

Note: When any ambiguity of interpretation is found in this provisional translation, the Japanese text shall prevail.

Chapter 2 Novelty and Inventive Step (Patent Act Article 29(1) and (2))

Section 1 Novelty

1. Overview

Patent Act Article 29(1) provides as the unpatentable cases (i) inventions that were publicly known, (ii) inventions that were publicly worked (iii) inventions that were described in a distributed publication or made available to the public through electric telecommunication lines in Japan or a foreign country prior to the filing of the patent application. The same paragraph provides that a patent shall not be granted for these publicly known (Note) inventions (inventions lacking novelty, hereinafter referred to as "prior art" in this chapter.).

The patent system is provided to grant an exclusive right to the patentee in exchange for disclosure of the invention. Therefore, the invention which deserves the patent should be novel. This paragraph is provided to achieve such a purpose.

This Section describes the determination of novelty for an invention of the patent applications to be examined (hereinafter referred to as "the present application" in this Section.)

(Notes) The term "publicly known" generally falls under Article 29(1)(i), or under the 29(1)(i) to (iii), hereinafter the latter is applied.

2. Determination of Novelty

Inventions subject to determination of novelty are claimed inventions.

The examiner determines whether the claimed invention has novelty by comparing the claimed inventions and the prior art cited for determining novelty and an inventive step (the cited prior art) to identify the differences between them. Where there is a difference, the examiner determines that the claimed invention has novelty. Where there is no difference, the examiner determines that the claimed invention lacks novelty.

Where there are two or more claims, the examiner determines the existence of novelty for each claim.