

Inventive Step

Japan Patent Office

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Welcome to the lecture on “Inventive Step.”

- I. Overview of Inventive Step
- II. Procedure of Evaluating Inventive Step
- III. Examination Guidelines in JPO

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Here is the outline of this lecture.

- 1. Overview of Inventive Step
- 2. Procedure of evaluating Inventive Step
- 3. Examination Guidelines in JPO

I. Overview of Inventive Step

- II. Procedure of evaluating Inventive Step
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First, let's look at the overview of inventive step.

I. Overview of Inventive Step



A claimed invention is considered to involve an inventive step if, having regard to the prior art, it is not obvious to a person skilled in the art. (PCT guidelines 13.01)

Who is “a person skilled in the art”?

A hypothetical person having ordinary skill in the art, who is aware of common general knowledge in the art at the relevant date, and has access to everything in the prior art. (PCT guidelines 13.11)



What is “obvious”?

The claimed invention is obvious if the person skilled in the art on the relevant date would have been motivated or prompted to realize the claimed invention by substituting, combining, or modifying one or more of those items of prior art with a reasonable likelihood of success. (PCT guidelines 13.03, 13.09)

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According to the PCT Guidelines, if the claimed invention is not obvious to a person skilled in the art based on the details of the prior art, the invention is determined to involve an inventive step.

There are three important keywords for determining inventive step: “prior art,” “obviousness,” and “a person skilled in the art.”

Please refer to the text on “Novelty” for a description of what “prior art” is. In this lecture, I will explain the terms “a person skilled in the art” and “obviousness.”

First, let me explain “a person skilled in the art.”

The PCT Guidelines define a person skilled in the art as “a hypothetical person presumed to have average knowledge and ability of the technology related to the invention and to be aware of what was common general knowledge in the art as of the standard date of the claimed invention.”

The term “standard date” as used here refers to the international filing date or priority date of the claimed invention.

The next keyword is “obviousness.” The PCT Guidelines consider an invention to be obvious if a person skilled in the art is motivated or facilitated in producing the claimed invention by substituting, combining, or modifying the prior art.

I will give you a further explanation of the word “obviousness” later.