

- I. Clarity Requirement
- II. Support Requirement**

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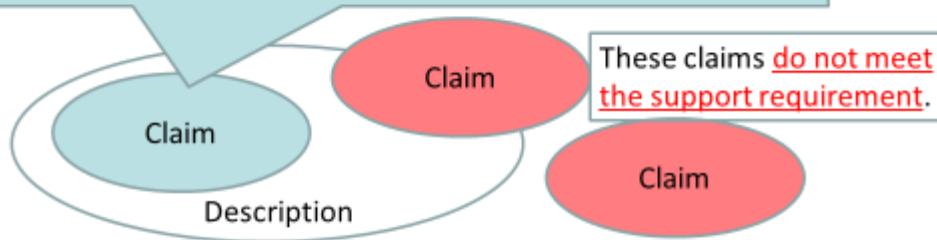
Now, let's look at the support requirement.

II. Support Requirement



A. Basic Rule

The claimed inventions should **not exceed** the scope stated in the description.



To state in a claim an invention that is not stated in the description means to seek a patent protection for an invention which is not disclosed to the public.

	JPO	EPO	USPTO	SIPO	KIPO	PCT
Support Requirement	Art. 36(6)(i)	Art. 84	Art. 112(a) (Specification)	Art. 26	Art. 42(4)1	Art. 6

14

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What is the Support Requirement?

The basic principle of the patent system is to grant an exclusive right for a certain period for the invention that the applicant discloses to the public by means of the patent application.

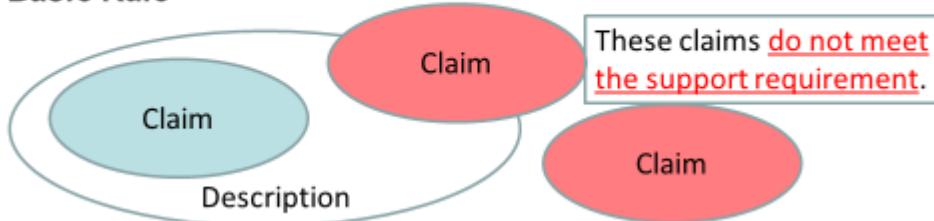
Therefore, an applicant is not allowed to enjoy an exclusive right for a scope that is not disclosed in the description.

That is to say, a claimed invention should not exceed the scope stated in the description. In other words, a claim must be supported by the statement in the description. This is called the “support requirement.”

II. Support Requirement



A. Basic Rule



The examiner examines a substantial correspondence between the claimed invention and the invention stated in the description.

The consideration of the substantial correspondence done by the examiner is to examine whether or not the claimed invention exceeds "the extent of disclosure in the description to which a person skilled in the art would recognize that a problem to be solved by the invention would be actually solved".

15

---(Slide 15)---

How, then, is the support requirement examined?

In JPO practice, examiners look for a substantial correspondence between the claimed invention and the invention stated in the description.

If there is a substantial correspondence, the claim is supported by the description.

In concrete terms, examiners examine whether the claimed invention exceeds “the extent of disclosure in the description to which a person skilled in the art would recognize that a problem to be solved by the invention would actually be solved.”

If the claimed invention exceeds this extent, the claim is not supported.

II. Support Requirement



B. Examples of Lack of Support Requirement

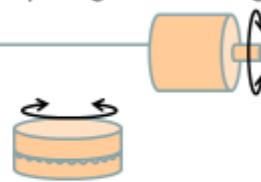
1. The matter neither stated nor implied in the description is stated in the claim.

[Description]

- The inventions using a **DC motor** are stated.
- The description **neither states nor implies** anything about using an **ultrasonic motor**.

[Claim]

..... using an **ultrasonic motor**.



→ The claim is **not supported** by the description.

16

---(Slide 16)---

If an examiner finds that a claim for a patent application does not fulfill the support requirement, the examiner notifies the applicant of that fact.

In which cases should examiners judge that the claim is not supported?

Let's look at four specific examples of violations against the Support Requirement.

The first is a case where a matter that is not stated or implied in the description is stated in the claim.

In the description, an invention using a DC motor is stated.

In the description, the use of an ultrasonic motor is not stated or implied.

On the other hand, the claim recites the use of an ultrasonic motor.

In this case, the claim is not supported by the description.

II. Support Requirement



B. Examples of Lack of Support Requirement

2. The relationship between the claim and the description is unclear.

[Description]

A word processor has means for changing the size of characters and means for changing line spacing.



Inconsistent

[Claim]

A word processor comprising data processing means, and

Relationship between the claim and description is unclear.

→ The claim is not supported by the description.

17

---(Slide 17)---

Let's look at the second example.

This is a case where the relationship between the claim and the description is unclear.

The description states that a word processor has a “means for changing the size of characters” and a “means for changing line spacing.”

On the other hand, the claim states that the word processor has “a data processing means.”

In this case, it is unclear whether the “data processing means” in the claim corresponds to the “means for changing the size of characters” or “means for changing line spacing.”

Like the example explained in this slide, if the terms used in the description and the claim are inconsistent and the correspondence between the claim and description is unclear, it is judged that the claim is not supported by the description.

II. Support Requirement



B. Examples of Lack of Support Requirement

3. The content disclosed in the description can neither be expanded nor generalized to the scope of the claimed invention even in light of the common general knowledge as of the filing date.

◆ Hybrid Car 1/2

[Description]

The description only discloses hybrid cars equipped with a control means to perform “Y-control.”

[Claim]

A hybrid car of which energy efficiency during running on electricity is from A% to B%.

→ The claim is **not supported** by the description.



18

---(Slide 18)---

Let's look at the third example.

This is a case where the details disclosed in the description cannot be expanded or generalized to the scope of the claimed invention.

The description only discloses a hybrid car equipped with a control means to perform Y-control.

In addition, as shown on the right hand side of the slide, the description shows that the energy efficiency of the hybrid car while running with electricity is within A% to B%.

On the other hand, the claim is “a hybrid car of which the energy efficiency during running on electricity is from A% to B%.”

II. Support Requirement

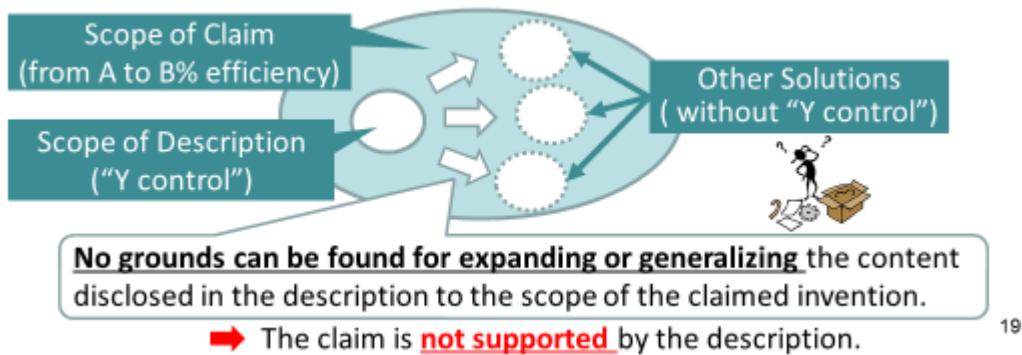


B. Examples of Lack of Support Requirement

3. The content disclosed in the description can neither be expanded nor generalized to the scope of the claimed invention even in light of the common general knowledge as of the filing date.

◆ Hybrid Car 2/2

- It is difficult to realize a high energy efficiency such as from A to B% even in light of the common general knowledge as of the filing date.



---(Slide 19)---

In the description, it is stated that the energy efficiency of A% to B% is realized by Y-control; however, it does not disclose the method of realizing the energy efficiency of A% to B% using a method other than Y-control.

On the other hand, the claim does not recite Y-control and therefore the claimed invention hence covers all hybrid cars that realize an energy efficiency of A% to B%, irrespective of a specific control method.

Meanwhile, it is difficult to realize this high energy efficiency, of A% to B%, according to common general knowledge as of the filing date.

Based on this fact, a person skilled in the art as of the time of filing would not be able to expand or generalize the details disclosed in the description to the scope of the claimed invention even in light of the common general knowledge.

In other words, there are no grounds for said expansion or generalization.

In this case, the claim is not supported by the description.

II. Support Requirement



B. Examples of Lack of Support Requirement

4. As a solution for the problem to be solved by the invention is not reflected in the claim, a patent is being claimed beyond the scope stated in the description.

[Description]

- The problem to be solved by the invention is how to prevent excessive automobile speed.
- Only a mechanism which **aggressively increases force** against stepping on the accelerator pedal as speed increases is disclosed.

[Claim]

A mechanism which **varies force** against stepping on the accelerator pedal as speed increases.

It is evident that **the problem cannot be solved** by the claimed invention.

→ The claim is **not supported** by the description.

20

---(Slide 20)---

Let's look at the fourth example.

This example is a case where the patent is claimed beyond the scope stated in the description because a solution for the problem to be solved by the invention is not reflected in the claim.

In this case, the claim is not supported by the description.

In this example, the description states that the problem to be solved by the invention is to prevent excessive automobile speed.

In the description, only a mechanism to increase force aggressively against stepping on the accelerator pedal as speed increases is disclosed as a means to solve the problem.

On the other hand, the claim recites "a mechanism which varies the force against stepping on the accelerator pedal as speed increases."

The mechanism specified in the claim includes not only the mechanism increasing the force against stepping on the accelerator pedal as speed increases but also the mechanism decreasing the force against stepping on the accelerator pedal as speed increases.

The latter mechanism cannot solve the problem of preventing excessive automobile speed.

In other words, a solution for the problem to be solved by the invention is not reflected in the claim and therefore the patent claim goes beyond the scope indicated in the description.

Therefore, the claim is not supported by the description.