

Patent Career: Video Starter Course

Video 4 Patent Bar Challenges

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PES Video 4: Patent Bar Challenges

[00:00:00] Welcome to this next video, which covers Patent Bar Challenges.

There are a number of reasons for the low pass rates and the overall difficulty of the exam. This list includes the following top eight reasons. The first one is the 90 day window. And do note that this has been temporarily extended in the past, so you should check to see how long the window is before you apply, since it may actually be longer.

The second reason is that patent law is a big, broad topic. The third reason is that patent law is confusing. The fourth, that the source material for patent law is updated frequently.

The fifth, is that the exam is timed. The sixth reason is that the search feature for the open book material is very limited.

The seventh reason is that many of the exam questions are difficult. And finally, eight, the exam tests your analytical skills, not just your knowledge of patent law. We'll go through each of these reasons in [00:01:00] detail.

Number one, the 90 day window. When you apply for and are accepted to take the patent bar, the USPTO gives you 90 days within which you must schedule and take the exam. Once accepted, you only have about three months to take it or at least make that first attempt. Do note, as I mentioned earlier, that the USPTO has temporarily extended this window in the past, so check to see how long it currently is.

Having a longer window to schedule and take the exam once you've been accepted to sit for it is very helpful. But when it is only 90 days, it causes problems for a lot of people because 90 days isn't enough for everyone to pass.

If you have a lot of other commitments, it may be difficult to squeeze all this studying in within 90 days.

So we recommend taking a look at the requirements first. Download the official bulletin and get your application ready.

Review the requirements to the point that you're highly confident that you actually meet the requirements, which you probably do, [00:02:00] and then hold off on sending out that application until you've started preparing.

At the very least, put a plan together for how you'll prepare and how long you think it will take you, and we'll talk about the best strategy for preparing later.

The point is that 90 day window puts the pressure on a lot of test takers. Many people underestimate how long it'll take them to pass. There are test takers who try to cram it all in

within four weeks, and while it's not recommended in most cases, we've had several clients over the years who've done just that.

However, they're not the norm. On that tight deadline, you would need to clear your schedule of pretty much everything else and just focus on patent law. You'd also most definitely need to invest in up to date and strategic study materials for this to even be a remote possibility.

Most test takers prepare for and pass the exam within a three to six month timeframe. That's more realistic. Strategic study materials will help you accomplish this within this timeframe, [00:03:00] especially if you have a job, family, or other responsibilities.

Other test takers stretch it out for a whole year or even longer.

It's not recommended to go out too much past one year if you can help it.

That's because if you do, you'll start to forget what you learned at the beginning of your preparations. Unfortunately, patent law doesn't really build on itself. So if you had an extended study schedule of maybe two years, then you're going to need to spend a lot of time reviewing everything all over again once you near the end.

As you can see, the exact length of time it takes you to pass the exam is really up to you.

How much time you have to study per week, how well you pick up on the material, and the type of review program you invest in to prepare all play a role. Therefore, it's difficult to determine the exact amount of time any given individual will need.

Secondly, patent law is a big topic. To stand any chance of passing the patent bar, you have to know a lot of details about patent law, which is a [00:04:00] very big, broad topic.

Patent law is based on the laws and rules found in the MPEP. The MPEP spans several dozen chapters and is several thousands of pages in length.

If you try to study straight from the MPEP, you'll definitely waste time because not everything in the 4,000 plus page MPEP is on the exam. In addition to the MPEP, the patent bar also often covers supplemental materials. This is typically material that will be added into a future edition or revision of the MPEP but hasn't made its way in yet.

In order to pass the exam, you need a guide that cuts out the extra material and focuses on the tested material. Otherwise, there's just too much material to learn. Having a guide or review course will help you save a lot of time and frustration.

Number three, patent law is very confusing. There are hundreds of different laws and rules that make up patent law.

The laws established [00:05:00] by the USPTO are described in United States Code Title 35 Patents. This group of laws is referred to as 35 USC. The rules covered in the MPEP are known as the Code of Federal Regulations. These include sections on patents, trademarks, and copyrights and are referred to as 37 CFR.

Both the MPEP and the Patent Bar Exam only cover the regulations covered in the Patents section. The rest is for copyright and trademark attorneys to know.

There is a constant referencing of the laws and rules within the MPEP. You really need to know the most frequently tested laws or rules, or at least have a basic understanding of what they cover to understand what the MPEP covers.

Otherwise, you need to constantly refer back to these resources.

You'll also need to know a lot of different dates. Some of the dates aren't very straightforward, as there may be several if, then statements for each date. A single date can include a [00:06:00] number of variables. In addition, to further complicate things, the MPEP is written in intense legalese. Here's a quick example of text that was randomly taken from the MPEP.

If a non provisional application filed prior to December 18, 2013, or a design application does not contain at least one claim, a notice of incomplete application will be mailed to the applicants indicating that no filing date has been granted and setting a period for submitting a claim. The filing date will be the date of receipt of at least one claim.

Then it has citations, and it keeps going, including references to rules, and I know this specific text is a little old, but the MPEP keeps old material, and then it adds in the new material, like what happens for an application filed after the date listed. So it'll have both, and then you'll have to remember each one, especially for the dates that are more recent than this one.

At any rate, in this example, you'll see a lot of the [00:07:00] previously mentioned issues at work. For one, it's pretty dry, and full of legalese. For another, dates are covered in the short paragraph, and they include if then statements, which can confuse the issue. This short paragraph also references rules, so it's best if you know at least a little of what those rules cover before you even read it.

Sometimes, they even reference a legal resource for you to look at for more information. So, as you can see, even just a short paragraph becomes something of a mess to remember, let alone understand. And this is very representative of what you're going to come across.

The best way to overcome this is to have a guide that walks you through what you really need to know, instead of sifting through all this legal matter on your own.

Number four, the laws and rules tested on the exam change often. This can be a problem if you prepare for the exam over long periods of time.

There's definitely a lot of frustration associated with starting to study with one version of the MPEP and halfway [00:08:00] through your preparations, a new version of the MPEP starts being tested.

The USPTO does have to give 90 days notice before they can start testing over new material, and even then, the new material will be in the unscored beta questions. However, if you're really dragging your feet on preparing, you can get to the point where new or changed material is covered. Therefore, it's best to commit to taking the exam and then follow through with your preparations.

There's a lot to go over, but even if you only have a very limited number of hours to study per week, you should be able to get through the material within 12 months maximum. Changes to the MPEP won't impact you as much if you choose online study materials that update when the exam updates, so you'll want to verify that your study materials are current.

Another point is to make sure that any study materials you choose are actually created by patent practitioners. Many courses and materials are not, so you'll want to verify that before investing in [00:09:00] any review course or any study guides.

Number five, the exam is timed. You'll have six hours to answer all 100 questions.

The exam is broken up into two different sessions, so you'll have a break in the middle to collect your thoughts and usually have lunch. But it's still a grueling pace, especially if you don't know the tested facts cold.

You'll have approximately a little over three and a half minutes, in fact it's 3.6 minutes, to answer each question on the exam. Some of the questions are pretty dense and lengthy, so you'll need to spend some time reading and even re-reading those, which wastes more of your time.

The best way to overcome this is to practice answering questions with the time limits imposed the day of the exam.

Number six, you have access to the MPEP, but the search feature is limited. The patent bar is an open book exam.

When you take the patent bar, you'll have the MPEP plus any tested supplements available to you on the [00:10:00] computer.

However, the MPEP is broken up into dozens of different chapters, and they're all given to you separately in PDF format.

So in order to look up a particular topic, you have to know which chapter to open. Otherwise, you'll need to open the index, find the topic, and then open the right chapter. This wastes way too much of your time to be helpful.

Therefore, at a minimum, it's suggested you go into the exam knowing which chapters the main topics are found in.

Once you open the PDF file, there's a search feature, but it's limited. You can type in a search string, and you will be presented with the location of the first place where that search string is found within that MPEP chapter. Then you'll have to hit next to find the second, third, and so on. As you can imagine, you can waste a lot of time looking for the right instance of your search string.

To overcome this, it's best to spend some of your prep time learning the structure of the MPEP.

Number 7. Some of the [00:11:00] exam questions are incredibly difficult. The USPTO goes out of their way to present difficult material in a manner that makes it even more difficult to comprehend. They'll add in more material than you need to answer many of the questions.

Every question has five answer choices, A, B, C, D, and E, and some of the more straightforward questions will ask you which choice is true or which choice is false.

And those are easier, but a lot of times the problem with these questions is that each choice can cover a completely different topic. So in that case, if you're trying to look them all up, you'll have to look them up from different chapters of the MPEP, which is a real drain of your time.

Some of the questions include a paragraph of information before you're given the answer choices. In most of these cases, there's a lot of material in that question that you don't need. It's just there to make things more complicated for you. And since the exam is timed, every second you're wasting trying to sort out all this [00:12:00] extra material is a factor in whether you'll ultimately pass or fail.

As you can see, knowing the most likely to be tested material cold when answering a question like this is necessary.

That's why investing in a review course that emphasizes the most likely to be tested material is highly valuable. In addition, you'll need to practice answering practice exam questions under the time constraints of the exam.

Number 8. The exam is designed to test your analytical skills, not just your knowledge of patent law. Not every question is straightforward with facts. Some of the questions will ask you to apply what you know. So, you'll have to actually apply patent laws and rules in order to answer some of these much more difficult questions correctly.

, You may see questions written about fictitious inventors with a number of details and dates presented. And in the end, you'll often have to come up with the correct date or a correct scenario. You may also see questions testing your claim writing ability. [00:13:00] These are always difficult and ask you to apply the material from the MPEP.

Again, learning patent law, learning the most likely to be tested laws and rules, and practicing with practice exam questions under the time constraints of the exam is the best way to prepare for difficult questions like these.

And the point of all this isn't to scare you from a career in patent law.

The point is to help you approach it realistically. You do need to pass this difficult exam to gain entry into the field of patent law. It's the type of exam that you'll have to spend some time preparing for, as you're going to need to learn a great deal about patent law in order to pass it. And really, it's not so much about the exam, but whether you have even gained a minimal understanding of patent law to get hired in the field.

So gaining a passing score on this exam is designed to be more challenging than most exams you've encountered in school.

By passing the exam, the USPTO is essentially giving you the okay to help inventors patent their inventions. So the [00:14:00] barrier to entry needs to be set reasonably high.

All these difficulties aside, if you take the time to really learn the material, learn the structure of the MPEP and practice with previous exam questions.

You'll be in the best position possible to gain a passing score.

Even with the low pass rates, I can guarantee you that those who go in as prepared as possible are the ones passing, while those who didn't prepare with a solid strategy are not. Again, patent law is a great career for engineers, designers, and scientists to transfer into.

It's lucrative. In addition, it's definitely a change of pace from a technical career while still building on your past education and experience.

You likely already qualify to become a patent agent with your background in science and engineering or as a design patent practitioner with your design background.

It's not worth it to stay in a job you're ready to move on from. You have lots of options and it's always worth it to try something new. In this day and age, [00:15:00] most professionals work at more than one company over their lifetime and many even switch careers.

As you've seen, the patent bar is a difficult test, so you need a good plan in order to pass it efficiently, and we'll get into this in the next video.

For now, just know it's well worth it to put in the time and energy to become a registered patent practitioner.