

**Patent Drafting for Beginners**  
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**Lecture - 02**

**Background**

Background of the invention.

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Invention has to be in some **technology**

- (a) Field of the Invention
- (b) Description of Prior Art



Invention has to be in some field of technology, if the invention does not fall within the field of technology, then it is not something what we call a patented invention.

Invention should fall within a broad area of technology. Now if you want to look at the different kinds of areas of technology, you could find that there are as many streams of technology as there are technologies themselves.

So, when you describe the background of an invention and background of an invention is essential for us to understand to figure out where in the scheme of things will an invention fall in.

So, the background of an invention will describe the field of the invention we will come to a moment as to what the field is, and it would also have a description of the prior art.

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## Broad Areas of Technology

- Mechanical
- Electrical
- Chemical
- Biotechnology
- Computer Science

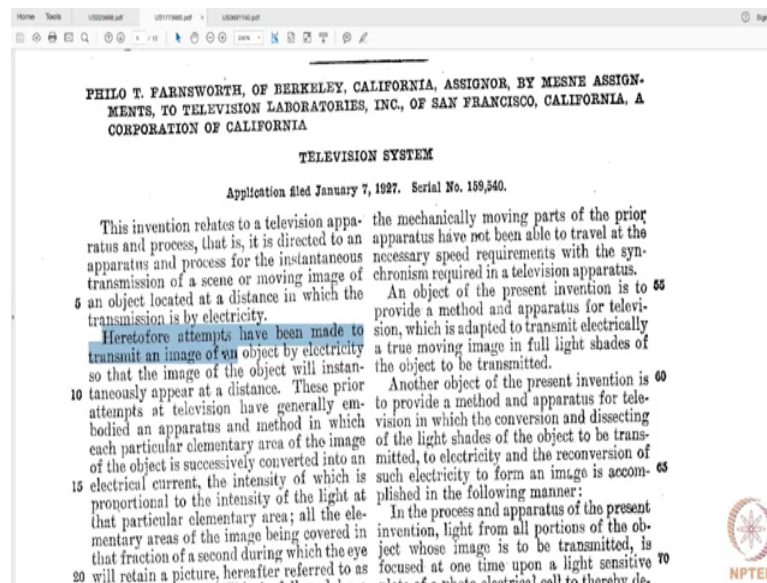


Now, the broad areas of technologies could be mechanical it could be electrical, it could be chemical, it could be biotechnology, it could be computer science or it could be any other field of technology. Now, you will notice that this is similar to the departments in a higher technical institute or an engineering college. This also reflects how the patent office's structure patent office has dedicated staff and officials who will be dealing with different fields of technology.

So, if you file a pattern for a mechanical application or an application covering a mechanical invention, then it would be examined by a group of examiner's who have domain knowledge in that area. Once a patent is filed then it is assigned to an examiner with the relevant technology background.



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Over time now this is the television system again a pattern that we have covered earlier, the invention here the statements starts. The invention relates to television apparatus and process that is it is directed to an apparatus and process for the instantaneous transmission of a scene.

So, this is what the invention related to; in essence they are describing here the field of the invention and then they move on to describe the prior art hereto fore atoms have been made to transmit an image. So, that gives the background of what has happened in that domain. Now this again is a 1927 pattern, this practice has evolved over the period of time and this is a pattern for the posted the adhesive in the posted.

Now, you can see the background of the invention there is a caption calling it the background of the invention and here it starts with the field of invention. The field of invention as technology progresses would become very specific. Now here the field is the invention relates to inherently tacky elastomeric solvent dispersible, solvent, insoluble, acrylate copolymer and a process of preparing the copolymer the copolymer is the glue in the posted.

Now, here they describe some amount of what is can be called as a description of the relevant art or the prior art. Now this over a period of time the statement of background

of an invention has evolved this is just to show that the modern patent applications have a much more detailed depending on the topic description of the background.

The background will also describe some of the problems or the gaps in knowledge. For instance here you will find that despite the disability of inherently tacky elastomeric polymers, which are insol which are solvent dispersible solvent insoluble and of uniformly small size such a project product has never therefore, existed.

So, they are showing a gap in the field of technology, a gap in the description of the prior art which makes the invention a much sought for invention. Now there are a couple of things you need to bear in mind while describing the background of an invention. The Indian law requires you to show technical advancement.

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### Things to Note:

- Show Technical Advancement
- Do Not Compare the Prior Art
- Background has two parts (US Style):
  - Field of the Invention
  - Description of the Prior art



So, you have to mention what was the problem in the prior art or what was the deficiency in the prior art, we just saw an example of how that was done in the pattern covering posted and then show what is the contribution of the invention. You should resist the temptation to make a comparison with the prior art, because comparison with a prior art is what the patent office would do to invalidate inventions.

So, a comparison with the prior art is done to see whether there is novelty or lack of it, it is again done with the prior art to see whether there is inventor step or lack of it. Now this if you present the prior art and make comparisons to the invention your invention,

then it would be very close to invalidating in because you have kind of made a comparison between the prior art and your invention and an examiner who examines your application or a controller may find it to be obvious.

So, resist the temptation of making a comparison to the prior art. Now the background in the US style as we have just seen has two parts that is the field of the invention and the description of the prior art. In Indian applications they could be some liberty in this format, you could follow a separate field of invention can be a separate heading we will show you some examples of that and background of invention can also be a separate heading. There are no strict rules for that, but this is allowed as a freedom in drafting.