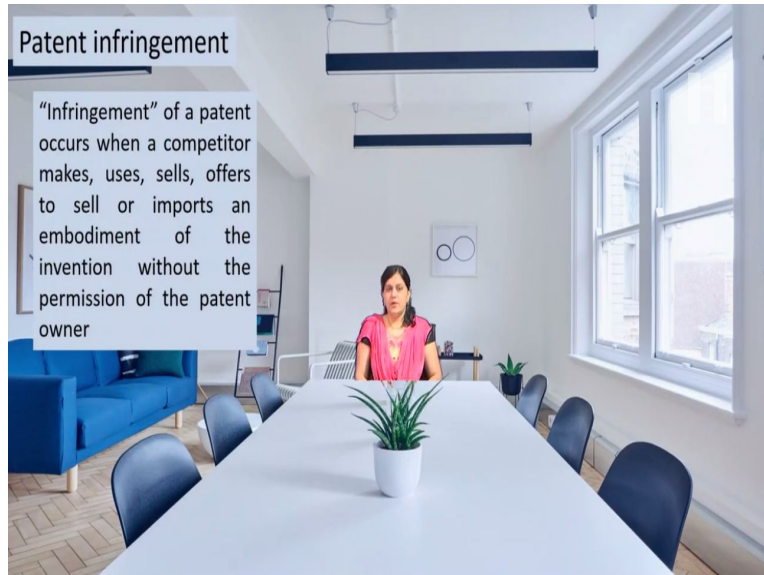
So, you just remember that example of our house, if you have watched that video, related to Patent. So, if you see this house, you can just imagine here that we have given the analogy of a property with a, this intellectual property. And here, we know that as a property, some boundaries are there. So if you can watch this house, there are certain boundaries here. Now, in this, those boundaries are what we can say, the fences there, and by that fence that boundaries are defined.

Now how in a IP or in a Patent that boundaries are defined, do you remember, which is what we call as a heart of a patent? Claim is the heart of a patent. So, if you see any patent document claims, which is a last part in a patent document, that is the most important part, when we are talking about a patent and legal rights are determined by these claims.

So there may be one claim, there may be thousand claims, and that will determine the what we can say the coverage, the what we can say the reach of that patent, what is it, what is like the

spread of that particular patent and which domain and what exactly it is covering, right? that we know already. Now what exactly now the infringement is?

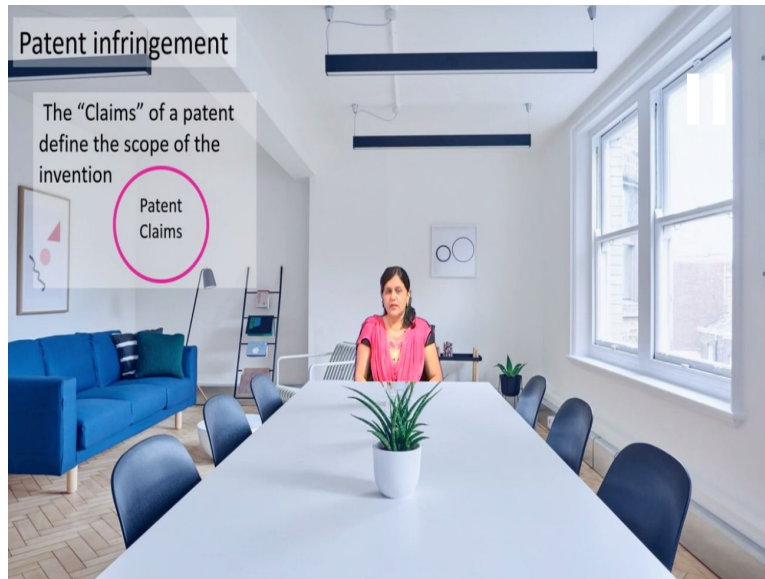
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So if you see the definition of infringement, infringement of a patent occurs when, when a competitor makes, uses, sells, offers to sale or imports and embodiment of invention without permission of patent owner. So you can see the definition in the definition, you have seen that here the competitor, I am just using the word competitor here, maybe any individual who without authorization, who is not an owner of a patent, but what he does, he makes uses, sells, offers to sell and import.

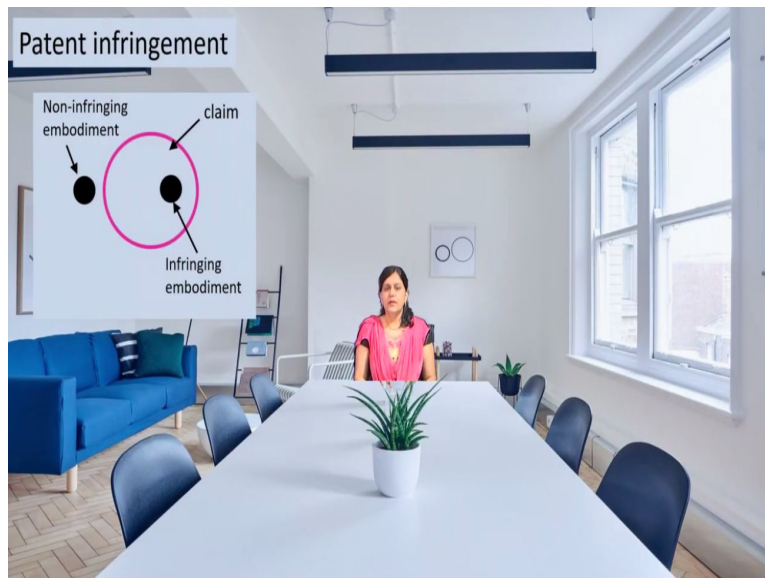
Just remember this import word that they may not manufacture product here in India, but they just import that particular product from outside India, that is also infringement. So if any of these activity is done by unauthorized person who is not owner of patent, then we call it as a infringement. Now, this patent infringement with recognize to a patented invention without the prior permission of a patent holder. So it is prohibited act. Now, to explain it little detail, just check this example.

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Now, the claims of a patent define the scope of a invention. Now, if you see the circle here, this circle it and within that circle I have written as a patent claim. So, you just remember that circle is a boundary like a fence to the property and that patent claims are there. Now, when we say the infringement occurred, now the check this next diagram.

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Here, what the thing is happening, non infringement and embodiment is there and a claim part is there and infringing body is there. So, if you check here, what the thing is happening, like, if you

see that black color dot in the, in that what we can say circle, that black color dot it is like somebody entered inside the boundary of a claim. So, somebody that is a infringing embodiment is entered in inside, if that kind of activity will happen, we could say that infringement occurred.

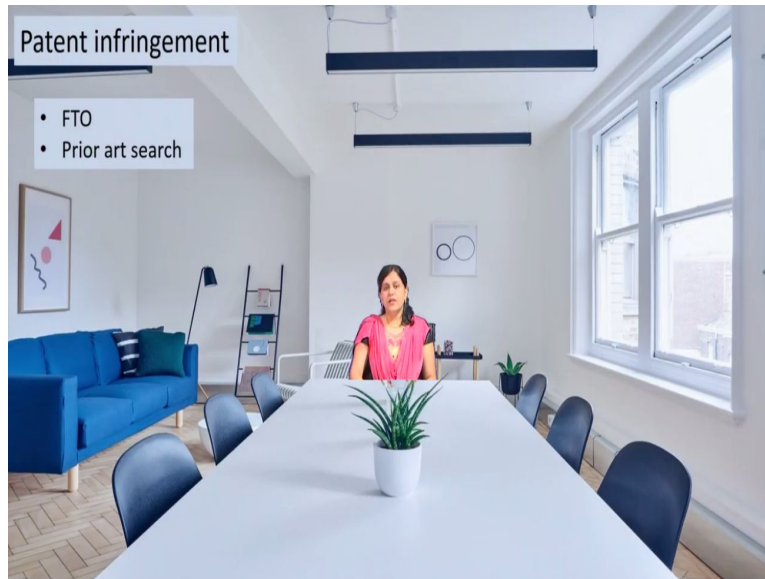
Because, or the just simple example, if your house is there, we have seen the example, if somebody enters in house without your permission, if you are an owner, then you say that it is illegal act, similarly, somebody is entering in that claims without the permission of a patent holder, then we call it as a infringement occurred.

And if you see there is another dot that another dot whatever you are saying it is like a non infringing body. So, I guess by this example, you are very well aware now, that what exactly the infringement is and you will also remember when you are filing a patent, that whatever claims are drafted, you will check once again although patent expert is drafting that particular thing, you will take effort, though it is a very clumsy or it is a what we can say techno legal documents. So, you will feel a little bit difficult to understand your own invention, because this happen that you give in the invention in a, some technology, that is a technology we convert it into a techno legal document and you only feel that oh is it my invention, I have given it. So, that happen with the inventor, but you take a effort, read that claims carefully, and you should understand that whether your rights are perfectly covered by your patent expert.

That is your responsibility you will not rely on patent expert, you as an entrepreneur will take effort to check whether your claims are drafted correctly, while drafting you feel, no, that is necessity of a change, you should make that changes at that time only because once you file a patent, it is not possible for you to change that particular patent document if you want to file some another addition is there, there are ways but that will be like a costly game for you.

So be cautious when you are filing, remember that claim part and take a caution and now you understood that this is my boundary this is my fence of my invention. And if anybody enter into that particular thing, infringement will occur. Now, we will move a little further now.

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So, how exactly organizations are taking care about this infringement because see, that brand is very important when you are building up an organization, a single litigation that this particular organization have copied or done infringement or used invention of other if that one line also comes into the social media or it will come into the newspaper, obviously, it will completely damage your brand and therefore, organizations, entrepreneurs have to take well what we can say in advance take a care that they themselves will not do the infringement.

That is a first caution as an entrepreneur you will take. Now, what a caution you have to take, search report is mandatory obviously, and after search report filing only that patent procedure you will follow, patent will be granted and that patent you will get. So, you have done the prior art search and you have done the procedure. Now, next thing you have to check the freedom to operate.

So, what that freedom to operate FTO stands for Freedom to Operate. So, what is the meaning of that, whether you are free to develop your business in that particular territory. So that is very important. So if you have taken caution, your patent is granted in that particular territory there is no question because there are chances that examination process is followed completely and you are well secure now, because it is gone as a, you as a search report created and then you have filed a patent and then examination by a patent office have occurred and then your patent is granted.

So, you are pretty safe after grant of a patent, that is a first thing, first caution you have taken. Now, second thing is that FTO although patent is granted on your name or it is called a, as a caution it is better to do a freedom to operate search that is one thing, because we know the reason, if you could able to give me reason, why that is necessary to do FTO? We have done all caution the patent office also done the examination, so why I should take a caution?

Sometimes what happens you see, you may launch a product before a grant of a patent, suppose before grant of a patent you want to do a procedure because your right starts as soon as you get application number and after getting application number you will start your production, manufacturing whatever the procedure you have to follow.

So, here what caution you have to take, that you probably may not be aware, that supposed to do have filed application, I am not totally aware about a 18 months publications whatever there, that is a like a black box. So, we are not aware about that particular thing. So, what you will do suppose today I have filed, I have scale up the business and say after 12 months, I am launching my product.

So, it is better that whenever I am launching product, I should do FTO because if any patent which in that 12 months time, which I am not able to see because of 18 months time period stipulated time period as per the patent Act, now, that patents related patent maybe like you can see it might be published and you can go through and you will take caution in advance to avoid infringement. You got the point what I want to say and therefore FTO is very, very important Freedom to Operate.

Now, novelty search like the Novelty search is there or Invalidity searches there. So, these are the few search types are there which you can take as a, you can do as a caution. Now, how this will help you. So, Novelty search, I have already told that before grant of a patent or before filing of a patent you are doing a search report, you are doing a novelty search, you are taking caution that search report is pretty well.

Expert will not give you 100 percent what we can say confidence, he will say that 99 percent my novelty search is perfect. I am giving you assurance, but that 1 percent I am not giving assurance because that 18 months time gap is there. Okay, that is one thing. Next is a Invalidity search that

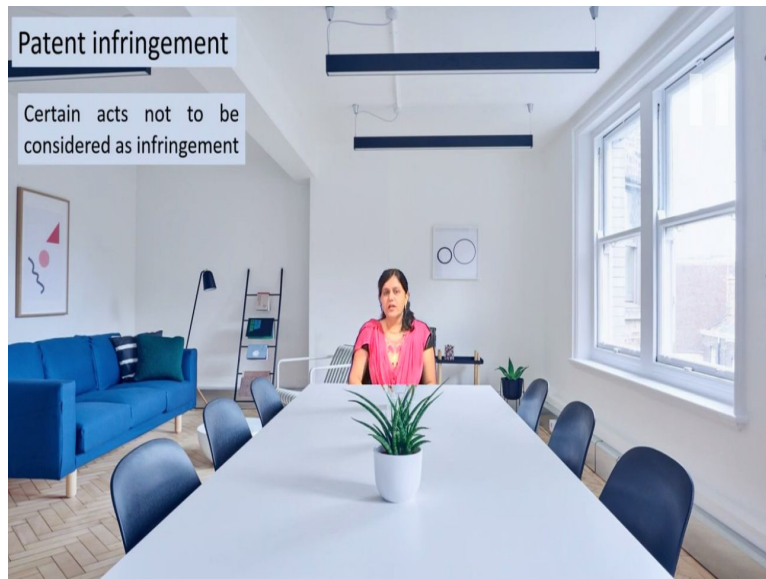
is a strategy when litigation comes people follow that invalidity search that they will try to invalidate that patent.

Suppose you what is that in that how they do that thing? Probably you may not require to do that particular thing, but how it generally happen as a strategy? That suppose by mistake by ignorance you do infringement of some patent and now you that what we can say that organization or that owner or individual he files suit against you. So in that case, the defendant generally tries to invalidate the patent, which although that plaintiff you got the point plaintiff is like a who is the owner of a patent.

You are a defendant, it is said that suppose you by mistake by ignorance, you do the infringement. In that case, what strategy generally that infringer follow? Infringer will try to invalidate patent of a plaintiff and at that time invalidity search is done. And they will try that, try to establish that your patent is not a valid patent and that way they will try to get rid of a infringement claim or infringement related activity initiated by a plaintiff.

That is a that that many times this kind of activity happen. So, I guess this much information is good enough that is Freedom to Operate search, then Prior art search, you know that you are following that thing, Novelty search and Invalidity search has one of the strategy one of the way which is used by a infringer. So, you should know that how infringer is going to do the activity to himself to become safe in that particular litigation.

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So, moving further now, there are certain acts you should know that which are the acts which are not considered as infringement. Now, what are that acts according to Section 107 of Indian patents Act, any act of making, constructing, using, selling or importing a patented invention solely for uses reasonably related to the development and submission of information required under any law for the time being in the force, then in that condition that particular activity, which is made to satisfy the conditions stipulated by law, that particular activities are considered is like it is not infringement.

Or sometimes importation of a patented product by a person from a person who is duly authorized under the law to produce and sell or distribute the product that also will not be considered as infringement. So, first thing like a law is giving you the right and for the completion of that guidelines or for that compliance, you are doing certain activities and that activities will not be considered as a infringement that is a first thing.

And second thing is like a importation. Now, when we say that importation is valid and it will not be considered as infringement when this patented product are, you are bringing it from the original owner of that particular patent. So, for example, you are in India and the product you want to sell that owner he is like say U.S. or maybe he is in Australia, so, if in that country is that owner is there.

Now, that owner already filed patent in India obviously, without that is not getting a territorial right, that is a patent is a territorial right. So, probably what he has done, he has filed patent in U.S. then he might have filed PCT or he might have filed conventional application and he has a get the right in India through any of these routes, and now his patent is valid in India. Now, you find that okay, I can take this as a business, as a entrepreneur and I want to sell this product in India.

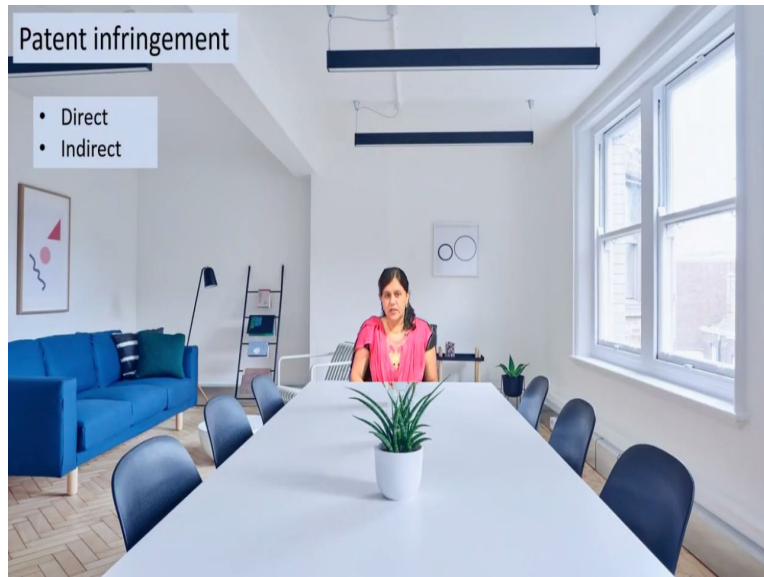
Now, if you want to sell that product in India, you have to take permission of a patent holder and therefore, what you have done, you have negotiated you have done some settlement, some arrangements, some contract with a patent holder, that contract draft is there according to that, now, as you are a licensee for that particular product or that particular process, you can now do the activities related to that product or you can directly bring that readymade product from outside India and you can sell that product in India.

So, I guess you are pretty well now aware about these two conditions, importation from the valid source and second is a compliance of the law. So, these two acts if you are doing that will not be considered as an infringement. So, now, I will say that you know what is infringement the definition that five points are there and you are there, if anybody do that five activities without permission of a owner, we are calling it infringement.

These are the two acts which will not be considered as an infringement then we have seen the caution which organizations are taking that is FTO, compulsory FTO before launch of a product is always done by the organization that is one, then you have seen the what we can say invalidity search as a what we can say the major strategy to avoid further litigation.

And then you have seen the few examples of infringement and you have seen the amount of wealth which is invested in the litigation. Now, further moving, we will try to understand what are the two types of infringement So, check here, these are like a Direct and Indirect infringement.

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So, now, here, direct infringement is what, it occurs when a product is appreciably close to any patented product or a in case where the advertising and marketing or business of use of that invention is achieved, without permission of owner, you can understand it is a direct infringement. I know that this is a patented product still will fully, I am doing the production of that particular patent.

I know, because in India enforcement will be the issue. I am just saying it very clearly, because it is very difficult to enforce rights through court of law. I can give you the example here because it is very important. When we say a litigation part, obviously, we have to go into the court of law here district court or about is, what we can say the jurisdiction is like a district court or above.

Now, the scenario is like this. If you file a case in a court what the thing happening, that whole procedure you have to follow and you know the scenario better what happens in the court. So most of the time, big organizations and this is a very big problem of a organizations that the local what we can say where infringement occur, as an entrepreneur you should know what is a possible leakage, what is a possible imitation, whatever what is a possible kind of infringement is going to happen when I am going to startup my venture.

Suppose you are a technology driven venture, you have a valid patent and there are chances that that will be imitated. Now who is the first line of imitation generally, local market and your

vendors only probably, there are chances that they will do knowingly or unknowingly infringement. So, they will copy that particular thing and they will take a market share of you. So, this is generally the problem, big organization will not attend this small kind of vendors, because they are anticipating that okay, this much amount of infringement is already there.

So, that is a one acceptance is there. Second best way to get rid of this infringement and lawsuits is like that, if somebody do infringement, first thing what you will do is that the better way now, I am giving you directly the tip because somebody do the direct infringement, what will you do? So, it is better that you should just write a letter simple email also is good enough.

So, what you can do, if you know that, who is copying that particular thing and generally your close ones are there that, that are the competitors who are copying. So, what you will do, simple email, just the stating that okay kindly you just keep that attention that this, this particular invention or product, whatever you are producing already for that particular thing, application for patent is filed in Indian Patent Office, it is under examination and you are requested. so, very polite way you are requested that please do not take please stop the production of this particular product.

So, that much polite, polite what we can say you can write the email or you can just send a hardcopy nowadays email is also good enough. So, some written communication you should do with infringer. Most of the time, infringer is doing this by ignorance so, probability is that he will stop the production because he is now aware that your application is in process, probability is that till 18 months are not over and he has not able to check that online because it is in the it is like a black box.

And it is your duty as the owner of a patent to communicate with an infringer, that is the first step you will take, it is a very simple step. Now, second step is like this that if he will not stop the production, you can say another reminder with little bit harsh language obviously. So that by that time by that language, he should able to stop that action.

Now, you have a good enough amount of proof that you have intimated that particular infringer here now that intimation giving that intimation is your duty, that as the owner of that particular patent, otherwise, what will happen before 18 month, nobody will know that the process is under

that application is an under what we can say examination, after 18 months that is good enough it is in the public domain.

So probably that is not your whole responsibility, you can say that they should have checked in the Gazette and then only they should have started production, they should have done FTO all this what we can say defenses are available for you, but before 18 month you may not have that defense with you, you have to communicate and even after 18 month, as a caution, you have to communicate so it is you just remember that it is your duty know why I am insisting it here.

Because in future, if you file case and if you want to get a damages, then the counting of the damages you can do from that time when you have done the first communication. So, that is your benefit and therefore, early communication with a competitor, early communication with imitator is your responsibility, so that if you initiate action against them, you can say that I have communicated with you, you have not stopped the production and therefore, you are liable to give me that particular amount or whatever you are expecting from this state.

So therefore, that communication is important. So now you can understand now what that direct in direct what we can say infringement is there. Now next is a Indirect infringement, it takes place while some amount of deceit or unintended infringement happened with no intention of infringement. So as I have said that many times because it is not in the public domain, that is one reason and second reason is they like they may not, they maybe unaware about your this whole IP that is a possibility.

So, they may not be aware that this kind of IP is there, patent is there and that is your right maybe that awareness is there and because of that they may be copying. So, your simple communication helps you to stop that production and you can save that the share market share which is going to another person because of that infringement. So, this is a Direct and Indirect infringement.

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Now, in Act which is a chapter which is taking care of that particular this infringement related what we can say any dispute is there or infringement related matter is there. So, Chapter 18 of Indian Patent Act 1970 take care of this infringement related whatever the matter or issues are there that are there in the, this chapter 18. Now, one more thing I can give you the hint here. Now, what happen that suppose, the another scenario I am saying as an entrepreneur you have started your production.

Now there may be a willful infringement right, now, you have given that communication, second reminder, third reminder you have given, they will not stop. Now, you will file a case right probably what happens generally people take lightly that okay you will not initiate court action and all that thing and certainly what you will do, you are very firm on your action and you just initiate action through court.

Now, in the District Court, you have filed a case against that particular infringer. Now, what will happen is at this time, this infringer, because of that legal action, he may get little bit what we can say, get what we he will get hesitant and he will a little bit disturbed. And then at that time, instead of continuing in the court, I am giving you the strategic action, what you will proceed, if such type of thing happen.

Because you know that in a court of law to take that matter for a particular time, you are investing your time, he has to invest his time and then that dates will come, that you have to attend that court and all that thing. So, instead of that, by this action, you can just give the pressure on infringer, if it is works, and then what you can do you can suggest him that I am ready to give you license, you can do the production, you have to give 10 percent out of that or 20 percent whatever you expect.

So, that is a valid licensing. So, let him allow to do the production, let him allow to help you in the marketing also, developing your product also, you just give him the license, you decide which license you have to give whether exclusive license or non exclusive license. There are various types of licensing, it is like a easy way of a technology your technology is transferred to somewhere in this easy way.

This is a strategically you have vendor and you have to do out of the court settlement in this matter, you will not invest your time in the court proceedings. Instead of that, you just settle down matter out of the court and just take the give him the license, take caution that you will follow the contract law carefully, you will anticipate because drafting a contract is again what we can say very important part that you have to be visionary, you have to take into consideration.

Now I am giving you another strategic what we can say things here when you are drafting giving a licensing to infringer or anybody, you should anticipate next five years growth of your technology in which you are in working and then you should consider whatever things you are doing in your R&D in development of a product, and then you should know the capacity of a person to whom you are licensing.

That how much this person can do R&D with this product, and whether he will grow first or you will grow first because that is important who is going into the market first that is very important. So you have to judge that person or that organization, because probability is that in future, that person or that organization who is infringing may be your competitor. So you do not want to create competition for you by giving license. You have to be very careful.

So there are some clauses Grant back policies there, that clauses Grant back clauses are there. People generally do not agree, but you have to negotiate properly when you are doing the licensing. That is all together a different game, but you have to be very cautious, I am giving you

the tips that you should be very cautious when you are giving a license contract should be very clear.

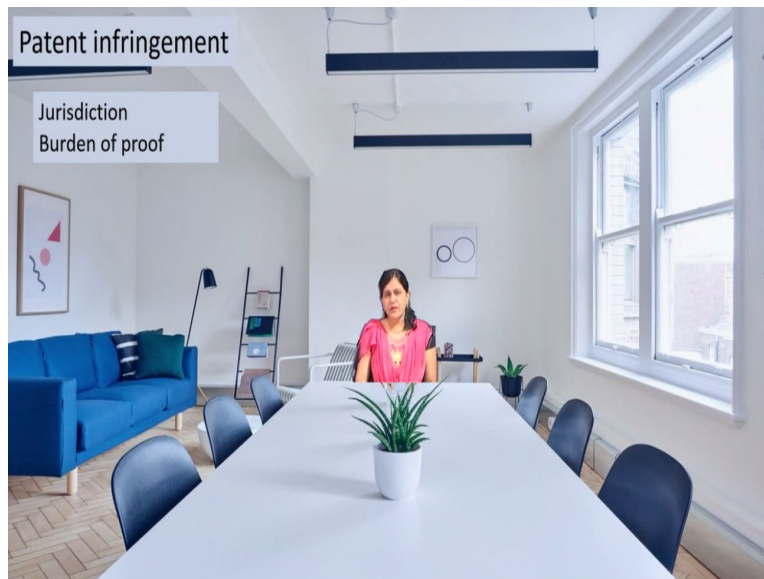
Anticipate what probable actions this person or that organization will do. And what is the probability of hiding the research or probability of hiding the sale or hiding the particular activity related to that particular technology, you have to anticipate everything when you are doing a licensing.

So, I guess this much is very good enough for you, when you are starting the venture, or you are when you are in the middle of a venture, and you come across a infringement, licensing is a best strategy. This will help that allow that person to do activity, but licensed give him the valid license, so that he can also help in the development and marketing of your product. So, this is the way.

Now, usually, this patent infringement let you have to appreciate the usage and sale of a patented invention, may additionally vary by means of jurisdiction. Now, here what the thing happened, as I have already told you, that patent holder has to find a case in a that district court that is a jurisdiction or above. Detection of potential or actual infringement and bringing this to infringers attention, that is your responsibility.

Now, after doing all this thing, you have done the all things, if required out of the court settlement by taking lump sum amount or licensing, whatever you want suitable feasible, you will take the action. Now, here I have already told you that negotiations and all this thing. Now, moving further, when you go into the court. Now suppose infringement happened, that out of court settlement does not worked. And now you have to initiate that, you have already initiated and you have to pursue that case.

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So here the jurisdiction and the Burden of proof that to whom you have to prove that infringement occurred. So, as I as I have mentioned, already no suit for a declaration under this section is a 105. Or for any relief under Section 106 infringement of a patent, it will be instituted in a court, not inferior to District Court, and having jurisdiction, that jurisdiction is very important. Now, in any suit for infringement of a patent, where the subject matter of patent is a process for obtaining a product.

The court may direct the defendant to prove that the process used by him to obtain the product identical to the product of the patented process is different from the patented process. So, there is no any clear cut like a who, who is having the responsibility, but court may ask defendant you are you have filed the case. So, they will ask the court will ask to the defendant that prove that your product or your process, whatever you are following is not the copy of that particular plaintiff's product or a process.

Now, the, the subject matter of patent may be process for obtaining a new product, it may be there is a substantial likelihood that the identical product is made by the process and the patentee or person deriving title or interest in the patent from him has been unable through reasonable efforts to determine the process actually use. Now provided that the patentee or a person deriving a title or interest to a patent from him first proves that the product is identical to the product directly obtained by the patented process.

Now here I will give you one hint here like a, if it is a generally when we are filing a patent. Now, if you know infringement related issues, you will be cautious when you are filing patent at the first time only. So, the generally it is always said that product patent is a very strong patent process patent is not that strong patent, it is very difficult to enforce process patent. So, process and that product patent together that is a best combination actually.

Only product patent, this is also fine but only process patent although it is allowed. It is not a good patent because, it is allowed there is no issue in that. But the reason is like this that enforcement is an issue. Now just I just imagine you have developed some product with some process. You are organization A, there is organization B, now, the final product is same. They will and your process, your patent is a process patent.

Now, how will you prove that this particular organization B is using your process, they will say that we are not using your process, we are using some other process. So, you can imagine how you can keep a watch on the process which is followed in the organization, it is very, very difficult and therefore, as a caution, we will suggest you that generally you do as an entrepreneur when you are filing patent make sure that you are filing a product patent.

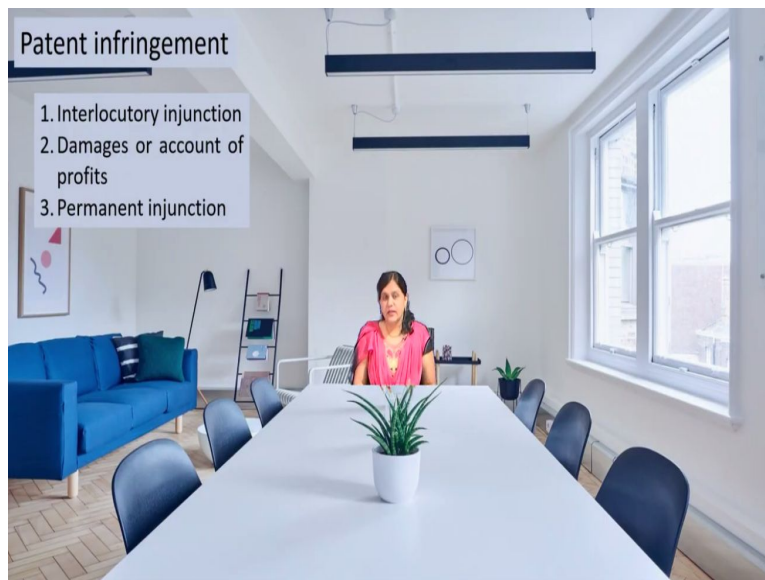
If you want to file a process patent, process and that some new product that combination you should follow. Because if it is commercially what we can say development wise if it is a very efficient then probably it will not affect you because another organization will not invest their time that suppose your product is of 50 rupees, I am just giving a simple example.

And for the 50 if you are you are requiring 50 rupees with a certain process and that is a very what we can say innovative process and you have got the patent and same process in the prior art was there and that used to take some 200 rupees for the same product, obviously, you need not to worry about this particular infringement this particular process. If they are following that particular process, they will have to sell that product with a 200 rupees only.

Now, your process is efficient it is a patented you are selling it with a 50 rupees. So, there is no in that way the competition in the market, but you have to remember that when you are talking about a process if there is any comparative, competitive pricing is there your processes patented process probability is that high chances your process is already copied and it is difficult for you now to establish that this organization is copying that particular.

There are ways Anton pillar order and all that kind of a processes you can initiate through court and you can get the proof you can you will be allowed to enter in the into the premises of organization and you can collect that particular documents or some blueprints or drawings that that procedure is there you can use, you can take help of a court and you can do that particular activity. But it is a little bit cumbersome when you are doing with a process. Now, here exclusive licensing and non exclusive licensing, we will not go into details of that.

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That is altogether a different part. Now, if a case goes into the court, what the thing is happening is like a there may be an interlocutory injunction what, what benefit you will get out of that particular court proceedings. That is, you will get either inter interlocutory injunction, damages or account of profits or permanent injunction.

Now, these interlocutory is of and case is going on in between at that time only you will stop the production by taking order, that way you can that is a that kind of order you can get in the litigation in that trial, that is a first thing. Damages here like you have you should claim the whatever the market share they have taken because of this infringement and you can claim that particular amount.

Obviously, you can claim the court proceeding charges that particular thing and that litigation lawyers are very expert in calculating damages, you need not to worry about that thing. So, they

will claim properly the damages, but what, what, what things you will consider that how much exactly market share has been taken by your infringer that is one thing. Second thing, how much cost you have invested in this litigation.

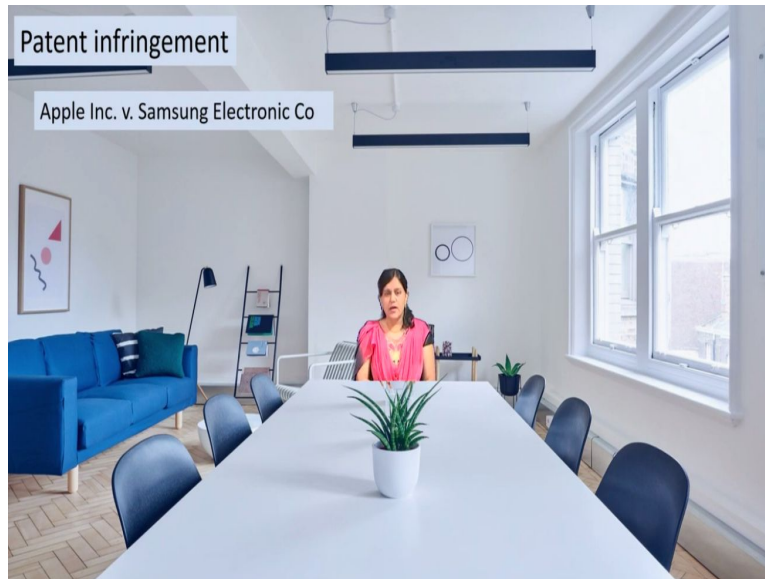
Second thing, you have to consider also the time you have invested in and other things, which are running behind getting your rights from that and stopping that infringement. So all these things you have to take into consideration and you have to claim the damages, then there is a permanent injunction that completely you have to stop that particular activity done by the infringement that is a permanent injunction.

So these are what we can say the three ways are there. Now here you will say that in the court that that query comes in your mind. Okay, patent office is there, in Patent Office experts are there, they are like expert in that subject. So they are doing examination, or an IPAB also scientific advisors are there, but whether such arrangement is there in a court of law if infringement can case happen?

Yes, that arrangement is there, if your case is filed in the court of law and if judge he or she that bench, at whatever level you are cases there in the court of law, if that court feels that there is a necessity of some expert in that subject matter to identify that infringement, because it is completely a technical matter. So, if there is a need of a that scientific adviser, that scientific adviser will be what we can say in the proceedings court will take action and they will appoint that particular scientific adviser, independent scientific adviser will be appointed.

He will assist court to inquire the report upon any such questions of a fact or of an opinion as it may formulate for the purpose and obviously, we have to give the definite remuneration to the scientific adviser will be given that will be fixed by the court only and that will be included into the cost of the what we can say proceedings and report. So, that particular arrangement is there. Now, after knowing that, you should know when to file a case or when you can suit when you are going to enforce the case.

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Now, this enforcement case you can file write a, now, you can see here that Apple and Qualcomm, Apple and Qualcomm is very common on what we can say, there are so many infringement cases then Apple and Samsung is there. So, many infringement cases are there, we will see the video related to that, but before that, what I want to mention here that when you can initiate the action.

So, here you should remember that, your right of patent starts as soon as you file the application, please listen carefully, because there is always confusion in the mind of a that owner, or students also, they get confused with this kind of a concept. Now this concept is like this, that as soon as you file the patent application, and when you get that application number, your right off that patriot starts with that particular time. Suppose today, I went into the patent office, or I have done online filing just now, my right will start immediately now, I once I will get that CBR in my hand at that number from a patent office.

My 20 years start immediately after that point. Now, when I can enforce now tomorrow, immediately my friend knowing that okay, this, this particular product is very good. And before I starting production, my friend started production, this may happen colleague or friend or local vendors, whatever it may be, whatever, whose over maybe has started the production. So whether I can take action against them, whether I can go immediately into the court.

So the procedure is like this, you can as I have, so I told you earlier, I have communicated to you earlier, that you can communicate with them with a letter that this, this is under process, you have to if I get the grant of a patent, you can initiate a court action. So here you have to remember that until grant of a patent, what I am saying until grant of patent, you cannot go into the court of law.

You got the point here. So right, although your right starts with application, that particular action court action you can do or you can take only when your patent is granted. So suppose I filed a case. Suppose I filed the application today. I got the number, somebody started infringement immediately next day, I have given the caution that caution, caution that notice I have given to that particular infringer, but I can initiate action, court action against them if and if my patent got that grant.

The grant is very important, because till that time examination process is not completed. So, you are also not knowing that whether my patent is granted or not, we can give guarantee as a patent expert after doing search report that 99 percent your patent will be granted, that that guarantee we give, but at 1 percent guarantee we are not giving because of that 18 months can black box like scenario.

So, here what, what you are we have to remember is that you can go into the court of law and start action only when you are getting the grant of a patent, you got the point. So, application and grant, you have to inform infringer why because from that point, you are getting the that damages that point is very important, 18 months, after 18 months, you need not to worry, but before 18 months, definitely you have to communicate.

So, that communication is important, but action is always after a grant of a patent. So, I guess this is clear, clear to you. So, what is infringement you come to know after this we have just discussed that particular thing. So now you know what is infringement because whatever your rights are there make, use, sell, import that rights are infringed that rights are what we can say it is exclusive right and somebody encroaching on your rights.

So, if somebody do that, that is a infringement occur, then there are the various court actions you come to know now that there is a court action, then I have given you tips that you can go for licensing and do the out of the court settlement that is a one scenario is the Direct, Direct

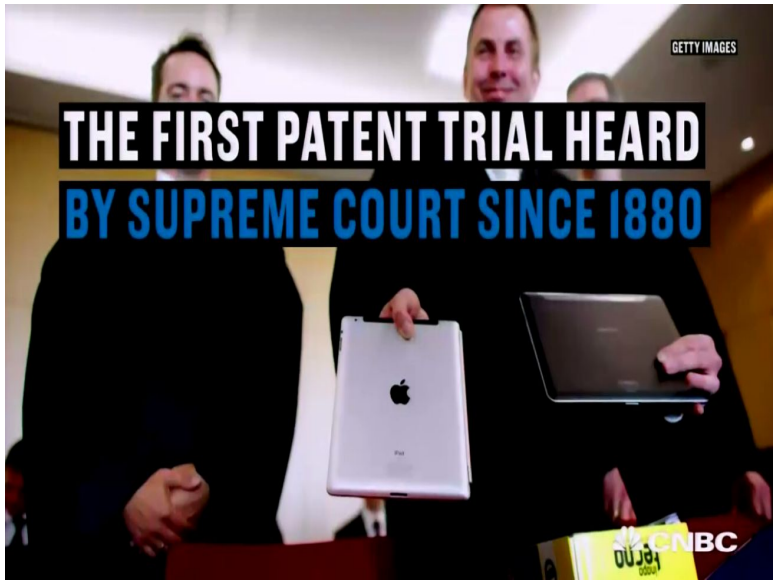
infringement is there, Indirect infringement is there, sometimes by ignorance, it is happening, and most of the time 50 percent people will stop doing copying, if you just send an email or a notice that that that, that is general observation.

50 percent is a little larger, but 30 to 40 percent is definitely. And this, I have given you a example of organizations also. And generally, it is what we can say it is a good thing that do not enter into the litigation anytime. That is a very good thing. That is a very good scenario, because it is a enforcing right. It is a very difficult task. And it is a very time taking also, money is involved, a lot of money is involved in that thing.

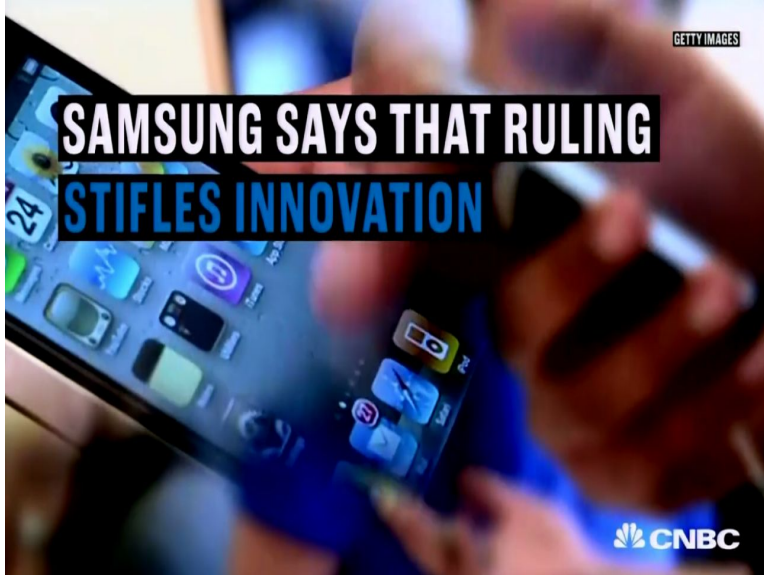
So out of court settlement is the best settlement. And that way you can take action against your infringer. So, I guess this much information is good enough for you considering infringement. Now you can watch this video and just see how the infringement and how what are the different issues are there in the two organizations Apple and Samsung and just see that how they have handled that particular case.

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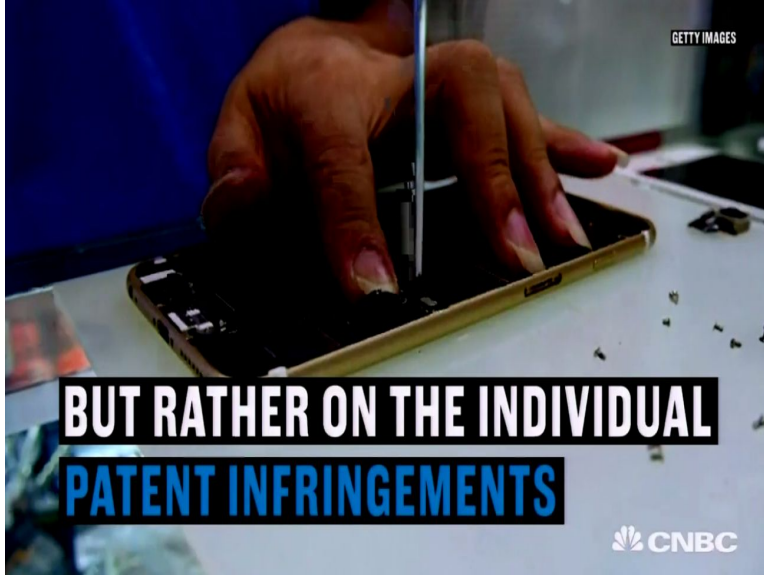
**SO FAR SAMSUNG HAS ONLY
PAID \$548M IN DAMAGES**

GETTY IMAGES
CNBC



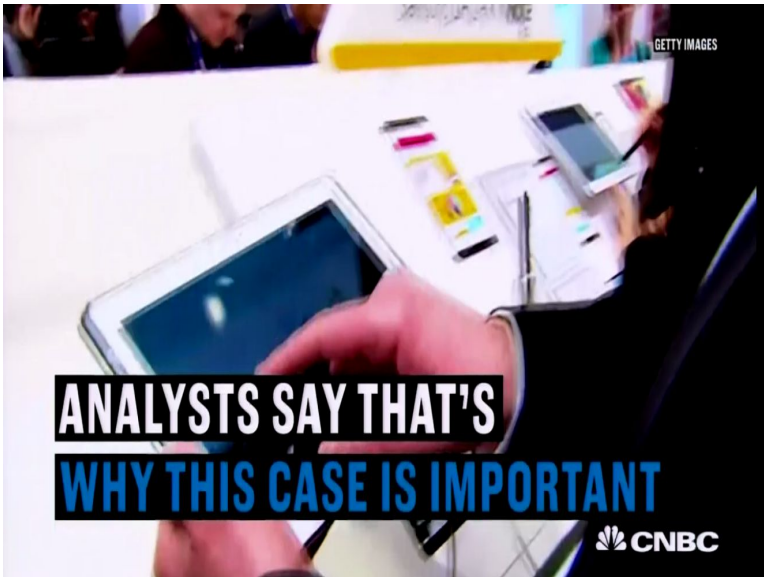
**ARGUING THE FINE SHOULDN'T BE
FROM AN ENTIRE DEVICE'S PROFITS**

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**BUT RATHER ON THE INDIVIDUAL
PATENT INFRINGEMENTS**

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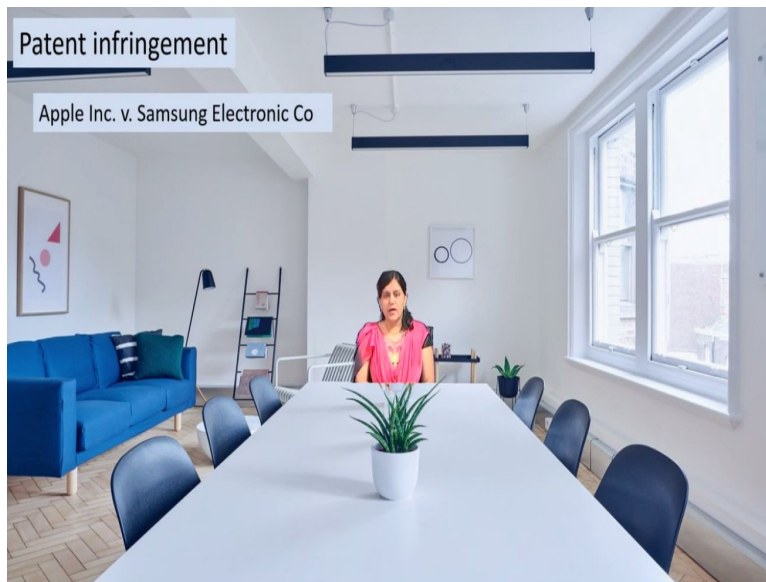


**ANALYSTS SAY THAT'S
WHY THIS CASE IS IMPORTANT**

 **CNBC**



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So I hope you have enjoyed the video. With this. We come to the end of the session. See you in the next session. Thank you.

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