

Novelty

Japan Patent Office

- I. Purpose of Novelty
- II. Procedure of Determining Novelty
- III. Non-prejudicial Disclosures or Exceptions to Lack of Novelty

- I. **Purpose of Novelty**
- II. Procedure of Determining Novelty
- III. Non-prejudicial Disclosures or Exceptions to Lack of Novelty

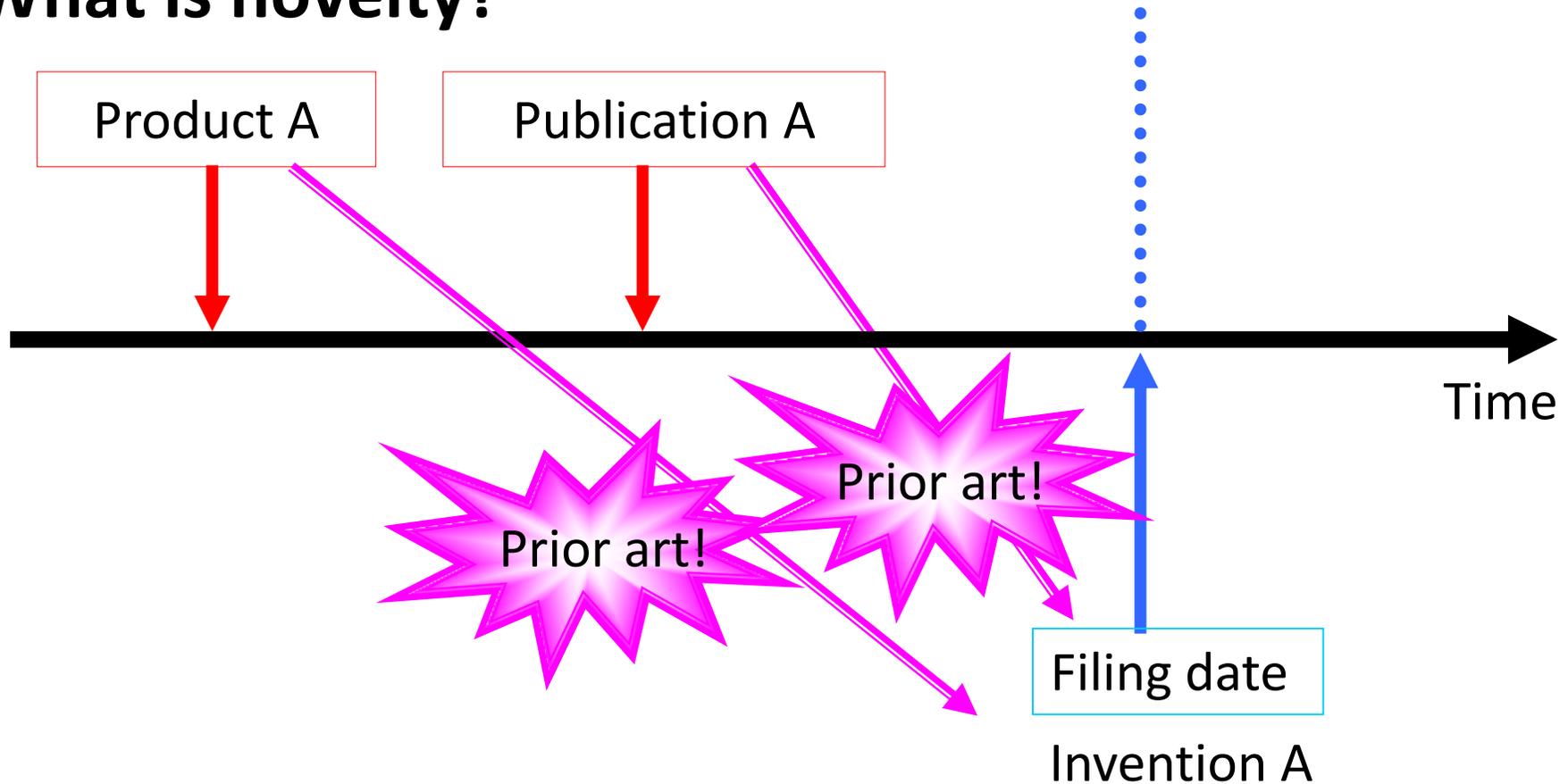


JPO (Part III, Chapter 2, Section 1, 1. in JPO Examination Guidelines)

The Patent System is provided to grant an exclusive right to the inventor in exchange for disclosing the invention; therefore, the invention which deserves the patent should be novel.

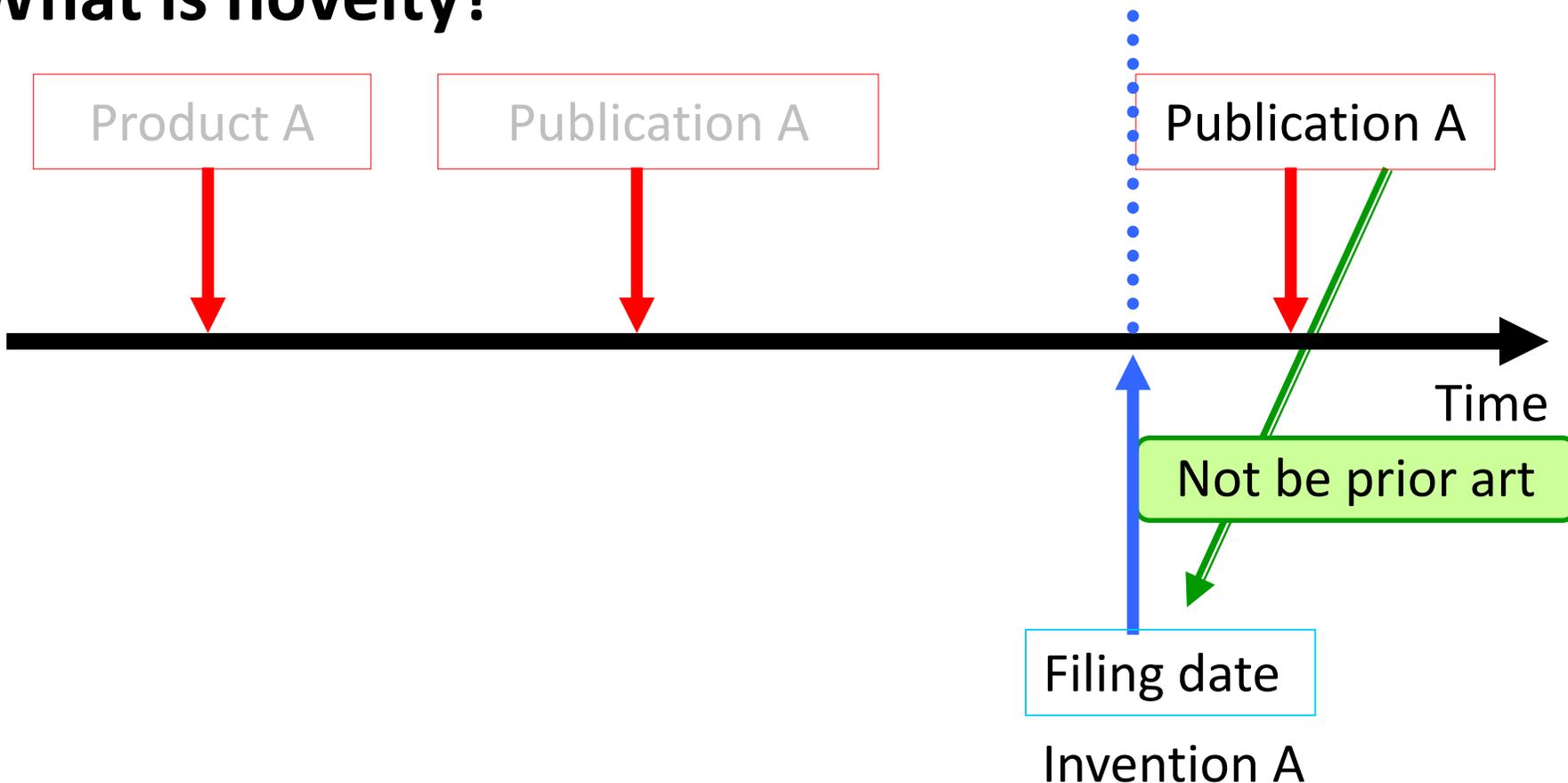
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What is novelty?



**Invention A is not patentable
if it was known to the public before the filing date.**

What is novelty?



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if it was known to the public before the filing date.



PCT (PCT Guidelines 12.03)

(i) Evaluate the elements of the claimed invention



(ii) Determine if a document under consideration forms part of the “prior art”



(iii) Assess whether each and every element or step of the claimed invention was explicitly or inherently disclosed in combination by the document, to a person skilled in the art, on the date of publication of the document.



PCT

(i) Evaluate the elements of the claimed invention

In interpreting claims for the consideration of novelty, the examiner should have regard to the guidance given in Interpretation of Claims (PCT Guidelines 5.20 to 5.41)

(PCT Guidelines 5.20)

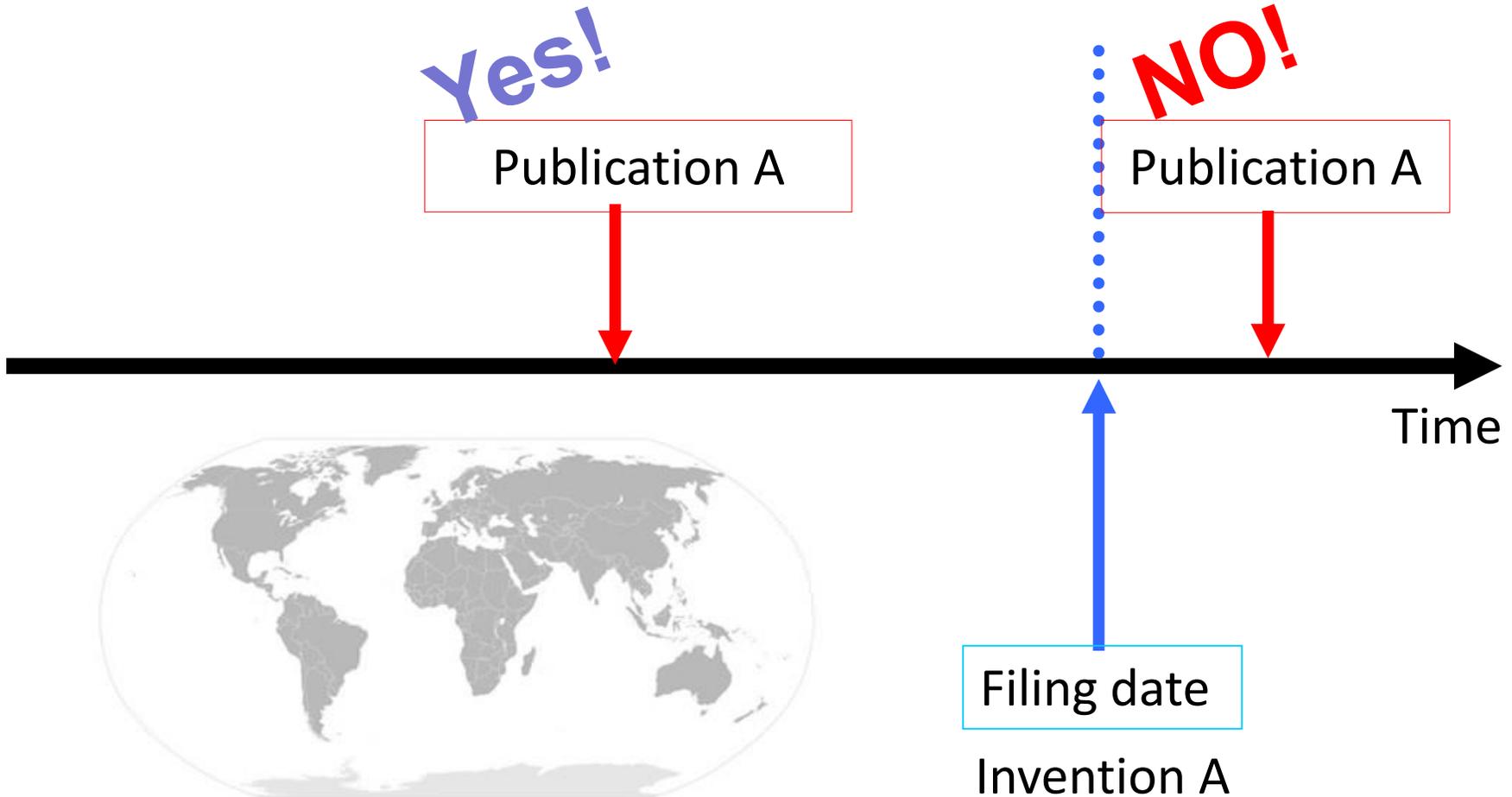
Each claim should be read giving the words the ordinary meaning and scope which would be attributed to them by a person skilled in the art, unless in particular cases the description gives the words a special meaning, by explicit definition or otherwise.

II. Procedure of Determining Novelty



PCT

(ii) Determine if a document under consideration forms part of the “prior art”



II. Procedure of Determining Novelty

PCT

Described in a distributed publication
or
Publicly available through electric telecommunication lines

Example:
Patent gazette,
Research paper,
Article, Book,
Internet

Determination is made on the basis of “the matters described in a publication.”

JP

Publicly known

Example:
Broadcasting on TV,
Conference presentation

Determination is made on the basis of facts.

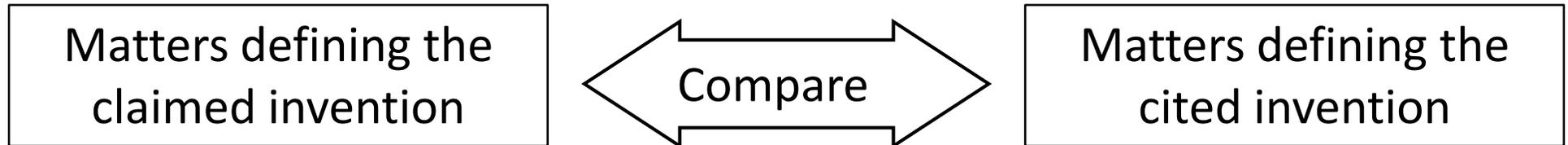
Publicly worked

Example:
Being sold in stores



PCT

(iii) Assessment

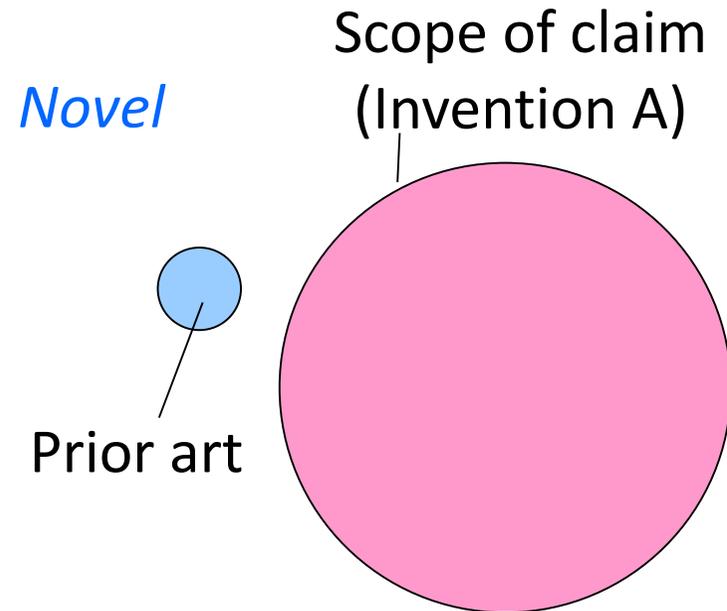
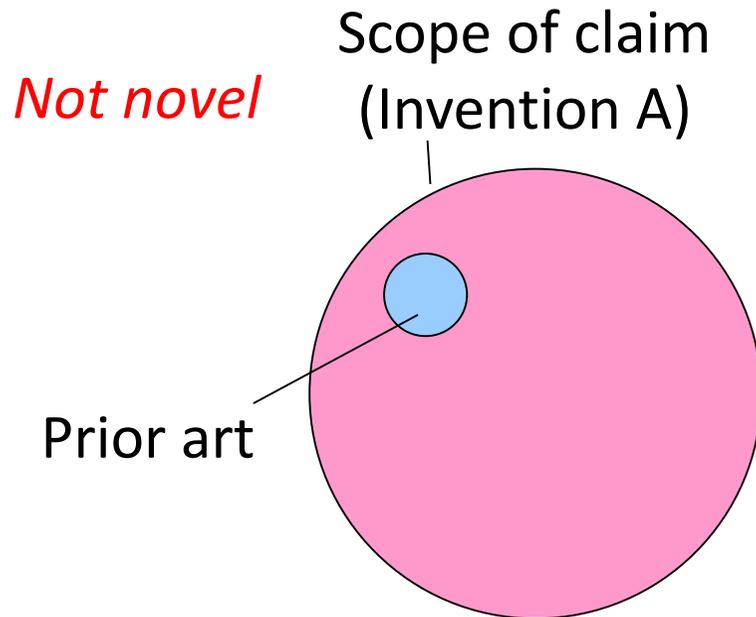


Determining the identicalness and the difference



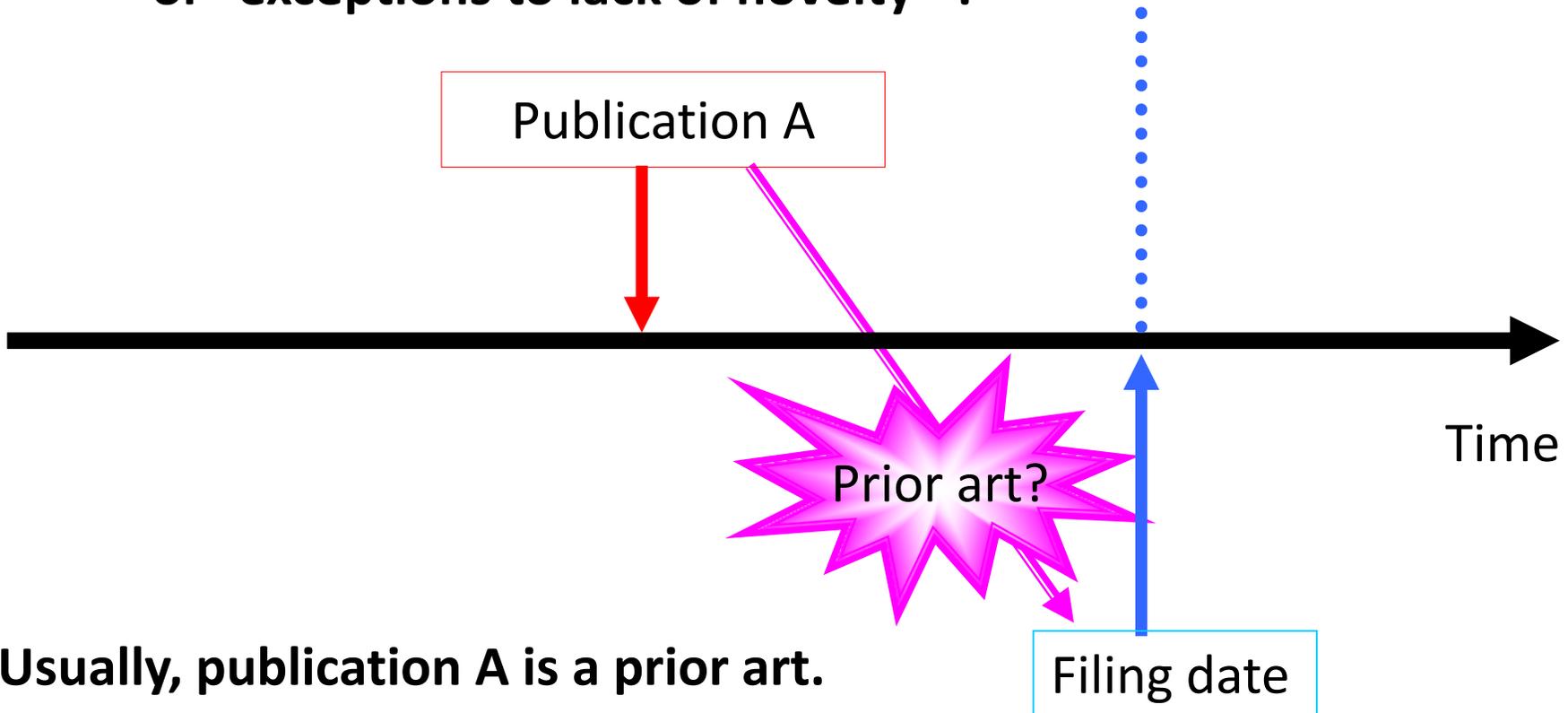
If there is a difference, the claimed invention is novel.

Is the claimed invention A novel or not ?



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What is “non-prejudicial disclosure”
or “exceptions to lack of novelty” ?



Usually, publication A is a prior art.

In exceptional cases, however,
publication A **cannot** be a prior art.

Invention A



Exception to lack of novelty of invention (Japanese Patent Act Article 30)

Against the will of or as a result of an act of a person having the right to obtain a patent



Filed by the said person within six months from the date on which the invention first fell under any of the items of Article 29 (1).



Shall be deemed not to have fallen under any of said items.

A declaration at the time of filing is necessary, in case where the invention is opened as a result of an act of the person having the right to obtain a patent.