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科 目：共通問題

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In order to prepare a patent application and prosecute application procedure, it is necessary to satisfy some formal and legal requirements before the patent office allows patent for the invention(s) of the relevant application.

Formal requirements are relatively simple. In the United States, a patent application can be filed only with a specification, at least one claim, and if necessary, a drawing(s). A declaration of an inventor, not to speak of an application fee, may be submitted later.

Legal requirements are somewhat more complicated than the formal requirements. Briefly speaking, in order that an invention of a patent application is patented, the invention described in the application must be new, non-obvious and useful. The invention must be different from any part of prior art to be judged as being new, i.e., having "novelty". Although it may be difficult to judge what constitutes prior art, generally, prior art includes products or methods that are embodied based on inventions described in patents or publications issued before the filing of the relevant application, or inventions that have already become available in public before the filing of the relevant application.

Non-obviousness is also called an "inventive step". This means that there must be a significant difference between the invention of the relevant application and the prior art. Whether an invention is non-obvious is usually an issue that is argued most often during patent prosecution.

To satisfy the requirement of being useful, so-called "utility" requirement, is usually not difficult, since this requirement is interpreted very widely.

There are some types of inventions that cannot be patented, i.e., that cannot be a "subject of legal protection". They include natural laws, abstract concepts and mere findings. However, living things can be patented as long as they are an engineered product. Biotechnology and biogenetics have already reached production of clone animals, and if these technologies progress rapidly, serious problems will be likely to arise in the future about appropriateness of intellectual property right on such clone animals.