韓國專利法

2013 年版(Act No. 11690, Mar. 23, 2013)

第 1 條　目的

為鼓勵、保護、利用發明，以增進技術發展並促進產業發展，特制定本法。

Article 1 (Purpose)

The purpose of this Act is to encourage, protect and utilize inventions, thereby promoting the development of technology, and to contribute to the development of industry.

第 2 條　定義

本法所用名詞，定義如下：

1. 所稱「發明」，指利用自然法則、技術思想上具有高度增益之創作；
2. 所稱「專利發明」，指經授予專利之發明；
3. 所稱「實施」，指下述任一行為：
   (a) 在物之發明，對該產品為製造、使用、讓與、出租、進口，或為讓與或出租之要約(包括為讓與或出租之目的而展示；以下亦同)之行為；
   (b) 在方法發明，使用該方法之行為；
   (c) 在製造某物之方法之發明，除前述(b)之行為外，對該方法製成之物為使用、讓與、出租、進口，或為讓與或出租之要約之行為。

Article 2 (Definitions)

The terms used in this Act shall be defined as follows: <Amended by Act No. 5080, Dec. 29, 1995>

1. The term "invention" means the highly advanced creation of technical ideas utilizing laws of nature;
2. The term "patented invention" means an invention for which a patent has been granted;
3. The term "working" means any of the following acts:
   (a) In cases of an invention of a product, acts of manufacturing, using, assigning, leasing, importing, or offering for assigning or leasing (including displaying for the purpose of assignment or lease; hereinafter the same shall apply) the product;
   (b) In cases of an invention of a process, acts of using the process;
   (c) In cases of an invention of a process of manufacturing a product, acts of using, assigning, leasing, importing, or offering for assigning or leasing the

product manufactured by the process, in addition to the acts mentioned in item (b).

第 3 條　未成年人之行為能力

(1) 未成年人、限制行為能力人及無行為能力人，非經其法定代理人之代理，不得提出專利或實體審查之申請或啟動其他專利有關之程序(以下稱為「專利有關程序」)。但該未成年人或限制行為能力人得獨立為法律行為者，不在此限。

(2) 第 1 項所稱之法定代理人，得不經親屬會議之同意，進行由他人啟動之審判或再審程序。

(3) 刪除

Article 3 (Capacity of Minors, etc.)

(1) Minors, quasi-incompetents and incompetents shall not initiate the procedure for filing an application, requesting an examination, or any other patent-related procedure (hereinafter referred to as "patent-related procedure") unless represented by their legal representatives: Provided, That this shall not apply where a minor or a quasi-incompetent may perform a legal act independently.

(2) The legal representative as referred to in paragraph (1) may, without the consent of the family council, act in any trial or retrial procedures initiated by another party. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 5329, Apr. 10, 1997; Act No. 7871, Mar. 3, 2006>

(3) Deleted. <by Act No. 7871, Mar. 3, 2006>

第 4 條　非法人之社團等

經非屬法人之社團或基金會指定為代表人或管理人之人，得以該社團或基金會之名義申請專利申請案之實體審查，或於審判或再審程序中作為原告或被告。

Article 4 (Associations, etc. which are not Juristic Persons)

A representative or an administrator, who has been so designated by an association or a foundation which is not a juristic person, may request the examination of a patent application or appear as a plaintiff or defendant in a trial or a retrial in its association or foundation name. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

第 5 條　非居民之專利管理人

(1) 在韓國無通訊地或營業所之人(以下稱為「非居民」)，除該非居民(其為法人者，指代表人)現旅居於韓國者外，不得啟動專利有關程序，或對於行政機關依據本法或本法之子法所為決定提起救濟；但該非居民就其專利有代理人，且該代理人於韓國境內有通訊地或營業所者，不在此限。(該代理人以下稱為「專利管理人」)。

(2) 專利管理人應在其經授權之範圍內，在與專利有關程序，或對於行政機關依據本法或本法之子法所為決定之救濟程序中，代理為授權之非居民。

(3) 刪除

(4) 刪除

Article 5 (Patent Administrators for Overseas Residents)

(1) A person who has neither an address nor a place of business in the Republic of Korea (hereinafter referred to as "overseas resident") may not, except in cases where an overseas resident (or a representative thereof if a juristic person) is sojourning in the Republic of Korea, initiate any patent-related procedure, nor appeal any decision taken by an administrative agency in accordance with this Act or any order thereunder, unless he/she is represented by an agent with respect to his/her patent, who has an address or a place of business in the Republic of Korea (hereinafter referred to as "patent administrator"). <Amended by Act No. 6411, Feb. 3, 2001>

(2) A patent administrator shall, within the scope of powers conferred on him/her, represent the principal in all procedures relating to a patent and in any appeal against a decision taken by an administrative agency in accordance with this Act or any order thereunder. <Amended by Act No. 6411, Feb. 3, 2001>

(3) and (4) Deleted. <by Act No. 6411, Feb. 3, 2001>

第 6 條　代理權之範圍

在韓國有住所或營業所之人指示代理人向韓國智慧財產局啟動專利相關程序者，此代理人非經明示授權，不得改請、拋棄或撤回專利申請案、撤回延長專利權期間之申請、拋棄專利權、撤回請求或申請、主張或撤回第 55 條第 1 項之優先權主張、提出第 132-3 條之審判之申請，或任命次代理人。

Article 6 (Scope of Authority of Representative)

An agent who is instructed to initiate a patent-related procedure before the Korean Intellectual Property Office by a person who has an address or a place of business in the Republic of Korea shall not, unless expressly so empowered, convert, abandon or withdraw an application for a patent, withdraw an application to register an

extension of the term of a patent right, abandon a patent right, withdraw a petition, withdraw a request, make or withdraw a priority claim under Article 55 (1), request a trial under Article 132-3, or appoint a sub-agent. <Amended by Act No. 4594, Dec. 10, 1993; Act No. 4892, Jan. 5, 1995; Act No. 5576, Sep. 23, 1998; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

第 7 條　代理權之證明

代理人(包括專利管理人；以下亦同)於韓國智慧財產局進行專利相關程序者，應提出代理權之書面證明。

Article 7 (Proof of Authority of Representative)

An agent (including a patent administrator; hereinafter the same shall apply) of a person who is initiating a patent-related procedure before the Korean Intellectual Property Office shall present written proof of his/her authority of representative. <Amended by Act No. 6411, Feb. 3, 2001>

第 7-2 條　無行為能力人等之追認

專利相關程序由無行為能力、欠缺代理權或必要之授權之人啟動者，如經本人獲得行為能力後追認，溯及行為作成時生效。

Article 7-2 (Ratification of Acts of Persons Lacking Capacity, etc.)

Patent-related procedures, initiated by a person who lacks capacity, the power of legal representation or the authorization necessary to initiate any such procedures, shall have effect retroactively to the time when such procedures are performed if the procedures are ratified by the principal when he/she has gained capacity to proceed.

第 8 條　代理權之不消滅

經授予代理權以啟動專利相關程序者，代理權不因本人身故或喪失行為能力、法人因合併而消滅、本人信託責任之終止，或法定代理人之身故、喪失行為能力、代理權之變更或消滅而消滅。

Article 8 (Non-extinction of Authority of Representative)

No authority of a representative delegated by a person initiating a patent-related procedure shall be extinguished upon the decease or loss of legal capacity of the principal, the extinction of a juristic person of the principal due to a merger, the termination of the duty of trust of the principal, the decease or loss of legal capacity

of the legal representative, or the modification or extinction of his/her authority of representative.

第 9 條　代理之獨立性

啟動專利相關程序之人指定兩人以上之代理人者，各代理人可在韓國智慧財產局或智慧財產法庭前獨立代理該本人。

Article 9 (Independence of Representation)

Where two or more representatives of a person initiating a patent-related procedure have been designated, each of them shall independently represent the principal before the Korean Intellectual Property Office or the Intellectual Property Tribunal. <Amended by Act No. 4892, Jan. 5, 1995>

第 10 條　代理人之更換

(1) 韓國智慧財產局局長或承審行政法官認為啟動專利相關程序之人，對於順利進行該程序或作成口頭陳述等事項並不適任時，得命其任命代理人以進行該程序。

(2) 韓國智慧財產局局長或承審行政法官認為啟動專利相關程序之代理人，對於順利進行該程序或作成口頭陳述等事項並不適任時，得命變更代理人。

(3) 在前述兩項情況，韓國智慧財產局局長或承審行政法官得命委任專利師以進行該程序。

(4) 韓國智慧財產局局長或承審行政法官作成前述第1項或第2項之命令後，對於第1項之人在委任代理人之前，或第2項之代理人經變更之前，在韓國智慧財產局或專利法庭前所為之行為，得認為無效。

Article 10 (Replacement of Representative, etc.)

(1) When the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge considers that a person initiating a patent-related procedure is not qualified to conduct such procedure without difficulties or make oral statements, etc., he/she may order the appointment of an representative to conduct the procedure. <Amended by Act No. 6411, Feb. 3, 2001>

(2) When the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge considers that the representative of a person initiating a patent-related procedure is not qualified to conduct such procedure without difficulties or make oral statements, etc., he/she may order the replacement of the representative. <Amended by Act No. 6411, Feb. 3, 2001>

(3) The Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge may order the appointment of a patent attorney to conduct the procedure, in cases referred to in paragraph (1) or (2).

(4) The Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge may invalidate any action taken before the Korean Intellectual Property Office or the Intellectual Property Tribunal by the person initiating the patent-related procedure referred to in paragraph (1) or by the representative referred to in paragraph (2) prior to the appointment or replacement of the representative under paragraph (1) or (2), respectively, after the issuance of an order under paragraph (1) or (2). <Amended by Act No. 4892, Jan. 5, 1995>

第 11 條　複數當事人之代表

(1) 兩人以上共同啟動專利相關程序者，除下述各款所列事項外，個別當事人可代表全體行為人為之。但當事人間已擇定共同代表人並通知韓國智慧財產局或智慧財產法庭者，不在此限。

1. 改請、放棄或撤回專利申請案，或撤回延長專利權期間之申請；
2. 撤回請求、主張或撤回第55條第1項之優先權主張；
3. 撤回申請；
4. 提出第132-3條之審判之請求；

(2) 依第1項規定擇定共同代表人並經踐行通知程序者，應出具委任該代表人之書面證明。

Article 11 (Representation of Two or More Persons)

(1) Where two or more persons jointly initiate a patent-related procedure, each of them shall represent the joint initiators except for actions falling under any of the following subparagraphs: Provided, That this shall not apply where those persons have appointed a common representative and have notified the Korean Intellectual Property Office or the Intellectual Property Tribunal thereof: <Amended by Act No. 4892, Jan. 5, 1995; Act No. 5576, Sep. 23, 1998; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

1. Conversion, abandonment or withdrawal of a patent application or withdrawal of an application to register an extension of term of a patent right;
2. Withdrawal of a petition, claim or withdrawal of a priority claim under Article 55 (1);
3. Withdrawal of a request;
4. Request for a trial under Article 132-3.

(2) Where the common representative has been appointed and notified under the proviso to paragraph (1), written proof indicating that the representative has been appointed shall be presented.

第 12 條　民事訴訟法之準用

如本法另有規定者外，民事訴訟法第1篇第2章第4節之規定，應準用於本法之代理人。

Article 12 (Mutatis Mutandis Application of the Civil Procedure Act)

Except as specially provided for in this Act, the provisions of Section 4 of Chapter II of Part I of the Civil Procedure Act shall apply mutatis mutandis to representatives under this Act. <Amended by Act No. 7871, Mar. 3, 2006>

第 13 條　非居民之管轄

如非居民就其專利權或其它與專利有關之權利已委任專利管理人，專利管理人之住所或營業所應視為該非居民之住所與營業所。其無委任專利管理人者，韓國智慧財產局所在地應視為民事訴訟法第11條之財產所在地。

Article 13 (Venue of Overseas Residents)

If an overseas resident has appointed a patent administrator with respect to his/her patent right or other rights relating to a patent, the domicile or place of business of the patent administrator shall be deemed that of the overseas resident. Where there is no such patent administrator, the location of the Korean Intellectual Property Office shall be deemed the seat of property under Article 11 of the Civil Procedure Act. <Amended by Act No. 6626, Jan. 26, 2002; Act No. 7871, Mar. 3, 2006>

第 14 條　期間之計算

本法或本法之子法所定期間，計算如下：

1. 首日不算入，但期間自午夜起算者不在此限；
2. 以月或年表示之期間，應依日曆計算；
3. 期間之起點非為月或年之首日者，此期間應計算至該期間末月或末年相對應於該日之前一日屆滿，但期間以月或年表示而末月無對應之日者，應計算至該月末日屆滿。
4. 如應踐行專利相關程序之期間之末日為假日(包括勞動節指定法所指定之勞動節，以及星期六)，該期間應計算至該假日後之工作日屆滿。

Article 14 (Calculation of Periods)

The periods provided for in this Act or any orders thereunder shall be calculated as

follows: <Amended by Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

1. The first day of the period shall not be counted: Provided, That this shall not apply to cases where the period starts at midnight;
2. When the period is expressed in months or years, it shall be counted according to the calendar;
3. When the start of the period does not coincide with the beginning of a month or year, the period shall expire on the day preceding the date in the last month or year of the period corresponding to the date on which the period started: Provided, That where a month or year is used and there is no corresponding day in the last month, the period shall expire on the last day of that month;
4. If the last day of the period for executing a patent-related procedure falls on an official holiday (including the Workers' Day designated by the Designation of Workers' Day Act and Saturdays), the said period shall expire on the working day following such holiday.

第 15 條　期間之延展等

(1) 韓國智慧財產局局長或智慧財產法庭主席可依申請或依職權，將申請第132-3條審判之期間延展1次，至多30日。但申請人居於交通不便之地區者，可額外延展該申請之次數及期間。

(2) 韓國智慧財產局局長、智慧財產法庭主席、承審行政專利法官或審查人員就依本法所為之專利相關程序指定期間者，其可依申請延展或縮減此期間，或依職權延展之。此時，前揭韓國智慧財產局局長等人就期間為延展或縮減時，應使相關程序中利害關係人之利益不致遭受不正當之損害。

(3) 承審行政專利法官或審查人員對於依本法所為之專利相關程序，指定啟動該程序之日期者，可依申請或職權變更該日期。

Article 15 (Extension, etc. of Periods)

(1) The Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal may, upon request or ex officio, extend the period of request for trial referred to in Article 132-3 only once up to 30 days: Provided, That he/she may additionally extend the number and period of such request for the benefit of a person residing in an area with poor transportation. <Amended by Act No. 9381, Jan. 30, 2009>

(2) When the Commissioner of the Korean Intellectual Property Office, the President of the Intellectual Property Tribunal, a presiding administrative patent judge or an examiner has designated a period for a patent-related procedure under this Act, he/she may extend or reduce such period upon request or may

extend such period ex officio. In such cases, the Commissioner of the Korean Intellectual Property Office, etc. shall decide to extend or reduce such period so that any interest of an interested person for the relevant procedure is unduly violated. <Amended by Act No. 8197, Jan. 3, 2007>

(3) When a presiding administrative patent judge or an examiner has designated a date for initiating a patent-related procedure under this Act, he/she may change the date upon request or ex officio.

第 16 條　程序之無效

(1) 經命依第46條為補正之人，未於指定期間內為補正者，韓國智慧財產局局長或智慧財產法庭主席可使該專利相關程序歸於無效；未依第82條第2項規定繳納申請審查費用，經命補正而未於指定期間為補正者，韓國智慧財產局局長或智慧財產法庭主席得使該對專利申請案說明書之修正為歸於無效。

(2) 專利相關程序經依第1項歸於無效者，如經命補正之人未於指定期間內補正經認定係出於不可歸責於其之事由，韓國智慧財產局局長或智慧財產法庭主席得依經命為補正之人之申請，於前述相關原因消滅起2個月內，撤銷該歸於無效之決定；但自指定期間屆滿已經過一年者，不得為之。

(3) 韓國智慧財產局局長或智慧財產法庭主席經依第1項規定作成歸於無效之決定，或依第2項規定撤銷該決定者，應將此決定或撤銷決定通知經命為補正之人。

Article 16 (Invalidation of Procedure)

(1) When a person who has been ordered to make an amendment in accordance with Article 46 fails to do so within the designated period, the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal may invalidate the patent-related procedure: where a person who has been ordered to make an amendment for not paying the fees for a request for examination under Article 82 (2) fails to pay the said fees within the designated period, the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal may invalidate the amendment to the specification attached to the patent application.

(2) When a patent-related procedure has been invalidated under paragraph (1), if it is deemed that the failure to make an amendment within the designated period has been made due to a cause not imputable to the person who has been ordered to do so, the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal may revoke the disposition of invalidation, at the request of the person ordered to make the amendment, within two months from the date on which the relevant cause ceases to exist:

Provided, That the foregoing shall not apply where one year has elapsed since the designated period expired. <Amended by Act No. 11654, Mar. 22, 2013>

(3) When the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal takes a disposition of invalidation under the main sentence of and proviso to paragraph (1) or revokes a disposition of invalidation under the main sentence of paragraph (2), he/she shall send a notification of such measure to a person who has been ordered to make an amendment. <Newly Inserted by Act No. 8197, Jan. 3, 2007>

第 17 條　程序之接續完成

進行專利相關程序之人，因不可歸責於其之事由，未於期間內提起第132-3條審判之申請或第180條第1項再審之申請者，得於該事由消滅後14天內接續完成該程序；但自期間屆滿已經過一年者，不得為之。

Article 17 (Subsequent Completion of Procedure)

If a person who initiated a patent-related procedure has failed to comply with the period for requesting a trial under Article 132-3 or the period for demanding a retrial under Article 180 (1) due to a cause not imputable to the person, he/she may subsequently complete the procedure that he/she failed to conduct within 14 days after the said reason ceases to exist: Provided, That this shall not apply where one year has elapsed after the said period expires. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 5576, Sep. 23, 1998; Act No. 6411, Feb. 3, 2001>

第 18 條　程序效果之繼受

與專利或其他專利相關權利有關之程序，其效力及於權利之繼受人。

Article 18 (Succession of Procedural Effects)

The effects of a procedure taken in relation to a patent or other rights relating to a patent shall extend to the successor in title.

第 19 條　程序之續行

專利權或其他專利相關權利經移轉時，專利相關程序尚在韓國智慧財產局或智慧財產法庭進行中者，韓國智慧財產局局長或承審行政專利法官得命權利之繼受人續行該專利相關程序。

Article 19 (Continuation of Procedure)

Where a patent right or other rights relating to a patent is transferred while a patent-related procedure is pending in the Korean Intellectual Property Office or the

Intellectual Property Tribunal, the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge may require the successor in title to continue the patent-related procedure. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb. 3, 2001>

第 20 條　程序之中斷

專利相關程序在韓國智慧財產局或智慧財產法庭進行中，而有下列情事之一者，應予中斷，但有代理人經授權得進行該程序者，不在此限：

1. 當事人死亡；
2. 當事人為法人而因合併而消滅；
3. 當事人喪失進行該程序之能力；
4. 當事人之法定代理人死亡或喪失其代理權；
5. 經當事人信託之人，其權限經終止；
6. 第11條第1項但書之共同代表人死亡或喪失資格；
7. 在破產等程序中，具備一定資格而以自己名義代表當事人之受託人，喪失資格或死亡。

Article 20 (Interruption of Procedure)

If any patent-related procedure pending in the Korean Intellectual Property Office or the Intellectual Property Tribunal falls under any of the following subparagraphs, it shall be interrupted: Provided, That this shall not apply where there is a representative authorized to conduct the procedure: <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

1. When the party involved is deceased;
2. When the juristic person involved ceases to exist by merger;
3. When the party involved loses the ability to conduct the procedure;
4. When the legal representative of the party involved is deceased or loses his/her authority;
5. When the commission of a trustee given by the trust of the party involved terminates;
6. When the representative as provided for in the proviso to Article 11 (1) is deceased or loses his/her qualification;
7. When the trustee in bankruptcy, etc. who acted on behalf of the party involved in his/her own name under a certain qualification loses his/her qualification or is deceased.

第 21 條　中斷程序之恢復

在韓國智慧財產局或智慧財產法庭進行中之程序，經依第20條中斷者，下列各款所定之人，應恢復該程序：

1. 程序因第20條第1款事由而中斷者，死亡者之繼承人、遺產管理人，或任何依他法有權進行程序之人；但死亡者之繼承人，其繼承權經拋棄繼承後，不得恢復程序；
2. 程序因第20條第2款事由而中斷者，合併後新設或存續之法人；
3. 程序因第20條第3款或第4款事由而中斷者，踐行必要程序之能力已恢復之人，或成為其法定代理人之人；
4. 程序因第20條第5款事由而中斷者，新任受託人；
5. 程序因第20條第6款事由而中斷者，新任共同代表人或各當事人；
6. 程序因第20條第7款事由而中斷者，破產等程序中具有相同資格之新任受託人。

Article 21 (Resumption of Interrupted Procedure)

When a procedure pending in the Korean Intellectual Property Office or the Intellectual Property Tribunal has been interrupted pursuant to Article 20, any person who falls under any of the following subparagraphs shall resume the procedure: <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

1. In cases of subparagraph 1 of Article 20, the deceased person's successor, administrator of inheritance, or any other person authorized to pursue the procedure under other Acts: Provided, That the deceased person's successor may not resume the procedure until his/her right to succession is subject to renunciation;
2. In cases of subparagraph 2 of Article 20, the juristic person established by a merger or survived a merger;
3. In cases of subparagraphs 3 and 4 of Article 20, the party whose ability to take necessary procedure has been restored or any person who becomes the legal representative of the party;
4. In cases of subparagraph 5 of Article 20, a new trustee;
5. In cases of subparagraph 6 of Article 20, a new representative or each party;
6. In cases of subparagraph 7 of Article 20, a new trustee in bankruptcy, etc. holding the same qualification.

第 22 條　恢復之申請

(1) 恢復經依第20條中斷之程序之申請，可由他造當事人提出。

(2) 對於經依第20條中斷之程序有提出恢復之申請者，韓國智慧財產局局長或承審行政專利法官應將此情事通知對造。

(3) 韓國智慧財產局局長或承審行政專利法官，對於恢復經依第20條中斷程序之申請，經依職權審查認事由不備者，應處以不受理之決定。

(4) 韓國智慧財產局局長或承審行政專利法官應依恢復之申請，在審定或審判決定送出後，決定是否准予恢復該中斷之程序。

(5) 第21條所定之人未恢復程序者，韓國智慧財產局局長或承審行政專利法官應依職權指定期間並命於該期間恢復程序。

(6) 程序在依第5款指定之期間內仍未被恢復者，應視為在該期間屆滿之次日已經恢復。

(7) 韓國智慧財產局局長或承審行政專利法官認為程序已經依第6款恢復者，應將該此情事通知當事人。

Article 22 (Request for Resumption)

(1) A request to resume a procedure interrupted under Article 20 may be made by an opposing party.

(2) When a request to resume a procedure interrupted under Article 20 is made, the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge shall notify the opposite party thereof.

(3) If the Commissioner of the Korean Intellectual Property Office or the administrative patent judge deems that no grounds exist to accept a request to resume the procedure interrupted under Article 20, after examining the request ex officio, he/she shall dismiss the request by decision. <Amended by Act No. 4892, Jan. 5, 1995>

(4) The Commissioner of the Korean Intellectual Property Office or the administrative patent judge shall decide, upon request to resume, whether to permit resumption of the interrupted procedure after a certified copy of the decision or trial decision was sent. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb. 3, 2001>

(5) If a person referred to in Article 21 fails to resume the interrupted procedure, the Commissioner of the Korean Intellectual Property Office or the administrative patent judge shall, ex officio, designate a period and order to resume such procedure within the period. <Amended by Act No. 4892, Jan. 5, 1995>

(6) If the procedure has not been resumed within the designated period provided for in paragraph (5), it is considered that the procedure has been resumed on the day following the expiration of such designated period.

(7) If the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge deems that the procedure has been resumed in

accordance with paragraph (6), he/she shall notify the parties involved thereof.

第 23 條　程序之中止

(1) 如韓國智慧財產局局長或承審行政專利法官因天災或其它正當理由無法執行其職務者，在韓國智慧財產局或智慧財產法庭進行中之程序應中止至該障礙消滅為止。

(2) 在韓國智慧財產局或智慧財產法庭進行中之程序，如當事人因阻礙，在不確定期間內無法進行程序，韓國智慧財產局局長或承審行政專利法官得以決定命程序中止。

(3) 韓國智慧財產局局長或承審行政專利法官得撤銷依第2項所為之決定。

(4) 程序經依第1項及第2項中止者，或一決定經依第3項撤銷者，韓國智慧財產局局長或承審行政專利法官應將此情事通知當事人。

Article 23 (Suspension of Procedure)

(1) If the Commissioner of the Korean Intellectual Property Office or the administrative patent judge is unable to carry out his/her duties due to a natural disaster or other extenuating circumstances, the procedure pending in the Korean Intellectual Property Office or the Intellectual Property Tribunal shall be suspended until such impediments cease to exist. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb. 3, 2001>

(2) If a party involved is unable to pursue a procedure pending in the Korean Intellectual Property Office or the Intellectual Property Tribunal on account of impediments of indefinite duration, the Commissioner of the Korean Intellectual Property Office or the administrative patent judge may order its suspension by decision. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb. 3, 2001>

(3) The Commissioner of the Korean Intellectual Property Office or the administrative patent judge may cancel the decision issued under paragraph (2). <Amended by Act No. 4892, Jan. 5, 1995>

(4) If a procedure is suspended under paragraphs (1) and (2), or a decision is canceled under paragraph (3), the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge shall notify the parties involved thereof. <Amended by Act No. 6411, Feb. 3, 2001>

第 24 條　程序中斷或中止之效果

專利相關程序在韓國智慧財產局或智慧財產法庭進行中，而經中斷或中止者，期間應暫停進行，全部期間應自有續行、恢復或進行該程序之通知時，重為進行。

Article 24 (Effects of Interruption or Suspension)

The interruption or suspension of a patent-related procedure pending in the Korean Intellectual Property Office or the Intellectual Property Tribunal shall suspend the running of a term and the entire term shall start to run again from the time of the notification of the continuation or resumption or pursuit of the procedure. <Amended by Act No. 4594, Dec. 10, 1993>

第 25 條　外國人之能力

在韓國無通訊地或營業所之外國人，除有下列各款情形之一者，不得享有專利權或其他專利相關權利：

1. 該外國人之母國允許韓國之國民以同於其自己國民之條件享有專利權或其他專利相關權利；
2. 在韓國允許該外國國民享有專利權或其他專利相關權利之情況下，該外國人之母國允許韓國國民以同於其自己國民之條件享有專利權或其他專利相關權利；
3. 該外國人基於條約或相當於條約之依據(以下稱為「條約」)得享有專利權或其他專利相關權利。

Article 25 (Capacity of Foreigners)

Foreigners who have neither an address nor a place of business in the Republic of Korea shall not enjoy patent rights or other rights relating to a patent, except as provided for in any of the following subparagraphs:

1. Where their countries allow nationals of the Republic of Korea to enjoy patent rights or other rights relating to a patent under the same conditions as their own nationals;
2. Where their countries allow nationals of the Republic of Korea to enjoy patent rights or other rights relating to a patent under the same conditions as their own nationals in cases where the Republic of Korea allows their countries' nationals to enjoy patent rights or other rights relating to a patent;
3. Where they may enjoy patent rights or other rights relating to a patent according to a treaty or equivalents to a treaty (hereinafter referred to as "treaty").

第 26 條　刪除

<by Act No. 11117, Dec. 2, 2011>

第 27 條　刪除

<by Act No. 6411, Feb. 3, 2001>

第 28 條　文件提交之生效日

(1) 依據本法或本法之子法向韓國智慧財產局或智慧財產法庭提交書面申請書、書面申請或其他文件(包括物品，以下亦同)，應於送達韓國智慧財產局或智慧財產法庭之日生效。

(2) 第1項之書面申請書、書面申請或其他文件以郵件提交給韓國智慧財產局或智慧財產法庭者，如其郵戳清楚，應視為在郵戳日期送達韓國智慧財產局或智慧財產法庭。如其郵戳不清楚，經以收據證明者，以送交郵局之日視為送達韓國智慧財產局或智慧財產法庭；但此不適用於下二以郵件提交者：申請登記專利權或其他專利相關權利之書面申請書，以及專利合作條約第2條第7項所規定國際申請案(以下稱為「國際申請案」)相關文件。

(3) 刪除

(4) 提交文書而遲延、郵寄丟失，或郵務服務中斷之相關事項，除第1項及第2項已有規定者外，應以產業通商資源部令規定。

Article 28 (Effective Date of Submission of Documents)

(1) Written applications, written requests or other documents (including articles; hereafter the same shall apply in this Article) submitted to the Korean Intellectual Property Office or the Intellectual Property Tribunal under this Act or any order thereunder, shall be effective as of the date on which they are delivered to the Korean Intellectual Property Office or the Intellectual Property Tribunal. <Amended by Act No. 4892, Jan. 5, 1995>

(2) Where written applications, written requests or other documents under paragraph (1) are submitted by mail to the Korean Intellectual Property Office or the Intellectual Property Tribunal, they are deemed to be delivered to the Korean Intellectual Property Office or the Intellectual Property Tribunal on the date as stamped by the mail service if the stamped date is clear; however, if such stamped date is unclear they are deemed to be delivered on the date when the mail was submitted to a post office, which is proven by a receipt therefor: Provided, That this shall not apply where written applications for requesting registration of a patent right and other rights related thereto, and documents concerning an international application under Article 2 (vii) of the Patent Cooperation Treaty (hereinafter referred to as "international application") are submitted by mail. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 5576, Sep. 23, 1998; Act No. 7871, Mar. 3, 2006>

(3) Deleted. <by Act No. 5576, Sep. 23, 1998>

(4) Matters concerning the submission of documents with regard to the delay of mail, loss of mail, or interruption of the mail service, other than those provided for in paragraphs (1) and (2), shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 5576, Sep. 23, 1998; Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 28-2 條　輸入認證碼

(1) 依據產業通商資源部令屬於啟動專利相關程序之人者(不包括已根據第2項或第3項取得認證碼之人)，應向韓國智慧財產局或智慧財產法庭申請認證碼。

(2) 對於根據第1項提出申請之人，韓國智慧財產局局長或智慧財產法庭主席應授予認證碼，並通知之。

(3) 依第1項為啟動專利程序之人未申請認證碼時，韓國智慧財產局局長或智慧財產法庭主席應依職權授予認證碼，並通知之。

(4) 經依第2項或第3項授予認證碼之人，啟動專利相關程序時，在產業通商資源部令所規定之任何文件上，皆應記入其認證碼。在此種情況下，即令有本法或本法之子法之規定，在該文件上得省略住所(或法人之營業所)。

(5) 第1項至第4項應準用於啟動專利相關程序者之代理人。

(6) 認證碼之申請、授予、通知及其他必要事項，應以產業通商資源部令規定。

Article 28-2 (Entry of Identification Number)

(1) A person prescribed by Ordinance of the Ministry of Trade, Industry and Energy, among persons who initiate patent-related procedures (excluding any person to whom an identification number has already been granted under paragraph (2) or (3)), shall apply for identification number to the Korean Intellectual Property Office or the Intellectual Property Tribunal. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(2) Where any person files an application under paragraph (1), the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal shall grant an identification number and notify him/her thereof.

(3) Where a person who initiates a patent-related procedure under paragraph (1) fails to apply for identification number, the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal shall, ex officio, grant an identification number and notify him/her thereof.

(4) If a person to whom an identification number has been granted under paragraph (2) or (3) initiates a patent-related procedure, he/she shall enter

his/her identification number in any document prescribed by Ordinance of the Ministry of Trade, Industry and Energy. In such cases, notwithstanding the provisions of this Act or any order thereunder, a domicile (a place of business if a juristic person) may be omitted in the said document. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(5) Paragraphs (1) through (4) shall apply mutatis mutandis to a representative of a person who initiates a patent-related procedure.

(6) An application for identification number, the grant and notification thereof, and other necessary matters therefor shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 28-3 條　以電子文件提出專利申請案之程序

(1) 啟動專利相關程序之人，可依循產業通商資源部令所規定之方法，將其依據本法將向韓國智慧財產局局長或智慧財產法庭主席提出之專利申請書及其他文件，轉為電子文件，並可以藉由任何資通訊網路或電子貯存媒介–如軟式磁碟片或光碟來提供。

(2) 依第1項規定提出之電子文件，應與本法下其他經提出之文件具相同效力。

(3) 提出文件之人經由資通訊網路確認收執號碼時，依據第1項所稱資通訊網路提出之電子文件，應視為已按照韓國智慧財產局或智慧財產法庭電腦系統內所保存之收執檔案的狀態，完成送達。

(4) 依據第一項規定以電子形式提出之文件，其文件之種類、提出之方法即其他必要事項，應以產業通商資源部令定之。

Article 28-3 (Procedure for Filing Patent Applications by Electronic Documents)

(1) A person who initiates a patent-related procedure may, pursuant to the means prescribed by Ordinance of the Ministry of Trade, Industry and Energy, convert a written application for a patent or other documents to be presented to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal under this Act into electronic documents, and may present them by means of any information and communication networks or any electronic recording medium, such as a floppy disk or an optical disk. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(2) Electronic documents presented under paragraph (1) shall have the same effect as other documents presented under this Act.

(3) When a presenter thereof confirms a receipt number through an information and communication network, such electronic documents presented through an

information and communication network under paragraph (1) shall be deemed to have been received as the details written in a file for receipt saved on a computer system operated by the Korean Intellectual Property Office or the Intellectual Property Tribunal. <Amended by Act No. 6411, Feb. 3, 2001>

(4) The kinds of documents that may be presented by means of electronic documents under paragraph (1) and the means of such presentation or other necessary matters therefor shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 28-4 條　使用電子文件及電子簽章之報告

(1) 有意以電子文件啟動專利相關程序之人，應先向韓國智慧財產局局長或智慧財產法庭主席提出使用電子文件的報告，並附加其電子簽章，以資辨識文件提出者。

(2) 依據第28-3條提出之電子文件，應視為由在其上附加第一項規定之電子簽章之人所提出。

(3) 第一項規定之使用電子文件報告，其程序必要事項，及電子簽章之方法之必要事項，應以產業通商資源部令定之。

Article 28-4 (Report on Use of Electronic Documents and Electronic Signature)

(1) A person who intends to initiate a patent-related procedure by electronic documents shall first report the use thereof to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal, and shall affix his/her electronic signature so that the presenter may be discerned.

(2) Electronic documents presented under Article 28-3 shall be deemed to have been filed by a person who affixes his/her electronic signature under paragraph (1).

(3) Matters necessary for the procedures of report on use of electronic documents and the methods of electronic signature under paragraph (1) shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 28-5 條　經由資通訊網路所為的通知等

(1) 如韓國智慧財產局局長、智慧財產法庭主席、承審行政專利法官、行政專利法官、該案之審查官，或審查官，有意對依據第28-4條第1項規定報告使用電子文件之人，為通知或傳送(以下稱為「通知等」)任何相關文件，可透過

資通訊網路為之。

(2) 第1項所規定透過資通訊網路而為的任何相關文件之通知等，應與以書面通知者，具相同效力。

(3) 第1項規定之任何相關文件之通知等，如經紀錄於收受該通知等之人之電腦系統內的檔案，應視為已按照韓國智慧財產局或智慧財產法庭電腦傳輸系統內檔案所記載之狀態，已為送達。

(4) 依據第1項規定經由資通訊系統而為之通知等，其分類及通知方法之必要事項，應以產業通商資源部令定之。

Article 28-5 (Notification, etc. through Information and Communication Networks)

(1) If the Commissioner of the Korean Intellectual Property Office, the President of the Intellectual Property Tribunal, a presiding administrative patent judge, an administrative patent judge, a presiding examiner, or an examiner intends to give notification and make transmission (hereinafter referred to as a "notification, etc.") of any pertinent documents to a person who reports the use of electronic documents under Article 28-4 (1), he/she may do so through information and communication networks. <Amended by Act No. 6411, Feb. 3, 2001>

(2) The notification, etc. of any pertinent documents given through information and communication networks under paragraph (1) shall have the same effect as that given in writing. <Amended by Act No. 6411, Feb. 3, 2001>

(3) The notification, etc. of any pertinent documents under paragraph (1) shall, if it is written in a file of a computer system operated by a person who receives the said notification, etc., be deemed to reach as the details written in a file of a computer system for transmission operated by the Korean Intellectual Property Office or the Intellectual Property Tribunal. <Amended by Act No. 6411, Feb. 3, 2001>

(4) Matters necessary for the classification and the means of notification, etc. given through information and communication networks under paragraph (1) shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 29 條　專利登記之要件

(1) 具有產業利用性之發明，除有下列各款情事外，可授予專利：

1. 申請前已於韓國或外國為公眾所知或公開實施；
2. 申請前已載於在韓國或外國發行之刊物中，或已為公眾可透過電子通訊線路加以利用。

(2) 發明無第1項各款所列情事，但在申請前，為其所屬技術領域中具有通常知識者，得基於第1項各款所規定之發明輕易完成者，不得授予專利。

(3) 雖無第1項各款所列情事，然若一專利申請案所請發明，與另一專利申請案或新型登記申請，最初提出之說明書或圖式中所載之發明或設備，係為相同，且此另一專利申請案或新型登記申請，係在該專利申請案申請日之前提出，並於該申請日後經准予公眾檢視後為公開，則該專利申請案不應准予專利。但若前述一專利申請案之申請人，與另一專利申請案或新型登記申請之申請人，係為同一或於申請時為同一者，不在此限。

(4) 適用第3項時，如另一專利申請案或新型登記申請有下列各款情事之一者，第3項所稱之「公開」，應解釋為使公眾檢視之公開，或根據專利合作條約第21條而為之國際公開；而「另一專利申請案或新型登記申請，最初提出之說明書或圖式中所載之發明或設備」，在其以韓國語提出時，應解釋為「國際申請日所提出之說明書、申請專利範圍或圖式所載之發明或設備」，在其以外國語言提出時，應解釋為「國際申請日所提出之說明書、申請專利範圍或圖式，或其翻譯本中，所載之發明或設備」：

1. 該另一專利申請案為一國際申請，而依據第199條第1項(包括根據第214條第4項成為專利申請案之國際申請)視為專利申請案。
2. 該另一新型登記申請為一國際申請，而依據新型法第34條第1項(包括依據。該法第40條第4項成為新型登記申請之國際申請)視為新型登記申請。

Article 29 (Requirements for Patent Registration)

(1) An invention having industrial applicability may be patentable unless it falls under either of the following subparagraphs: <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 11654, Mar. 22, 2013>

1. Any invention publicly known or worked in the Republic of Korea or in a foreign country prior to the filing of the patent application;
2. Any invention that has been carried in a publication distributed in the Republic of Korea or in a foreign country prior to the filing of the patent application or any invention that has been made utilizable by the public through telecommunication lines.

(2) Notwithstanding paragraph (1), where an invention could easily be made prior to the filing of the patent application by a person having ordinary skill in the art to which the invention pertains, on the basis of an invention referred to in any subparagraph of paragraph (1), no patent shall be granted for such invention. <Amended by Act No. 6411, Feb. 3, 2001>

(3) Notwithstanding paragraph (1), no patent shall be granted where the invention for which a patent application is filed is identical to an invention or device described in the specification or drawings initially attached to another patent application or a utility model registration application which is made prior to the

date of filing the said patent application and laid open or published after grant for public inspection after the filing of the said patent application: Provided, That this shall not apply where an inventor of the relevant patent application and an inventor of another patent or utility model application are the same person or where an applicant of the patent application and an applicant of another patent or utility model application are the same person as at the time of filing. <Amended by Act No. 4594, Dec. 10, 1993; Act No. 5329, Apr. 10, 1997; Act No. 5576, Sep. 23, 1998; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

(4) In applying paragraph (3), where another patent application or a utility model registration application falls under any of the following subparagraphs, "laid open" in paragraph (3) shall be construed as "laid open for public inspection or internationally published pursuant to Article 21 of the Patent Cooperation Treaty", and "invention or device described in the specification or drawings initially attached to another patent application or a utility model registration application" shall be construed as "invention or device described in the specification, claims or drawings submitted on the international filing date" if it is applied for in the Korean language, and shall be construed as an "invention or device described in the specification, claims or drawings submitted on the international filing date and the translated version of the said documents" if it is applied for in a foreign language: <Amended by Act No. 9381, Jan. 30, 2009>

1. Where another patent application is an international application which is deemed a patent application pursuant to Article 199 (1) (including an international application which becomes a patent application pursuant to Article 214 (4));
2. Where a utility model registration application is an international application which is deemed a utility model registration application pursuant to Article 34 (1) of the Utility Model Act (including an international application which becomes a utility model registration application pursuant to Article 40 (4) of the same Act).

第 30 條　並未視為已公開等之發明

(1) 適用第29條第1項及第2項於一專利申請案所請發明時，如該可准專利之發明有下述各款所列情事，且係於各該相關日期起12個月內提出專利申請案，則不應認為其有第29條第1項所列情事：

1. 該發明具有第29條第1項所列情事，係由有權獲得專利之人所致；但應排除大韓民國或其他國家依循任何條約或法律將相關專利申請案予以公開，

或將相關發明專利之登記予以公告之情形；

2. 該發明具有第29條第1項所列情事，係違背有權獲得專利之人之意願；
3. 刪除。

(2) 任何有意適用第1項者，應提出適用該效果之專利申請案，並在申請案申請日起30天內向智慧財產局局長提交相關事實之證明文件。

Article 30 (Inventions not Deemed to be Publicly Known, etc.)

(1) If a patentable invention falls under any of the following subparagraphs, in applying Article 29 (1) or (2) to the invention claimed in the patent application, on condition that the patent application therefor is filed within 12 months from the applicable date, the patent shall not be deemed to fall under any subparagraph of Article 29 (1): <Amended by Act No. 4594, Dec. 10, 1993; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 11117, Dec. 2, 2011>
   1. When a person having the right to obtain a patent has caused his/her invention to fall under any subparagraph of Article 29 (1): Provided, That this shall exclude cases where the relevant application is laid open, or the registration of a patent for the relevant invention is published in the Republic of Korea or a foreign country pursuant to any treaty or Act;
   2. When the invention falls under any subparagraph of Article 29 (1) against the intention of the person having the right to obtain a patent;
   3. Deleted. <by Act No. 7871, Mar. 3, 2006>

(2) Any person intending to have paragraph (1) 1 applied shall file a patent application to that effect and then submit a document proving the relevant facts to the Commissioner of the Korean Intellectual Property Office within 30 days from the filing date of the patent application. <Amended by Act No. 7871, Mar. 3, 2006>

第 31 條　刪除

Article 31 Deleted. <by Act No. 7871, Mar. 3, 2006>

第 32 條　不予專利之發明

發明雖無第29條第1項及第2項情事，然遭疑慮為有違背公共秩序或道德，或損害公共健康之風險者，不予專利。

Article 32 (Unpatentable Inventions)

Inventions that are feared to have risks to contravene public order or morality or to injure public health shall not be patentable, notwithstanding Article 29 (1) and (2).

第 33 條　有權獲得專利之人

(1) 任何新發明之創造者或其繼受人，依據本法，應為有權獲得專利之人；但韓國智慧財產局及智慧財產法庭之受雇人，除因繼承或遺贈外，在職期間不得獲得專利。

(2) 兩人以上共同創作一發明者，應共同享有獲得專利之權。

Article 33 (Persons Entitled to Obtain Patent)

(1) Any person who makes a new invention or his/her successor shall be entitled to obtain a patent in accordance with this Act: Provided, That employees of the Korean Intellectual Property Office and the Intellectual Property Tribunal shall not obtain patents while in office, excluding cases of inheritance or bequest. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb. 3, 2001>

(2) If two or more persons jointly make an invention, the right to obtain a patent shall be jointly owned.

第 34 條　由無權利人提出之專利申請案及對適法權利人之保護

一申請案如因為係由第33條第1項本文所稱發明人或繼受取得獲得專利之權者以外之人(以下稱為「無權利人」)所提出，因落入第62條第2項而無法授予專利時，嗣後由適法權利人所提出之申請案，應視為在由無權利人所提出申請案之申請日提出。但如適法權利人之嗣後申請案在無權利人所提出之申請案核駁後超過30天方提出者，不得適用前述規定。

Article 34 (Patent Application Filed by Unentitled Person and Protection of Lawful Holder of Right)

If a patent cannot be granted because an application was filed by a person who is not the inventor or a successor to the right to obtain a patent (hereinafter referred to as "unentitled person") under the main sentence of Article 33 (1) falls under subparagraph 2 of Article 62, a subsequent application filed by a lawful holder of the right shall be deemed to have been filed on the date of filing of the initial application filed by the un entitled person: Provided, That this shall not apply where the subsequent application is filed by the lawful holder of the right more than 30 days after the date on which the application filed by the unentitled person was rejected. <Amended by Act No. 6411, Feb. 3, 2001>

第 35 條　經授予無權利人之專利及對適法權利人之保護

如根據第133條第1項第2款所述第33條第1項主文欠缺權利之事由，而宣告專利無

效之審判決定已終局確定，嗣後由適法權利人所提出之申請案，應視為在無效專利申請案提出之時提出。但如適法權利人之嗣後申請案在前申請案公告日後超過2年或宣告無效之審判決定終局確定後超過30天方提出者，不得適用前述規定。

Article 35 (Patent Granted to Unentitled Person and Protection of Lawful Holder of Right)

If a trial decision invalidating a patent has become final and conclusive due to the lack of entitlement under the main sentence of Article 33 (1) as prescribed in Article 133 (1) 2, a subsequent application filed by the lawful holder of the right shall be deemed to have been filed at the time the invalidated patent application was filed: Provided, That this shall not apply where the subsequent application is filed more than two years after the publication date of the first application or more than 30 days after the decision of invalidation becomes final and conclusive.

第 36 條　先申請原則

(1) 關於同一發明有兩件以上申請案於不同日提出者，僅有具有較早申請日申請案之申請人可獲得該發明之專利。

(2) 關於同一發明有兩件以上申請案於同日提出者，僅有全部申請人協商後協議之人可獲得該發明之專利。如無法達成協議或無法進行協商，所有申請人均不得獲得該發明之專利。

(3) 如一專利申請案與一新型登記申請之申請標的相同，且兩案於不同日申請，第1項規定應予準用；如兩案於同日申請，則第2項應予準用。

(4) 一專利申請案或新型登記申請如經宣告無效、撤回、放棄，或加以核駁之審定或審判決定終局確定，在適用第1項至第3項時，應視為未曾提出。但核駁一專利申請案或新型登記申請之終局確定審定或審判決定，係依據第2項後段(包括依據第3項而加以準用之情形)作成時，不得適用前述規定。

(5) 一專利申請案或新型登記申請如係由發明人、創作人或繼受取得獲得專利或新型登記權利之人以外之人所提出者，在適用第1項至第3項時，應視為未曾提出。

(6) 有第2項情形時，韓國智慧財產局局長應命申請人於指定期間內報告協商結果。如該報告未於指定期間內提交，則應視為申請人未達成第2項所定協議。

Article 36 (First-to-File Rule)

(1) Where two or more applications relating to the same invention are filed on different dates, only the applicant of the application having the earlier filing date may obtain a patent for the invention.

(2) Where two or more applications relating to the same invention are filed on the same date, only the person agreed upon by all the applicants after consultation may obtain a patent for the invention. If no agreement is reached or no

consultation is possible, none of the applicants shall obtain a patent for the invention.

(3) Where a patent application has the same subject matter as a utility model registration application and the applications are filed on different dates, paragraph (1) shall apply mutatis mutandis; whereas if they are filed on the same date, paragraph (2) shall apply mutatis mutandis. <Amended by Act No. 5576, Sep. 23, 1998; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

(4) Where a patent application or utility model registration application is invalidated, withdrawn or abandoned, or a decision or trial decision to reject the application becomes final and conclusive, such application shall, in applying paragraphs (1) through (3), be deemed never to have been filed: Provided, That this shall not apply where a decision or trial decision to reject the patent application or utility model registration application becomes final and conclusive pursuant to the latter part of paragraph (2) (including cases where it applies mutatis mutandis under paragraph (3)). <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

(5) A patent application or utility model registration application filed by a person who is not the inventor, creator, or successor in title to the right to obtain a patent or utility model registration shall, in applying paragraphs (1) through (3), be deemed never to have been filed.

(6) In cases of paragraph (2), the Commissioner of the Korean Intellectual Property Office shall order the applicants to report the results of the consultation within a designated period. If such report is not submitted within the designated period, the applicants shall be deemed not to have reached agreement under paragraph (2).

第 37 條　獲得專利之權之轉讓等

(1) 獲得專利之權可轉讓。

(2) 獲得專利之權不得為質權標的

(3) 獲得專利之權為共有者，一共有人未經所有共有人同意不得讓與其應有部分。

Article 37 (Transfer, etc. of Right to Obtain Patent)

(1) The right to obtain a patent may be transferred.

(2) The right to obtain a patent shall not be the subject of a pledge.

(3) In cases of joint ownership of the right to obtain a patent, a joint owner shall not assign his/her share without the consent of all the joint owners.

第 38 條　獲得專利之權之繼受

(1) 提出專利申請案之前繼受獲得專利之權者，非經由繼受人提出專利申請案，此繼受不得對抗第三人。

(2) 兩件以上專利申請案於同日提出，且係關於相同發明、自同一人處因繼受而得之獲得專利之權，除經全部申請人協議之人外，任何人對獲得專利之權之繼受，皆不生效力。

(3) 第2項亦適用於一專利申請案與一新型登記申請於同日提出，且係關於相同發明及設備、自同一人處因繼受而得之獲得專利及新型登記之權。

(4) 提出專利申請案之後繼受獲得專利之權者，非經提出變更申請人之通知，該繼受不生效力；但繼承或其它概括繼受之情形，不在此限。

(5) 繼承或全部繼受而有獲得專利之權者，應即將此意旨通知韓國智慧財產局局長。

(6) 兩個以上變更申請人之通知於同日提出，且係關於相同發明、自同一人處因繼受而得之獲得專利之權，除經全部通知者協商後協議之人所作成之通知外，任何通知皆不生效力。

(7) 第36條第6項規定應準用於第2項、第3項及第6項所定情形。

Article 38 (Succession to Right to Obtain Patent)

(1) The succession to the right to obtain a patent before the filing of the patent application shall not be effective against third persons unless the successor in title files the patent application.

(2) Where two or more applications for a patent are filed on the same date with respect to the right to obtain a patent for the same invention derived by succession from the same person, the succession to the right to obtain the patent by any person, other than the one agreed upon by all the patent applicants, shall not be effective.

(3) Paragraph (2) shall also apply where a patent application and a utility model registration application are filed on the same date, with respect to the right to obtain a patent and utility model registration for the same invention and device which has been derived by succession from the same person.

(4) Succession to the right to obtain a patent after the filing of the patent application shall not be effective unless a notice of change of applicant is filed, except in cases of inheritance or other general succession. <Amended by Act No. 6411, Feb. 3, 2001>

(5) Upon inheritance or other general succession with respect to the right to obtain a patent, the successor in title shall notify the Commissioner of the Korean Intellectual Property Office of such purport without delay.

(6) Where two or more notifications of change of applicant are made on the same

date, with respect to the right to obtain a patent for the same invention that has been derived by succession from the same person, a notification made by any person, other than the one agreed upon after consultations among all the persons who made notifications, shall not be effective. <Amended by Act No. 6411, Feb. 3, 2001>

(7) Article 36 (6) shall apply mutatis mutandis to cases under paragraphs (2), (3) and (6). <Amended by Act No. 4594, Dec. 10, 1993>

第 39 條　刪除

Articles 39 and 40 Deleted. <by Act No. 7869, Mar. 3, 2006>

第 40 條　刪除

第 41 條　國防所必要之發明等

(1) 如為國防之必要，政府可命一發明人、申請人或代理人不向相關外國專利局提出專利申請案，或將該發明保持為秘密。但前述人等如經政府許可，可向外國專利局提出申請案。

(2) 如一向韓國智慧財產局提出之發明經認為為國防所必要，政府得拒絕授予專利，並得為國防之理由，如戰時、暴動或其它類似緊急狀況，沒入該發明之獲得專利之權。

(3) 對於因第1項所定禁止向外國專利局提出專利申請案或維持秘密性所致之損失，政府應予合理補償。

(4) 依據第2項不予專利或沒入獲得專利之權時，政府應予合理補償。

(5) 如違反第1項禁止向外國專利局提出專利申請案或維持秘密性之命令，該獲得專利之權視為經拋棄。

(6) 如違反第1項維持秘密性之命令，請求對於因維持秘密性所致損失為合理補償之權，視為經拋棄。

(7) 第1項所定禁止向外國專利局提出專利申請案之程序或維持秘密性之程序，或第2項至第4項所定沒入或合理補償，其相關事項，及其他必要事項，應以總統令定之。

Article 41 (Inventions, etc. Necessary for National Defense)

(1) If necessary for the national defense, the Government may order an inventor, an applicant, or a representative not to file a patent application for an invention in foreign patent offices concerned or to keep such invention confidential: Provided, That if such persons obtain permission from the Government, they

may file an application therefor in foreign patent offices.

(2) If an invention filed with the Korean Intellectual Property Office is considered necessary for national defense, the Government may refuse to grant a patent and, for reasons of national defense, such as in time of war, uprising or other similar emergency, may expropriate the right to obtain a patent therefor. <Amended by Act No. 5080, Dec. 29, 1995>

(3) The Government shall pay reasonable compensation for losses arising from the prohibition of a patent application from being filed in a foreign patent office or from the maintenance of confidentiality under paragraph (1). <Amended by Act No. 6411, Feb. 3, 2001>

(4) The Government shall pay reasonable compensation in the event that a patent is not granted, or the right to obtain a patent is expropriated under paragraph (2).

(5) If there has been a violation of an order to prohibit an application from being filed for an invention in a foreign patent office or of an order to maintain confidentiality under paragraph (1), the right to obtain a patent therefor shall be deemed abandoned.

(6) If there has been a violation of an order to maintain confidentiality under paragraph (1), the right to request the payment of compensation for the loss arising from maintaining confidentiality shall be deemed abandoned.

(7) Matters relating to the procedure for prohibiting an application from being filed in a foreign country, proceedings for maintaining confidentiality under paragraph (1), or for expropriation or payment of compensation under paragraphs (2) through (4) and other necessary matters shall be prescribed by Presidential Decree.

第 42 條　專利申請案

(1) 任何有意獲得專利之人應向韓國智慧財產局局長提出專利申請案，並載明以下事項：

1. 申請人之姓名及住所(其為法人者，其名稱及營業所)；
2. 申請人如有代理人者，其姓名及住所或營業所(如代理人為專利事務所者，其名稱、營業所，及所指定專利律師之姓名)；
3. 刪除；
4. 發明名稱；
5. 發明人之姓名及住所；
6. 刪除。

(2) 第1項之專利申請案應附有載有下列事項之說明書，及必要之圖式，及摘要：

1. 發明名稱；
2. 圖式之簡單描述；
3. 發明之詳細描述：
4. 申請專利範圍。

(3) 第2項第3款所稱之發明之詳細描述，應合於下述要件：
1. 發明之描述應以合於產業通商資源部令所規定之方法，清楚並詳細為之，以確保該發明所屬技術領域具通常知識者可輕易實施；
2. 該發明所運用之技術應加載明。

(4) 第2項第4款所稱之申請專利範圍，應以一或多個請求項描述請求保護的對象(以下稱為「請求項」)，且該請求項應合於下列任一款：
1. 請求項應為發明之詳細描述所支持；
2. 請求項應清楚並詳細定義該發明；
3. 刪除。

(5) 雖有前揭第2項之規定，提出專利申請案時，申請人所附加之說明書可未載明第2項第4款所稱之申請專利範圍；此種情況，該說明書應在依下列各款所定之期間內加以修正，以載明請求項：
1. 第64條第1項各款所定任一日期之1年半內；
2. 在第1款期間內，如收受依據第60條第3項所為、敘明該專利申請案經申請實體審查之通知，收受日後3個月內(如前揭通知係在第64條第1項各款所定日期1年3個月後收受，則於該項各款所定任一日期之1年半內)。

(6) 第2項第4款所稱之申請專利範圍，應載明結構、方法、功能、材料，或其之結合等辨識發明之必要事項，以釐清保護之對象

(7) 專利申請案未於申請後在第5項各款所定之期間內修正說明書者，該申請案應視為在期間屆滿之次日撤回。

(8) 第2項第4款之申請專利範圍，其提出方法之必要事項，應以總統令定之。

(9) 第2項所稱之摘要，其描述方法，應以產業通商資源部令定之。

Article 42 (Patent Applications)

(1) Any person who intends to obtain a patent shall file a patent application stating the following with the Commissioner of the Korean Intellectual Property Office: <Amended by Act No. 6411, Feb. 3, 2001>
1. The name and domicile of an applicant (if a juristic person, its title and place of business);
2. The name and domicile, or place of business of a representative of the applicant, if any (the title, place of business and the name of the designated patent attorney if the representative is a patent corporation);
3. Deleted; <by Act No. 6411, Feb. 3, 2001>
4. The title of the invention;
5. The name and the domicile of an inventor;

6. Deleted. <by Act No. 6411, Feb. 3, 2001>

(2) A patent application under paragraph (1) shall be accompanied by a specification stating the following and necessary drawings and abstracts:

1. The title of an invention;
2. Brief description of the drawings;
3. Detailed description of the invention;
4. The scope of claims.

(3) The detailed descriptions of an invention referred to in paragraph (2) 3 shall satisfy the following requirements: <Amended by Act No. 10716, May 24, 2011; Act No. 11690, Mar. 23, 2013>

1. Descriptions of the invention shall be provided in accordance with the methods prescribed by Ordinance of the Ministry of Trade, Industry and Energy in a clear and detailed manner to ensure that any person with ordinary knowledge in the technology sector to which the relevant invention belongs can easily make the invention;
2. Technology used for the relevant innovation shall be stated.

(4) The scope of claims under paragraph (2) 4 shall describe the matter for which protection is sought in one or more claims (hereinafter referred to as "claims") and the claims shall fall under any of the following subparagraphs: <Amended by Act No. 8197, Jan. 3, 2007>

1. The claims shall be supported by detailed description of the invention;
2. The claims shall define the invention clearly and in detail;
3. Deleted. <by Act No. 8197, Jan. 3, 2007>

(5) When filing a patent application, any patent applicant may attach the specification not stating the scope of claims under paragraph (2) 4 to the patent application, notwithstanding paragraph (2). In such cases, the specification shall be amended so as to state the claims within the period classified under the following subparagraphs: <Newly Inserted by Act No. 8197, Jan. 3, 2007>

1. Until one and half years since any date specified in the subparagraphs of Article 64 (1);
2. Until three months since the date of receiving the notification of the purport of a request of examination of the patent application under the provisions of Article 60 (3) within the period set forth in subparagraph 1 (until one and a half years since any date specified in the subparagraphs of Article 64 (1), if such notification was received after one year and three months from any date specified in the subparagraphs of the same paragraph).

(6) The scope of claims under paragraph (2) 4 shall state such matters deemed necessary to specify an invention as structures, methods, functions and

materials or combination thereof to clarify what to be protected. <Newly Inserted by Act No. 8197, Jan. 3, 2007>

(7) Where a patent applicant fails to amend the specification until any period specified in the subparagraphs of paragraph (5) has passed after filing the application, the application concerned shall be deemed withdrawn on the day following the date the period expires. <Newly Inserted by Act No. 8197, Jan. 3, 2007>

(8) Matters necessary for the methods of entering the scope of claims under paragraph (2) 4 shall be prescribed by Presidential Decree.

(9) Methods for the description of an abstract under paragraph (2) shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 43 條　摘要

第42條第2項之摘要不應解釋為用以定義所請發明之範圍，而應作為技術資訊文件。

Article 43 (Abstract)

An abstract under Article 42 (2) shall not be interpreted to define the scope of invention for which protection is sought, but rather shall serve as a technical information document.

第 44 條　共同申請案

獲得專利之權為共有者，所有共有人應共同提出專利申請案。

Article 44 (Joint Applications)

Where the right to obtain a patent is jointly owned, all the owners shall jointly file a patent application.

<Amended by Act No. 11654, Mar. 22, 2013>

第 45 條　專利申請案之範圍

(1) 一專利申請案應限於一發明之申請，但一群發明相互關聯以至於形成單一廣義發明概念者，得為單一申請案之標的。

(2) 第1項所稱單一專利申請案，其要件應以總統令定之。

Article 45 (Scope of One Patent Application)

(1) A patent application shall relate to one invention only: Provided, That a group of inventions so linked as to form a single general inventive concept may be the

subject of one patent application.

(2) The requirements for one patent application under paragraph (1) shall be prescribed by Presidential Decree.

第 46 條　程序之修改

如專利相關程序有下列各款所述情事，韓國智慧財產局局長或智慧財產法庭主席應指定期間命修改該程序：

1. 該程序違反第3條第1項或第6條；
2. 該程序違背本法或本法之子法所定之程序要件；
3. 第82條所定之規費尚未經繳納。

Article 46 (Amendment to Procedure)

The Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal shall order to amend a patent-related procedure, designating a period if the procedure falls under any of the following subparagraphs: <Amended by Act No. 5329, Apr. 10, 1997; Act No. 6411, Feb. 3, 2001; Act No. 6768, Dec. 11, 2002>

1. Where the procedure is in violation of Article 3 (1) or 6;
2. Where the procedure is in violation of the formalities specified in this Act or any order thereunder;
3. Where fees required in accordance with Article 82 have not been paid.

第 47 條　專利申請案之修正

(1) 專利申請人在第42條第5項各款所定任一期間內，或依據第66條發予核准審定正本前，可修正附加於專利申請案之說明書或圖式。但收受第63條第1項所稱核駁事由通知(以下稱為「核駁理由通知」)後，專利申請人僅可以在下列各款所定期間內(在第3款之情況，僅考慮該期間)修正其說明書或圖式：

1. 申請人收受第一次核駁理由通知(如一核駁理由通知之核駁理由，係因申請人基於核駁理由通知所為之修正而產生者，該核駁理由通知，非此處所含)或第2款所指以外之核駁理由通知者，該核駁理由通知後提交書面意見之期間；
2. 申請人收受一核駁理由通知，而其核駁理由係因申請人基於該核駁理由通知所為之修正而產生者，該核駁理由通知後提交書面意見之期間；
3. 申請人依第67-2條申請再審查者。

(2) 第1項所稱說明書與圖式之修正，不得逾越專利申請案最初提出之說明書與圖式所揭露之特徵之範圍。

(3) 依據第1項第2款及第3款為修正，並修正申請專利範圍者，僅可該修正合於

下列情況時為之：

1. 申請專利範圍因限縮、刪除或增加請求項而減縮；
2. 訂正書寫錯誤；
3. 敘明模糊不清之描述
4. 修正逾越第2項所定之範圍，而將申請專利範圍回復修正前之範圍，或在回復時依第1款至第3款規定修正申請專利範圍。

(4) 專利申請案在第1項第1款或第2款所定期間內修正，各次修正之過程中，最後修正前之所有修正，應視為撤回。

Article 47 (Amendment to Patent Application)

(1) A patent applicant may amend the specification or drawings attached to a patent application within any period prescribed in the subparagraphs of Article 42 (5) or before delivering a certified copy of a decision to grant a patent pursuant to Article 66: Provided, That after receiving a notice of grounds for rejection pursuant to Article 63 (1) (hereinafter referred to as "notice of grounds for rejection"), a patent applicant may amend the specification or drawings during the period prescribed in the following subparagraphs only (in cases under subparagraph 3, referring to that time): <Amended by Act No. 8197, Jan. 3, 2007; Act No. 9381, Jan. 30, 2009>

1. Where an applicant receives a notice of grounds for rejection (excluding a notice of grounds for rejection with regard to a ground for rejection which has arisen according to the amendment following the notice of grounds for rejection) for the first time or receives a notice of grounds for rejection, other than that referred to in subparagraph 2, the period for presentation of a written opinion following the relevant notice of grounds for rejection;
2. Where an applicant receives a notice of grounds for rejection with regard to a ground for rejection which has arisen according to the amendment following the notice of grounds for rejection, the period for presentation of a written opinion following the relevant notice of grounds for rejection;
3. When an applicant requests a re-examination pursuant to Article 67-2.

(2) An amendment to the specification or drawings under paragraph (1) shall be made within the scope of the features disclosed in the specification or drawings initially attached to the patent application.

(3) An amendment to the scope of claims, from among amendments pursuant to paragraph (1) 2 and 3, may be made only where it falls under any of the following subparagraphs: <Amended by Act No. 9381, Jan. 30, 2009>

1. Where the scope of claims for a patent is reduced by limiting, deleting, adding claims;
2. Where wrong description is corrected;

3. Where ambiguous description is made clear;
4. With regard to an amendment beyond the scope referred to in paragraph (2), where returning to the scope of claims made prior to the amendment, or amending the scope of claims pursuant to subparagraphs 1 through 3 in the course of returning to the said scope of claims.

(4) Where a patent application is amended within any period specified in paragraph (1) 1 or 2, all the amendments made before the last amendment in the course of each amendment shall be deemed withdrawn. <Newly Inserted by Act No. 11654, Mar. 22, 2013>

第 48 條　刪除

Article 48 Deleted. <by Act No. 6411, Feb. 3, 2001>

第 49 條　刪除

Article 49 Deleted. <by Act No. 7871, Mar. 3, 2006>

第 50 條　刪除

Article 50 Deleted. <by Act No. 5329, Apr. 10, 1997>

第 51 條　修正之不受理

(1) 審查人員認為依據第47條第1項第2款或第3款所為之修正違背同條第2項及第3項，或該修正後有新核駁事由產生時(不含依據同條第3項第1款及第4款刪除請求項之修正)時，應以決定不受理該修正；但如申請人依第67-2條申請再審查者，前述規定不適用於再審查申請之前所為之修正。

(2) 第1項所述拒絕修正之決定，應以書面作成，並敘明理由。

(3) 依第1項所為之不受理決定不得上訴；但依據第132-3條對核駁專利審定為審判，與此審判中的不受理決定(不含依第67-2條申請再審查時，在此申請之前之不受理決定)有關之爭議，無前述規定之適用。

Article 51 (Dismissal of Amendment)

(1) Where an examiner deems that an amendment pursuant to Article 47 (1) 2 and 3 has violated paragraphs (2) and (3) of the same Article or that a new ground for rejection has arisen following the amendment (excluding an amendment deleting claims pursuant to paragraph (3) 1 and 4 of the same Article), he/she shall dismiss such amendment by decision: Provided, That where a request for

reexamination is made pursuant to Article 67-2, this shall not apply to an amendment made prior to such request. <Amended by Act No. 9381, Jan. 30, 2009>

(2) The decision to reject an amendment under paragraph (1) shall be made in writing and shall state the reasons therefor.

(3) No appeal shall be made against a ruling of dismissal under paragraph (1): Provided, That this shall not apply to a dispute concerning the ruling of dismissal (where a request for re-examination is filed pursuant to Article 67-2, a ruling of dismissal made before such request is filed shall be excluded) in a trial on the decision of refusal of a patent pursuant to Article 132-3. <Amended by Act No. 9381, Jan. 30, 2009>

第 52 條　分割專利申請案

(1) 申請人提出一專利申請案，而含有兩個以上之發明者，得在該申請案最初提出之說明書或圖式所載明之事項的範圍內，在下列各款所定任一期間內，將該申請案分割為兩件以上申請案：

1. 依據第47條第1項可為修正之期間；
2. 依據第132-3條，收受不受理專利之裁決正本後，可申請審判之期間。

(2) 經依第1項分割之專利申請案(以下稱為「分割申請案」)應視為在原專利申請案申請時即已申請。但下列各款適用於分割申請案時，所稱申請，應視為分割申請案申請時：

1. 適用本法第29條第3項或新型法第4條第3項，而分割申請案為本法第29條第3項所稱之另一專利申請案，或新型法第4條第3項所稱之專利申請案時；
2. 適用第30條第2項時；
3. 適用第54條第3項時；
4. 適用第55條第2項時。

(3) 依第1項申請分割申請案之人，應敘明此意旨，以及為分割申請案分割基礎之專利申請案。

(4) 在分割申請案之情形，任何主張第54條優先權之人，得在提出分割申請案之日起3個月內，向韓國智慧財產局局長提交同條第4項所列文件，即使當時同條第5項所定期間已經屆滿。

Article 52 (Divisional Patent Application)

(1) An applicant who has filed one patent application comprising of two or more inventions may divide such application into two or more applications within the limit of such matters as stated in the specification or drawings which are initially attached to the patent application, in accordance with a period falling under

any of the following subparagraphs: <Amended by Act No. 5329, Apr. 10, 1997; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 9381, Jan. 30, 2009>

1. A period in which an amendment can be made pursuant to Article 47 (1);
2. A period in which a request for trial can be made pursuant to Article 132-3 after the receipt of a certified copy of the ruling of dismissal of a patent.

(2) A patent application divided under paragraph (1) (hereinafter referred to as "divisional application") shall be deemed to have been filed at the time of filing of the initial patent application: Provided, That in applying the provisions of the following subparagraphs to the said divisional application, such application shall be deemed to be made at the time when the divisional application was filed: <Amended by Act No. 4594, Dec. 10, 1993; Act No. 5576, Sep. 23, 1998; Act No. 7871, Mar. 3, 2006>

1. In cases where Article 29 (3) of this Act or Article 4 (3) of the Utility Model Act is applicable when the divisional application falls under another patent application under Article 29 (3) of this Act or a patent application under Article 4 (3) of the Utility Model Act;
2. In cases where Article 30 (2) is applicable;
3. In cases where Article 54 (3) is applicable;
4. In cases where Article 55 (2) is applicable.

(3) A person who files a divisional application under paragraph (1) shall indicate the purpose thereof and the patent application that forms the basis of the division in the divisional application. <Newly Inserted by Act No. 6411, Feb. 3, 2001>

(4) In cases of any divisional application, any person who claims a priority right under Article 54 may submit the documents specified in paragraph (4) of the said Article to the Commissioner of the Korean Intellectual Property Office within three months from the date of filing the divisional application, even after the lapse of the period specified in paragraph (5) of the said Article. <Newly Inserted by Act No. 4594, Dec. 10, 1993; Act No. 6768, Dec. 11, 2002; Act No. 11654, Mar. 22, 2013>

第 53 條　改請

(1) 提出新型登記申請之人，得在該新型登記申請最初提出之說明書或圖式所載明之事項的範圍內，將該新型登記申請改請為專利申請案；但如其收受核駁新型登記申請之第1次審定正本後超過30天者，不得為之。

(2) 專利申請案係依據第1項規定由新型登記申請改請而來者(以下稱為「改請申請案」，該改請申請案應視為在新型登記申請日即已申請。但該改請申請案

有下列各款情況時，前述規定不適用之：

1. 適用本法第29條第3項或新型法第4條第3項，而改請申請案為本法第29條第3項所稱之另一專利申請案，或新型法第4條第3項所稱之專利申請案時；
2. 適用第30條第2項時；
3. 適用第54條第3項時；
4. 適用第55條第2項時。

(3) 依第1項為改請之人，應於改請申請案敘明此意旨，以及為改請申請案基礎之新型登記申請。

(4) 案經改請者，新型登記申請應視為撤回。

(5) 本法第132-3條之期間依新型法第3條準用本法第15條第1項規定而延展時，第1項規定之30天期間應併同延展。

(6) 在改請申請案之情形，任何主張第54條優先權之人，得在提出改請申請案之日起3個月內，向韓國智慧財產局局長提交同條第4項所列文件，即使當時同條第5項所定期間已經屆滿。

Article 53 (Converted Application)

(1) A person who has filed a utility model registration application may convert the utility model registration application into a patent application within the limit of such matters as stated in the specification or drawings which are initially attached to the utility model registration application: Provided, That this shall not apply where 30 days have passed since he/she has received a certified copy of the first decision to reject the utility model registration application.

(2) When there is a patent application made by converting from a utility model registration application pursuant to paragraph (1) (hereinafter referred to as "converted application"), the converted application shall be deemed to have been filed on the filing date of the utility model registration application: Provided, That this shall not apply where the converted application falls under any of the following subparagraphs:

1. In cases where Article 29 (3) of this Act or Article 4 (3) of the Utility Model Act is applicable when the patent application falls under another patent application under Article 29 (3) of this Act or a patent application under Article 4 (3) of the Utility Model Act;
2. In cases where Article 30 (2) is applicable;
3. In cases where Article 54 (3) is applicable;
4. In cases where Article 55 (2) is applicable.

(3) A person who makes a patent application converted under paragraph (1) shall indicate in a converted application its purport and the utility model registration application which forms the basis of the converted application.

(4) When there is a converted application, the utility model registration application shall be deemed to be withdrawn.

(5) When the period provided for in Article 132-3 is extended pursuant to Article 15 (1) of this Act which applies mutatis mutandis under Article 3 of the Utility Model Act, the period of 30 days referred to in the proviso to paragraph (1) shall be deemed to be extended accordingly.

(6) In cases of any converted application, any person who claims a priority right under Article 54 may submit the documents specified in paragraph (4) of the said Article to the Commissioner of the Korean Intellectual Property Office within three months from the date of filing the converted application, even after the lapse of the period specified in paragraph (5) of the said Article. <Amended by Act No. 11654, Mar. 22, 2013>

第 54 條　依據條約之優先權

(1) 如一外國人，其母國依據條約承認大韓民國國民所提專利申請案之優先權，而該外國人以其在母國或其他締約國對相同發明所提出之最初申請案為基礎，就其在大韓民國之專利申請案主張優先權者，為第29條及第36條之目的，該外國最初申請案之申請日應視為在大韓民國之申請日。如大韓民國國民在一國提出專利申請案，該國家依據條約承認大韓民國國民所提申請案之優先權，而對於在大韓民國之專利申請案，以在該國對相同發明所提之最初申請案為基礎主張優先權，亦有前述規定之適用。

(2) 有意根據第1項主張優先權之人，非在最初申請案申請日起1年內提出申請案主張優先權，不得為之。

(3) 有意根據第1項主張優先權之人，應於其在大韓民國所提申請案中，敘明此意旨、受理最初申請案之國家名，及該申請案之申請日。

(4) 根據第3項主張優先權之人，應向韓國智慧財產局局長提出第1款所述之文件或第2款之書面聲明；但僅有在該國為產業通商資源部令所規定者時，方須提出第2款之書面聲明。

1. 載有該申請案申請日之聲明，及經受理最初申請案之國家之政府認證的說明書及圖式影本；
2. 載有最初申請案案號之書面聲明。

(5) 第4項規定之文件或書面聲明，應於下述各款規定日期中最早之日起1年4個月內提出：

1. 在條約締約國所提第1個申請案，其申請日；
2. 一申請案依據第55條第1項含有他優先權主張，為優先權基礎之申請案，其申請日；
3. 一申請案依據第3項含有他優先權主張，為優先權基礎之申請案，其申請

日。

(6) 依據第3項主張優先權之人，未於第5款所定期間內提出第4款所述文件者，優先權主張不生效力。

(7) 依據第1項有權主張優先權並合於第2項所定要件者，在第5款規定日期中最早之日起1年4個月內中，得修改或補充其優先權主張。

Article 54 (Priority Claim Under Treaty)

(1) If a national of a country party which recognizes under a treaty a priority right to a patent application filed by a national of the Republic of Korea claims the priority right to a patent application in the Republic of Korea on the basis of the initial application for the same invention in his/her country or other country parties, the filing date of the initial application in the foreign country shall be deemed to be the filing date in the Republic of Korea for the purposes of Articles 29 and 36. This shall also apply where a national of the Republic of Korea has filed a patent application in a country which recognizes under a treaty a priority right to patent applications filed by nationals of the Republic of Korea, and claims the priority right to a patent application in the Republic of Korea on the basis of the initial application for the same invention in said country.

(2) No person intending to claim a priority right in accordance with paragraph (1) may claim the priority right unless the person files a patent application claiming the priority right within one year from the filing date of the initial application.

(3) A person intending to claim a priority right in accordance with paragraph (1) shall specify its purport, the name of the country in which the initial application was filed and the filing date of such application in the patent application which he/she files in the Republic of Korea.

(4) A person who has claimed a priority right under paragraph (3) shall submit to the Commissioner of the Korean Intellectual Property Office the documents prescribed in subparagraph 1 or the written statement prescribed in subparagraph 2: Provided, That the written statement referred to in subparagraph 2 shall be submitted only where the country is prescribed by Ordinance of the Ministry of Trade, Industry and Energy: <Amended by Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

1. A written statement with the filing date of the application and a copy of the specification and drawings certified by the government of the country where the initial application was filed;
2. A written statement with the file number of the application in the country where the initial application was filed.

(5) Documents or written statements under paragraph (4) shall be submitted

within one year and four months from the earliest among the dates prescribed in the following subparagraphs: <Newly Inserted by Act No. 6411, Feb. 3, 2001>

1. The date on which the application was first filed in a country that is a party to a treaty;
2. The filing date of the application which is to be the basis for the priority claim where a patent application contains other priority claims in accordance with Article 55 (1);
3. The filing date of the application that is to be the basis for the priority claim where a patent application contains other priority claims in accordance with paragraph (3).

(6) Where a person who has claimed a priority right under paragraph (3) fails to submit the document prescribed in paragraph (4) within the period set under paragraph (5), the priority claim shall lose its effect. <Amended by Act No. 6768, Dec. 11, 2002>

(7) A person who is eligible to claim the priority right under paragraph (1) and is in compliance with the requirements of paragraph (2) may amend or supplement the said priority claims within one year and four months from the earliest date prescribed under paragraph (5). <Newly Inserted by Act No. 6411, Feb. 3, 2001>

第 55 條　依據先申請案等之優先權

(1) 有意獲得專利之人，就其提出專利申請案之發明，得基於先前提出之專利申請案或新型登記申請(以下稱為「在先申請案」)初始說明書或圖式中記載、且申請人對之具有獲得專利或新型登記之權之發明，主張優先權。但有下列情事者，不在此限：

1. 該專利申請案於在先申請案申請日後1年始提出；
2. 在先申請案為第52條第2項所定之分割申請案(包括依新型法第11條準用之案件)，或第53條第2項或新型法第10條第2項所定之改請申請案；
3. 該專利申請案申請時，在先申請案已為拋棄、無效或經撤回；
4. 該專利申請案申請時，對在先申請案為核准或核駁之審定或審判決定已為確定。

(2) 有意依據第1項主張優先權者，應於提出專利申請時，於其上指明此意旨及在先申請案。

(3) 一專利申請案依據第1項規定提出申請並主張優先權，而其發明與作為優先權基礎之在先申請案初始說明書及圖式中記載之發明相同，則為本法第29條第1項、第2項、第3項本文、第30條第1項、第36條第1項至第3項、第96條第1項第3款、第98條、第103條、第105條第1項及第2項、第129條及第136條第4項(包括依據第133-2條第4項為準用之情形)，新型法第7條第3項及第4

項、第25條，以及設計保護法第45條、第52條第3項適用之目的，該專利申請案應視為在在先申請案申請時申請。

(4) 一專利申請案依據第1項規定提出申請並主張優先權，而其發明與作為優先權基礎之在先申請案初始說明書及圖式中記載之發明相同，就該發明適用本法第29條第3項本文或新型法第4條第3項主文時，為優先權基礎之在先申請案應視為在專利申請案公開或專利登記並公開宣告時公開。

(5) 在先申請案有下列各款情形時，如果作為優先權基礎之專利申請案係就在先申請案初始說明書及圖式中記載之發明所提出，則對於記載於依基礎案說明書及圖式之發明，無第3項及第4項之適用：

1. 在先申請案已依據第1項主張優先權；
2. 在先申請案已依據巴黎公約第4-D條第1項主張優先權。

(6) 適用第4項時，在先申請案有下述各款所列情形者，第29條第4項規定「國際申請日所提出之說明書、申請專利範圍或圖式及其翻譯本中所載之發明或設備」，應解釋為「在國際申請日所提出之說明書、申請專利範圍或圖式中所載之發明或設備」：

1. 在先申請案為依據第199條第1項認屬專利申請案之國際申請(包括依第214條第4項成為專利申請案之國際申請)；
2. 在先申請案為依據新型法第34條第1項認屬新型登記申請之國際申請(包括依據同法第40條第4項成為新型登記申請之國際申請。

(7) 主張優先權合於第1項所定要件者，得於在先申請案申請日(如有兩個以上優先權主張，其最早之申請日)起1年4個月內修改或補充其優先權主張。

Article 55 (Priority Claim Based on Patent Application, etc.)

(1) Any person who intends to obtain a patent may claim the priority right for an invention for which a patent application has been made on the basis of an invention described in the specification or drawings initially attached to an application filed in advance (hereinafter referred to as "earlier application") as a patent application or a utility model registration application, for which he/she has the right to obtain a patent or utility model registration: Provided, That this shall not apply to any of the following subparagraphs: <Amended by Act No. 11654, Mar. 22, 2013>

1. Where the patent application concerned is filed one year after the filing date of an earlier application;
2. Where an earlier application is a divisional application as provided in Article 52 (2) (including such cases as applied mutatis mutandis under Article 11 of the Utility Model Act) or a converted application as provided in Article 53 (2) hereof or Article 10 (2) of the Utility Model Act;
3. Where an earlier application has been abandoned, invalidated, or withdrawn at the time of filing the patent application;

4. Where a decision or trial decision to grant or refuse a patent or a utility model registration for an earlier application has become final and conclusive at the time of filing the patent application.

(2) Any person intending to claim the a priority right under paragraph (1) shall, when applying for a patent, indicate the purport and an earlier application on the patent application.

(3) For the purposes of Article 29 (1) and (2), the main sentence of Article 29 (3), Articles 30 (1), 36 (1) through (3), 96 (1) 3, 98, 103, 105 (1) and (2), 129 and 136 (4) of this Act (including such cases as applied mutatis mutandis under Article 133-2 (4)), Articles 7 (3) and (4) and 25 of the Utility Model Act, Articles 45 and 52 (3) of the Design Protection Act to an invention which is the same as the invention described in the specification or drawings initially attached to an earlier application which is the basis of the relevant priority claim, from among inventions for which a patent application has been filed with a priority claim pursuant to paragraph (1), such patent application shall be deemed to have been filed when the earlier application was filed.

(4) The main sentence of Article 29 (3) of this Act or the main sentence of Article 4 (3) of the Utility Model Act shall apply to an invention which is the same as the invention described in the specification or drawings initially attached to an earlier application which is the basis of the relevant priority claim, from among inventions for which a patent application has been filed with a priority claim pursuant to paragraph (1) by deeming that an earlier application which is the basis of the relevant priority claim has been laid open when the patent application has been laid open or the patent has been registered and publicly announced.

(5) If an earlier application falls under any of the following subparagraphs, paragraphs (3) and (4) shall not apply to an invention described in the specification or drawings when a patent application which is the basis of the priority claim is filed with respect to the earlier application from among inventions described in the specification or drawings initially attached to the earlier application:

1. Where an earlier application is the one with a priority claim pursuant to paragraph (1);
2. Where an earlier application is the one with a priority claim pursuant to Article 4-D (1) of the Paris Treaty for Protection of Industrial Property Rights.

(6) In applying paragraph (4), where the earlier application falls under any of the following subparagraphs, "invention or device described in the specification, claims or drawings submitted on the international filing date and the translated

version of the said documents" in Article 29 (4) shall be construed as "invention or device described in the specification, claims or drawings submitted on the international filing date":

1. Where an earlier application is an international application (including an international application which becomes a patent application pursuant to Article 214 (4)) which is regarded as a patent application pursuant to Article 199 (1);
2. Where an earlier application is an international application (including an international application which becomes a utility model registration application pursuant to Article 40 (4) of the Utility Model Act) which is regarded as a utility model registration application pursuant to Article 34 (1) of the same Act.

(7) Any person who has claimed a priority right, satisfying the requirements pursuant to paragraph (1), may amend or supplement the priority claim within one year and four months from the filing date of an earlier application (the earliest filing date in cases where there exist no less than two earlier applications).

第 56 條　先申請案之撤回等

(1) 在先申請案依據第55條第1項為優先權主張之基礎者，於其申請日起滿1年3個月時，應視為已為撤回。但在先申請案有下列各款情形者，不在此限：

1. 在先申請案已拋棄、無效或撤回；
2. 授予或核駁專利或新型登記之審定或審判決定已確定；
3. 以在先申請案為基礎之優先權主張已撤回；
4. 刪除。

(2) 在先申請案申請日起滿1年3個月者，專利申請人不得撤回依據第55條第1項所為之優先權主張。

(3) 經依據第55條第1項主張優先權之專利申請案於在先申請案申請日起1年3個月內撤回者，其優先權主張視為同時撤回。

Article 56 (Withdrawal, etc. of Earlier Application)

(1) An earlier application which is the basis of a priority claim pursuant to Article 55 (1) shall be deemed to have been withdrawn at the time of expiration of one year and three months from the filing date of the earlier application: Provided, That this shall not apply where that earlier application falls under any of the following subparagraphs: <Amended by Act No. 5576, Sep. 23, 1998; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 9381, Jan. 30, 2009>

1. Where the earlier application has been abandoned, invalidated or

withdrawn;

2. Where a decision or a trial decision to grant or refuse a patent or a utility model registration has become final and conclusive;
3. Where priority claims based on the earlier application concerned have been withdrawn;
4. Deleted. <by Act No. 7871, Mar. 3, 2006>

(2) No applicant of a patent application containing a priority claim under Article 55 (1) may withdraw the priority claim after the expiration of one year and three months from the filing date of an earlier application.

(3) Where a patent application containing a priority claim under Article 55 (1) is withdrawn within one year and three months from the filing date of an earlier application, the priority claim shall be deemed withdrawn simultaneously therewith.

第 57 條　審查官之審查

(1) 韓國智慧財產局局長應指派審查官審理專利申請案。

(2) 審查官之資格，應以總統令定之。

Article 57 (Examination by Examiners)

(1) The Commissioner of the Korean Intellectual Property Office shall direct examiners to examine patent applications. <Amended by Act No. 7871, Mar. 3, 2006>

(2) The qualifications for examiners shall be prescribed by Presidential Decree.

第 58 條　先前技術之檢索等

(1) 如認為對於審查專利申請案(包括國際申請案之國際調查及國際初步審查)所必要，韓國智慧財產局局長得以總統令指定一專業機構，對之賦予檢索先前技術、進行國際專利分類(IPC)下之專利分類，以及其他以總統令規定事項之職責。

(2) 如認為為審查程序所必要，韓國智慧財產局局長對於政府機構、精於相關技術之機構、或就專利事務具有淵博知識及經驗之專家，得請求其合作或尋求其建議。在此種情況，韓國智慧財產局局長得在韓國智慧財產局預算限制內，就該等合作或建議給付津貼或費用。

(3) 關於依據第1項指定專業機構之必要事項，如指定之標準，及進行先前技術檢索或專利分類之執行程序等，應以總統令定之。

Article 58 (Search, etc. for Prior Art)

(1) If it is deemed necessary for the examination of a patent application (including

an international investigation and international preliminary examination for an international application), the Commissioner of the Korean Intellectual Property Office may designate a specialized institution and assign duties of searching prior art, conducting a patent classification under the International Patent Classification and others determined by Presidential Decree to such institution. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 9381, Jan. 30, 2009>

(2) If it is deemed necessary for the process of examination, the Commissioner of the Korean Intellectual Property Office may request the cooperation of, or seek advice from, a Government agency, an organization specialized in the technology concerned or an expert having profound knowledge and experience in patent matters. In such cases, he/she may pay them allowances or expenses for such cooperation or advice within the budgetary limits of the Korean Intellectual Property Office.

(3) Necessary matters concerning the designation of a specialized institution, such as standards for designation, and the implementation procedures for searching prior art or conducting a patent classification, etc. under paragraph (1), shall be prescribed by Presidential Decree. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

第 58-2 條　專業機構指定之撤銷

(1) 第58條第1款所稱之專業機構有第1款之情事者，韓國智慧財產局局長應廢止其指定；專業機構有第2款之情事者，得撤銷其指定，或指定最長6個月之期間中止其業務運作：

1. 該機構以不實或違法方法獲得指定者；
2. 該機構不合於第58條第3項所述之標準者。

(2) 韓國智慧財產局局長有意依據第1項撤銷專業機構之指定或命專業機構中止其業務運作者，應舉行公聽會。

(3) 關於第1項所規定撤銷指定或中止業務運作之程序及標準，其必要事項，應以產業通商資源部令定之。

Article 58-2 (Cancellation of Designation of Specialized Institutions)

(1) Where a specialized institution referred to in Article 58 (1) falls under subparagraph 1, the Commissioner of the Korean Intellectual Property Office shall cancel such designation, and where a specialized institution falls under subparagraph 2, he/she may cancel such designation or order suspension of its business operations by fixing a period of up to six months:

1. Where the organization has obtained designation by false or illegal means;

2. Where the organization does not conform to the standard for designation under Article 58 (3).

(2) When the Commissioner of the Korean Intellectual Property Office intends to cancel the designation of a specialized institution or order a specialized institution to suspend its business operations pursuant to paragraph (1), he/she shall hold a public hearing. <Amended by Act No. 11654, Mar. 22, 2013>

(3) Necessary matters for the standards and procedures for the cancellation of designation or suspension of business operations of specialized institutions under paragraph (1) shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 59 條　專利申請案實體審查之申請

(1) 專利申請案應僅於經提出實體審查之申請時，方為實體審查。

(2) 經提出專利申請案，在申請日起5年內，任何人均得向韓國智慧財產局局長申請實體審查；但專利之申請人，僅在該申請案已附加載有專利申請範圍之說明書時，方得申請實體審查。

(3) 對於由第34條或第35條規定之適法權利人所提出專利申請案、分割申請案，或改請申請案，該權利人得於該專利申請案、分割申請案，或改請申請案申請日起30日內申請實體審查，即令當時第2項所規定之期間已經屆滿。

(4) 申請案實體審查之申請，不得撤回。

(5) 如在第2項或第3項所定期間內未提出實體審查之申請，該專利申請案應視為撤回。

Article 59 (Request for Examination of Patent Application)

(1) A patent application shall be examined only upon the filing of a request for examination.

(2) When a patent application has been filed, any person may request the Commissioner of the Korean Intellectual Property Office to examine the patent application within five years from the filing date thereof: Provided, That an applicant for a patent may request for examination of a patent application, only if the specification stating the scope of claims is attached. <Amended by Act No. 8197, Jan. 3, 2007>

(3) With respect to a patent application, divisional application, or converted application filed by a lawful right holder under Article 34 or 35, the right holder may request the examination of the application within 30 days from the date of filing the patent application, divisional application, or converted application, even after the lapse of the period specified in paragraph (2). <Amended by Act

No. 5576, Sep. 23, 1998; Act No. 7871, Mar. 3, 2006; Act No. 11654, Mar. 22, 2013>

(4) No request for examination of an application shall be withdrawn.

(5) If a request for examination has not been made within the period prescribed in paragraph (2) or (3), the patent application concerned shall be deemed to have been withdrawn.

第 60 條　申請實體審查之程序

(1) 有意申請實體審查之人應向韓國智慧財產局局長提出書面申請，並載明以下事項：

1. 申請人之姓名及住所(其為法人者，其名稱及營業所)；
2. 刪除；
3. 經請求為實體審查之專利申請案之確認資訊。

(2) 實體審查之申請早於申請案之公開者，韓國智慧財產局局長應於申請案公開時，於公報上公告此情事。實體審查之申請晚於申請案之公開者，韓國智慧財產局局長應即於公開上公告此情事。

(3) 實體審查之申請係由申請人以外之人所提出者，韓國智慧財產局局長應將此情事通知申請人。

Article 60 (Procedure for Request for Examination)

(1) Any person intending to request examination of an application shall submit a written request for examination of an application to the Commissioner of the Korean Intellectual Property Office, stating the following: <Amended by Act No. 6768, Dec. 11, 2002>

1. The name and the domicile of the person making the request (in cases of a juristic person, its title and the location of its place of business);
2. Deleted; <by Act No. 6768, Dec. 11, 2002>
3. The identification of the patent application for which the request for examination is made.

(2) The Commissioner of the Korean Intellectual Property Office shall, where a request for examination has been made prior to the publication of an application, publish such fact in the Patent Gazette at the time the application is laid open. Where a request for examination has been made after the application is laid open, the Commissioner shall publish such fact in the Patent Gazette without delay.

(3) Where a request for examination of an application has been made by a person, other than the applicant, the Commissioner of the Korean Intellectual Property Office shall notify the applicant of such fact.

第 61 條 加速審查

申請案有下述情形者，韓國智慧財產局局長可命審查委員將其優先於其他申請案而為審查：

1. 申請人以外之人，在專利申請案公開後，對該申請案所請發明為商業性及產業性之實施；
2. 依據總統令，韓國智慧財產局局長認有必要速為處理一申請案者。

The Commissioner of the Korean Intellectual Property Office may direct an examiner to examine one application in preference over another if the former falls under any of the following subparagraphs:

1. Where a person, other than the applicant, is commercially and industrially working the invention claimed in a patent application after the laying-open of the application;
2. Where the Commissioner of the Korean Intellectual Property Office deems it necessary to urgently process a patent application prescribed by Presidential Decree.

第 62 條 核駁審定

發明有下述各款所定情形者(以下稱為「核駁事由」)，審查委員應作成核駁審定：

1. 依據第25條、第29條、第32條、第36條第1項至第3項或第44條，該發明不得獲得專利；
2. 依據第33條第1項主文，申請案係由不具備獲得專利之權之人所提出者，或依據第33條第1項但書，該發明不得獲得專利；
3. 違背條約；
4. 未合致第42條第3項、第4項及第8項或第45條所定要件；
5. 申請案修正超出第47條第2項所定範圍；
6. 申請案為分割申請案，而超出第52條第1項所定範圍
7. 申請案為改請案，而超出第53條第1項所定範圍。

Article 62 (Decision to Reject Patent Application)

Any examiner shall make a decision to reject a patent application where the invention falls under any of the following subparagraphs (hereinafter referred to as "grounds for rejection"): <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 8197, Jan. 3, 2007>

1. Where the invention is not patentable under Article 25, 29, 32, 36 (1) through (3), or 44；
2. Where the application is filed by a person who does not have the right to

obtain a patent therefor under the main sentence of Article 33 (1) or where the invention is not patentable under the proviso to the said Article 33 (1);

3. Where it is in violation of a treaty;
4. Where it has not satisfied the requirements prescribed under Article 42 (3), (4) and (8) or 45;
5. Where the application is amended beyond the scope under Article 47 (2);
6. Where the application is a divisional application filed beyond the scope under Article 52 (1);
7. Where the application is a converted application beyond the scope under Article 53 (1).

第 63 條 核駁事由之通知

(1) 審查委員有意依據第62條作成核駁審定時，應將事由通知申請人，並提供其於指定期間內提出書面意見之機會。但審查委員擬依第51條第1項駁回修正者，不在此限。

(2) 審查委員依據第1項本文對有兩個以上請求項之專利申請案為核駁事由通知時，應於通知中清楚敘明核駁之請求項，並具體描述核駁該請求項之理由。

Article 63 (Notice of Grounds for Rejection)

(1) Where an examiner intends to render a decision to reject a patent application under Article 62, he/she shall notify the applicant of the grounds therefor and provide the applicant an opportunity to present his/her written opinions within a fixed period: Provided, That this shall not apply where the examiner intends to reject an amendment pursuant to Article 51 (1). <Amended by Act No. 6411, Feb. 3, 2001; Act No. 9381, Jan. 30, 2009>

(2) Where an examiner notifies the grounds to reject under the main sentence of paragraph (1) with regard to a patent application with two or more claims in its scope of patent application, he/she shall clearly state in the notice the claims refused and specifically describe the grounds for rejection of such claims. <Newly Inserted by Act No. 8197, Jan. 3, 2007; Act No. 9381, Jan. 30, 2009>

第 63-2 條 提供專利申請案相關資訊

專利申請案經提出者，任何人均得向韓國智慧財產局局長提供該發明具備核駁事由而應不予專利之資訊及證據。但係不合於第42條第3項第2款及第8項與第45條者，不在此限。

Article 63-2 (Furnishing of Information concerning Patent Applications)

Any person may, at the time a patent application is filed, furnish the Commissioner

of the Korean Intellectual Property Office with information together with evidence, to the effect that the invention concerned is unpatentable, because it falls under grounds for rejection: Provided, That this shall not apply where the requirements prescribed in Articles 42 (3) 2 and (8) and 45 are not complied therewith. <Amended by Act No. 8197, Jan. 3, 2007; Act No. 10716, May 24, 2011>

第 64 條 申請案之公開

(1) 依據產業通商資源部令，韓國智慧財產局局長應依申請人之申請，於下述日期起滿1年6個月時，或申請案申請日起滿1年6個月時，於公報上公開專利申請案。但專利申請案之說明書依據第42條第5項本文並未記載申請專利範圍，或專利之登記已依據第87條第3項公告者，毋庸進行申請案之公開。

1. 專利申請案含有第54條第1項之優先權主張者，優先權主張基礎案之申請日；
2. 專利申請案含有第55條第1項之優先權主張者，在先申請案之申請日；
3. 專利申請案依據第54條第1項或第55條第1項所為優先權主張之基礎案有兩個以上者，各該申請日中最早者。

(2) 刪除

(3) 第87條第4項準用於依據第1項所為之公開。

(4) 依據第1項所為之公開，其於公報上應載之事項，應以總統令定之。

Article 64 (Laying-Open of Applications)

(1) Under Ordinance of the Ministry of Trade, Industry and Energy, the Commissioner of the Korean Intellectual Property Office shall lay open a patent application in the Patent Gazette at the time one year and six months have elapsed since any of the following dates or before one year and six months have elapsed since the filing date of a patent application, upon request from the applicant: Provided, That in cases of a patent application which is accompanied by the specification not stating the scope of claims in accordance with the former sentence other than the subparagraphs of Article 42 (5) and a patent whose registration has already been published in accordance with Article 87 (3), they shall not be subject to the laying-open of the application: <Amended by Act No. 5080, Dec. 29, 1995; Act No. 5329, Apr. 10, 1997; Act No. 6411, Feb. 3, 2001; Act No. 8197, Jan. 3, 2007; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

1. Where a patent application contains a priority claim under Article 54 (1), the filing date being the basis for claiming a priority right shall apply;
2. Where a patent application contains a priority claim under Article 55 (1), the filing date of the earlier application shall apply;

3. The earliest filing date among the filing dates of two or more applications that are the basis for claiming a priority right in a patent application under Article 54 (1) or 55 (1);
4. Where a patent application does not fall under any of subparagraphs 1 through 3, the filing date of the patent application shall apply.

(2) Deleted. <by Act No. 7871, Mar. 3, 2006>

(3) Article 87 (4) shall apply mutatis mutandis to the laying-open of applications under paragraph (1). <Amended by Act No. 5329, Apr. 10, 1997>

(4) Matters to be published in the Patent Gazette with respect to the laying-open of applications under paragraph (1) shall be prescribed by Presidential Decree.

第 65 條 申請案公開之效果

1. 申請案公開後，申請人得以書面敘明已就發明提出專利申請案，以警告對所請發明為商業性或產業性實施之人。
2. 對於依第1項被警告後或明知發明已被公開而仍就所請發明為商業性或產業性實施之人，申請人得對其請求補償；其數額相當於申請人自通知或知悉專利申請案已為公開時起，至專利登記時止，如由申請人實施該發明通常可得之金額。
3. 第2項所定請求補償之權，須專利登記後方得行使。
4. 第2項所定請求補償之權，無礙於專利權之行使。
5. 本法第127條、第129條及第132條，或民法第760及第766條，準用於第2項所定請求補償之權。在此，第766條第1項所述「自被害人或其法定代理人知有損害及造成損害者之身分之日」，應解釋為「涉案專利登記日」。
6. 在申請案公開後專利申請案經拋棄、無效或撤回，及核駁專利申請案之審定或依第133條(不含第133條第1項第4款之情形)宣告專利無效之審判決定確定時，第2項所定之權應視為自始不存在。

Article 65 (Effects of Laying-Open of Application)

(1) After an application is laid open, an applicant may warn a person who has commercially or industrially worked the filed invention, in writing indicating that a patent application for the invention has been filed.

(2) An applicant may demand a person who has commercially or industrially worked the filed invention after being warned as provided for in paragraph (1) or knowing that an application for the invention has been laid open, to pay compensation in an amount equivalent to what he/she would have normally received for the working of the invention from the date of warning or the time when he/she knew that the patent application of the invention had been laid open to the time of the registration of the patent right. <Amended by Act No.

5329, Apr. 10, 1997>

(3) The right to demand compensation as provided for in paragraph (2) shall be exercised only after the registration of the patent right. <Amended by Act No. 5329, Apr. 10, 1997>

(4) The exercise of the right to demand compensation under paragraph (2) shall not preclude the exercise of the patent right. <Amended by Act No. 5329, Apr. 10, 1997>

(5) Articles 127, 129 and 132 of this Act, or Articles 760 and 766 of the Civil Act shall apply mutatis mutandis to the exercise of the rights to demand compensation under paragraph (2). In such cases, "date on which the injured party or his/her legal representative became aware of such damage and of the identity of the person who caused it" in Article 766 (1) of the Civil Act shall be construed as "date of registration of the patent right involved." <Amended by Act No. 5329, Apr. 10, 1997; Act No. 7871, Mar. 3, 2006>

(6) When a patent application is abandoned, invalidated or withdrawn after the laying-open of the application, and when a decision to reject a patent application or a decision to invalidate a patent under Article 133 (excluding cases as prescribed in Article 133 (1) 4) have become final and conclusive, the right under paragraph (2) shall be deemed never to have existed. <Newly Inserted by Act No. 5329, Apr. 10, 1997; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

第 66 條 核准審定

審查委員未發現核駁理由時，應作成核准專利之審定。

Article 66 (Decision to Grant Patent)

Where an examiner does not find any grounds to reject a patent application, he/she shall render a decision to grant a patent. <Amended by Act No. 6411, Feb. 3, 2001>

第 66-2 條 職權修正等

(1) 審查委員作成核准審定時，如發現專利申請案之說明書、圖式或摘要中有明顯文書錯誤，得依職權修正之(以下稱為「職權修正」)。

(2) 審查委員依據第1項為職權修正時，應於依據第67條第2項檢送核准審定書正本時將此情視通知申請人。

(3) 專利申請人拒絕接受職權修正之一部或全部者，應於依據第79條第1項繳納專利規費前，向韓國智慧財產局局長提出其對該職權修正之書面意見。

(4) 專利申請人依據第3項提出書面申請時，該職權修正應視為自始不存在。

(5) 職權修正如係對非明顯文書錯誤之事項而為者，應視為自始不存在。

Article 66-2 (Ex Officio Amendment, etc.)

(1) Where an examiner finds any clear clerical error in the specification, drawings or abstract attached to a patent application when he/she makes a decision to grant a patent, he/she may amend such error ex officio (hereinafter referred to as "ex officio amendment").

(2) In order for an examiner to amend ex officio in accordance with paragraph (1), he/she shall notify the applicant of such ex officio amendment while delivering a certified copy of the decision to grant a patent in accordance with Article 67 (2).

(3) If a patent applicant cannot accept the whole or part of an ex officio amendment, he/she shall present his/her written opinion on such ex officio amendment to the Commissioner of the Korean Intellectual Property Office by the time he/she pays a patent fee pursuant to Article 79 (1).

(4) Where a patent applicant has presented a written application pursuant to paragraph (3), the whole or part of the relevant ex officio amendment shall be deemed never to have existed.

(5) Where an ex officio amendment has been made for any matter which is not a clear clerical error, such ex officio amendment shall be deemed never to have existed.

第 67 條 關於可專利性決定之格式

(1) 審定無論係為核准或核駁(以下稱為「可專利性審定」)，皆應以書面作成並載明其理由。

(2) 可專利性審定經作成者，韓國智慧財產局局長應將其正本送達專利申請人。

Article 67 (Formalities for Decision of Patentability)

(1) A decision to either grant or reject a patent (hereinafter referred to as "decision of patentability") shall be made in writing and shall state the grounds therefor. <Amended by Act No. 6411, Feb. 3, 2001>

(2) Where a decision of patentability has been rendered, the Commissioner of the Korean Intellectual Property Office shall serve a certified copy of the decision on the patent applicant. <Amended by Act No. 6411, Feb. 3, 2001>

第 67-2 條 請求再審查

(1) 專利申請人得於收受該專利申請案核駁審定書正本時起30日內(如第132-3之期限依據第15條第1項延展，則指延展之期限)，得就該專利申請案之說明

書及圖式提出修正後，申請再審查(以下稱為「再審查」)。但再審查已有核駁審定，或依第132-3條提起審判請求者，不在此限。

(2) 依據第1項申請再審查者，先前對於相關專利申請案所作成之核駁審定，視為撤回。

(3) 依據第1項申請再審查者，不得撤回。

Article 67-2 (Request for Re-examination)

(1) A patent applicant may, within 30 days (where a period under Article 132-3 has been extended pursuant to Article 15 (1), referring to such extended period) from the date of receipt of a certified copy of the decision to reject the patent application, request a re-examination (hereinafter referred to as "reexamination") on the relevant patent application after amendment to the specification or drawings attached to the patent application: Provided, that this shall not apply where there exists a decision to reject a patent following the re-examination or a request for trial pursuant to Article 132-3.

(2) Where a request for re-examination is made in accordance with para graph (1), a decision to reject a patent application previously made for the relevant patent application shall be deemed to have been withdrawn.

(3) No request for re-examination pursuant to paragraph (1) shall be withdrawn.

第 67-3 條 專利申請案之恢復

(1) 如專利申請案被視為撤回或核駁審定之確定，係專利申請人因不可歸責於其之事由，而無法遵循下列期間所致者，專利申請人得於該事由消失之日起2個月內就該專利申請案申請實體審查或再審查。但各該期間經過後已滿1年者，不在此限。

1. 可依據第59條第2項或第3項申請實體審查之期間；
2. 可依據第67-2條第1項申請再審查之期間。

(2) 雖有第59條第5項之規定，依據第1項申請實體審查或再審查者，應視為專利申請案並未撤回，或核駁審定並未確定。

Article 67-3 (Restoration of Patent Application)

(1) If it is deemed that a patent application has been withdrawn or a decision of refusal of a patent has become final and conclusive because the patent applicant fails to comply with either of the following periods due to a cause not imputable to the patent applicant, the patent applicant may request the examination or re-examination of the patent application within two months from the date when the cause ceases to exist: Provided, That the foregoing shall not apply where one year has elapsed since such period expired:

1. The period during which a request for the examination of a patent

application may be filed pursuant to Article 59 (2) or (3);

2. The period during which a request for the re-examination may be filed pursuant to Article 67-2 (1).

(2) Notwithstanding Article 59 (5), if a request for the examination or re-examination of a patent application is filed pursuant to paragraph (1), it shall be deemed that the patent application has not been withdrawn or the decision of refusal of a patent has not become final and conclusive.

第 68 條 審判規定之準用

第148條第1款至第5款及第7款規定，於專利申請案之審查準用之。

Article 68 (Mutatis Mutandis Application of Provisions concerning Trial to Examination)

Subparagraph 1 through 5 and 7 of Article 148 shall apply mutatis mutandis to the examination of patent applications.

第 69 條~第 77 條 刪除

Articles 69 through 77 Deleted. < by Act No. 7871, Mar. 3, 2006>

第 78 條 審查或訴訟程序之中止

(1) 專利申請案之審查程序於有必要時，得予中止，直至審判決定確定或訴訟程序完結。

(2) 法院於有必要時，得中止訴訟程序，直到關於專利申請案之決定確定。

(3) 依據第1項及第2項所為之中止，不得救濟。

Article 78 (Suspension of Examination or Litigation Procedures)

(1) The examination procedure of a patent application may, if necessary, be suspended until a trial decision thereon becomes final and conclusive or litigation procedures concerned have been complete. <Amended by Act No. 7871, Mar. 3, 2006>

(2) The court may, if necessary, suspend litigation procedures until a decision on a patent application becomes final and conclusive. <Amended by Act No. 7871, Mar. 3, 2006>

(3) No appeal shall be made against the suspension under paragraphs (1) and (2).

第 78-2 條　刪除

Article 78-2 Deleted. <by Act No. 7871, Mar. 3, 2006>

第 79 條 專利規費

(1) 有意依據第87條第1項取得授予專利權之登記者，應繳納自其欲取得授予專利權之登記之日(以下稱為「創設登記日」)起3年之專利規費。專利權人逐年繳納後一年之專利規費，期間之計算以該專利權創設登記日為準。

(2) 雖有第1項之規定，專利權人可按應繳費年限之順序，一次繳納數年或全部之專利規費。

(3) 第1項及第2項所定之專利規費、繳費方法及期限，及其他必要事項，應以產業通商資源部令訂之。

Article 79 (Patent Fees)

(1) Any person who intends to obtain the registration of establishment of a patent right in accordance with Article 87 (1) shall pay patent fees for three years from the date when he/she intends to obtain the registration of establishment of the patent right (hereinafter referred to as "registration date of establishment"), and a patentee shall pay, on a yearly basis, a patent fee for one year from the following year based on the date falling under the registration date of establishment of the relevant right.

(2) Notwithstanding paragraph (1), a patentee may pay patent fees for several or entire years according to the order of years of payment in a lump sum.

(3) Patent fees, methods and terms of payment thereof under paragraphs (1) and (2), and other necessary matters shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 11690, Mar. 23, 2013>

第 80 條 利害關係人繳納專利規費

(1) 不論有責繳納規費之人之意願，任何人均得繳納專利規費。

(2) 依據第1項繳納專利規費之利害關係人得在有責繳納規費之人目前有受益的範圍內，請求償還其費用。

Article 80 (Payment of Patent Fees by Interested Party)

(1) Regardless of the intent of a person liable to pay patent fees, any interested party may pay the patent fees.

(2) An interested party who has paid patent fees in accordance with paragraph (1) may demand reimbursement of his/her expenses to the extent that the person

liable to pay the patent fees is currently making a profit.

第 81 條 專利規費的遲延給付等

(1) 專利權人或有意登記專利權之人，可於第79條第3項所定繳納期限屆滿後6個月內，補繳專利規費。

(2) 依據第1項規定補繳專利規費時，應繳納產業通商及資源部令規定之數額，但不逾應納專利規費的兩倍。

(3) 未於第一項規定之期限內補繳專利規費者(如補繳期間已經過，但第81-2條第2項所定之剩餘規費繳費期間尚未經過者，指未於該剩餘規費繳費期間內繳納剩餘規費)，該有意取得授予專利權登記之人所提出之專利申請案，即視為已拋棄，專利權視為已溯及地在根據第79條第1項及第2項所繳納之規費所對應的期間末日之次日終止。

Article 81 (Late Payment, etc. of Patent Fees)

(1) A patentee or a person intending to register a patent right may make late payment of the patent fees within six months following the expiration of the payment period prescribed under Article 79 (3). <Amended by Act No. 9381, Jan. 30, 2009>

(2) In cases of late payment of patent fees under paragraph (1), an amount prescribed by Ordinance of the Ministry of Trade, Industry and Energy shall be paid within the extent of double the amount of patent fees payable. <Amended by Act No. 9381, Jan. 30, 2009; Act No. 11690, Mar. 23, 2013>

(3) In cases of failing to pay patent fees (where the remaining payment period provided for in Article 81-2 (2) does not expire in spite of the expiration of the extended payment period, referring to such cases as failing to pay the remaining portion of the payment fees within such remaining payment period) within the extended period provided for in paragraph (1), the patent application by a person intending to register a patent right shall be deemed to have been abandoned and the patent right of a patentee shall be deemed to have terminated retroactively on the next day of the expiry date of the period equivalent to patent fees paid pursuant to Article 79 (1) and (2). <Amended by Act No. 6768, Dec. 11, 2002; Act No. 9381, Jan. 30, 2009>

第 81-2 條 剩餘規費繳納

(1) 專利權人或有意取得授予專利權登記之人未於第79條第3項或第81條第1項期間內繳納部分規費時，韓國智慧財產局局長應命其繳納剩餘部分規費。

(2) 經依第一項規定命繳納剩餘部分規費者，得於收受該命令後1個月內繳納剩

餘部分規費。

(3) 根據第2項規定繳納剩餘部分規費者，如有下述情況者，應繳納產業通商及資源部令規定之數額，但不逾未繳部分規費的兩倍：

1. 於第79條第3項所定期間經過後方繳納剩餘部分規費；
2. 於第81條第1項所定補繳期間經過後方繳納剩餘部分規費。

Article 81-2 (Remainder Payment)

(1) Where a patentee or a person intending to register a patent right fails to pay some of the patent fees within the period fixed under Article 79 (3) or 81 (1), the Commissioner of the Korean Intellectual Property Office shall order him/her to pay the remaining portion of the patent fees. <Amended by Act No. 9381, Jan. 30, 2009>

(2) A person ordered to pay the remaining portion under paragraph (1) may pay the remaining portion of the patent fees within one month after the order is received.

(3) A person who pays the remaining portion of the patent fees under paragraph (2) shall pay an amount prescribed by Ordinance of the Ministry of Trade, Industry and Energy within the extent of double the amount of patent fees not paid, if he/she falls under either of the following subparagraphs: <Amended by Act No. 9381, Jan. 30, 2009; Act No. 11690, Mar. 23, 2013>

1. Where he/she pays the remaining portion of the patent fees after the lapse of the period of payment under Article 79 (3);
2. Where he/she pays the remaining portion of the patent fees after the lapse of the period of late payment under Article 81 (1).

第 81-3 條 補繳規費或剩餘部分規費之專利申請案或專利權之復權等

(1) 有意取得授予專利權登記之人或專利權人如係因不可歸責於其之原因，而未能於第81條第1項所定補繳期間補繳專利規費，或未能於第81-2條第2項所定期間繳納剩餘部分規費者，得於該原因消失之日起2個月內補繳規費或繳納剩餘部分規費；但自補繳規費或繳納剩餘部分規費之期間經過後已滿1年者，不得為之。

(2) 雖有第81條第3項規定，依第1項規定補繳規費或繳納剩餘部分規費者，其專利申請案及專利權不視為已拋棄，而視為持續存在。

(3) 因專利權人未於第81條第1項所定補繳期間內繳納規費，或未於第81-2條第2項所定剩餘規費繳費期間內繳納剩餘規費，而使實施中之發明專利權歸於消滅者，專利權人得於補繳期間或剩餘規費繳納期間屆滿起3個月內，繳納第79條所定規費之3倍，申請恢復已消滅之專利權。此時該專利權應視為持續存在。

(4) 第2項或第3項專利申請案或專利權之效力，不及於第三人於補繳期間或剩餘規費繳費期間屆滿時起、實際繳納規費或剩餘部分規費日止之期間(以下稱為「限制效力期間」)，對該發明之實施。

(5) 在限制效力期間，善意在大韓民國境內，對依據第2項或第3項恢復之專利申請案或專利權之發明，為商業或產業上實施或準備者，應在發明目的範圍或實施或準備實施之事業範圍內，享有非專屬授權。

(6) 根據第5款享有非專屬授權之人，應對專利權人或專利被授權人，給付合理報酬。

Article 81-3 (Restoration, etc. of Patent Application or Patent Right by Late Payment or Remaining Payment of Patent Fees)

(1) If a person who intends to obtain the registration of a patent right or a patentee fails to pay patent fees by the deadline for late payment of the patent fees specified in Article 81 (1) or the deadline for remaining payment of the patent fees specified in Article 81-2 (2) due to any cause not imputable to him/her, he/she may pay the patent fees or the remaining portion thereof within two months from the date on which such cause ceases to exist: Provided, That the foregoing shall not apply where one year has elapsed since the deadline for late payment or remaining payment, whichever is later. <Amended by Act No. 6768, Dec. 11, 2002; Act No. 11654, Mar. 22, 2013>

(2) Notwithstanding Article 81 (3), a person who has paid the patent fees or the remaining portion thereof in accordance with paragraph (1) shall be deemed not to have abandoned the patent application and the relevant patent right shall be deemed to have existed continuously. <Amended by Act No. 6768, Dec. 11, 2002; Act No. 9381, Jan. 30, 2009>

(3) Where the patent right of a patented invention in execution has been extinguished, because the patent fee was not paid within the extended payment deadline under Article 81 (1) or the remaining portion thereof was not paid within the remaining payment period under Article 81-2 (2), the relevant patentee may apply to restore the relevant extinguished right by paying three times the amount of the patent fees under Article 79 within three months from the expiration date of the extended payment deadline or of the remaining payment period. In such cases, the relevant patent right shall be deemed to have existed continuously. <Newly Inserted by Act No. 7554, May 31, 2005; Act No. 9381, Jan. 30, 2009>

(4) The effects of a patent application or a patent right under paragraph (2) or (3) shall not extend to another person's working of the patented invention during a period from the date of expiration of the extended period for late payment of the patent fees to the date of actual payment or remainer payment of the

patent fees (hereafter referred to as "period of limited effect" in this Article). <Amended by Act No. 6768, Dec. 11, 2002; Act No. 7554, May 31, 2005>

(5) During the period of limited effect, a person who has been commercially or industrially working or preparing to work an invention in good faith under a patent application or patent right in accordance with paragraph (2) or (3) in the Republic of Korea, shall have a non-exclusive license on that patent right under the patent application within the scope of the object of the invention or business that he/she is working or preparing to work. <Amended by Act No. 7554, May 31, 2005>

(6) A person who has been granted a non-exclusive license in accordance with paragraph (5) shall pay reasonable consideration to the patentee or exclusive licensee. <Amended by Act No. 7554, May 31, 2005>

第 82 條 程序費用

(1) 開啟專利相關程序之人，應繳納費用。

(2) 申請人以外之人請求實體審查，申請人因而修正說明書並增加請求項者，應按照所增加之請求項數繳納申請實體審查之費用。

(3) 根據第一項繳納之費用、繳納方法及期限之必要事項，應以產業通商資源部令規定。

Article 82 (Official Fees)

(1) A person initiating a patent-related procedure shall pay an official fees.

(2) Where the number of claims is increased because of the amendments to the specification after a request for examination made by a person, other than the applicant, the applicant shall pay the fees for the request for examination corresponding to the increased number of claims. <Amended by Act No. 6411, Feb. 3, 2001>

(3) Matters necessary for the payment of official fees, the payment methods and deadline thereof under paragraph (1), and other necessary matters shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6768, Dec. 11, 2002; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 83 條 專利規費或程序費用之減免

(1) 雖有第79條及第82條規定，有下列情形者，韓國智慧財產局局長應免除專利規費或程序費用：

1. 屬國家所有之專利申請案或專利權之程序費用或專利規費；
2. 由審查人員依據第133條第1項、第134條第1項、第2項或第137條第1項所提出之無效判決申請之程序費用

(2) 雖有第79條及第82條規定，專利申請案係由依據國家基本生活安全法第5條規定之可獲協助人，或由產業通商資源部令規定之人提出者，韓國智慧財產局局長可減免其依據產業通商資源部令應繳納之程序費用，以及前3年為取得授予專利權之登記而繳納之專利規費。

(3) 有意依第2項規定減免專利規費或程序費用之人，應向韓國智慧財產局局長提出產業通商資源部令規定之文件。

Article 83 (Reduction or Exemption of Patent Fees or Official Fees)

(1) Notwithstanding Articles 79 and 82, the Commissioner of the Korean Intellectual Property Office shall grant an exemption from paying any of the following patent fees or official fees: <Amended by Act No. 11117, Dec. 2, 2011>

1. Official fees or patent fees corresponding to the patent applications or patent rights belonging to the State;
2. Official fees related to requests for an invalidation trial made by an examiner under Article 133 (1), 134 (1) and (2) or 137 (1).

(2) Notwithstanding Articles 79 and 82, where a patent application has been filed by a person eligible for assistances in accordance with Article 5 of the National Basic Living Security Act or a person prescribed by Ordinance of the Ministry of Trade, Industry and Energy, the Commissioner of the Korean Intellectual Property Office may reduce or exempt the payment of the official fees prescribed by Ordinance of the Ministry of Trade, Industry and Energy and the patent fees for obtaining the establishment registration of a patent right for the first three years. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6024, Sep. 7, 1999; Act No. 6768, Dec. 11, 2002; Act No. 7871, Mar. 3, 2006; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(3) A person who intends to take advantage of reduction or exemption of patent fees or official fees in accordance with paragraph (2) shall submit documents prescribed by Ordinance of the Ministry of Trade, Industry and Energy to the Commissioner of the Korean Intellectual Property Office. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6768, Dec. 11, 2002; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 84 條 專利規費等之退還

(1) 已繳之專利規費或程序費用不予退還，但有下列情形經繳納人申請者，應退

還之：

1. 誤繳之專利規費或程序費用；
2. 認定專利無效之審判決定確定年度之後年份所對應之專利規費部分；
3. 認定專利權期間延長無效之審判決定確定年度之後年份所對應之專利規費部分；
4. 專利申請案在申請後1個月內撤回或拋棄者(不包括分割、改請或經依第62條提出加速審查申請之情形)，其申請費、申請審查費及優先權主張費用；

(2) 已繳納之專利規費或程序費用有第1項各款所列情形者，韓國智慧財產局局長應通知繳納該等費用之人。

(3) 如自接獲第2項通知之日起已超過3年，不得主張第1項但書之退還專利規費或程序費用。

Article 84 (Refund of Patent Fees, etc.)

(1) No patent fees or official fees paid shall be refunded: Provided, That such fees shall be refunded at the payer's request in any of the following cases: <Amended by Act No. 5329, Apr. 10, 1997; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 8197, Jan. 3, 2007; Act No. 11654, Mar. 22, 2013>

1. Patent fees or official fees paid erroneously;
2. Portions corresponding to the patent fees for the years subsequent to the year in which a trial decision of invalidation on the patent becomes final and conclusive;
3. Portions corresponding to the patent fees for the years subsequent to the year in which a trial decision of invalidation on the registration of patent term extension becomes final and conclusive;
4. Application fees for a patent, fees for a request for examination, and fees for a priority claim, out of the fees already paid, where the patent application concerned has been withdrawn or abandoned within one month after such application was filed (excluding a divisional application, converted application, and patent application for which a request for accelerated examination has been made under Article 61).

(2) When any patent fee or official fee paid falls under any subparagraph of paragraph (1), the Commissioner of the Korean Intellectual Property Office shall issue a notification to the party who paid such fees. <Newly Inserted by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

(3) Refund of patent fees and official fees under the proviso to paragraph (1) may not be claimed if more than three years have elapsed from the date of receiving the notification under paragraph (2). <Amended by Act No. 7871, Mar. 3, 2006; Act No. 8462, May 17, 2007>

第 85 條 專利登記

(1) 韓國智慧財產局局長應在韓國智慧財產局保存專利登記並登記下列事項：

1. 專利權之創設、移轉、消滅、恢復、處置之限制或期限延長；
2. 專屬或非專屬授權之創設、維持、移轉、變更、消滅或處置之限制；
3. 專利權或專屬或非專屬授權之質權之創設、移轉、變更或處置之限制。

(2) 第1項所定專利登記之全部或一部，可儲存於磁帶等之上。

(3) 登記之事項及程序相關的必要資訊如未規定於第1項及第2項，以總統令定之。

(4) 專利發明之說明書、圖式及其他以總統令規定之文件，應視為專利登記的一部分。

Article 85 (Patent Register)

(1) The Commissioner of the Korean Intellectual Property Office shall keep the Patent Register at the Korean Intellectual Property Office and shall register the following matters: <Amended by Act No. 6768, Dec. 11, 2002>

1. The establishment, transfer, extinguishment, recovery, restriction on disposal, or extension of the term of a patent right;
2. The establishment, maintenance, transfer, modification, extinguishment, or restriction on disposal of an exclusive or non-exclusive license;
3. The establishment, transfer, modification, extinguishment or restriction on the disposal of a pledge on a patent right or on an exclusive or non-exclusive license.

(2) All or parts of the Patent Register under paragraph (1) may be stored on magnetic tapes, etc.

(3) Necessary information relating to the matters and procedures of registration not provided for in paragraphs (1) and (2) shall be prescribed by Presidential Decree.

(4) Specifications and drawings of patented inventions and other documents prescribed by Presidential Decree shall be deemed part of the Patent Register.

第 86 條 核發專利登記證書

(1) 專利權經登記，韓國智慧財產局局長應對專利權人核發專利登記證書。

(2) 當專利登記證書與專利登記或其他文件不一致時，韓國智慧財產局局長應依據申請或職權，核發經修改之專利登記證書或核發新的專利登記證書。

(3) 第136條第1項對更正之審判決定確定者，韓國智慧財產局局長應根據該審判決定核發新專利登記證書。

Article 86 (Issuance of Patent Registration Certificate)

(1) When a patent right has been registered, the Commissioner of the Korean Intellectual Property Office shall issue a patent registration certificate to the relevant patentee.

(2) Where a patent registration certificate does not coincide with the Patent Register or other documents, the Commissioner of the Korean Intellectual Property Office shall reissue the patent registration certificate with amendments, or issue a new patent registration certificate upon request or ex officio.

(3) When a decision on a trial for amendment under Article 136 (1) has become final and conclusive, the Commissioner of the Korean Intellectual Property Office shall issue a new patent registration certificate in accordance with the trial decision.

第 87 條 專利權之創設登記與登記公告

(1) 專利權應自創設登記起生效。

(2) 有下列各款情況時，韓國智慧財產局局長應為專利權創設登記：

1. 已依據第79條第1項繳納專利規費；
2. 已依據第81條第1項補繳專利規費；
3. 已依據第81-2條第2項繳納剩餘部分專利規費；
4. 已依據第81-3條第1項繳納專利規費或剩餘部分專利規費；
5. 經依第83條第1項第1款及第2項免為繳納專利規費。

(3) 經依第2項規定登記後，韓國智慧財產局局長應將授予專利一事及相關資訊公告於專利公報。

(4) 專利發明要求保密者，其登記之公告應待其解密後為之；而一經解密，應立即公告不可遲延。

(5) 韓國智慧財產局局長應將申請文件及附隨材料，在登記公告起3個月內，提供公眾檢視。

(6) 第3項所定登記之公告，於專利公報上應公告之事項，應由總統令定之。

Article 87 (Registration of Establishment of Patent Right and Publication of Registration)

(1) A patent right shall enter into effect upon establishment of registration thereof.

(2) The Commissioner of the Korean Intellectual Property Office shall register the establishment of a patent right in any case of the following subparagraphs: <Amended by Act No. 7871, Mar. 3, 2006>

1. Where the payment of patent fees has been made in accordance with Article 79 (1);
2. Where the late payment of patent fees has been made in accordance with

Article 81 (1);

3. Where the remaining portion of patent fees has been paid in accordance with Article 81-2 (2);
4. Where the patent fees or the remaining portion thereof has been paid in accordance with Article 81-3 (1);
5. Where an exemption from the payment of patent fees has been granted under Article 83 (1) 1 and (2).

(3) Where registration has been made under paragraph (2), the Commissioner of the Korean Intellectual Property Office shall publish the grant of the patent together with the relevant information in the Patent Gazette. <Amended by Act No. 5329, Apr. 10, 1997>

(4) The publication of the registration of a patented invention required to be treated confidentially shall be reserved until it is declassified, and upon declassification, the registration shall be published without delay. <Newly Inserted by Act No. 5329, Apr. 10, 1997>

(5) The Commissioner of the Korean Intellectual Property Office shall provide application documents and attached materials thereof for public inspection for a period of three months from the date of publication of registration. <Newly Inserted by Act No. 5329, Apr. 10, 1997>

(6) Matters to be published in the Patent Gazette with respect to the publication of registration under paragraph (3) shall be prescribed by Presidential Decree. <Newly Inserted by Act No. 5329, Apr. 10, 1997>

第 88 條 專利權期限

(1) 專利權之期限應自依第87條第1項登記之後起算，並自專利申請日起20年存續。

(2) 專利權依據第34條及第35條授予適法權利人者，第1項之專利權期限應自無權利人之專利申請案申請日之次日起算。

(3) 刪除。

(4) 刪除。

Article 88 (Term of Patent Right)

(1) The term of a patent right shall commence upon registration of the patent right under Article 87 (1) and last for 20 years from the filing date of the patent application. <Amended by Act No. 5329, Apr. 10, 1997; Act No. 6411, Feb. 3, 2001>

(2) Where a patent is granted to a lawful holder of the right under Articles 34 and 35, the term of a patent right under paragraph (1) shall be calculated from the

date following the filing date of the patent application by the unentitled person. <Amended by Act No. 5080, Dec. 29, 1995>

(3) Deleted. <by Act No. 6411, Feb. 3, 2001>

(4) Deleted. <by Act No. 7871, Mar. 3, 2006>

第 89 條 因許可等延長專利權期間

(1) 雖有第88條第1項之規定，當任何人有意實施專利發明須依據他法律或法規獲得許可或申請登記，而就一總統令規定之發明，如為取得前述許可或登記等(以下稱為「許可等」)須進行之活性或安全性試驗等耗時許久，則相關專利權之期限得延長其不能實施之期間，至多5年。

(2) 適用第1項規定時，第1項所稱「相關專利權不能實施之期間」在計算上不得計入可歸因於專利權人之事由所經過之期間。

Article 89 (Extension of Term of Patent Right by Permit, etc)

(1) When any one intends to implement a patented invention, he/she shall obtain a permit or file for registration under other Acts and subordinate statues, and, in cases of an invention prescribed by Presidential Decree, which takes a long time due to activity or safety tests, etc. required for such permit or registration. etc. (hereinafter referred to as "permit, etc."), the term of the relevant patent right may be extended up to five years, during which the relevant invention cannot be implemented, notwithstanding the provisions of Article 88 (1).

(2) In applying the provisions of paragraph (1), the period which has lapsed due to grounds attributable to patentees shall not be included in "period during which the relevant invention cannot be implemented" pursuant to paragraph (1).

第 90 條 因許可等而登記延長專利權期間，其申請

(1) 有意依據第89條第1項申請登記延長專利權之人(以下在本條及第91條，稱為「延長登記申請人」)應向韓國智慧財產局局長提出登記延長專利權期間之申請，並載明下述事項：

1. 延長登記申請人之姓名及住所(如申請人為法人，其名稱及營業所)；
2. 如有委任代理人者，其姓名及住所或營業所(如代理人為專利事務所者，其名稱、辦公地址及受任專利師之姓名)；
3. 申請延長之專利之證書號，及專利申請範圍；
4. 延長期間；
5. 第89條第1項所定許可等之要件；
6. 產業通商資源部令規定之延長事由(附隨證明該事由之資料)

(2) 根據第1項申請登記延長專利權期間，應於第89條第1項規定之許可等獲得之

日起3個月內為之。但於第88條所定專利權期限屆滿前6個月，不可提出申請。

(3) 專利權為共有者，登記延長專利權期間之申請，應由共有人全體之名義提出。

(4) 經依第1項規定申請登記延長專利權期間者，該期限應予延長。但第91條所定核駁登記延長之審定確定者，不在此限。

(5) 登記延長專利權期間之申請經提出後，韓國智慧財產局局長應將第1項所定資訊公告於專利公報。

(6) 在審查人員檢送准予登記或不准延長之審定正本前，延長登記申請人可修改其登記延長申請中第1項第3款至第6款所定事項(除第3款申請延長之專利之證書號外)。但收到依第93條準用而作成的核駁事由通知後，僅得在該核駁事由通知所載提出書面意見之期限內為修改。

Article 90 (Applications to Register Extension of Term of Patent Right by Permit, etc.)

(1) A person who intends to apply to register the extension of a patent right under Article 89 (1) (hereafter referred to as "applicant for registration of extension" in this Article and Article 91) shall submit an application for registration of an extension of the term of a patent right to the Commissioner of the Korean Intellectual Property Office, stating each of the following: <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11117, Dec. 2, 2011; Act No. 11690, Mar. 23, 2013>

1. The name and domicile of an applicant for registration of extension (if the applicant is a juristic person, its title and the location of its place of business);
2. The name and domicile, or location of place of business, of the representative, if designated (if the representative is a patent corporation, its name, location of office and designated patent attorney's name);
3. The identification by the number of patent for which an extension is applied, and the claims of that patent;
4. The period of extension;
5. The requirements for permission, etc. under Article 89 (1);
6. The grounds for extension prescribed by Ordinance of the Ministry of Trade, Industry and Energy (accompanied by materials substantiating the grounds).

(2) An application to register an extension of the term of a patent right pursuant to paragraph (1) shall be filed within three months from the date permission, etc. under Article 89 (1) was obtained: Provided, That such application may not be filed six months before the term of patent right provided for in Article 88 expires. <Amended by Act No. 11117, Dec. 2, 2011>

(3) Where a patent right is owned by joint owners, an application to register an

extension of the term of a patent right shall be made in the names of all the joint owners.

(4) Where an application to register an extension of term of a patent right pursuant to paragraph (1) has been filed, the term shall be deemed extended: Provided, That the same shall not apply where a decision of refusal for registration of extension of term under Article 91 has become final and conclusive. <Amended by Act No. 5329, Apr. 10, 1997; Act No. 6411, Feb. 3, 2001; Act No. 11117, Dec. 2, 2011>

(5) Where an application to register an extension of the term of a patent right pursuant to paragraph (1) has been filed, the Commissioner of the Korean Intellectual Property Office shall publish the information prescribed in paragraph (1) in the Patent Gazette. <Amended by Act No. 11117, Dec. 2, 2011>

(6) An applicant for registration of an extension may make an amendment to the matters referred to in paragraph (1) 3 through 6, which are described in the application for registration of an extension (excluding the patent number of the patent right to be extended under subparagraph 3) until the examiner transmits a certified copy of the decision for registration or rejection of the extension: Provided, That after receiving a notice of grounds for rejection which is applicable mutatis mutandis pursuant to Article 93, he/she may make an amendment in the period for presentation of a written opinion only, according to the relevant notice of grounds for rejection. <Newly Inserted by Act No. 6411, Feb. 3, 2001; Act No. 9381, Jan. 30, 2009>

第 91 條 因許可等而登記延長專利權期間，其申請之核駁

依第90條所為登記延長專利權期間之申請，如有下列各款情形，審查人員應作成核駁之審定：

1. 第89條第1項規定之許可等，經認定非為實施該專利發明所必要；
2. 該專利權人、該專利權之專屬被授權人或經登記之非專屬被授權人，未能取得第89條第1項規定之許可等；
3. 申請延長之期限超過第89條規定專利發明無法實施之期間；
4. 登記延長申請人非專利權人；
5. 登記延長之申請違背第90條第3項。

Article 91 (Decision of Rejecting Application to Register Extension of Term of Patent Right by Permit, etc)

An examiner shall make a decision to reject an application to register an extension of the term of a patent right pursuant to Article 90 when it falls under any of the following subparagraphs: <Amended by Act No. 6411, Feb. 3, 2001; Act No. 11117,

Dec. 2, 2011>

1. When a permit etc. under Article 89 (1) is deemed unnecessary for implementing the relevant patented invention;
2. When the relevant patentee or any person who has an exclusive license or registered non-exclusive license related to the relevant patent right fails to obtain a permit, etc. under Article 89 (1);
3. When the period of an application for extension exceeds the period during which the relevant patented invention could not have been implemented pursuant to Article 89;
4. When an applicant for the registration of extension is not the relevant patentee;
5. When an application for the registration of extension has been filed, in violation of Article 90 (3).

第 92 條 因許可等而登記延長專利權期間，其審定等

(1) 審查人員對依第90條所為登記延長專利權期間之申請，並未發現第91條各款所列事由者，應作成准予登記之審定。

(2) 准予登記延長之審定依第1項作成者，韓國智慧財產局局長應於專利登記中登載專利權期限延長。

(3) 第2項所定登記經作成後，下列各款所定資訊應公告於專利公報：

1. 專利權人之姓名及住所(如專利權人為法律實體，其名稱及營業所)；
2. 專利之證書號；
3. 登記延長之日期；
4. 延長之期間；
5. 第89條第1項所定許可等之要件可歸因於專利權人。

Article 92 (Decision, etc. to Register Extending Term of Patent Right by Permit, etc)

(1) Where an examiner finds no reason falling under any subparagraph of Article 91 with regard to an application for registration of an extension of the term of a patent right under Article 90, he/she shall render the decision of the registration. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 11117, Dec. 2, 2011; Act No. 11654, Mar. 22, 2013>

(2) When a decision to register the extension has been made under paragraph (1), the Commissioner of the Korean Intellectual Property Office shall register the extension of the term of the patent right in the Patent Register. <Amended by Act No. 6411, Feb. 3, 2001>

(3) When the registration under paragraph (2) has been made, the information prescribed in the following subparagraphs shall be published in the Patent

Gazette: <Amended by Act No. 6411, Feb. 3, 2001; Act No. 11117, Dec. 2, 2011>

1. The name and domicile of a patentee (if the patentee is a legal entity, its title and the location of its place of business);
2. The patent number;
3. The date of registration of the extension;
4. The period of the extension;
5. The requirements for permission, etc. under Article 89 (1) attributable to the patentee. <Amended by Act No. 5576, Sep. 23, 1998>

第 92-2 條 遲延登記後之專利權期間延長

(1) 雖有第88條第1項之規定，遲至專利申請日後滿4年之日或實體審查申請日後滿3年之日，以二者較晚者為準，而仍未獲專利權創設登記者，相關專利權期限得延長受到遲延之期間。

(2) 適用第1項規定時，第1項規定專利權期間延長期間應扣除申請人所致遲延之期間。但申請人所致之遲延期間與上述遲延期間重疊時，被扣除於專利權期間延長之期間，不應超過實際因申請人所致之遲延期間。

(3) 有關第2項所述「申請人所致遲延期間」之相關事項，應以總統令定之。

(4) 雖有第34條、第35條、第52條第2項、第53條第2項、第199條第1項及第214條第4項之規定，依據第1項規定從專利申請日計算4年者，下列各款日期應被視為專利申請日：

1. 在合法權利人依據第34條及第35條提出專利申請之情形，該合法權利人申請專利之日；
2. 在依第52條分割申請之情形，提出分割申請之日；
3. 在依第53條規定改請之情形，提出改請之日；
4. 在國際申請案依第199條第1項被解釋為專利申請之情形，提出載有第203條第1項各款所定事項之文件之日。
5. 在國際申請案依第214條第1項被解釋為專利申請之情形，提出國際申請之申請人請求韓國智慧財產局局長依據第214條第1項做成決定之日。
6. 專利申請無前述第1款至第5款之情形者，提出專利申請之日。

Article 92-2(Extension of Term of Patent Right Following Delayed Registration)

(1) When the registration of establishment of a patent right is delayed than the date on which four years lapse after the date of a patent application or the date on which three years lapse after a request for the examination of an application is made, whichever is later, the term of the relevant patent right may be extended as much as the delayed period, notwithstanding the provisions of Article 88 (1).

(2) In applying the provisions of paragraph (1), the period delayed due to an

applicant shall be excluded from the extension of the term of a patent right under paragraph (1): Provided, That when the period delayed due to an applicant overlaps with the abovementioned delayed period, the period excluded from the extension of the term of a patent right shall not exceed the actual period delayed due to an applicant.

(3) Matters concerning "the period delayed due to an applicant" under paragraph (2) shall be prescribed by Presidential Decree.

(4) When four years are reckoned from the date of a patent application pursuant to paragraph (1), any date falling under each of the following subparagraphs shall be deemed the date of a patent application, notwithstanding the provisions of Articles 34, 35, 52 (2), 53 (2), 199 (1) and 214 (4):

1. The date when the lawful holder of a right applies for a patent, in cases of a patent application by the lawful holder of a right pursuant to Article 34 or 35;
2. The date when a divisional application is filed, in cases of a divisional application under Article 52;
3. The date when a converted application is filed, in cases of a converted application under Article 53;
4. The date when a document containing matters falling under subparagraphs of Article 203 (1) is submitted, in cases of an international application construed as a patent application pursuant to Article 199 (1);
5. The date when an applicant who filed an international application requests the Commissioner of the Korean Intellectual Property Office to make a decision pursuant to Article 214 (1), in cases of an international application construed as a patent application pursuant to Article 214;
6. The date when a patent application is filed, in cases of a patent application which does not fall under any of the subparagraphs 1 through 5.

第 92-3 條 遲延登記後之登記延長專利權期間，其申請

(1) 有意依據第92-2條申請登記延長專利權期間之人(以下在本條及第92-4條稱為「延長登記申請人」)，應提交登記延長專利權期間之申請書予韓國智慧財產局局長，載明下列事項：

1. 登記延長申請人之姓名及住所(如申請人為法人，其名稱及營業所)；
2. 如有登記延長申請人之代理人者，其姓名及住所或營業所(如代理人為專利事務所者，其名稱、辦公地址及受任專利師之姓名)；
3. 延長專利之證書號；
4. 申請延長之期間；
5. 產業通商資源部令規定之延長事由(應附隨證明該事由之資料)。

(2) 依據第1項規定登記延長專利權期間之申請，應於專利創設登記起3個月內為之。

(3) 專利權為共有時，登記延長專利權期間之申請，應由全體共有人共同提出。

(4) 登記延長之申請人，得於審查人員決定專利權期間延長是否應予登記前，就登記延長書面申請書所載事項，得修改第1項第4款、第5款所定事項。但收到依第93條準用而作成的核駁事由通知後，僅得在該核駁事由通知後提出書面意見之期限內為修改。

Article 92-3 (Application to Register Extension of Term of Patent Right Following Delayed Registration)

(1) Any person who intends to apply to register the extension of the term of a patent right under Article 92-2 (hereinafter referred to as "applicant for registration of extension" in this Article and Article 92-4) shall submit an application for registration of extension of the term of a patent right stating the following matters to the Commissioner of the Korean Intellectual Property Office: <Amended by Act No. 11690, Mar. 23, 2013>

1. The name and domicile of an applicant for registration of extension (if the applicant is a juristic person, its title and the location of its business place);
2. The name and domicile of an agent or the location of business place, when the agent of an applicant for registration of extension exists (if the agent is a patent office, its title, location of its business place and the name of a designated patent attorney);
3. The patent number of a patent right subject to extension;
4. The period of application for extension;
5. Grounds for extension prescribed by Ordinance of the Ministry of Trade, Industry and Energy (data certifying such grounds shall be attached thereto).

(2) An application to register extension of the term of a patent right pursuant to paragraph (1) shall be filed within three months from the date when the establishment of a patent right is registered.

(3) Where a patent right is owned by joint owners, an application to register extension of the term of a patent right shall be filed by all joint owners.

(4) Any applicant for registration of extension may revise matters falling under paragraph (1) 4 and 5, among matters stated in a written application for registration of extension, before an examiner decides whether extension of the term of a patent right shall be registered: Provided, That after he/she receives a notice on grounds for refusal, which are applied mutatis mutandis under Article 93, he/she may revise such matters only in the period for submission of written opinions following the relevant notice on grounds for refusal.

第 92-4 條 遲延登記後之登記延長專利權期間，其申請之核駁

依第92-3條所為登記延長專利權期間之申請，如有下列各款情形，審查人員應作成核駁之審定：

1. 申請延長之期限超過第92-2條應認可予以延長之期間；
2. 登記延長申請人非專利權人；
3. 登記延長之申請違背第92-3條第3項。

Article 92-4 (Decision to Reject Application to Register Extension of Term of Patent Right Following Delayed Registration)

When an application to register extension of term of a patent right pursuant to Article 92-3 falls under any of the following subparagraphs, an examiner shall decide to reject the application:

1. When the period of the application for extension exceeds a period of extension recognized pursuant to Article 92-2;
2. When an applicant for registration of extension is not the relevant patentee;
3. When the application for registration of extension is filed, in violation of Article 92-3 (3).

第 92-5 條 遲延登記後之登記延長專利權期間，其審定等

(1) 審查人員對依第92-3條所為登記延長專利權期間之申請，並未發現第92-4條各款所列事由者，應准予登記延長期限。

(2) 准予登記延長專利權期間之審定依第1項作成者，韓國智慧財產局局長應於原專利登記併同登記此延長。

(3) 第2項所定登記經作成後，下列事項應見於專利公報：

1. 專利權人之姓名及住所(如專利權人為法人，其名稱及營業所)；
2. 專利之證書號；
3. 登記延長專利權期間之日期；
4. 延長之期間；

Article 92-5 (Decision, etc to Register Extension of Term of Patent Right Following Delayed Registration)

(1) When an examiner cannot find a ground falling under any of the subparagraphs of Article 92-4, with regard to any application to register extension of term of a patent right pursuant to Article 92-3, he/she shall decide to register such extended term.

(2) When a decision is made to register extension of term of a patent right pursuant to paragraph (1), the Commissioner of the Korean Intellectual Property Office shall register such extension with the patent original register.

(3) When any registration is made pursuant to paragraph (2), the following matters shall be included in the patent gazette:

1. The name and domicile of a patentee (if a patentee is a juristic person, its name and its business place);
2. The patent number;
3. The date when the extension of term of a patent right is registered;
4. The period of extension.

第 93 條 準用條款

第57條第1項、第63條、第67條、第148條第1款至第5款及第7款，於申請登記延長專利權期間，準用之。

Article 93 (Provisions Applicable Mutatis Mutandis)

Articles 57 (1), 63, 67 and subparagraphs 1 through 5 and 7 of Article 148 shall apply mutatis mutandis to the examination of an application for registration of an extension of the term of a patent right.

第 94 條 專利權效力

專利權人專有商業性及產業性實施專利發明之權利。但專利權經專屬授權者，在專屬被授權人依第100條第2項專有實施專利發明之權的程度內，無前述規定之適用。

Article 94 (Effects of Patent Right)

A patentee shall have the exclusive right to work a patented invention both commercially and industrially: Provided, That where the patent right is the subject of an exclusive license, this shall not apply to the extent that the exclusive licensee has the exclusive right to work the patented invention under Article 100 (2).

第 95 條 依許可等延長專利權期間之效力

專利權之期限依第90條第4項而延長者，該專利權效力，除了實施其許可等係延長登記基礎之產品之發明專利外(或，如許可等係為產品之某特定用途而取得，為該用途調改之產品)，不及於其他行為。

Article 95 (Effects of Patent Right with its Term Extended by Permit, etc)

The effects of a patent right, the term of which has been extended pursuant to Article 90 (4), shall not extend to any other acts except the working of the patented invention with respect to such products for which permission, etc. was the basis for registering the extension (or where permission, etc. was obtained for any specific

use of the product, with respect to the product adapted for such specific use). <Amended by Act No. 11117, Dec. 2, 2011>

第 96 條 專利權之限制

(1) 專利權之效力，不及於下列事項：

1. 為研究或實驗之目的實施專利發明(包括藥事法所定之藥品許可及報告，及農藥管制法所定為登記而為之研究試驗)；
2. 僅係通過大韓民國之船隻、航空器或車輛，或使用於其中的機器、儀器、設備或其他附加物件。
3. 在專利案申請時已存在於大韓民國之物品。

(2) 藥品(指用於對人類疾病為診斷、治療、減輕、醫學處制或預防之產品；以下應為同解)之製造係混合兩種以上藥品者，或以混合兩種以上藥品製造藥品之方法，其發明之專利權效力，不及於依據藥事法製造藥品之行為，或依該等行為所製造之藥品。

Article 96 (Limitations on Patent Rights)

(1) The effects of the patent right shall not extend to the following: <Amended by Act No. 9985, Jan. 27, 2010>

1. Working of the patented invention for the purpose of research or experiments (including item permission or reporting on medicines under the Pharmaceutical Affairs Act, and research or experiments for registration of agrochemicals under the Agrochemicals Control Act);
2. Vessels, aircraft or vehicles merely passing through the Republic of Korea, or machinery, instruments, equipment or other accessories used therein;
3. Articles existing in the Republic of Korea as at the time the patent application was filed.

(2) The effects of the patent right for inventions of a medicine (referring to products used for diagnosis, therapy, alleviation, medical treatment or prevention of human diseases; hereinafter the same shall apply) manufactured by mixing two or more medicines, or for inventions of processes for manufacturing medicines by mixing two or more medicines, shall not extend to the acts of manufacturing medicines or to medicines manufactured by such acts in accordance with the Pharmaceutical Affairs Act. <Amended by Act No. 7871, Mar. 3, 2006>

第 97 條 專利發明之保護範圍

受專利保護之發明，其保護範圍應依據申請專利範圍所描述之標的定之。

Article 97 (Scope of Protection of Patented Invention)
The scope of protection conferred by a patented invention shall be determined by the subject matters described in the claims.

第 98 條 與他人專利發明等之關係

實施專利發明會侵害他人申請日在該發明申請案之前的專利發明、經登記之新型、經登記之設計或近似設計，或專利權與他人申請日在該發明申請案之前的設計權或商標權相衝突，則專利權人、專屬被授權人或非專屬被授權人非經獲得在先專利權、新型權、設計權或商標權權利人之許可，不得對該專利發明為商業性或產業性之實施。

Article 98 (Relation to Patented Invention, etc. of Another Person)
Where the working of a patented invention would infringe another person's patented invention, registered utility model or registered design or similar design under an application filed prior to the filing date of the patent application concerned, or where a patent right conflicts with another person's design right or trademark right under an application for registration for a design right or trademark right filed prior to the filing date of the patent application concerned, the patentee, exclusive licensee or non-exclusive licensee shall not work the patented invention commercially or industrially without permission from the owner of the earlier patent, utility model right, or design right, or trademark right. <Amended by Act No. 4594, Dec. 10, 1993; Act No. 6411, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

第 99 條 專利權之轉讓與共有

(1) 專利權可轉讓。
(2) 專利權為共有者，各共有人未經所有其他共有人之同意，不得轉讓其應有份，亦不得以之設質。
(3) 專利權為共有者，除共有人全體另以契約有所約定者外，各共有人得實施該專利發明，毋庸經他共有人之同意。
(4) 專利權為共有者，各共有人未經他共有人同意，不得為專屬或非專屬授權。

Article 99 (Transfer and Joint Ownership of Patent Right)
(1) A patent right may be transferred.
(2) Where a patent right is owned jointly, each joint owner of the patent right may neither transfer his/her share nor establish a pledge upon it without the consent of all the other joint owners.
(3) Where a patent right is owned jointly, each joint owner may, except as otherwise agreed in a contract among all the joint owners, work the patented

invention by himself/herself without the consent of the other joint owners.

(4) Where a patent right is owned jointly, each joint owner of the patent right may not grant an exclusive license or a non-exclusive license of the patent right without the consent of the other joint owners.

第 100 條 專屬授權

(1) 專利權人得將專利權專屬授權予他人。

(2) 經依第1項規定授予專屬授權之專屬被授權人，在授權契約規定之程度內，專有商業性及產業性實施該專利發明之權。

(3) 專屬被授權人，非經專利權人同意，不得轉讓其授權，除非係與所附隨之事業一併轉讓，或係因繼承或其他概括繼受而轉讓。

(4) 專屬被授權人，非經專利權人同意，不得就其專屬授權為設質或授予非專屬授權。

(5) 第99條第2項至第4項，於專屬授權準用之。

Article 100 (Exclusive License)

(1) A patentee may grant an exclusive license of the patent right to others.

(2) An exclusive licensee having been granted an exclusive license under paragraph (1), shall have the exclusive right to work the patented invention commercially or industrially to the extent provided for in the license contract.

(3) No exclusive licensee may transfer the license without the consent of the patentee, unless it is transferred together with the underlying business, or by inheritance or other general succession.

(4) No exclusive licensee may establish a pledge nor grant a nonexclusive license on the exclusive license without the consent of the patentee.

(5) Article 99 (2) through (4) shall apply mutatis mutandis to exclusive licenses.

第 101 條 專利權及專屬授權之登記效力

(1) 下列事項，非經登記，不生效力：

1. 專利權之轉讓(除因繼承或其他概括繼受而生者外)、因拋棄而消滅，或處置之限制；
2. 專屬授權之授予、轉讓(除因繼承或其他概括繼受而生者外)、修改、消滅(除因混同而消滅者外)或處置之限制；
3. 專利權或專屬授權上質權之創設、轉讓(除因繼承或其他概括繼受而生者外)、修改、消滅(除因混同而消滅者外)或處置之限制。

(2) 第1項所述專利權、專屬授權或質權之繼承或其他概括繼受，應即通知韓國智慧財產局局長，不得遲延。

Article 101 (Effects of Registration of Patent Right and Exclusive License)

(1) The following matters shall be of no effect unless they are registered: <Amended by Act No. 6411, Feb. 3, 2001>

1. The transfer (excluding transfer by inheritance or other general succession) or extinguishment by abandonment, or restriction on disposal of a patent right;
2. The grant, transfer (excluding transfer by inheritance or other general succession), modification, extinguishment (excluding extinguishment by confusion), or restriction on disposal of an exclusive license;
3. The establishment, transfer (excluding transfer by inheritance or other general succession), modification, extinguishment (excluding extinguishment by confusion), or restriction on disposal of a pledge on a patent right or exclusive license.

(2) Inheritance of, or other general succession relating to a patent right, exclusive license, and pledge under paragraph (1) shall be notified without delay to the Commissioner of the Korean Intellectual Property Office.

第 102 條 非專屬授權

(1) 專利權人得就其專利權授予非專屬授權。

(2) 非專屬被授權人，在本法或授權契約規定的程度內，有商業性或產業性實施專利發明之權。

(3) 依第107條授予之非專屬授權，僅可併同所附隨之事業為轉讓。

(4) 本法第138條、新型法第32條或設計保護法第70條所定之非專屬授權，應併同專利權、新型權或設計權為轉讓，並應於該專利權、新型權或設計權消滅之時消滅。

(5) 非專屬授權，除非為規定於第3項及第4項者外，非經權利人(在對專屬授權為非專屬授權之情況，指權利人及專屬被授權人)同意，不得轉讓，除非係與所附隨之事業一併轉讓，或係因繼承或其他概括繼受而轉讓。

(6) 非專屬授權，除非為規定於第3項及第4項者外，非經權利人(在對專屬授權為非專屬授權之情況，指權利人及專屬被授權人)同意，不得於其上設置質權。

(7) 第99條第2項及第3項，於非專屬授權準用之。

Article 102 (Non-exclusive License)

(1) A patentee may grant to others a non-exclusive license on his/her patent right.

(2) A non-exclusive licensee shall have the right to work the patented invention commercially or industrially to the extent prescribed in this Act or provided for by the license contract. <Amended by Act No. 4594, Dec. 10, 1993>

(3) A non-exclusive license granted under Article 107 may only be transferred together with the underlying business. <Amended by Act No. 5080, Dec. 29, 1995>

(4) A non-exclusive license under Article 138 of this Act, Article 32 of the Utility Model Act, or Article 70 of the Design Protection Act shall be transferred together with the patent right, utility model right, or design right concerned and shall be extinguished as at the same time the patent, utility model or design right concerned is extinguished. <Amended by Act No. 5576, Sep. 23, 1998; Act No. 7289, Dec. 31, 2004; Act No. 7871, Mar. 3, 2006>

(5) No non-exclusive license, other than those described in paragraphs (3) and (4), may be transferred without the consent of the patentee (or the patentee and the exclusive licensee in cases of a non-exclusive license on an exclusive license), unless it is transferred together with the underlying business, or by inheritance or other general succession. <Amended by Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001>

(6) No pledge may be established on a non-exclusive license, other than those under paragraphs (3) and (4), without the consent of the patentee (or the patentee and the exclusive licensee in cases of a nonexclusive license on an exclusive license).

(7) Article 99 (2) and (3) shall apply mutatis mutandis to non-exclusive licenses. <Amended by Act No. 4594, Dec. 10, 1993>

第 103 條 先用所生之非專屬授權

在專利申請時，對專利申請案所述發明內容並不知悉而創作發明之人，或是自此人處習得如何創作發明之人，如已在大韓民國就該發明為商業性或產業性實施，或有為此實施之準備，並屬善意者，就該專利申請案所述發明之專利權，有非專屬授權。此授權限於已實施或已有實施準備之發明，且限於為實施或準備之目的。

Article 103 (Non-exclusive License by Prior Use)

At the time of filing of a patent application, a person who has made an invention without having prior knowledge of the contents of an invention described in an existing patent application, or has learned how to make the invention from such person and has been working the invention commercially or industrially in the Republic of Korea, in good faith, or has been making preparations therefor, shall have a nonexclusive license on that patent right for the invention under the patent application. Such license shall be limited to the invention which is being worked, or for which preparations for working have been made, and to the purpose of such

working or preparations. <Amended by Act No. 6411, Feb. 3, 2001>

第 104 條 登記無效判決申請前之實施所生之非專屬授權

(1) 下列各款所述之人，在對專利或經登記之新型為無效判決之申請經登記之前，已在大韓民國就該發明或設備為商業性或產業性實施，或有此實施之準備，而不知其專利發明或經登記之新型實應無效，則就該專利權或該專利或新型登記無效時存在於專利權上之專屬授權，有非專屬授權；此非專屬授權限於已實施或已有實施準備之發明或設備，且限於為實施或準備之目的：

1. 對相同創作授予兩個以上專利，而其一經宣告無效時，原專利權人；
2. 專利發明及登記為新型之設備相同，且新型登記經宣告無效時，原新型權人；
3. 當專利經宣告無效而相同發明之專利經授予給有權之人時，原專利權人；
4. 當新型登記經宣告無效而就該設備相同發明之專利經授予給有權之人時，原新型權人。
5. 有第1款至第4款情況，就該經宣告無效之專利權或新型權，在其無效判決申請經登記時，有專屬授權、非專屬授權，或對專屬授權有非專屬授權，且經登記之人。但第118條第2項所定之人，其授權無須經登記。

(2) 依第1項規定有非專屬授權之人，應給付合理報酬予專利權人或專屬被授權人。

Article 104 (Non-exclusive License due to Working prior to Registration of Request for Invalidation Trial)

(1) Where a person falling under any of the following subparagraphs has been working an invention or a device in the Republic of Korea commercially or industrially, or has been making preparations therefor, prior to the registration of a request for an invalidation trial of the patent or registered utility model concerned, without knowing that his/her patented invention or registered utility model is subject to invalidation, such person shall have a non-exclusive license on that patent right or have a non-exclusive license on the exclusive license to a patent right existing at the time the patent or the utility model registration was invalidated, but such non-exclusive license shall be limited to the invention or device which is being worked or for which preparations for working are being made and to the purpose of such working or the preparations therefor: <Amended by Act No. 5576, Sep. 23, 1998; Act No. 7871, Mar. 3, 2006>

1. The original patentee, where one of two or more patents granted for the same invention has been invalidated;
2. The original owner of a utility model right, where a patented invention and a

device registered as a utility model are the same and the utility model registration has been invalidated;

3. The original patentee, where his/her patent has been invalidated and a patent for the same invention has been granted to an entitled person;
4. The original owner of a utility model right, where his/her utility model registration has been invalidated and a patent for the same invention as the device has been granted to an entitled person;
5. In cases of subparagraphs 1 through 4, a person who has been granted an exclusive license or a nonexclusive license, or non-exclusive license on the exclusive license and has been registered such, at the time of registration of the request for an invalidation trial of the invalidated patent right or utility model right: Provided, That a person falling under Article 118 (2) is not required to register the license.

(2) A person who has been granted a non-exclusive license in accordance with paragraph (1) shall pay reasonable consideration to the patentee or exclusive licensee.

第 105 條 設計權屆期後之非專屬授權

(1) 設計權在專利申請案申請日當日或之前登記，如與該專利權相衝突，而其設計權期限已屆滿，則設計權所有人在該設計權之範圍內，就該專利權或設計權消滅時存在於專利權上之專屬授權，有非專屬授權。

(2) 設計權在專利申請案申請日當日或之前登記者，如與該專利權相衝突，而其設計權期限已屆滿，在設計權屆滿時就該設計權有專屬授權之人，或依據設計保護法第61條準用本法第118條第1項而就該設計權或其專屬授權有非專屬授權之人，在已屆期之權利的範圍內，對該專利權及設計權屆滿時存在之專屬授權，有非專屬授權。

(3) 依第2項規定有非專屬授權之人，應給付合理報酬予專利權人或專屬被授權人。

Article 105 (Non-exclusive License after Expiration of Design Right)

(1) Where a design right applied for a patent and registered prior to or on the filing date of a patent application conflicts with the patent right, and the term of the design right has expired, the owner of such design right shall have a non-exclusive license on the patent right or the exclusive license existing at the time the design right expired to the extent of such design right. <Amended by Act No. 7289, Dec. 31, 2004>

(2) Where a design right applied for a patent and registered prior to or on the filing date of a patent application conflicts with the patent right, and the term of the

design right has expired, a person who has an exclusive license on the design right existed at the time of expiration, or non-exclusive license under Article 118 (1) of this Act, as applied mutatis mutandis by Article 61 of the Design Protection Act related to the design right or the exclusive license shall have a non-exclusive license on the patent right concerned or on the exclusive license at the time the design right expired to the extent of the expired right. <Amended by Act No. 7289, Dec. 31, 2004>

(3) A person who has been granted a non-exclusive license under paragraph (2) shall pay reasonable consideration to the patentee or exclusive licensee.

第 106 條 專利權之徵用

(1) 如一專利發明係為戰時、暴動或其他相似緊急情況時國防所必要，政府得徵用專利權。

(2) 如一專利權經徵用，除專利權外，就該發明之權利歸於消滅。

(3) 政府依第1項規定徵用專利權者，應對專利權人、專屬被授權人或非專屬被授權人為合理補償。

(4) 徵用專利權及給付補償相關必要事項，應以總統令定之。

Article 106 (Expropriation of Patent Rights)

(1) If a patented invention is necessary for national defense in time of war, uprising, or any other similar emergency, the Government may expropriate a patent right. <Amended by Act No. 9985, Jan. 27, 2010>

(2) If a patent right is expropriated, rights to the invention, other than the patent right, shall be extinguished.

(3) If the Government expropriates a patent right under paragraph (1), it shall pay reasonable compensation to the patentee, exclusive licensee or non-exclusive licensee. <Amended by Act No. 9985, Jan. 27, 2010>

(4) Necessary matters concerning the expropriation of patent rights and payment of compensation therefor shall be prescribed by Presidential Decree. <Amended by Act No. 9985, Jan. 27, 2010>

第 106-2 條 政府等實施專利發明

(1) 如因國家或特別急難或公共利益而經認為有非商業性實施專利發明之必要，政府得直接實施該專利發明或由其以外之他人實施之。

(2) 政府或其以外之他人知悉或得以知悉有第三人專利存在之情事時，應立即將依據第1項實施之情事通知專利權人、專屬被授權人或非專屬被授權人。

(3) 政府或其以外之他人依據第1項實施專利發明者，應對專利權人、專屬被授

權人或非專屬被授權人為合理補償。

(4) 實施專利發明及給付補償相關必要事項，應以總統令定之。

Article 106-2 (Working of Patented Invention by Government, etc.)

(1) If it is deemed necessary to non-commercially work a patented invention due to a national or extreme emergency, or for the public interests, the Government may directly work the patented invention or have any person, other than the Government, work it.

(2) When the Government or any person, other than the Government, becomes aware of or is able to know the fact that a patent right retained by a third person exists, he/she or it shall promptly notify the patentee, exclusive licensee or non-exclusive licensee of the fact of working under paragraph (1).

(3) When the Government or any person, other than the Government, works a patented invention pursuant to paragraph (1), he/she or it shall pay reasonable compensation to the patentee, exclusive licensee or nonexclusive licensee.

(4) Necessary matters concerning working of a patented invention and payment of compensation shall be prescribed by Presidential Decree.

第 107 條 授予非專屬授權之裁決

(1) 專利發明有下列各款情況時，有意實施專利發明之人，經與該專利發明之專利權人或專屬被授權人協商在合理條件下授予非專屬授權(以下在本條稱為「協商」)但未能協商成立，或協商無法進行時，得請求韓國智慧財產局局長裁決(以下稱為「裁決」)授予非專屬授權。但有意非商業性實施專利發明乃係為公共利益，或有下述第4款情形者，縱未經協商，亦得申請裁決。

1. 專利發明已連續3年以上未在大韓民國實施，但有天然災害、不可避免之情況或其他以總統令規定之正當理由者，不在此限。
2. 專利發明在大韓民國未連續有實質規模的商業性或產業性之實施，達3年以上而無正當理由，或大韓民國國內對專利發明之需求未被依合理條件滿足到適當程度。
3. 該專利發明之實施對公眾有特殊的重要性。
4. 為補救一經司法或行政程序認定為不公平之行為，該專利發明之實施為必要。
5. 為將藥品(包括製造藥品所必要之有效成分及使用藥品所必要的診斷試劑)出口至有意進口該藥品之國家(以下在本條稱為「進口國」)以治療威脅該國多數公民之疾病，該專利發明之實施為必要。

(2) 除非專利發明之專利權自申請日起滿4年，否則無第1項第1款及第2款之適用。

(3) 韓國智慧財產局局長於裁決授予非專屬授權時，應考量每個請求項之必要

性。

(4) 韓國智慧財產局局長依據第1項第1款至第3款或第5款作成裁決時，應對裁決之對象依下列各款加諸條件：

1. 依據第1項第1款至第3款作成裁決時，該非專屬授權之實施應主要以充分供應大韓民國境內之需求為目的；
2. 依據第1項第5款作成裁決時，所有製造之藥品應出口至進口國。

(5) 韓國智慧財產局局長在作成裁決時，應確保有給付適當價格。在依據第1項第4款或第5款作成裁決時，價格之決定得審酌下列各款所定事項：

1. 依據第1項第4款作成裁決時，導正不公平交易實務之目的；
2. 依據第1項第4款作成裁決時，實施相關專利發明在進口國所產生的經濟價值。

(6) 就半導體科技，僅可依據第1項第3款(限於為公共利益為非商業性實施)及第4款規定請求為裁決。

(7) 進口國應限於有向世界貿易組織通知以下事項之世界貿易組織會員，或總統令所規定且向大韓民國政府通知以下事項之非世界貿易組織會員：

1. 進口國所要求之藥品，其名稱與數量；
2. 如進口國非為聯合國大會決議所列出的最低度開發國家，進口國確認其無製造相關藥品之能力或能力不足；
3. 如相關藥品在進口國經授予專利，該國確認其已為強制授權或有此意向。

(8) 第1項第5款之藥品指下列各款所述者：

1. 經授予專利之藥品；
2. 經由經授予專利之製造方法做出的藥品；
3. 製造藥品所必要之有效成分經授予專利；
4. 使用藥品所必要之診斷試劑經授予專利。

(9) 請求裁決之人應提出之文件以及裁決所必要之其他事項，應以總統令定之。

Article 107 (Adjudication for Grant of Non-exclusive License)

(1) Where a patented invention falls under any of the following subparagraphs, and where agreement is not reached while having a consultation with the patentee or exclusive licensee of the relevant patented invention on granting a non-exclusive license under reasonable conditions (hereafter referred to as "consultation" in this Article) or where the consultation is unable to take place, a person who intends to work the patented invention may request the Commissioner of the Korean Intellectual Property Office to adjudicate (hereinafter referred to as "adjudication") for grant of a non-exclusive license thereon: Provided, That where intended to work the patented invention noncommercially for the public interests and where falling under the provisions of subparagraph 4, an adjudication may be applied even if no agreement has been reached: <Amended by Act No. 7554, May 31, 2005>

1. Where the patented invention has not been worked for three or more consecutive years in the Republic of Korea, except in cases of natural disaster, unavoidable circumstances or other justifiable reasons prescribed by Presidential Decree;
2. Where the patented invention has not been continuously worked commercially or industrially in the Republic of Korea on a substantial scale during a period of three or more years without justifiable grounds, or where the demand in the Republic of Korea for the patented invention has not been satisfied to an appropriate extent and under reasonable conditions;
3. Where the working of the patented invention is specially necessary for public interests;
4. Where the working of the patented invention is necessary to remedy a practice determined to be unfair after the judicial or administrative process;
5. Where the working of the patented invention is necessary for exporting medicines (including effective ingredients necessary for medicine production and diagnosis kits necessary for the use of medicines) to countries intending to import the medicines (hereafter referred to as "importing countries" in this Article) to cure diseases that threaten the health of the majority of its citizens.

(2) Paragraph (1) 1 and 2 shall not apply unless a period of four years has lapsed from the filing date of the application for patent right to the patented invention.

(3) In adjudication for the grant of a non-exclusive license, the Commissioner of the Korean Intellectual Property Office shall consider the necessity of each and every claim.

(4) In making an adjudication under paragraph (1) 1 through 3, or 5, the Commissioner of the Korean Intellectual Property Office shall impose conditions falling under each of the following subparagraphs on persons subject to the adjudication: <Amended by Act No. 7554, May 31, 2005>

1. In cases of adjudication under paragraph (1) 1 through 3, the non-exclusive license shall be mainly worked for the purpose of supplies for sufficiency of demands in the Republic of Korea;
2. In an adjudication under paragraph (1) 5, all volume of produced medicines shall be exported to importing countries.

(5) In making an adjudication, the Commissioner of the Korean Intellectual Property Office shall assure that an appropriate price shall be paid. In such cases, in making an adjudication under paragraph (1) 4 or 5, matters falling under each of the following subparagraphs may be considered for a decision of

pricing: <Amended by Act No. 7554, May 31, 2005>

1. In cases of adjudication under paragraph (1) 4, the purport for correcting unfair trade practices;
2. In cases of adjudication under paragraph (1) 5, the economic values in importing countries which occur by working the relevant patented inventions.

(6) With respect to semi-conductor technology, the request for adjudication may be made only in cases set forth in paragraph (1) 3 (limited to noncommercial working for the public interests) or 4. <Amended by Act No. 7554, May 31, 2005>

(7) The importing countries shall be limited to World Trade Organization member countries which have notified the World Trade Organization of the following matters, or non-WTO members prescribed by Presidential Decree which have notified the Government of the Republic of Korea of the following matters: <Newly Inserted by Act No. 7554, May 31, 2005>

1. Name and volume of medicines required by importing countries;
2. If importing countries are not the least developed countries listed in a resolution by the General Assembly of the United Nations, the confirmation of the importing countries that manufacturing abilities for production of the relevant medicines are non-existent or insufficient;
3. If the relevant medicines have been patented in an importing country, the confirmation of the said country that compulsory licensing has been permitted or intended to be permitted.

(8) Medicines under paragraph (1) 5 mean those falling under any of the following subparagraphs: <Newly Inserted by Act No. 7554, May 31, 2005>

1. Patented medicines;
2. Medicines produced by the patented manufacturing methods;
3. Patented effective ingredients necessary for the production of medicines;
4. Patented diagnosis kit necessary for the use of medicines.

(9) Documents to be submitted by persons demanding an adjudication and other matters necessary for the adjudication shall be prescribed by Presidential Decree. <Newly Inserted by Act No. 7554, May 31, 2005>

第 108 條 提出答辯

經請求作成裁決後，韓國智慧財產局局長應將書面請求之副本，提供予該請求內記載之專利權人或專屬被授權人，及任何就該專利有經登記之權利之人，並應給予該等人士在指定期間提出答辯。

Article 108 (Submission of Response)

Upon a request for adjudication, the Commissioner of the Korean Intellectual Property Office shall transmit a copy of the written request to the patentee or exclusive licensee mentioned in the request and to any other person having any registered right relating to the patent, and shall provide them an opportunity to submit a response within the fixed period.

第 109 條 聽取智慧財產權爭議協調委員會以及相關部會首長之意見

如認為為作成裁決所必要，韓國智慧財產局局長得聽取發明促進法第41條所規定之智慧財產權爭議協調委員會，以及相關部會首長之意見，並可以要求相關行政機關及人員之合作。

Article 109 (Hearing of Opinions from Intellectual Property Rights Dispute Coordination Committee and Heads of Related Ministries)

If recognized as necessary for making an adjudication, the Commissioner of the Korean Intellectual Property Office may hear opinions from the Intellectual Property Rights Dispute Coordination Committee under Article 41 of the Invention Promotion Act and the heads of the related Ministries, and may request the related administrative agencies or the related persons to cooperate. <Amended by Act No. 8357, Apr. 11, 2007>

第 110 條 裁決之形式等

(1) 裁決應以書面作成並載明理由。

(2) 下列事項應於第1項裁決中敘明：

1. 非專屬授權之範圍及期間；
2. 授權之報酬，以及支付的方法及時點；
3. 依第107條第1項第5款為裁決時，由專利權人、專屬被授權人或非專屬被授權人(除基於裁決取得非專屬授權之人外)所供應之專利發明藥品，外在可識別之包裝及標示，及公告裁決資訊之網址；
4. 其他為了執行法律、法規或協定所規定之條件所必要，而應由被授予裁決之人在實施相關專利發明時遵循的行為準則。

(3) 除有正當理由外，韓國智慧財產局局長應於申請裁決之日起6個月內作成決定。

(4) 依第107條第1項第5款申請裁決而合於同條第7項或第8項規定，且同條第9項所定文件皆已提出，韓國智慧財產局局長，除有正當理由外，應作成創設非專屬授權之裁決。

Article 110 (Formalities, etc. of Adjudications)

(1) An adjudication shall be made in writing and shall state the grounds therefor.

(2) The following matters shall be specified in an adjudication under paragraph (1): <Amended by Act No. 5080, Dec. 29, 1995; Act No. 7554, May 31, 2005>

1. The scope and duration of a non-exclusive license;
2. The consideration for the license and method and timing of payment;
3. In cases of adjudication under Article 107 (1) 5, the medicines supplied by the patentee, exclusive licensee, or non-exclusive licensee (excluding the holder of a non-exclusive license issued through adjudication) of the relevant patented invention, externally discernable packaging and markings and the addresses of a web site that publishes information on the adjudication;
4. Other codes of practice necessary for executing the terms or conditions provided by Acts and subordinate statutes or treaties to be executed by the person who is granted the adjudication in working the relevant patented invention.

(3) Except for cases having justifiable grounds, the Commissioner of the Korean Intellectual Property Office shall make decisions on adjudication within six months from the date of demanding an adjudication. <Newly Inserted by Act No. 7554, May 31, 2005>

(4) Where the demand for adjudication under Article 107 (1) 5 falls under paragraphs (7) and (8) of the said Article and all documents under paragraph (9) of the same Article are submitted, the Commissioner of the Korean Intellectual Property Office shall make an adjudication of establishment of the non-exclusive license, except for cases where justifiable grounds exist. <Newly Inserted by Act No. 7554, May 31, 2005>

第 111 條 裁決正本之送達

(1) 裁決作成後，韓國智慧財產局局長應將正本送達當事人及任何就該專利有經登記之權利之人。

(2) 裁決之正本經依第1項規定送達當事人者，應認為當事人之間已依裁決所載條件達成協商。

Article 111 (Service of Certified Copies of Adjudication)

(1) Where an adjudication is made, the Commissioner of the Korean Intellectual Property Office shall serve certified copies of adjudication on the parties and any other person having the registered right relating to the patent.

(2) When a certified copy of adjudication has been served on the parties under paragraph (1), consultation to the terms as specified in the adjudication shall be deemed to have been held by the parties.

第 111-2 條 書面裁決之變更

(1) 書面裁決中所記載之第110條第2項第3款所定事項須變更者，經授予裁決之人得提出相關原因之證明文件，請求韓國智慧財產局局長更改之。

(2) 第1項之請求經認為合理者，韓國智慧財產局局長得將該書面裁決所載事項變更。在此種情形，應聽取利害關係人之意見。

(3) 第11條準用於第2項所定情況。

Article 111-2 (Alteration of Written Adjudication)

(1) Where any alteration is required on the matters of Article 110 (2) 3 which are specified on the written adjudication, the person who is granted the adjudication may request such to the Commissioner of the Korean Intellectual Property Office by attaching documents proving the relevant causes.

(2) Where the request under paragraph (1) is admitted to be reasonable, the Commissioner of the Korean Intellectual Property Office may alter the matters clarified on the written adjudication. In such cases, he/she shall hear opinions of the interested persons.

(3) Article 111 shall apply mutatis mutandis to cases under paragraph (2).

第 112 條 報酬之提存

依據第110條第2項第2款規定應給付報酬之人，有下列情況者應將之提存：

1. 有權受領報酬之人拒絕或無法受領；
2. 對報酬已提出第190條第1項所定訴訟；
3. 專利權或專屬授權設有質權；但質權人同意者，不在此限。

Article 112 (Deposit of Consideration)

A party who is obligated to pay consideration under Article 110 (2) 2 shall make a deposit thereof under the following circumstances:

1. Where the party entitled to receive the consideration refuses or is unable to receive it;
2. Where an action under Article 190 (1) has been brought with respect to the consideration;
3. Where the patent right or exclusive license is the subject of a pledge: Provided, That the same shall not apply where the pledgee has consented.

第 113 條 裁決之失效

經授予裁決之人，在給付期限屆滿前未給付或提存第110條第2項第2款報酬(如應

分段給付或分期給付者，指首期)，裁決應失其效力。

Article 113 (Lapse of Adjudication)

Where a person who was granted adjudication fails to pay or deposit the consideration (or the first installment thereof, if payment is to be made periodically or by installments) under Article 110 (2) 2 by payment deadline, the adjudication shall lose its effect.

第 114 條 裁決之廢止

(1) 經授予裁決之人有下列各款所述情形者，韓國智慧財產局局長得依職權或利害關係人之申請，廢止裁決。但就第2款所述情況，應保護非專屬授權之合法利益：

1. 專利發明之實施不合於裁決之目的；
2. 裁決授予非專屬授權之理由不復存在，且經認為不會再次發生；
3. 無正當理由而違背書面裁定所載第110條第2項第3款或第4款所定事項。

(2) 第108條、第109條、第110條第1項及第111條第1項準用於第1項所定情形。

(3) 非專屬授權應於第1項之決定作成時終止。

Article 114 (Cancellation of Adjudication)

(1) Where a person who was granted adjudication falls under any of the following subparagraphs, the Commissioner of the Korean Intellectual Property Office may cancel the adjudication, ex officio or upon request by any interested party: Provided, That in cases of subparagraph 2, such action shall protect the non-exclusive license's lawful interests: <Amended by Act No. 5080, Dec. 29, 1995; Act No. 7554, May 31, 2005>

1. Where the working of the patented invention is not within the purpose of the adjudication;
2. Where the grounds for adjudication on the authorization of non-exclusive license disappears and it is deemed that such grounds will not reoccur;
3. Where matters under Article 110 (2) 3 or 4 which are specified on the written adjudication are violated without justifiable grounds.

(2) The provisions of Articles 108, 109, 110 (1) and 111 (1) shall apply mutatis mutandis to cases under paragraph (1).

(3) A non-exclusive license shall be extinguished upon cancellation of the ruling under paragraph (1).

第 115 條 不服裁決之理由之限制

就裁決依行政訴願法申請行政審判或依行政訴訟法提起撤銷之訴者，不得以裁決

決定之報酬為不服之理由。

Article 115 (Restriction on Reason for Objections to Adjudication)

Where a request for an administrative trial has been filed under the Administrative Appeals Act or a revocation action has been brought under the Administration Litigation Act as to the adjudication, the consideration determined in the adjudication shall not be a basis for objection. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

第 116 條 刪除

Article 116 Deleted. <by Act No. 11117, Dec. 2, 2011>

第 117 條 刪除

Article 117 Deleted. <by Act No. 6411, Feb. 3, 2001>

第 118 條 登記非專屬授權之效果

(1) 非專屬授權經登記者，其效力得對抗在後獲得專利權或專屬授權之人。

(2) 依據本法第81-3條第5項、第103條至第105條、第122條、第182條及第183條及發明促進法第10條第1項所授予之非專屬授權，即使未經登記，亦與第1款規定者具相同效力。

(3) 非專屬授權之轉讓、修改、消滅或處置之限制，以及非專屬授權之質權之創設、轉讓、修改、消滅或處置之限制，非經登記，對第三人不生效力。

Article 118 (Effects of Registration of Non-exclusive License)

(1) When a non-exclusive license has been registered, it shall also be effective against any person who subsequently acquires the patent right or an exclusive license.

(2) A non-exclusive license granted under Articles 81-3 (5), 103 through 105, 122, 182 and 183 of this Act, and Article 10 (1) of the Invention Promotion Act shall have the same effect as prescribed under paragraph (1) of this Article even if it has not been registered. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 8197, Jan. 3, 2007; Act No. 8357, Apr. 11, 2007>

(3) The transfer, modification, extinguishment or restriction on disposal of a non-exclusive license or the establishment, transfer, modification, extinguishment or restriction on disposal of a pledge relating to a nonexclusive license shall not be effective against a third party unless it is registered.

第 119 條 拋棄專利權等之限制

(1) 非經本法第100條第4項及第102條第1項及發明促進法第10條第1項之專屬被授權人、質權人或非專屬被授權人之同意，專利權人不得拋棄其專利權。

(2) 非經第100條第4項之質權人或非專屬被授權人之同意，專屬被授權人不得拋棄其專屬授權。

(3) 非經質權人之同意，非專屬被授權人不得拋棄其非專屬授權。

Article 119 (Restriction on Abandonment of Patent Right, etc.)

(1) No patentee shall abandon his/her patent right without the consent of the exclusive licensee, pledgee, or non-exclusive licensee under Articles 100 (4) and 102 (1) of this Act and Article 10 (1) of the Invention Promotion Act. <Amended by Act No. 4594, Dec. 10, 1993; Act No. 8197, Jan. 3, 2007; Act No. 8357, Apr. 11, 2007>

(2) No exclusive licensee shall abandon his/her exclusive license without the consent of the pledgee or non-exclusive licensee under Article 100 (4).

(3) No non-exclusive licensee shall abandon his/her non-exclusive license without the consent of the pledgee.

第 120 條 拋棄之效力

專利權或其專屬或非專屬授權，應自拋棄其專利權、專屬或非專屬授權時消滅。

Article 120 (Effects of Abandonment)

A patent right, or an exclusive or non-exclusive license thereon, shall be extinguished as of the time of abandonment of the patent right or of the exclusive or non-exclusive license thereon.

第 121 條 質權

專利權或專屬或非專屬授權設有質權者，質權人不得實施專利發明。但契約另有約定者，不在此限。

Article 121 (Pledge)

Where a patent right or an exclusive or non-exclusive license is the subject of a pledge, the pledgee may not work the patented invention except as otherwise agreed in a contract.

第 122 條 附隨於專利權因行使質權而移轉之非專屬授權

專利權人在就專利權設質前即已實施專利發明者，縱專利權因拍賣等轉讓，其就

專利發明仍有非專屬授權。在此種狀況，專利權人應給付合理報酬予因拍賣等受讓專利權之人。

Article 122 (Non-exclusive License Incidental to Transfer of Patent Right by Exercise of Pledge Right)

If a patentee works a patented invention prior to the establishment of a pledge on the patent right, the patentee shall have a non-exclusive license on the patented invention even if the patent right is transferred by an auction, etc. In such cases, the patentee shall pay reasonable consideration to the person to whom the patent right is transferred by an auction, etc. <Amended by Act No. 4594, Dec. 10, 1993>

第 123 條 質權之代位

質權得對本法所定補償或實施專利發明之報酬或將收貨品行使，但應於報酬或貨品給付或交付前獲得扣押之命令。

Article 123 (Subrogation of Pledge)

A pledge may be exercised against compensation under this Act or against consideration or goods to be received for the working of the patented invention: Provided, That an attachment order shall be obtained prior to the payment or delivery of the consideration or goods.

第 124 條 專利權因無繼承人而消滅

繼承發生時無繼承人者，專利權消滅。

Article 124 (Extinguishment of Patent Right in Absence of Successor)

A patent right shall be extinguished when no successor exists at the time of succession.

第 125 條 實施專利之報告

韓國智慧財產局局長得命專利權人、專屬被授權人或非專屬被授權人報告專利發明有無實施及實施程度等。

Article 125 (Report on Working of Patent)

The Commissioner of the Korean Intellectual Property Office may require a patentee, exclusive licensee or non-exclusive licensee to report whether the patented invention has been worked and the extent of such working, etc.

第 125-2 條 補償或報酬金額之執行名義

韓國智慧財產局局長就應依本法給付之補償或報酬金金額所作決定已確定者，與執行名義具相同效力。在此種情況，具執行力之執行狀，應由韓國智慧財產局官員開具。

Article 125-2 (Title of Execution on Amount of Compensation and Consideration)

A final and conclusive ruling by the Commissioner of the Korean Intellectual Property Office on the amount of the compensation or consideration to be paid under this Act shall have the same effect as an enforceable title of execution. In such cases, the enforceable writ, which has the force of execution, shall be given by a public official of the Korean Intellectual Property Office.

第 126 條 對侵權行為之禁制令請求權

(1) 專利權人或專屬被授權人對於侵害其權利者，得請求排除之；有侵害之虞者，得請求防止之。

(2) 依前項規定，專利權人或專屬被授權人得請求銷毀侵權產品(包括侵害製造物之方法發明專利所生產之產品)及移除侵權行為所使用之設備，或其他防止侵權之必要措施。

Article 126 (Right to Seek Injunction, etc. against Infringement)

(1) A patentee or exclusive licensee may demand a person who infringes or is likely to infringe on his/her own patent right to discontinue or refrain from such infringement.

(2) A patentee or an exclusive licensee acting under paragraph (1) may demand the destruction of the articles by which the act of infringement was committed (including the products obtained by the act of infringement in cases of a process invention for manufacturing the products), the removal of the facilities used for the act of infringement, or other measures necessary to prevent the infringement.

第 127 條 視為侵權行為

以經營方式為下列行為之一者，視為侵害專利權或其專屬授權：

1. 在物之發明，指製造、移轉、出租、進口、為移轉之要約或出租專門生產該專利產品之物品之行為。
2. 在方法之發明，指製造、移轉、出租、進口、為移轉之要約或出租專門實施該專利方法之物品之行為。

Article 127 (Acts Deemed to be Infringement)

Where any person intends to conduct any of the following acts as his/her business, he/she shall be deemed to infringe on a patent right or an exclusive license: <Amended by Act No. 5080, Dec. 29, 1995; Act No. 6411,Feb. 3, 2001>

1. In cases of the invention of a product, acts of making, assigning, leasing, importing, or offering for assignment or lease articles used exclusively for producing such products;
2. In cases of the invention of process, acts of making, assigning, leasing, importing or offering for assignment or lease articles used exclusively for working such process.

第 128 條　損害額之推定

(1) 專利權人或專屬被授權人向故意或過失侵害其專利權或專屬授權之人請求因侵權者移轉侵權物品之損害賠償額時，得以被移轉物之數量乘以專利權人或專屬被授權人在無侵權行為時出售該物可得之單件產品利潤為計算；惟不得超過單位產品預計利潤乘以專利權人或專屬被授權人原本所能生產數量減去已售出數量之數額。但計算之總數應扣除專利權人或專屬被授權人因侵權行為以外之理由無法出售該產品之數量。

(2) 專利權人或專屬被授權人向故意或過失侵害其專利權或專屬授權之人請求損害賠償時，侵權者所得之收益推定為專利權人或專屬被授權人之損害。

(3) 專利權人或專屬被授權人向故意或過失侵害其專利權或專屬授權之人請求損害賠償時，因實施該發明專利通常可得之金額得作為損害賠償額。

(4) 儘管有第3項規定，超出前項規定之損害，仍得請求賠償，法院酌定損害額時，得考量侵害專利權或專屬授權之人非出於故意或重大過失。

(5) 有關專利權或專屬授權之訴訟，儘管有第1項至第4項規定，法院如認被害人不易證明其實際損害額，得依檢視證據及辯論意旨後之心證，酌定合理之損害賠償額。

Article 128 (Presumption, etc. of Amount of Losses)

(1) Where a patentee or exclusive licensee claims compensation from a person who has intentionally or negligently infringed his/her patent right or exclusive license for losses caused by the infringer's transfer of in fringing articles, the amount of losses may be calculated by multiplying the number of transferred articles by the profit per unit of the articles that the patentee or exclusive licensee might have sold in the absence of said infringement. In such cases, the compensation may not exceed an amount calculated by multiplying the estimated profit per unit by the amount obtained by subtracting the number of articles actually sold from the number of products that the patentee or exclusive licensee could have produced: Provided, That where the patentee or

exclusive licensee was unable to sell his/her product for reasons, other than infringement, a sum calculated according to the number of articles subject to the said circumstances shall be deducted. <Newly Inserted by Act No. 6411, Feb. 3, 2001>

(2) Where a patentee or exclusive licensee claims compensation for losses from a person who has intentionally or negligently infringed a patent right or exclusive license, the profits gained by the infringer as a result of the infringement shall be presumed to be the amount of damage suffered by the patentee or exclusive licensee.

(3) Where a patentee or exclusive licensee claims compensation for losses from a person who has intentionally or negligently infringed a patent right or exclusive license, the pecuniary amount which he/she would normally be entitled to receive for working of the patented invention may be claimed as the amount of losses suffered by the patentee or exclusive licensee.

(4) Notwithstanding paragraph (3), where the amount of losses exceeds the amount referred to in paragraph (3), the amount in excess may also be claimed as compensation for losses. In such cases, the court may take into consideration the fact that there has been neither willfulness nor gross negligence on the part of the person who has infringed the patent right or the exclusive license when awarding losses.<Amended by Act No. 6411, Feb. 3, 2001>

(5) In litigation relating to a patent right or exclusive license, where the court recognizes that the nature of the facts of the case makes it difficult to provide evidence proving the amount of losses that have occurred, the court may determine a reasonable amount on the basis of an examination of the evidence and on a review of all the arguments, notwithstanding paragraphs (1) through (4). <Newly Inserted by Act No. 6411,Feb. 3, 2001>

第 129 條　使用方法專利之推定

在方法之發明專利，任何相同於該方法發明專利製造之產品，均被推定為係以該方法所製造，但有下列情形之一者，不屬之：

1. 在該專利申請前，在韓國已公眾周知或已公開實施之產品。
2. 在該專利申請前，已見於韓國或外國刊物之產品，或經由電子通訊線路處於公眾可使用狀態之產品。

Article 129 (Presumption of Process for Manufacturing)

Where a patent has been granted to an invention of a process for manufacturing a product, any product identical to the said product shall be presumed to have been manufactured by the patented process of the latter: Provided, That the foregoing

shall not apply where the relevant product falls under either of the following subparagraphs: <Amended by Act No. 11654, Mar. 22, 2013>

1. A product publicly known or worked in the Republic of Korea prior to the filing of the patent application;
2. A product that has been carried in a publication distributed in the Republic of Korea or in a foreign country prior to the filing of the patent application or a product that has been made utilizable by the public through telecommunication lines.

第 130 條　過失推定

侵害專利權或專屬授權者，推定為有過失。

Article 130 (Presumption of Negligence)

A person who has infringed a patent right or exclusive license of another person shall be presumed to have been negligent regarding such act of infringement.

第 131 條　專利權人名譽之回復

法院得依專利權人或專屬被授權人之請求，用以替代賠償或除賠償外，命因故意或過失侵害專利權或專屬授權而損害專利權人或專屬被授權人商業信譽之人，為必要之處置以回復專利權人或專屬被授權人之商業信譽。

Article 131 (Recovery of Reputation of Patentee, etc.)

Upon request of a patentee or exclusive licensee, the court may order the person who has injured the business reputation of the patentee or exclusive licensee by intentionally or negligently infringing the patent right or exclusive license to take necessary measures to restore the business reputation of the said patentee or exclusive licensee, in lieu of compensation for losses or in addition thereto.

第 132 條　文件之提供

在侵害專利權或專屬授權之訴訟中，法院得依一方當事人之請求，命另一方提出必要文件以估計侵權所致之損害。但有持有文件之人有正當理由拒絕提出者，不在此限。

Article 132 (Submission of Documents)

In litigation relating to the infringement of a patent right or exclusive license, the court may, upon request of a party, order the other party to submit documents necessary for the assessment of losses caused by the infringement: Provided, That this shall not apply when the person possessing the documents has a justifiable

ground for refusing to submit them.

第 132 條之 2　智慧財產法庭

(1) 智慧財產法庭應設置於韓國智慧財產局局長管轄之下，掌理專利、新型、設計、商標之審判、再審，及其之調查及研究。

(2) 智慧財產法庭由主席及行政專利法官組成。

(3) 智慧財產法庭之組織、人員及運作之必要事項，由總統令定之。

Article 132-2 (Intellectual Property Tribunal)

(1) The Intellectual Property Tribunal shall be established under the jurisdiction of the Commissioner of the Korean Intellectual Property Office to be responsible for trials and retrials regarding patents, utility models, designs and trademarks and investigation and research thereof. <Amended by Act No. 7289, Dec. 31,2004>

(2) The Intellectual Property Tribunal shall be comprised of the President and administrative patent judges.

(3) Matters necessary for the organization, personnel and operation of the Intellectual Property Tribunal shall be determined by Presidential Decree.

第 132 條之 3　對專利核駁審定之審判

專利申請人對於不予專利之審定及駁回申請專利權期間延長之審定不服者，得於該審定正本送達起30日內提起審判。

Article 132-3 (Trial against Decision to Reject Patent Application, etc.)

Where a person who has received a decision to reject a patent application or a decision to reject an application to register extension of the term of a patent right has an objection to such decision, such person may request a trial within thirty days from the date of receipt of the certified copy of the decision.<Amended by Act No. 7871, Mar. 3, 2006; Act No. 11117, Dec. 2, 2011>

第 132 條之 4　刪除

Article 132-4　Deleted. <by Act No. 6411, Feb. 3, 2001>

第 133 條　專利無效審判

(1) 有下列情形之一者，利害關係人或審查人員得提起專利無效審判。如有二以上之請求項者，得就個別請求項提起。但在專利創設登記之公告日後3個月

內，任何人得基於下列各款理由(除第2款外)提起專利無效審判：

1. 違反第25條、第29條、第32條、第36條第1項至第3項、第42條第3項第1款或第4項規定者。
2. 專利權係授予依第33條第1項本文規定無權取得專利之人，或違反第44條規定。
3. 依第33條第1項但書規定，無法取得專利權者。
4. 授予專利後，依第25條規定專利權人無法再享有專利權或專利權牴觸條約者。
5. 因牴觸條約，無法取得專利權者。
6. 依第47條第2項規定，修改申請書超過範圍。
7. 依第52條第1項規定，分割之申請超過範圍。
8. 依第53條第1項規定，改請之申請超過範圍。

(2) 專利消滅後，仍得提起前項之無效審判。

(3) 認定專利無效之審判決定確定後，專利權視為自始不存在。但專利權有第1項第4款規定之情形，而認定專利無效者之審判決定確定者，專利權視為自具有該款情形起始不存在。

(4) 第1項之專利無效審判後提起後，承審行政專利法官應通知專屬被授權人及其他已登記的就該專利享有權利之人。

Article 133 (Invalidation Trial of Patent)

(1) In any of the following cases, an interested party or an examiner may request a trial to invalidate a patent. In such cases, that patent contains two or more claims, a request for the invalidation trial may be made for each claim: Provided, That if three months have not passed since the date of registration publication of the patent right after registration of its establishment, any person may make a request for the invalidation trial on the grounds that the patent falls under any of the following subparagraphs (excluding subparagraph 2): <Amended by Act No. 7871, Mar. 3, 2006; Act No. 10716, May 24, 2011>

1. Where a person has violated Articles 25, 29, 32, 36 (1) through (3), or 42 (3) 1 or (4);
2. Where the patent has been granted to a person not entitled to obtain the patent under the main sentence of Article 33 (1), or in violation of Article 44;
3. Where a person is unable to obtain the patent under the proviso to Article 33 (1);
4. After the grant of the patent, where the patentee is no longer capable of enjoying the patent right under Article 25, or the patent comes to be contrary to a treaty;
5. Where a person is unable to obtain the patent for violating a treaty;
6. Where the application is amended beyond the scope under Article 47 (2);

7. Where the application is a divisional application filed beyond the scope under Article 52 (1);
8. Where the application is a converted application beyond the scope under Article 53 (1).

(2) A trial under paragraph (1) may be requested even after the extinguishment of a patent right.

(3) Where a trial decision invalidating a patent has become final and conclusive, the patent right shall be deemed never to have existed: Provided, That where a patent falls under paragraph (1) 4 and a trial decision invalidating the patent has become final and conclusive, the patent right shall be deemed not to have existed at the time when the patent first became subject to the said subparagraph.

(4) Where a trial under paragraph (1) has been requested, the presiding administrative patent judge shall notify the exclusive licensee of the patent right and any other person having registered rights relating to such patent of the purport of such request.

第 133 條之 2　專利無效審判中對專利之更正

(1) 第133條第1項無效審判之被告，在第147條第1項或第159條第1項後段規定之期間內，如有第136條第1項之情形，得申請更正發明專利之說明書或圖式。如在第147條第1項規定之期間後，承審行政專利法官審查被告提出之證據資料，認有准予更正申請之必要時，得另為指定期間命被告於該指定期間內為更正。

(2) 更正申請依第1項規定提出者，先前相關無效審判程序中提出之更正申請，視為撤回。

(3) 更正申請依第1項規定提出者，承審行政專利法官應將書面申請通知第133條第1項規定之被告。

(4) 依第1項規定為更正之申請時，準用第136條第2項至第5項、第7項至第11項、第139條第3項、第140條第1項、第2項及第5項。第136條第9項規定所稱在依第162條第3項規定發出終結審判審查之通知前(在依第162條第4項規定重開之審判審查時，係指後續依第162條第3項發出終結審判審查之通知前)，係指在指定期間內依第136條第5項規定之通知。

(5) 關於第4項之申請，在依第133條第1項規定提起之專利無效審判，更正申請專利範圍不準用第136條第4項之規定。

Article 133-2 (Correction of Patent during Invalidation Trial of Patent)

(1) A defendant of a trial under Article 133 (1) may request corrections to the specification or drawings of a patented invention only in cases falling under any

subparagraph of Article 136 (1) within the term designated pursuant to Article 147 (1) or the latter part of Article 159 (1). In such cases, if the presiding administrative patent judge finds it necessary to allow request of corrections due to submission of evidential documents by an applicant after the designated period prescribed by Article 147 (1), he/she may designate another period and allow request of corrections within the period. <Amended by Act No. 8197, Jan. 3, 2007; Act No. 9381, Jan. 30, 2009>

(2) In cases of a request of corrections pursuant to paragraph (1), a request of corrections carried out before the request of corrections during the procedures of relevant invalidation trials shall be deemed withdrawn. <Newly Inserted by Act No. 8197, Jan. 3, 2007>

(3) When the corrections have been requested under paragraph (1), the presiding administrative patent judge shall serve a copy of the written request on the defendant under Article 133 (1).

(4) Articles 136 (2) through (5), (7) through (11), 139 (3) and 140 (1), (2) and (5) shall apply mutatis mutandis to requests for correction under paragraph (1). In such cases, "before issuance of a notification of closure of the trial examination under Article 162 (3) (where the trial examination is reopened under Article 162 (4), before a subsequent notification of the closure of the trial examination is issued under Article 162 (3))" in Article 136 (9) shall be construed as "within the designated term where it would be noticed under Article 136 (5)."

(5) With respect to the application of paragraph (4), Article 136 (4) shall not apply mutatis mutandis in correcting a claim against which a patent invalidation trial is requested under Article 133 (1). <Newly Inserted by Act No. 7871, Mar. 3, 2006; Act No. 8197, Jan. 3, 2007>

第 134 條　專利權期間延長登記之無效審判

(1) 第92條規定之專利權期間延長登記，有下列情形之一者，利害關係人或審查人員得提起無效審判：

1. 依第 89 條規定為實施專利發明之目的，無需經任何許可等之申請，而其專利權期限延長已登記者；
2. 專利權人、專屬被授權人或已登記之非專屬被授權人未取得依第 89 條規定之許可等，而其專利權期間延長已登記者；
3. 因延長登記而延長之專利權期間超過專利發明無法實施之期間者；
4. 專利權人以外之人申請專利權期間延長登記已生效者；
5. 違反第90條第3項規定之申請專利權期間延長登記已生效；
6. 刪除。

(2) 依第92-5條規定之專利權期間延長登記，如有下列各款情形之一者，利害關係人或審查人員得提起專利權期間延長登記之無效審判：

1. 延長登記所延長之期間超過第92-2條所規定得延長之期間；
2. 延長登記之申請係由相關專利權人以外之人所提出；
3. 延長登記之申請違反第92-3條第3項。

(3) 依第1項及第2項所提起之審判，準用第133條第2項及第4項規定。

(4) 延長登記無效審判決定確定後，專利權期間延長之登記視為自始不存在，但延長登記如有下列情形之一者，該延長之期間視為不存在：

1. 依第1項第3款規定延長登記而無效者，延長之期間超過發明專利無法實施之期間；
2. 依第2項第1款規定延長登記而無效者，延長之期間超過第92-2條所規定得延長之期間。

Article 134 (Invalidation Trial of Registration for Extension of Term of Patent Right)

(1) In any of the following cases, any interested party or examiner may request a trial to invalidate the registration of an extension of the term of a patent right pursuant to Article 92: <Amended by Act No. 5329,Apr. 10, 1997; Act No. 11117, Dec. 2, 2011>

1. Where an extension had been registered with respect to the application that did not require any permission, etc. under Article 89 for purposes of working the patented invention;
2. Where an extension had been registered with respect to the application, permission, etc. under Article 89 of which was not obtained by the patentee or an exclusive licensee thereof or a registered nonexclusive licensee;
3. Where the term extended by the registration of an extension exceeds the period during which the patented invention could not be worked;
4. Where the registration of an extension has been effected on an application made by a person, other than the patentee;
5. Where the registration of an extension has been effected on an application made in violation of Article 90 (3);
6. Deleted. <by Act No. 5576, Sep. 23, 1998>

(2) When registering extension of the term of a patent right pursuant to Article 92-5 falls under any of the following subparagraphs, any interested party or examiner may request a trial to invalidate such registration: <Newly Inserted by Act No. 11117, Dec. 2, 2011>

1. When the period extended following the registration of extension exceeds the period of extension recognized pursuant to Article 92-2;
2. When the registration of extension is made, with regard to an application filed by any person, other than the relevant patentee;

3. When the registration of extension is made, with regard to an application which violates Article 92-3 (3).

(3) The provisions of Article 133 (2) and (4) shall apply mutatis mutandis to requests for a trial under paragraphs (1) and (2). <Amended by Act No. 11117, Dec. 2, 2011>

(4) Where a trial decision that the registration of extension is to be invalidated has become final and conclusive, the registration of extension of the term shall be deemed never existed: Provided, That where the registration of extension falls under any of the following subparagraphs, extension shall be deemed not existed for the relevant period: <Amended by Act No. 6411, Feb. 3, 2001; Act No. 11117, Dec. 2, 2011>

1. In cases where the registration of extension falls under paragraph (1) 3 and thus becomes invalidated, the period extended in excess of a period during which the relevant patented invention could not be implemented;
2. In cases where the registration of extension falls under paragraph (2) 1 and thus becomes invalidated, the period extended in excess of a period for extension recognized pursuant to Article 92-2.

第 135 條　確認專利權範圍之審判

(1) 專利權人、專屬被授權人、或利害關係人得提起請求確認專利權範圍之審判。

(2) 依第1項提起之審判，如專利係包含二個以上之請求項，得針對個別請求項提出請求確認。

Article 135 (Trial to Confirm Scope of Patent Right)

(1) A patentee, an exclusive licensee or an interested person may request a trial to confirm the scope of a patent right. <Amended by Act No. 7871, Mar. 3, 2006>

(2) Where a trial is requested to confirm the scope of a patent right under paragraph (1), the confirmation may apply to each claim if the patent contains two or more claims.

第 136 條　更正審判

(1) 下列情形之一者，專利權人得提起更正說明書或圖式之審判。但如專利無效審判在智慧財產法庭審理中，則不得提出：

1. 縮減申請專利範圍；
2. 訂正書寫錯誤；
3. 敘明模糊不清之描述

(2) 依第1項所為更正說明書或圖式，應限於發明專利說明書或圖式揭露之標的範圍。但依第1項第2款所為之書寫錯誤，限於該申請案原始提出之說明書或圖式之標的範圍。

(3) 依第1項所為更正說明書或圖式，不得擴張或改變申請專利範圍。

(4) 依第1項所為之更正，屬第1項第1款及第2款之情形者，在更正後，該等在申請專利範圍內記載之事項，應認在最初申請專利時即具有可專利性。

(5) 依第1項提起之更正審判被視為不遵循第1項各款、超過第2項之範圍，或違反第3或第4項者，行政專利法官應通知請求人拒絕之理由並給予請求人於指定期間內提出書面意見之機會。

(6) 專利權消滅後，仍得提起第1項之更正審判。但專利權經審判決定無效後，不得為之。

(7) 未經專屬授權人、質權人、或依本法第 100 條第 4 項及第 102 條第 1 項及促進發明法第 10 條第 1 項規定之非專屬授權人之同意，專利權人不得提起第 1 項之更正審判。

(8) 准予更正發明專利說明書或圖式之審判決定確定後，專利申請、專利申請案、准予專利之審定或專利之審判決定之公開，及專利權之創設登記應視為在更正後說明書或圖式之基礎上為之。

(9) 在依第 162 條第 3 項發出終結審判程序通知前(如係依第 162 條第 4 項重開審判程序者，在後續依第 162 條第 3 項發出終結審判程序之通知前)，請求人得修改附加於第 140 條第 5 項規定之書面請求之更正後說明書或圖式。

(10) 准予更正發明專利之說明書或圖式時，智慧財產法庭主席應通知韓國智慧財產局局長更正後之標的。

(11) 依第 10 項所為之通知，韓國智慧財產局局長應公開於專利公報。

Article 136 (Trial for Correction)

(1) A patentee may request a trial to correct the specification or drawings in any of the following cases: Provided, That this shall not apply where an invalidation trial against the patent is pending before the Intellectual Property Tribunal: <Amended by Act No. 7871, Mar. 3, 2006; Act No. 9381, Jan. 30, 2009>

1. Where the scope of claims is reduced;
2. Where a clerical error is corrected;
3. Where an ambiguous statement is made to a clear statement.

(2) Correction of the specification or drawings under paragraph (1) shall be limited to the scope of the subject matter disclosed in the specification or drawings of the patented invention: Provided, That where a clerical error is corrected pursuant to paragraph (1) 2, it shall be limited to the scope of the subject matter of the specification or drawings initially attached to the application. <Amended by Act No. 9381, Jan. 30, 2009>

(3) For purposes of correction of the specification or drawings under paragraph (1),

the claim shall neither be extended nor modified.

(4) A correction which is made in accordance with paragraph (1) and falls under paragraph (1) 1 and 2 shall be patentable at the time of filing of the patent application with regard to the matters which are described in the scope of claims after the correction. <Amended by Act No. 9381, Jan. 30, 2009>

(5) Where a request for a trial for correction under paragraph (1) is deemed not to comply with any subparagraph of paragraph (1), to exceed the scope of paragraph (2), or to be in violation of paragraph (3) or (4), the administrative patent judge shall notify the petitioner of the reasons therefor and provide him/her an opportunity to submit his/her written opinion within a designated period. <Amended by Act No.9381, Jan. 30, 2009>

(6) A trial for correction under paragraph (1) may be requested even after the patent right has been extinguished: Provided, That this shall not apply where the patent has been invalidated by a trial decision.<Amended by Act No. 7871, Mar. 3, 2006>

(7) No patentee shall request a trial for correction under paragraph (1) without the consent of an exclusive licensee, a pledgee or a non-exclusive licensee under Articles 100 (4) and 102 (1) of this Act and Article 10 (1) of the Invention Promotion Act. <Amended by Act No. 8197, Jan. 3, 2007; Act No. 8357, Apr. 11, 2007>

(8) Where a trial decision allowing the specification or drawings of a patented invention to be corrected becomes final and conclusive, the patent application, laying-open of the application, decision to grant the patent or trial decision on patent and the establishment registration of the patent right shall be deemed to have been made on the basis of such corrected specification or drawings.

(9) A petitioner may amend the corrected specification or drawings attached to the written request prescribed in Article 140 (5) only before issuance of a notification of closure of trial proceedings under Article 162 (3) (where the trial proceedings are reopened under Article 162 (4), before a subsequent notification of the closure of trial proceedings is issued under Article 162 (3)).

(10) Where a decision has been rendered to allow correction of the specification or drawings of the patented invention, the President of the Intellectual Property Tribunal shall notify the Commissioner of the Korean Intellectual Property Office of the corrected subject matter.

(11) In cases where a notification is issued under paragraph (10), the Commissioner of the Korean Intellectual Property Office shall publish it in the Patent Gazette.

第 137 條　更正無效審判

(1) 依第133-2條第1項或第136條第1項所為更正發明專利之說明書或圖式違反下列情形之一者，利害關係人或審查人員得提起更正無效審判：

1. 第136條第1項各款規定；
2. 第136條第2項至第4項規定(包括依第133-2條第4項準用之規定)。

(2) 依第1項請求審判準用第133條第2項至第4項之規定。

(3) 依第1項提起無效審判之被告請求更正發明專利之說明書或圖式者，僅限於在第147條第1項或第159條第1項後段規定之指定期間內，依第136條第1項各款情形為之。

(4) 依第3項請求更正者，準用第133-2條第3項及第4項規定。此時，第133-2條第3項規定中之第133條第1項應解釋為第137條第1項。

(5) 依第1項規定審判決定更正無效確定後，該更正視為自始不存在。

Article 137 (Trial for Invalidation of Correction)

(1) An interested party or an examiner may request a trial for an invalidation of a correction, where the correction of the specification or drawings of a patented invention under Article 133-2 (1) or 136 (1) has been made in violation of any of the following: <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3,2006; Act No. 8197, Jan. 3, 2007; Act No. 9381, Jan. 30, 2009>

1. Any subparagraph of Article 136 (1);
2. Article 136 (2) through (4) (including cases where the said provisions shall apply mutatis mutandis under Article 133-2 (4)).

(2) Article 133 (2) and (4) shall apply mutatis mutandis to requests for trial under paragraph (1).

(3) A defendant in an invalidation trial under paragraph (1) may request corrections of the specification or drawings of a patented invention only in a case falling under any subparagraph of Article 136 (1) within the term designated under Article 147 (1) or the latter part of Article 159 (1). <Newly Inserted by Act No.6411, Feb. 3, 2001; Act No. 9381, Jan. 30, 2009>

(4) Article 133-2 (3) and (4) shall apply mutatis mutandis to requests for correction under paragraph (3). In such cases, "Article 133 (1)" in Article 133-2 (3) shall be construed as "Article 137 (1)." <Newly Inserted by Act No. 6411, Feb. 3, 2001; Act No. 8197, Jan. 3, 2007>

(5) Where a trial decision to invalidate a correction under paragraph (1) has become final and conclusive, the correction shall be deemed never to have been made.

第 138 條　准予非專屬授權之審判

(1) 專利權人、專屬或非專屬被授權人欲取得同意以行使第98條所規定之權利，他方當事人無正當理由拒絕同意或無法取得同意者，專利權人、專屬或非專屬被授權人得提起審判請求准予含有實施發明專利所需範圍之非專屬授權。

(2) 依第1項提出請求者，僅在後申請之發明專利與他方當事人申請在前之發明專利或已登記之實用新型相比具有重大經濟價值之顯著技術進步，始得准予非專屬授權。

(3) 依第1項為非專屬授權之授權人需實施被授權人之發明專利，而被授權人不同意或無法取得同意時，授權人得在實施發明專利所需範圍內提起准予非專屬授權之審判。

(4) 依第1項及第3項授權之非專屬被授權人應支付專利權人、新型權人、設計權人，或專屬被授權人報酬，但非專屬被授權人如因不可避免之原因而無法支付者，應提存之。

(5) 第4項之非專屬被授權人未支付或提存報酬者，不得實施發明專利、新型、設計，或近似設計。

Article 138 (Trial for Granting Non-exclusive License)

(1) If a patentee, or exclusive or non-exclusive licensee, intends to obtain permission to exercise the right provided for in Article 98, and if the other party concerned refuses to grant the permission without justifiable grounds or it is not possible to obtain such permission, the said patentee or exclusive or nonexclusive licensee may request a trial for the grant of a non-exclusive license having the scope necessary to work the patented invention.

(2) Where a request under paragraph (1) has been made, a non-exclusive license shall be granted only where the patented invention of the later application constitutes any important technical advance having substantial economical value in comparison with the other party's patented invention or registered utility model for which an application was filed prior to the filing date of the later application. <Amended by Act No. 6411, Feb. 3, 2001>

(3) If a person who has granted a non-exclusive license under paragraph (1) needs to work the patented invention of the person who has been granted such non-exclusive license, and if the latter refuses to grant permission or if it is impossible to obtain such permission, the former may request a trial for the grant of a non-exclusive license within the scope of the patented invention which he/she intends to work by obtaining such license.

(4) A non-exclusive licensee under paragraphs (1) and (3) shall pay consideration to the patentee, owner of the utility model right, owner of the design right, or

exclusive licensee thereof: Provided, That if the nonexclusive licensee is unable to make payment for reasons beyond his/her control, the consideration shall be deposited. <Amended by Act No. 7289, Dec. 31, 2004>

(5) No non-exclusive licensee under paragraph (4) shall work the patented invention, registered utility model or registered design, or similar design without payment of consideration or deposit thereof. <Amended by Act No. 4594, Dec. 10, 1993; Act No. 7289, Dec. 31, 2004>

第 139 條　共同審判之請求

(1) 二人以上依第133條第1項、第134條第1項及第2項及第137條第1項提起無效審判，或依第135條第1項提起確認專利權範圍審判者，得合併其請求。

(2) 對專利權共有人之一提起審判者，全體共有人均為被告。

(3) 專利權共有人或取得專利的權利共有人提起有關共有權之審判者，應由共有人全體提出。

(4) 第1項或第3項之請求人之一或第2項之被告之一，如有中止審判程序之理由，該中止對全體生效。

Article 139 (Request, etc. for Joint Trial)

(1) Where two or more persons request an invalidation trial under Articles 133 (1), 134 (1) and (2) and 137 (1) or a trial to confirm the scope of a patent right under Article 135 (1), the request may be made jointly. <Amended by Act No. 11117, Dec. 2, 2011>

(2) Where a trial is requested against any of the joint owners of a patent right, all the joint owners shall be made defendants.

(3) Where joint owners of a patent right or of a right to obtain a patent request a trial concerning the right under joint ownership, the request shall be made jointly by all of the owners.

(4) Where there are grounds for the suspension of trial proceedings which apply to one of the requesters under paragraph (1) or (3) or one of the defendants under paragraph (2), the suspension shall be effective against all of them.

第 140 條　審判請求之形式

(1) 請求審判者應以書面載明下列事項，向智慧財產法庭主席提出：

1. 當事人之姓名及地址(如為法人者，法人名稱及營業所在地)；

1-2 如有代理人者，代理人之姓名及地址，或營業所，如代理人係專利事務所，其名稱、事務所所在地及指定之專利代理人姓名；

2. 審判案件之確認資訊；

3. 請求之目的及理由。

(2) 除下列情形之外，依第1項所為審判請求不得修改意圖或目的：

1. 修改(包括增加)係更改關於第1項第1款所述專利權人之主張者；
2. 修改第1項第3款所述之請求理由；
3. 在專利權人或專屬被授權人提起請求確認專利權範圍審判時，被告主張該書面審判請求之確認標的之發明說明書或圖式與其實施之發明不同，請求人修改該書面審判請求之確認標的之發明說明書或圖式，使其與被告實施之發明相同。

(3) 依第135條第1項提起確認專利權範圍審判時，可與發明專利比較之說明書及相關圖式應與書面審判請求同時提出。

(4) 依第138條第1項提出准予非專屬授權審判之書面請求，除應記載第1項之事項外，並應記載下列事項：

1. 要求實施的專利之專利號碼及名稱；
2. 欲實施之他方當事人之專利、新型或設計之專利號碼、名稱及日期；
3. 發明專利、新型或設計之非專屬授權範圍、期間及報酬金。

(5) 依第136條第1項提出之更正審判請求，更正後的說明書或圖式應與書面審判請求同時提出。

Article 140 (Formal Requirements of Request for Trial)

(1) A person who intends to request a trial shall submit a written request stating the following matters to the President of the Intellectual Property Tribunal: <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb.3, 2001>

1. Name and domicile of a person (if the person is a juristic person, its title and the location of its place of business);
1-2. The name and domicile, or location of place of business, of the representative, if designated (if the representative is a patent corporation, its title, location of office and designated patent attorney's name);
2. Identification of the trial case;
3. The purport of the request and the grounds therefor.

(2) No amendment to a request for trial submitted under paragraph (1) shall be made in the intent or purpose thereof: Provided, That this shall not apply when such amendment falls under any of the following subparagraphs: <Amended by Act No. 8197, Jan. 3, 2007; Act No. 9381, Jan. 30, 2009>

1. Where an amendment (including an addition) is made to correct a statement of a patentee from among the persons concerned pursuant to paragraph (1) 1;
2. Where a ground for request under paragraph (1) 3 is amended;
3. At a trial requested by a patentee or an exclusive licensee as a petitioner to confirm the scope of a patent right, the specification or drawings of the

invention subject to confirmation on the written request for a trial is amended by the petitioner in order to make it identical with the invention which is on the working by the defendant, in cases where the defendant insists that the specification or drawings of the invention subject to confirmation on the written request for a trial (referring to the defendant's invention claimed by the petitioner) are different from the invention which is on the working by himself/herself.

(3) When a trial is requested to confirm the scope of a patent right under Article 135 (1), the specification capable to be compared with the patented invention and the relevant drawings shall be attached to the written request. <Amended by Act No. 6411, Feb. 3, 2001>

(4) A written request for a trial for the grant of a non-exclusive license under Article 138 (1) shall, in addition to the particulars referred to in paragraph (1), state the following: <Amended by Act No. 5080, Dec.29, 1995; Act No. 7289, Dec. 31, 2004>

1. The number and title of his/her patent which is required to be worked;
2. The number, title and date of the other party's patent, registered utility model or registered design to be worked;
3. The scope, duration and consideration for the non-exclusive license for a patented invention, registered utility model or registered design.

(5) When a trial for amendment under Article 136 (1) is requested, the amended specification or drawings shall be attached to the written request for trial. <Amended by Act No. 6411, Feb. 3, 2001>

第 140 條之 2　就核駁審定請求審判之形式

(1) 雖有第140條第1項之規定，依第132-3條對核駁審定提出審判請求者，應以書面記載下列事項向智慧財產法庭主席提出：

1. 請求人之姓名及地址(如為法人者，法人名稱及營業所)；

1-2 如有代理人者，代理人之姓名及地址，或營業所，如代理人係專利事務所，其名稱、營業所及指定之專利師姓名；

2. 申請日及申請案號；
3. 發明之名稱；
4. 審定之日期；
5. 審判案件之確認資訊；
6. 請求之目的及理由。

(2) 修改依第1項提出之書面審判請求，不得更改主旨。但如屬下列情形之一者，不適用之：

1. 修改(包括增加)係更改關於第1項第1款所述專利權人之主張者；
2. 依第1項第6款請求之理由已修改。

(3) 刪除。

Article 140-2 (Formal Requirements of Request for Trial against Decision to Reject Patent Application)

(1) Notwithstanding Article 140 (1), a person who intends to request a trial against a decision to reject a patent application under Article 132-3 shall, submit a written request stating the following matters to the President of the Intellectual Property Tribunal: <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3,2006; Act No. 9381, Jan. 30, 2009>
   1. The name and domicile of a petitioner (if the petitioner is a juristic person, its title and the location of its place of business);
   1-2. The name and domicile, or location of place of business, of the representative, if designated (if the representative is a patent corporation, its title, location of office and designated patent attorney's name);
   2. The filing date and file number of the application;
   3. The title of the invention;
   4. The date of the decision;
   5. The identification of the trial case;
   6. The purport of the request and the grounds therefor.
(2) Where a written request for a trial submitted pursuant to paragraph (1) is amended, the gist thereof shall not be changed: Provided, That this shall not apply where such amendment falls under any of the following subparagraphs: <Newly Inserted by Act No. 9381, Jan. 30, 2009>
   1. Where an amendment (including an addition) is made to correct a statement of a petitioner pursuant to paragraph (1) 1;
   2. Where a ground for request pursuant to paragraph (1) 6 is amended.
(3) Deleted. <by Act No. 9381, Jan. 30, 2009>

第 141 條　駁回審判請求

(1) 如有下列各款情形之一者，承審行政專利法官應命當事人在指定期間內提出書面修正：
   1. 審判請求不符合第140條第1項及第3項至第5項或第140-2條第1項之規定；
   2. 審判相關程序具有下列情形之一者：
      (a)程序不符合第3條第1項或第6條之規定；
      (b)未支付第82條所規定之費用；

(c)程序不符合本法或本法之子法所規定之形式。

(2) 依第1項規定應於指定期間內提出書面修正而未提出者，承審行政專利法官應以審判決定駁回審判請求。

(3) 第2項之駁回審判決定應為書面並敘明理由。

(4) 刪除

(5) 刪除

(6) 刪除

Article 141 (Rejection of Request for Trial)

(1) The presiding administrative patent judge shall order an amended submission within a specified period where any of the following subparagraphs applies: <Amended by Act No. 6411, Feb. 3, 2001>

1. Where a request for trial does not comply with Article 140 (1) and (3) through (5) or 140-2 (1);
2. Where a procedure relating to a trial falls under any of the following cases:
   (a) Where the procedure is not in compliance with Article 3 (1) or 6;
   (b) Where fees required in accordance with Article 82 have not been paid;
   (c) Where the procedure is not in compliance with the formalities specified in this Act or any order thereunder.

(2) Where a person who has been ordered to make an amended submission under paragraph (1) fails to do so within the specified period, the presiding administrative patent judge shall reject the request for trial by decision. <Amended by Act No. 6411, Feb. 3, 2001>

(3) A decision to reject a request for trial under paragraph (2) shall be in writing and shall state the grounds therefor.

(4) through (6) Deleted. <by Act No. 4892, Jan. 5, 1995>

第 142 條　因不可治癒缺陷而駁回審判請求

如審判請求包含不合法缺陷無法經由修改克服，得毋庸給予被告書面答覆之機會而以決定駁回該審判請求。

Article 142 (Dismissal of Request for Trial containing Incurable Defects by Trial Decision)

If a request for a trial contains unlawful defects which cannot be corrected by amendment, such request may be rejected by a ruling without providing the defendant an opportunity to submit a written reply.

第 143 條　行政專利法官

(1) 當審判請求提出時，智慧財產法院主席應指派行政專利法官審理之。

(2) 行政專利法官之資格由總統令訂之。

(3) 行政專利法官應獨立行使審判職務。

Article 143 (Administrative Patent Judges)

(1) When a trial is requested, the President of the Intellectual Property Tribunal shall direct administrative patent judges to hear the case. <Amended by Act No. 4892, Jan. 5, 1995>

(2) The qualifications of administrative patent judges shall be prescribed by Presidential Decree. <Amended by Act No. 4892, Jan. 5, 1995>

(3) Administrative patent judges shall conduct their official trial duties in an independent manner. <Amended by Act No. 4892, Jan. 5, 1995>

第 144 條　行政專利法官之指定

(1) 就審判，智慧財產法院主席應指定行政專利法官依第146條規定組成合議庭審理。

(2) 經依第1項指定之行政專利法官不能參與審判時，智慧財產法院主席得指定其他行政專利法官為之。

Article 144 (Designation of Administrative Patent Judges)

(1) For each trial, the President of the Intellectual Property Tribunal shall designate administrative patent judges constituting a board for trial under Article 146. <Amended by Act No. 4892, Jan. 5, 1995>

(2) When any administrative patent judge designated in accordance with paragraph (1) is unable to participate in the trial, the President of the Intellectual Property Tribunal may allow another administrative patent judge to do so. <Amended by Act No. 4892, Jan. 5, 1995>

第 145 條　承審行政專利法官

(1) 智慧財產法院院長應選擇依第144條第1項指定之行政專利法官之一為承審行政專利法官。

(2) 承審行政專利法官應指揮所有審判相關事項。

Article 145 (Presiding Administrative Patent Judge)

(1) The President of the Intellectual Property Tribunal shall select one of the administrative patent judges designated under Article 144 (1) as the presiding administrative patent judge. <Amended by Act No. 4892, Jan. 5, 1995>

(2) The presiding administrative patent judge shall preside over all matters relating to the trial.

第 146 條　審判合議庭

(1) 審判必須由三名或五名行政專利法官組成合議庭進行。

(2) 第1項所述之合議庭應以多數決為決定。

(3) 行政專利法官之合議不對外公開。

Article 146 (Board for Trial)

(1) A trial shall be conducted by a board of three or five administrative patent judges. <Amended by Act No.4892, Jan. 5, 1995>

(2) The board referred to in paragraph (1) shall make its decisions by a majority vote.

(3) The consultations of the administrative patent judges shall not be open to the public.

第 147 條　書面答覆之提交

(1) 審判請求提出後，承審行政專利法官應向被告發送書面請求之副本，且給予被告在指定期間內書面答覆之機會。

(2) 收受第1項之書面答覆後，承審行政專利法官應向請求人發送該答覆之副本。

(3) 承審行政專利法官得直接審查審判相關之當事人。

Article 147 (Submission of Written Response, etc.)

(1) When a trial has been requested, the presiding administrative patent judge shall serve a copy of the written request on the defendant and shall provide him/her an opportunity to submit a written response within a designated deadline.

(2) Upon receipt of a written response under paragraph (1), the presiding administrative patent judge shall serve a copy of the response on the petitioner.

(3) The presiding administrative patent judge may directly examine the parties in relation to the trial.

第 148 條　行政專利法官之迴避

下列情形之一者，行政專利法官應迴避：

1. 行政專利法官之現任或前任配偶為當事人或參加人；
2. 行政專利法官之現在或曾經為當事人或參加人之親戚；

3. 行政專利法官之現在或曾經為當事人或參加人之法律代表；
4. 行政專利法官已成為證人或專家證人或曾為專家證人；
5. 行政專利法官之現在或曾經為當事人或參加人之代理人；
6. 行政專利法官曾經為審查人員或參與該案之核准審定或有關的審判決定；
7. 行政專利法官有直接利益。

Article 148 (Exclusion of Administrative Patent Judges)

In any of the following cases, an administrative patent judge shall be precluded from exercising his/her functions in a trial: <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7427, Mar. 31, 2005; Act No. 7871, Mar. 3,2006>

1. Where the administrative patent judge or his/her spouse or ex-spouse is a party or intervenor;
2. Where the administrative patent judge is or was a relative of a party or intervenor;
3. Where the administrative patent judge is or was a legal representative of a party or intervenor;
4. Where the administrative patent judge has become a witness or expert witness or was an expert witness;
5. Where the administrative patent judge is or was a representative of a party or intervenor;
6. Where the administrative patent judge has participated as an examiner or administrative patent judge in a decision to grant a patent or a trial decision relating to the case;
7. Where the administrative patent judge has a direct interest.

第 149 條　請求迴避

如有第148條規定之迴避理由存在，當事人或參加人得請行政專利法官迴避。

Article 149 (Request for Exclusion)

Where grounds for preclusion under Article 148 exist, a party or intervenor may request the exclusion of an administrative patent judge.

第 150 條　行政專利法官之更換

(1) 在行政專利法官參與將損害審判公平之情形，當事人或參加人得提出更換該法官之要求。

(2) 在當事人或參加人向行政專利法官就有關案件作出書面或口頭聲明之後，當事人或參加人不能提出更換該行政專利法官之要求，除非該當事人或參加人不知更換的理由存在，或更換的理由後來才產生。

Article 150 (Challenge of Administrative Patent Judges)

(1) Where there are circumstances wherein the participation of an administrative patent judge would compromise the fairness of the proceedings in a trial, such administrative patent judge may be challenged by a party or intervenor.

(2) After a party or intervenor has made a written or oral statement with regard to the case before a administrative patent judge, he/she may not challenge the administrative patent judge: Provided, That the same shall not apply where the party or intervenor did not know that there was a ground for challenge or where a ground for challenge arose subsequently.

第 151 條　迴避或更換法官理由之指明

(1) 依第149條及第150條提出迴避或更換法官之要求者，應向智慧財產法庭庭長提出敘明該要求理由之文件，如在口頭審判審查中，可以口頭提出要求。

(2) 迴避或更換法官之理由應於提出要求三日內提出。

Article 151 (Indication of Grounds for Exclusion or Challenge)

(1) A person who presents a motion for exclusion or challenge under Articles 149 and 150 shall submit a document stating the grounds therefor to the President of the Intellectual Property Tribunal: Provided, That in an oral trial examination, an oral challenge may be made. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb. 3, 2001>

(2) The underlying causes for exclusion or challenge shall be substantiated within three days from the date the motion was presented.

第 152 條　迴避或更換法官要求之決定

(1) 就迴避或更換法官之要求，應以審判作成決定。

(2) 被要求迴避或者更換的行政專利法官不得參與對該要求之審判，但得表示意見。

(3) 依第1項所為決定應為書面並敘明理由。

(4) 依第1項所為之決定，不得救濟。

Article 152 (Decision on Petition for Exclusion or Challenge)

(1) A decision on a petition for exclusion or challenge shall be made by a trial.

(2) No administrative patent judge subject to the exclusion or challenge motion shall participate in the trial of the request: Provided, That he/she may state his/her opinion.

(3) A decision made under paragraph (1) shall be in writing and shall state the grounds therefor.

(4) No appeal shall be made against a decision made under paragraph (1).

第 153 條　程序中止

迴避或更換法官之要求提出時，在決定作成前，審判程序應中止。但須緊急處理者不在此限。

Article 153 (Suspension of Proceedings)

When a motion for exclusion or challenge has been presented, the trial proceedings shall be suspended until a decision thereon has been made: Provided, That this shall not apply to the matters requiring urgent attention.

第 153 條之 2　行政專利法官自行迴避

行政專利法官如有第148條或第150條之情形者，在智慧財產法庭主席同意下，得自行迴避。

Article 153-2 (Avoidance of Administrative Patent Judges)

Where Article 148 or 150 applies to an administrative patent judge, he/she may avoid trial proceedings relating to the case with permission from the President of the Intellectual Property Tribunal.

第 154 條　審判程序

(1) 審判程序應以言詞審理或書面審查進行，但一方當事人要求以言詞審理時，應以言詞審理之，除非決定經認為得僅根據書面審查做出。
(2) 刪除。
(3) 言詞審理應公開為之。但如有損害公眾秩序或道德之虞時，不適用之。
(4) 依第1項所為之言詞審理審判程序，承審審查官應指定期日及地點，並以書面通知他方當事人及參加人。但如他方當事人或參加人已受通知者，不在此限。
(5) 依第1項所為之言詞審理審判程序，智慧財產法庭主席指定之官員，在承審行政專利法官之指揮下，應作成筆錄記載每一審判程序期日之程序要點及其他必要事項。
(6) 依第5項為筆錄之承審行政專利法官及官員，應在筆錄上簽名並蓋章。
(7) 第5項之筆錄準用民事訴訟法第153條、第154條、第156條至第160條。
(8) 審判準用民事訴訟法第143條、第259條、第299條及第367條。

Article 154 (Trial Proceedings, etc.)

(1) Trial proceedings shall be conducted by oral hearing or documentary examination: Provided, That where a party requests an oral hearing, trial

proceedings shall be conducted by oral hearing except where it is recognized that a decision can be made on the basis of a documentary examination alone. <Amended by Act No. 6411, Feb. 3, 2001>

(2) Deleted. <by Act No. 6411, Feb. 3, 2001>

(3) Oral hearings shall be conducted in public: Provided, That this shall not apply where public order or morality is likely to be injured thereby. <Amended by Act No. 6411, Feb. 3, 2001>

(4) Where trial proceedings are conducted by oral hearings in accordance with paragraph (1), the presiding trial examiner shall designate the date and place thereof and serve a document containing such information on the parties and intervenors: Provided, That this shall not apply where the parties or intervenors to attend the case have already been notified. <Amended by Act No. 6411, Feb. 3, 2001>

(5) With respect to the trial proceedings by oral hearings under paragraph (1), an official designated by the President of the Intellectual Property Tribunal shall, under the direction of the presiding administrative patent judge, prepare a protocol setting forth the gist of the proceedings and other necessary matters for the date of each trial proceeding. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb. 3, 2001>

(6) The presiding administrative patent judge and the official who has prepared the protocol under paragraph (5) shall sign the protocol and affix their seals thereto.

(7) Articles 153, 154, and 156 through 160 of the Civil Procedure Act shall apply mutatis mutandis to protocols under paragraph (5). <Amended by Act No. 6626, Jan. 26, 2002; Act No. 7871, Mar. 3, 2006>

(8) Articles 143, 259, 299 and 367 of the Civil Procedure Act shall apply mutatis mutandis to trials. <Amended by Act No. 6626, Jan. 26, 2002; Act No. 7871, Mar. 3, 2006>

第 155 條　審判參加

(1) 依第139條第1項得提起審判者，得於審判審理結束前參加審判。

(2) 當事人撤回提起審判之請求者，第1項之參加人得續行審判。

(3) 與審判結果有利害關係之人，得於審判審理結束前參加審判，以輔助一方當事人。

(4) 第3項之參加人得提起並參與任何與審判有關之程序。

(5) 第1項或第3項之參加人有中止審判程序之理由者，該中止亦對當事人生效。

Article 155 (Intervention)

(1) Any person having the right to request a trial under Article 139 (1) may

intervene in the trial before the conclusion of the trial examination.

(2) An intervenor under paragraph (1) may continue a trial even after the request for the trial has been withdrawn by the original party.

(3) Any person having an interest in the result of a trial may intervene in the trial before the conclusion of the trial examination in order to assist one of the parties.

(4) An intervenor under paragraph (3) may initiate and take part in any procedure relating to the trial.

(5) Where there are grounds for suspension of a trial proceeding applicable to the intervenor under paragraph (1) or (3), the suspension shall also be effective against the original party.

第 156 條　參加之請求及決定

(1) 參加人應向承審行政專利法官提出參加之請求。

(2) 承審行政專利法官應將參加請求之副本送予當事人及其他參加人，並給予指定時間內書面表示意見之機會。

(3) 就參加之請求，應以審判作成決定。

(4) 第3項之決定，應為書面並敘明理由。

(5) 第3項之決定，不得救濟。

Article 156 (Request for Intervention and Ruling thereon)

(1) A person intending to intervene in a trial shall submit a request for intervention to the presiding administrative patent judge.

(2) The presiding administrative patent judge shall serve copies of the request for intervention on the parties and other intervenors and provide them an opportunity to submit written opinions within a designated deadline.

(3) Where a request for intervention is made, the ruling thereon shall be made by a trial.

(4) The ruling under paragraph (3) shall be in writing and shall state the grounds therefor.

(5) No appeal shall be made against the ruling under paragraph (3).

第 157 條　取得與保全證據

(1) 為了審判，得依一方當事人、參加人、利害關係人之請求或依職權取得或保全證據。

(2) 第1項取得及保全證據準用與取得及保全證據有關之民事訴訟法條文，但承審行政專利法官不得對過失行為裁處罰鍰、命出庭或要求提供財產作為擔

保。

(3) 保全證據之請求，在提起審判前應向智慧財產法庭主席提出，在審判進行中應向承審行政專利法官提出。

(4) 依第1項所為保全證據之請求，在提起審判前提出，智慧財產法庭主席應指定行政專利法官負責證據之保全。

(5) 依第1項依職權取得或保全之證據，承審行政專利法官應通知當事人、參加人和利害關係人該結果，並給予指定時間內書面表示意見之機會。

Article 157 (Taking and Preserving Evidence)

(1) With respect to a trial, evidence may be taken or preserved upon request of a party, intervenor or interested person, or ex officio.

(2) The provisions of the Civil Procedure Act relating to taking and preserving evidence shall apply mutatis mutandis to taking and preserving evidence under paragraph (1): Provided, That the administrative patent judge may not impose a fine for negligence, order compulsory appearance, or require the deposit of money as a security. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 7871, Mar. 3, 2006>

(3) A request to preserve evidence shall be made to the President of the Intellectual Property Tribunal prior to a request for trial and to the presiding administrative patent judge of the case while the trial is pending. <Amended by Act No. 4892, Jan. 5, 1995>

(4) Where a motion for preservation of evidence has been made under paragraph (1) prior to a request for trial, the President of the Intellectual Property Tribunal shall designate an administrative patent judge to be responsible for the preservation of evidence. <Amended by Act No. 4892, Jan. 5, 1995>

(5) Where evidence has been taken or preserved ex officio under paragraph (1), the presiding administrative patent judge shall serve the result thereof on the parties, intervenors, and interested persons and shall provide them an opportunity to submit written opinions within a designated deadline.

第 158 條　審判程序之續行

一方當事人或參加人在法定或指定期間內未參與程序，或於依第154條第4項規定指定期日未出庭者，承審行政專利法官仍得續行審判。

Article 158 (Continuation of Trial Proceedings)

Notwithstanding the failure of a party or intervenor to take any proceedings within a statutory period or designated deadline, or failure to appear on the designated date in accordance with Article 154 (4), the presiding administrative patent judge may proceed with the trial proceedings.

第 159 條　依職權審理

(1) 未經審判之當事人或參加人提出之事由仍得審查。但應給予當事人或參加人於指定時間內表示意見之機會。

(2) 審判中，不得審查請求人未提出審判請求之請求項。

Article 159 (Ex Officio Trial Examination)

(1) Grounds which have not been pleaded by a party or intervenor in a trial may be examined. In such cases, the parties and intervenors shall be provided an opportunity to state their opinions regarding such grounds, within a designated deadline. <Amended by Act No. 6411, Feb. 3, 2001>

(2) In a trial, no examination may be made on the purpose of a claim not requested by the petitioner. <Newly Inserted by Act No. 4594, Dec. 10, 1993>

第 160 條　審判程序或審判決定之合併或分開

在二個以上之審判程序，一方或雙方當事人相同時，行政專利法官得合併或分別為審判程序或審判決定。

Article 160 (Joint or Separate Conduct of Trial Proceedings or Trial Decisions)

An administrative patent judge may jointly or separately conduct trial proceedings or trial decisions with regard to two or more trial proceedings where one or both parties thereto are the same.

第 161 條　撤回審判之請求

(1) 審判決定確定前，請求人得撤回審判，但被告如已答辯者，應得被告之同意。

(2) 對於一個以上請求項，依第133條第1項提起無效審判或依第135條提起確認專利權範圍審判者，得針對個別請求項撤回審判。

(3) 依第1項或第2項撤回審判者，提起審判之請求視為未提出。

Article 161 (Withdrawal of Request for Trial)

(1) A request for trial may be withdrawn by a petitioner before the trial decision has become final and conclusive: Provided, That the consent of the defendant for the withdrawal shall be obtained where a response has already been submitted.

(2) When a request for a trial for invalidating a patent under Article 133 (1) or for confirming the scope of a patent right under Article 135 has been made with regard to two or more claims, the request may be withdrawn for each of the claims.

(3) Where a request for a trial or a request for each of the claims is withdrawn in accordance with paragraph (1) or (2), the request shall be deemed never to have been made. <Amended by Act No. 6411, Feb.3, 2001>

第 162 條　審判決定

(1) 除非另有規定，審判決定作出後，審判終結。

(2) 第1項之審判決定，應為書面，且由作出該審判決定之行政專利法官簽名蓋章，並應記載下列事項：

1. 審判字號；
2. 當事人及參加人之姓名、地址(如為法人，名稱及營業所)；

2-2 如有代理人者，代理人之姓名及地址，或營業所，如代理人係專利事務所，其名稱、營業所及指定之專利師姓名；

3. 審判案件之確認資訊；
4. 審判決定內文(在依第138條提起之審判案件中，包括範圍、存續期間及非專屬授權報酬)；
5. 審判決定理由(包括請求的目的及請求理由之概要)；
6. 審判決定日期。

(3) 案件經全面審查，達可為審判決定之程度，承審行政專利法官應通知當事人及參加人。

(4) 依第3項之審查終結通知後，承審行政專利法官如認必要時，得依當事人、參加人或依職權重開審查。

(5) 依第3項為終結審查之通知後，應於通知後20天內作成審判決定。

(6) 作成審判決定或決定後，承審行政專利法官應將該審判決定或決定正本通知當事人、參加人和請求參加被駁回之人。

Article 162 (Trial Decisions)

(1) Except as otherwise provided for, a trial shall be closed when a trial decision has been made.

(2) The trial decision under paragraph (1) shall be in writing, signed and sealed by the administrative patent judges who have rendered it, and shall state the following: <Amended by Act No. 5080, Dec. 29, 1995;Act No. 6411, Feb. 3, 2001>

1. The number of the trial;
2. The name and domicile of the parties and intervenors (if a juristic person, its title and the place of business);

2-2. The name and domicile or place of business of the representative, if any (if the representative is a patent corporation, its title, location of office and designated patent attorney's name);

3. The identification of the trial case;
4. The text of the ruling (including the scope, duration and consideration of a non-exclusive license in trial cases under Article 138);
5. The grounds for the decision (including the purport and a summary of the grounds for the request);
6. The date of the ruling.

(3) When a case has been thoroughly examined and is ready to be ruled, the presiding administrative patent judge shall notify the parties and intervenors thereof.

(4) Even after notification of the closure of the trial examination under paragraph (3), the presiding administrative patent judge may, if necessary, reopen the examination upon the motion of a party or an intervenor or ex officio.

(5) The decision shall be rendered within twenty days following the date on which the closure of a trial examination is notified under paragraph (3). <Amended by Act No. 4594, Dec. 10, 1993>

(6) When a trial decision or a ruling has been rendered, the presiding administrative patent judge shall serve a certified copy of the trial decision or the ruling on the parties, intervenors, and persons who have requested intervention to the trial, but have been rejected. <Amended by Act No. 4892, Jan. 5, 1995>

第 163 條　一事不再理

依本法所為之審判決定確定後，任何人不得再對本案，以相同事實及證據為基礎，要求審判。但確定之審判決定如為駁回者，不適用之。

Article 163 (Res Judicata)

When a trial decision has become final and conclusive pursuant to this Act, with regard to the case, no person may demand the trial again on the basis of the same facts and evidence: Provided, That this shall not apply where the final and conclusive trial decision is a decision of rejection. <Amended by Act No. 6411, Feb. 3, 2001>

第 164 條　審判與訴訟之關係

(1) 在另一相關審判決定確定前或訴訟程序終結前，如有必要，得中止審判程序。

(2) 在專利審判決定確定前，法院如認有必要，得中止訴訟程序。

(3) 專利權或專屬授權之侵權訴訟提起時，法院應通知智慧財產法庭主席。訴訟程序終止時，亦同。

(4) 專利無效審判，如係對應於第3項專利權或專屬授權侵權訴訟而提起，智慧財產法庭主席應通知第3項之相關法院。審判決定駁回、請求審判或撤回請求時，亦同。

Article 164 (Relations to Litigation)

(1) Procedures of a trial may, if necessary, be suspended until the trial decision of another trial relevant to the trial becomes final and conclusive or litigation procedures thereon are concluded. <Amended by Act No.5329, Apr. 10, 1997; Act No. 7871, Mar. 3, 2006>

(2) The court may, if deemed necessary for litigation procedures, suspend the litigation procedures until a trial decision on the patent becomes final and conclusive.

(3) Where a legal action against an infringement on a patent right or exclusive license is instituted, the relevant court shall notify the President of the Intellectual Property Tribunal of its purport. This shall also apply where the litigation procedures have been terminated. <Newly Inserted by Act No. 6411, Feb. 3, 2001>

(4) Where a trial for invalidating a patent, etc. is requested in response to a legal action against an infringement on a patent right or exclusive license under paragraph (3), the President of the Intellectual Property Tribunal shall notify the relevant court under paragraph (3) of its purport. This shall also apply where a decision of rejection, a request for trial, or a withdrawal of a request has occurred. <Newly Inserted by Act No. 6411, Feb. 3, 2001>

第 165 條　審判費用

(1) 第133條第1項、第134條第1項及第2項、第135條及第137條第1項之審判費用負擔，如以審判決定終結程序者，以審判決定定之；如以審判決定以外之方式終結者，以審判中之決定定之。

(2) 第1項之審判費用準用民事訴訟第98條至第103條、第107條第1項及第2項、第108條、第111條、第112條及第116條之規定。

(3) 請求人應負擔第132-3條、第136條或第138條之審判費用。

(4) 第3項請求人應負擔之審判費用準用民事訴訟法第102條之規定。

(5) 審判決定或決定確定後，智慧財產法庭主席應依利害關係人之請求，確定審判費用。

(6) 除不能適用者外，審判費用之範圍、數額及支付，及審判中任何程序進行之費用支付，應依民事程序費用法有關章節之規定。

(7) 當事人已經支付或將要支付給審判中代表當事人之專利師之費用，應視為審判費用之一部，由韓國智慧財產局局長確認審判費用範圍。在此情形，如有

二人以上專利師代表當事人，仍應視為僅有一人代表。

Article 165 (Costs of Trial)

(1) The imposition of costs in connection with a trial under Articles 133 (1), 134 (1) and (2), 135 and 137(1) shall be decided by a trial decision in the event the trial is terminated by a trial decision, or by a decision in the trial where the trial is terminated in a manner, other than by a trial decision. <Amended by Act No. 11117, Dec. 2, 2011>

(2) Articles 98 through 103, 107 (1) and (2), 108, 111, 112, and 116 of the Civil Procedure Act shall apply mutatis mutandis to the costs in connection with the trial under paragraph (1). <Amended by Act No. 6626, Jan. 26, 2002; Act No. 7871, Mar. 3, 2006>

(3) The costs in connection with the trial under Article 132-3, 136 or 138 shall be borne by a petitioner. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

(4) Article 102 of the Civil Procedure Act shall apply mutatis mutandis to the costs borne by the petitioner under paragraph (3). <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6626, Jan. 26, 2002; Act No. 7871, Mar. 3, 2006>

(5) The President of the Intellectual Property Tribunal shall decide the costs of a trial upon request by an interested party, after the trial decision or the ruling has become final and conclusive. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb. 3, 2001>

(6) The extent, amount, and payment of the costs of a trial, as well as the payment of the costs for performing any procedural acts in the trial, shall be governed by the relevant provisions of the Costs of Civil Procedure Act unless they are incompatible. <Amended by Act No. 7871, Mar. 3, 2006>

(7) The fees which a party has paid or will pay to a patent attorney who represents the party in the trial shall be deemed an element of the costs in connection with a trial to determine the extent of the costs by the Commissioner of the Korean Intellectual Property Office. In such cases, even if two or more patent attorneys have represented a person for the trial, it shall be deemed represented by one patent attorney.

第 166 條　審判費用或報酬之執行

智慧財產法庭主席對審判費用之決定或行政專利法官對報酬之決定確定後，依本法所為之支付，與債務強制執行同一效力。智慧財產法庭官員並應出具具有執行力之法律文件。

Article 166 (Title of Enforcement of Trial Costs or Consideration)

A final and conclusive ruling on the costs of a trial decided by the President of the Intellectual Property Tribunal or on the consideration decided by an administrative patent judge, to be paid under this Act, shall have the same effect as an enforceable title of liability. In such cases, the enforceable writ, which has the force of execution, shall be given by an official of the Intellectual Property Tribunal.

第 167 條　刪除

Articles 167 through 169 Deleted. <by Act No. 4892, Jan. 5, 1995>

第 167 條　刪除

第 169 條　刪除

第 170 條　對專利核駁審定之審判準用審查章節

(1) 專利核駁審定之審判，準用第47條第1項第1款及第2款、第51條、第63條及第66條之規定。在此情形，第51條第1項本文所稱「第47條第1項第2款及第3款」之規定，應解為「第47條第1項第2款」，且第51條第1項本文所稱「修改」，應解為「修改(但在依第132-3條提起核駁審定之審判前之修改除外)」。

(2) 依第1項之規定準用第63條時，應適用於駁回理由不同於審查人員最初核駁審定駁回理由之情形。

Article 170 (Mutatis Mutandis Application of Provisions on Examination to Trial against Decision to Reject Patent Application)

(1) Article 47 (1) 1 and 2, Articles 51, 63 and 66 shall apply mutatis mutandis to a trial against a decision to reject a patent application. In such cases, "Article 47 (1) 2 and 3" in the main sentence of Article 51 (1) shall be construed as "Article 47 (1) 2", and "amendment" in the main sentence of Article 51 (1) shall be construed as "amendment (excluding such amendments made before a request for a trial against a decision to reject a patent application referred to in Article 132-3)." <Amended by Act No. 9381, Jan. 30, 2009>

(2) Article 63, which applies mutatis mutandis under paragraph (1), shall apply where grounds for rejection have been found that are different from those in the examiner's original decision to reject a patent application. <Amended by Act No. 6411, Feb. 3, 2001>

第 171 條　對專利核駁審定之審判之特別規定

第147條第1項及第2項、第155條及第156條不適用於專利核駁審定之審判或專利權期間延長核駁審定之審判。

Article 171 (Special Provisions of Trial against Decision to Reject Patent Application)

Articles 147 (1) and (2), 155 and 156 shall not apply to a trial against a decision to reject a patent application or against a decision to reject to register an extension of the term of a patent right.

第 172 條　審查程序效力

就專利核駁審定之審判或專利權期間延長核駁審定之審判，先前在審查中已進行之專利相關程序，仍然有效。

Article 172 (Effect of Examination Proceedings)

Patent-related procedures previously taken during the course of an examination shall also remain effective in a trial against a decision to reject a patent application or against a decision to reject to register an extension of the term of a patent right.

第 173 條　刪除

Articles 173 through 175 Deleted. <by Act No. 9381, Jan. 30, 2009>

第 174 條　刪除

第 175 條　刪除

第 176 條　核駁專利申請審判決定之推翻

(1) 行政專利法官認依第132-3條提起之審判有理由時，應以審判決定撤銷核駁審定或核駁專利權期間延長之審定。

(2) 審判依第1項規定撤銷核駁審定或核駁專利權期間延長之審定者，得以審判決定發回審查程序。

(3) 依第1項及第2項所為之決定，構成廢棄基礎之理由對該案審查人員有拘束力。

Article 176 (Cancellation of Decision to Reject Patent Application, etc.)

(1) Where an administrative patent judge deems that the request for a trial under

Articles 132-3 is well grounded, he/she shall make a trial decision to cancel the decision to reject a patent application or to reject the registration of an extension of term of a patent right. <Amended by Act No. 5329, Apr. 10, 1997; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

(2) When any decision to reject a patent or to reject the registration of extension of term of a patent right is revoked pursuant to paragraph (1) in a trial, a trial decision may be made to remand the case for examination proceedings. <Amended by Act No. 5329, Apr. 10, 1997; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 11117, Dec. 2, 2011>

(3) In ruling on a trial under paragraphs (1) and (2), the reasons constituting the basis for the reversal shall bind the examiner with respect to the case.

第 177 條　刪除

Article 177 Deleted. <by Act No. 4892, Jan. 5, 1995>

第 178 條　請求再審

(1) 審判決定確定後，當事人得請求再審。

(2) 依第1項請求再審，準用民事訴訟法第451條及第453條之規定。

Article 178 (Request for Retrial)

(1) Any party may request a retrial against a trial decision which has become final and conclusive.

(2) Articles 451 and 453 of the Civil Procedure Act shall apply mutatis mutandis to requests for retrial under paragraph (1). <Amended by Act No. 6626, Jan. 26, 2002; Act No. 7871, Mar. 3, 2006>

第 179 條　詐欺行為所致審判決定之再審請求

(1) 審判之當事人意圖取得損害第三人權利或利益之審判決定而串通者，該第三人得請求再審。

(2) 依第1項提起再審時，雙方當事人為共同被告。

Article 179 (Request for Retrial on Trial Decision on Fraudulent Acts)

(1) Where the parties in a trial acted in collusion for the purpose of causing a trial decision to be rendered which damages the rights or interests of a third party, the third party may request a retrial against the final and conclusive trial decision. <Amended by Act No. 4892, Jan. 5, 1995>

(2) In cases of a request for a retrial under paragraph (1), the parties of the trial

shall be joint defendants.<Amended by Act No. 4892, Jan. 5, 1995>

第 180 條　請求再審期間

(1) 提起再審，應於審判決定確定後請求人知悉有再審事由起三十日內提出。

(2) 如因代理權缺陷之理由提起再審，第1項規定之期間，應自請求人或其法定代理人因正本送達而知悉審判決定作成之次日起算。

(3) 審判決定確定之日起，超過三年者，不得提起再審。

(4) 審判決定確定後，始出現再審理由者，第3項規定之期間，應自該理由首次出現之次日起算。

(5) 以審判之決定與先前確定審判決定相衝突而請求再審者，不適用第1項及第3項之規定。

Article 180 (Period for Requesting Retrial)

(1) A retrial shall be requested within thirty days from the date on which the petitioner becomes aware of the grounds for the retrial after the trial ruling became final and conclusive.

(2) Where a retrial is requested on the ground of defects in the authority of representative, the period provided for in paragraph (1) shall be counted from the day following the date on which the petitioner or his/her legal representative becomes aware that the trial decision had been rendered, by means of service of the certified copy of such ruling.

(3) No request for a retrial shall be made after the expiration of three years from the date on which the trial ruling became final and conclusive.

(4) Where grounds for a retrial arise after the trial decision has become final and conclusive, the period prescribed in paragraph (3) shall be counted from the day following the date on which the grounds first arose.

(5) Paragraphs (1) and (3) shall not apply to a request for a retrial made on the grounds that the trial ruling conflicts with a final and conclusive trial decision previously rendered.

第 181 條　再審回復之專利權效力之限制

(1) 下列情形之一者，在審判決定確定後，再審請求登記前，專利權對於進口到韓國的產品、善意製造或取得的產品，不生效力：

1. 專利權或專利權期間延長登記被認定為無效，經由再審回復者；
2. 認定產品未落入專利權範圍之審判決定確定後，與之相反之再審審判決定確定者；
3. 專利權或專利權期間延長登記，遭審判駁回，經由再審准予登記者。

(2) 第1項各款之專利權，不得擴張至下列各款行為：

1. 審判決定確定後，再審請求登記前，善意實施發明者；
2. 在物之發明，審判決定確定後，再審請求登記前，善意製造、移轉、出租、進口、就專門生產該專利產品之物品為移轉或出租之要約之行為者；
3. 在方法之發明，審判決定確定後，再審請求登記前，善意製造、移轉、出租、進口、就專門實施該專利方法之物品為移轉或出租之要約之行為。

Article 181 (Restriction on Effects of Patent Rights Restored by Retrial)

(1) Patent rights shall not be effective to any product that was imported into, manufactured or acquired in good faith, in the Republic of Korea after the trial decision became final and conclusive but before a request for a retrial has been registered in any of the following cases: <Amended by Act No. 5576, Sep. 23, 1998; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

1. Where the patent right whose patent or registration of term extension was concluded to be invalid has been restored by a retrial;
2. Where a trial decision to the contrary through a retrial has become final and conclusive after a trial decision that a product was outside the scope of the patent right became final and conclusive;
3. Where the establishment of a patent right or the extension of a patent term with respect to a patent application or application for registration of extension of patent term, previously refused by a trial decision, has been registered through a retrial.

(2) Patent rights under any subparagraph of paragraph (1) shall not extend to any of the following acts: <Amended by Act No. 5080, Dec. 29, 1995>

1. Working the invention in good faith after a trial decision became final and conclusive but before the registration of a request for retrial;
2. In cases of a patent for an invention of a product, manufacturing, assigning, leasing, importing, or offering for to assign or lease such articles as to be used exclusively for the manufacture of the products, in good faith, after trial decision became final and conclusive but before the registration of a request for retrial;
3. In cases of a patent for an invention of a process, manufacturing, assigning, leasing, importing, offering to assign or lease such articles as to be used exclusively for the working of the process, in good faith, after a trial decision became final and conclusive but before the registration of a request for retrial.

第 182 條　經由再審回復專利權之先使用者之非專屬授權

第181條第1項各款情形，在審判決定確定後，再審請求登記前，任何人善意在韓國商業上或產業上實施發明，或準備實施者，在該發明及實施或準備實施商業目的範圍內，取得非專屬授權。

Article 182 (Non-exclusive License for Prior User of Patent Right Restored through Retrial)

For cases which fall under any subparagraph of Article 181 (1), any person who has, in good faith, commercially or industrially worked the invention in the Republic of Korea, or has been making preparations therefor, after a trial ruling became final and conclusive but prior to the registration of a request for retrial, such person shall have a non-exclusive license on the patent right to the extent of the invention and of the purpose of business which is being worked or of which the preparations for working are being made.

第 183 條　給予再審中被剝奪中非專屬授權者非專屬授權

(1) 依第138條第1項或第3項准予非專屬授權之審判決定確定後，再審為相反之審判決定，在再審請求登記前，任何經非專屬授權善意在韓國商業上或產業上實施發明，或準備實施者，在商業目的及原來非專屬授權的發明範圍內，取得再審審判決定確定時專利權或專屬授權之非專屬授權。

(2) 第104條第2項準用於第1項之情形。

Article 183 (Non-exclusive License for Person Deprived of Non-exclusive License by Retrial)

(1) After a decision to grant a non-exclusive license under Article 138 (1) or (3) has become final and conclusive, where a decision to the contrary is rendered through a retrial, any person who has, in good faith, commercially or industrially worked the invention in the Republic of Korea or has been making preparations therefor under a non-exclusive license, prior to the registration of a request for retrial, shall have a non-exclusive license on the patent right or on the exclusive license existing at the time the decision at the retrial becomes final and conclusive, to the extent of the purpose of his/her business and to the scope of the invention under the original non-exclusive license.

(2) Article 104 (2) shall apply mutatis mutandis to cases under paragraph (1).

第 184 條　再審準用審判章節

除不適用者外，再審程序準用有關審判程序之條文。

Article 184 (Mutatis Mutandis Application of Provisions on Trial to Retrial)
The provisions relating to the procedures of a trial shall apply mutatis mutandis to procedures of a retrial on a trial, unless they are not compatible.

第 185 條　準用民事訴訟法

請求再審準用民事訴訟法第459條第1項之規定。

Article 185 (Mutatis Mutandis Application of the Civil Procedure Act)
Article 459 (1) of the Civil Procedure Act shall apply mutatis mutandis to requests for retrial. <Amended by Act No. 6626, Jan. 26, 2002; Act No. 7871, Mar. 3, 2006>

第 186 條　對審判決定之訴訟

(1) 韓國專利法院對不服審判決定或不服駁回審判請求或再審請求之訴訟，有一審管轄權。
(2) 審判之當事人、參加人或任何請求參加遭拒絕之人，得提起第1項之訴訟。
(3) 第1項規定之訴訟，應於收受審判決定或決定正本之日起三十日內提起。
(4) 第3項規定之期間，為不變期間。
(5) 第4項所稱之不變期間，承審行政專利法官得為居住偏遠地區或交通不便地區之人之利益，依職權定額外的期間。
(6) 除非涉及可請求審判之事項，否則不得提起訴訟。
(7) 依第162條第2項第4款以審判決定之報酬及依第165條第1項以審判決定或決定所定之審判費用，不得單獨提第1項之訴訟。
(8) 收受專利法院之決定者，得上訴至最高法院。

Article 186 (Action against Trial Decision, etc.)
(1) The Patent Court of Korea shall have original jurisdiction over any action against a trial decision or dismissal of a request for a trial or retrial. <Amended by Act No. 6411, Feb. 3, 2001>
(2) The action prescribed in paragraph (1) may be brought by a person who is a party, intervenor or any person who has requested for intervention in the trial but has been rejected.
(3) The action prescribed in paragraph (1) shall be brought within thirty days from the date of receipt of a certified copy of the trial decision or ruling.
(4) The period prescribed in paragraph (3) shall be invariable.
(5) With respect to an invariable period as referred to in paragraph (4), the presiding administrative patent judge may, ex officio, determine any additional period for the benefit of a person residing in a remote area or area with poor transportation. <Newly Inserted by Act No. 5576, Sep. 23, 1998>

(6) No action may be brought unless it relates to matters for which a trial may be requested.
(7) No action under paragraph (1) on a trial decision on consideration under Article 162 (2) 4 and a trial decision or ruling on trial costs under Article 165 (1) may be brought independently.
(8) Any person who has received a ruling from the Patent Court may appeal to the Supreme Court.

第 187 條　被告資格

在依第186條第1項提起之訴訟中，韓國智慧財產局局長係為被告，但對依第133條第1項、第134條第1項及第2項、第135條第1項、第137條第1項及第138條第1項及第3項作出審判或再審審判決定提起訴訟者，被告為請求人或原案被告。

Article 187 (Qualification for Defendants)

In an action under Article 186 (1), the Commissioner of the Korean Intellectual Property Office shall be a defendant: Provided, That in cases of a trial or trial decisions on a retrial under Articles 133 (1), 134 (1) and (2), 135 (1), 137 (1), and 138 (1) and (3) or retrial, the petitioner or the defendant thereof shall be a defendant. <Amended by Act No. 11117, Dec. 2, 2011>

第 188 條　起訴的通知和文件送達

(1) 依第186條第1項起訴或依第186條第8項上訴時，法院應即通知智慧財產法庭主席。
(2) 依第187條第1項但書提起之訴訟作出結論時，法院應將判決正本送達智慧財產法庭主席。

Article 188 (Notification of Institution of Action and Service of Original Copy of Judgment)

(1) When an action under Article 186 (1) is instituted or an appeal under Article 186 (8) is filed, the court shall promptly notify the President of the Intellectual Property Tribunal thereof. <Amended by Act No. 6411, Feb. 3, 2001>
(2) When an action under the proviso to Article 187 (1) has been concluded, the court shall serve an original copy of a judgment on the President of the Intellectual Property Tribunal.

第 188 條之 2　技術審查官之迴避或更換

(1) 法院組織法第54-2條規定之技術審查官，其迴避或更換準用本法第148條、民事訴訟法第42條至第45條、第47條及第48條之規定。

(2) 依第1項規定請求技術審查官迴避或更換者，應由該技術審查官所屬法院以以審判決定之。

(3) 如有迴避或更換之正當理由，任何技術審查官於經智慧財產法庭主席同意後，得迴避與該案有關之審判程序。

Article 188-2 (Exclusion, Challenge or Avoidance of Technical Examiner)

(1) Article 148 of this Act, Articles 42 through 45, 47 and 48 of the Civil Procedure Act shall apply mutatis mutandis to exclusion or challenge of technical examiners under Article 54-2 of the Court Organization Act. <Amended by Act No. 6626, Jan. 26, 2002; Act No. 7871, Mar. 3, 2006>

(2) A decision on a request for exclusion or challenge of a technical examiner under paragraph (1) shall be made by a trial of court to which the technical examiner belongs.

(3) If there are justifiable grounds for exclusion or challenge, any technical examiner may avoid trial proceedings relating to the case with permission from the President of the Intellectual Property Tribunal.

第 189 條　審判決定或裁決之撤銷

(1) 法院認依第186條第1項提起之訴訟有理由者，應以判決撤銷相關之審判決定或決定。

(2) 第1項廢棄審判決定或決定確定後，行政專利法官應重新審理該案並作出審判決定或決定。

(3) 構成第1項撤銷判決之理由對智慧財產法庭有拘束力。

Article 189 (Revocation of Trial Decision or Ruling)

(1) Where the court deems that an action instituted under Article 186 (1) is well-grounded, it shall revoke the relevant trial decision or ruling by judgment.

(2) Where a reversal of trial decision or ruling becomes final and conclusive under paragraph (1), the administrative patent judge shall review the case and make a trial decision or ruling.

(3) The reasons for a judgment on an action under paragraph (1) which constitute the basis for the revocation shall bind the Intellectual Property Tribunal with respect to the case.

第 190 條　不服補償金或報酬提起之訴訟

(1) 對依第41條第3項及第4項、第106條第3項、第106-2條第3項、第110條第2項及第138條第4項之規定作出的有關補償金或報酬之審定、決定或裁決不服之人，得向法院提起訴訟。

(2) 第1項之訴訟應於審定或判決或裁決正本送達時起30日內提出。

(3) 第2項所定期間為不變期間。

Article 190 (Action against Decision on Compensation or Consideration)

(1) A person dissatisfied with a decision and ruling or an adjudication regarding the compensation or consideration under Article 41 (3) and (4), 106 (3), 106-2 (3), 110 (2) 2, and 138 (4) may bring an action before the court. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 9985, Jan. 27, 2010>

(2) An action under paragraph (1) shall be filed within thirty days from the date a certified copy of the decision and ruling or adjudication is served. <Amended by Act No. 6411, Feb. 3, 2001>

(3) The period prescribed in paragraph (2) shall be invariable.

第 191 條　補償金或報酬訴訟之被告

依第190條提起之訴訟，下列各款情形之人為被告：

1. 依第41條第3項及第4項規定之補償金訴訟，應負擔該補償金之政府機構或申請人；
2. 依第106條第3項及第106-2條第3項規定之補償金訴訟，應負擔該補償金之政府機構、專利權人、專屬授權人或非專屬被授權人；
3. 依110條第2項第2款及第138條第4項規定之補償金訴訟，非專屬被授權人、專屬授權人、專利權人或新型或設計之權利人。

Article 191 (Defendant in Action relating to Compensation or Consideration)

In an action under Article 190, any of the following persons shall be a defendant: <Amended by Act No. 7289, Dec. 31, 2004; Act No. 9985, Jan. 27, 2010>

1. The government agency or applicant liable for payment of compensation in cases of compensation under Article 41 (3) and (4);
2. The government agency, patentee, exclusive licensee or non-exclusive licensee liable for payment of compensation in cases of compensation under Article 106 (3) and 106-2 (3);
3. The non-exclusive licensee, exclusive licensee, patentee or owner of a utility model or a registered design in cases of consideration under Articles 110 (2) 2 and 138 (4).

第 191 條之 2　專利師及訴訟費用之酬金

有關支付給代表一方當事人之專利師，準用民事訴訟法第109條之規定，此時律師應解釋為專利師。

Article 191-2 (Remuneration for Patent Attorney and Costs of Litigation)

With respect to remuneration to be paid to a patent attorney who performs a lawsuit on behalf of a party, Article 109 of the Civil Procedure Act shall apply mutatis mutandis. In such cases, "lawyer" shall be construed as "patent attorney."

第 192 條　具有國際申請資格之人

下列各款之人，得向智慧財產局局長提出國際申請：

1. 具韓國國籍者；
2. 在韓國有住所或營業所之外國人；
3. 非屬第1款或第2款之人，但以屬第1款或第2款之人為代表人，並以其名義提出國際申請者；
4. 符合產業通商資源部令之人。

Article 192 (Persons Capable of International Application)

Any of the following persons may file an international application with the Commissioner of the Korean Intellectual Property Office: <Amended by Act No. 4541, Mar. 6, 1993; Act No. 4594, Dec. 10, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

1. A national of the Republic of Korea;
2. A foreigner who has a domicile or place of business in the Republic of Korea;
3. A person who does not fall under subparagraph 1 or 2 but who files an international application under the name of a representative falling under subparagraph 1 or 2;
4. A person who meets the requirements prescribed by Ordinance of the Ministry of Trade, Industry and Energy.

第 193 條　國際申請

(1) 欲提出國際申請者，應向韓國智慧財產局局長提交以產業通商資源部令規定之語言撰寫之申請書、說明、申請專利範圍、圖式(如需要時)及摘要。

(2) 第1項所稱之申請書，應包含下列內容：

1. 依專利合作條約處理國際申請之請求；
2. 指定意欲就該國際申請之發明取得保護之專利合作條約締約國；
3. 申請人欲獲得專利合作條約第2條第4款規定之地區專利者，此意旨之陳明；
4. 申請人之姓名或名稱、住所或營業所、及國籍；
5. 如有代理人者，代理人之姓名及住所或營業所；
6. 發明名稱；
7. (如指定國之國內法要求提供時，)發明人之姓名及住所或營業所。

(3) 第1項所稱之說明書應充分清楚及完整公開該發明，足以使該發明所屬領域之熟知技術之人易於實施。

(4) 第1項所稱之申請專利範圍應清楚及簡潔界定申請保護之標的，且可得到說明書之完全支持。

(5) 第1項至第4項未規定之其他必要記載事項，應以產業通商資源部令定之。

Article 193 (International Application)

(1) A person intending to file an international application shall submit to the Commissioner of the Korean Intellectual Property Office a request, description, the scope of claims, drawings (where required) and an abstract prepared in a language prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 5576, Sep. 23, 1998; Act No. 7871,Mar. 3, 2006; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(2) The request mentioned in paragraph (1) shall contain the following: <Amended by Act No. 4594, Dec. 10,1993; Act No. 7871, Mar. 3, 2006>

1. A petition to the effect that the international application be processed according to the Patent Cooperation Treaty;
2. The designation of the contracting states of the Patent Cooperation Treaty in which protection for the invention is desired on the basis of the international application;
3. If the applicant intends to obtain a regional patent referred to in Article 2 (iv) of the Patent Cooperation Treaty, an indication to that effect;
4. The name or title, domicile or place of business, and nationality, of the applicant;
5. The name and domicile or place of business of the representative, if any;
6. The title of the invention;
7. The name and domicile, or place of business, of the inventor (limited to cases where the national law of a designated state requires that these indications be furnished).

(3) The description mentioned in paragraph (1) shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out easily by a person skilled in the art to which the invention pertains.

(4) The claims mentioned in paragraph (1) shall clearly and concisely define the matter for which protection is sought and be fully supported by the description.

(5) Other necessary matters which are not prescribed in paragraphs (1) through (4) concerning an international application shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 8852,

Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 194 條　國際申請日之確認等

(1) 韓國智慧財產局局長應將收受國際申請之日視為依專利合作條約第11條規定之國際申請日(以下稱「國際申請日」)，但下列情況不適用之：

1. 申請人不符合第192條之規定；
2. 該國際申請未依第193條第1項規定之語言作成；
3. 該國際申請欠缺第193條第1項規定之說明書及申請專利範圍；
4. 未記載第193條第2項第1款及第2款規定之要件及申請人之姓名或名稱。

(2) 第1項但書之情形，韓國智慧財產局局長應指定時間命申請人以書面補正之。

(3) 國際申請中提及之圖式未附加於申請書者，韓國智慧財產局局長應通知申請人。

(4) 依第2項規定在指定期間內補正之書面補正收受日，或依第3項通知在產業通商資源部令規定的期限內補正圖式之圖式收受日，韓國智慧財產局局長將視為國際申請日。但依第3項通知補正之圖式，如未於產業通商資源部令規定的期限內補正完成，該圖式視為不存在。

Article 194 (Recognition, etc. of International Filing Date)

(1) The Commissioner of the Korean Intellectual Property Office shall deem the date of receipt of the international application as the international filing date under Article 11 of the Patent Cooperation Treaty (hereinafter referred to as "international filing date"): Provided, That this shall not apply to the following cases: <Amended by Act No. 7871, Mar. 3, 2006>

1. Where the applicant does not meet the requirements prescribed in Article 192;
2. Where the international application is not in the language prescribed under Article 193 (1);
3. Where the international application does not contain a description and scope of claims under Article 193 (1);
5. Where the elements listed in Article 193 (2) 1 and 2 and the name or title of the applicant are not indicated.

(2) If an international application falls under the proviso to paragraph (1), the Commissioner of the Korean Intellectual Property Office shall order the applicant to amend the defect, in writing, within a designated deadline. <Amended by Act No. 4594, Dec. 10, 1993>

(3) If an international application refers to a drawing which is not included in that application, the Commissioner of the Korean Intellectual Property Office shall

notify the applicant thereof.

(4) The Commissioner of the Korean Intellectual Property Office shall deem the international filing date as the date of receipt of the amendment in writing when the applicant ordered to make an amendment under paragraph (2) has complied with the invitation within the designated deadline, or as the date of receipt of the drawings when the applicant notified under paragraph (3) has furnished the drawings within the deadline prescribed by Ordinance of the Ministry of Trade, Industry and Energy: Provided, That if the applicant notified under paragraph (3) has not furnished the drawings within the deadline prescribed by Ordinance of the Ministry of Trade, Industry and Energy, reference to the said drawings shall be considered nonexistent. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 4594, Dec. 10, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 195 條　通知修改

國際申請如有下列各款情形，韓國智慧財產局局長得指定期間命申請人修改：

1. 發明之名稱未載明；
2. 未提交摘要者；
3. 違反第3條或第197條第3項之規定；
4. 違反產業通商資源令之規定。

Article 195 (Order to Amend)

The Commissioner of the Korean Intellectual Property Office shall order the applicant to make anamendment within a designated deadline, if the international application falls under any of the following subparagraphs: <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

1. Where the title of the invention is not included;
2. Where an abstract is not submitted;
3. Where it violates Article 3 or 197 (3);
4. Where it violates the requirements prescribed by Ordinance of the Ministry of Trade, Industry and Energy.

第 196 條　國際申請視為撤回

(1) 下列各款情形，國際申請視為撤回：

1. 未於依第195條規定通知修改之指定期間內修改者；

2. 未於產業通商資源部令規定之期限內支付國際申請費用者而有專利合作條約第14條第3項第a款適用者；
3. 依第194條認定國際申請日者，如在產業通商資源部令規定之期限內有第194條第1項但書各款之情形之一。

(2) 如在產業通商資源部令規定之期限內，有部分之國際申請費用未支付而有專利合作條約第14條第3項第b款適用者，未支付費用之指定國家指定視為撤回。

(3) 國際申請，或指定國家之指定，依第1項及第2項規定視為撤回者，韓國智慧財產局局長應通知申請人。

Article 196 (International Application Considered to have been Withdrawn, etc.)

(1) An international application shall be deemed withdrawn if it falls under any of the following subparagraphs: <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001;Act No. 7871, Mar. 3, 2006; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>
   1. Where an applicant ordered to make an amendment under Article 195 has failed to do so within the designated deadline;
   2. Where an official fee with regard to an international application has not been paid within the deadline prescribed by Ordinance of the Ministry of Trade, Industry and Energy, and Article 14 (3) (a) of the Patent Cooperation Treaty therefore becomes applicable;
   3. With regard to an international application to which an international filing date has been recognized under Article 194, the said application is found to fall under any subparagraph of the proviso to Article 194 (1), within the deadline prescribed by Ordinance of the Ministry of Trade, Industry and Energy.

(2) If any portion of an official fee payable with regard to an international application has not been paid within the deadline prescribed by Ordinance of the Ministry of Trade, Industry and Energy, and Article 14 (3) (b) of the Patent Cooperation Treaty therefore becomes applicable, the designation of the designated state which has not paid such official fee shall be deemed withdrawn. <Amended by Act No. 4541, Mar. 6,1993; Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 8852, Feb. 29,008; Act No. 11690, Mar. 23, 2013>

(3) If an international application, or designation of a designated state, is considered to have been withdrawn under paragraphs (1) and (2), the Commissioner of the Korean Intellectual Property Office shall notify the applicant of such fact.

第 197 條　共同代表人等

(1) 二人以上共同提出國際申請者，第192條至第196條及第198條規定之程序得由申請人之共同代表人提起之。

(2) 二人以上共同提出國際申請而未指定共同代表人者，得依產業通商資源部令之規定指定一共同代表人。

(3) 依第1項規定由代表人提起之程序，除依第3條規定由法定代理人提起者外，申請人應指定專利師為代表人為之。

Article 197 (Common Representative, etc.)

(1) Where two or more applicants jointly file an international application, the procedures under Articles 192 through 196 and 198 may be initiated by a common representative of the applicants.

(2) Where two or more applicants jointly file an international application and do not designate a common representative, a representative may be designated as their common representative, as prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 4541, Mar. 6, 1993; Act No.5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(3) Where an applicant intends to allow a representative to initiate a procedure under paragraph (1), he/she shall appoint a patent attorney as his/her representative unless the procedure is initiated by a legal representative under Article 3.

第 198 條　國際申請費

(1) 提出國際申請者應支付申請費。

(2) 第1項申請費之事由、程序及支付期限，由產業通商資源部令定之。

Article 198 (Official Fees)

(1) An applicant for an international application shall pay an official fee.

(2) Matters necessary for official fees, and proceedings and deadline of the payment thereof under paragraph (1), shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 198 條之 2　國際檢索及國際初步審查

(1) 韓國智慧財產局應依與專利合作條約第2條(xix)規定之國際局(以下稱「國際

局」)簽訂之協定，履行作為國際申請之國際檢索機構和國際初步審查機構之職責。

(2) 依第1項規定履行職責之細節，由產業通商資源部令訂之。

Article 198-2 (International Search and International Preliminary Examination)

(1) The Korean Intellectual Property Office shall perform duties as an international search authority and as an international preliminary examination authority for an international application in accordance with a convention concluded with the International Bureau (hereinafter referred to as the "International Bureau") referred to in Article 2 (xix) of the Patent Cooperation Treaty. <Amended by Act No. 7871, Mar. 3, 2006; Act No. 9381, Jan. 30, 2009>

(2) Details concerning the performance of duties under paragraph (1) shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23,2013>

第 199 條　基於國際申請之專利申請

(1) 依據專利合作條約確定國際申請日之國際申請，且指定國係韓國者，視為在該國際申請日申請之專利申請。

(2) 依第1項規定視為專利申請之國際申請(以下稱「國際專利申請」)，不適用第54條之規定。

Article 199 (Patent Application Based on International Application)

(1) An international application for which an international filing date has been recognized under the Patent Cooperation Treaty, and which designates the Republic of Korea as a designated state in order to obtain a patent, shall be deemed a patent application filed on its international filing date. <Amended by Act No. 7871, Mar. 3, 2006>

(2) Article 54 shall not apply to an international application deemed a patent application under paragraph (1) (hereinafter referred to as "international patent application").

第 200 條　發明非視為公眾周知之特別規定等

雖有第30條第2項之規定，然任何欲將第30條第1項第1款規定適用於國際專利申請中要求保護之發明者，得在產業通商資源部令規定之期間內，向韓國智慧財產局局長提交書面聲明，及證明文件。

Article 200 (Special Provisions concerning Inventions Not Deemed to be Publicly Known, etc.)

Notwithstanding Article 30 (2), any person intending to have Article 30 (1) 1 applied

to the invention claimed in an international patent application may submit to the Commissioner of the Korean Intellectual Property Office a written statement stating the purport of such intention and a document proving the relevant fact within the period prescribed by Ordinance of the Ministry of Trade, Industry and Energy.
<Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 7871,Mar. 3, 2006; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

第 201 條　國際專利申請之翻譯

(1) 以外文提出國際專利申請者,應在專利合作條約第2條(xi)定義之優先權日(以下稱「優先權日」)起2年7個月內(以下稱「提交國內文件期限」),向韓國智慧財產局局長提交在國際申請日提交之說明書、申請專利範圍、圖式文字及摘要之韓文譯本。但已依專利合作條約第19條第1項規定修正申請專利範圍者,可提交修改後之申請專利範圍韓文譯本,代替國際申請日提交之申請專利範圍韓文譯本。

(2) 第1項規定之說明書及申請專利範圍韓文譯本,未於提交國內文件期限內提出者,該國際專利申請視為撤回。

(3) 依第1項規定提交韓文譯本之申請人,得於提交國內文件期限內,提交新的韓文譯本取代先前的韓文譯本。但申請人申請實體審查後,不得為之。

(4) 在國際申請日提出之國際專利申請,其說明書、申請專利範圍、圖式文字中有記載之事項,未於提交國內文件期限(或申請人已在該期間內申請實體審查者,申請實體審查之日期,以下稱「相關日」)內提交之第1項或第3項韓文譯本(以下稱韓譯本版)中記載者,視為在該國際專利申請之說明書、申請專利範圍未曾記載過,或視為該圖式無文字。

(5) 在國際申請日提出之國際專利申請,視為依第42條第1項提出之申請。

(6) 國際專利申請之其說明書、申請專利範圍、圖式及摘要之韓譯本版(在以韓文提出國際專利申請者,指在國家申請日提出之說明書、申請專利範圍、圖式及摘要),視為依第42條第2項提出之說明書、圖式及摘要。

(7) 依第1項但書提交之修正申請專利範圍之韓文譯本,不適用第204條第1條及第2條的規定。

(8) 依第1項但書僅提交修正申請專利範圍之韓文譯本者,在國際申請日提交之申請專利範圍不被認可。

Article 201 (Translation of International Patent Application)

(1) An applicant who has filed an international patent application in a foreign language shall submit to the Commissioner of the Korean Intellectual Property Office a Korean translation of the specification, scope of claims, drawings (only the text matter therein) and abstract filed on the international filing date within

two years and seven months from the priority date (hereinafter referred as "priority date") as defined in Article 2 (xi) of the Patent Cooperation Treaty (hereinafter referred to as "period for submitting domestic documents"): Provided, That in cases where the said applicant has amended the claims under Article 19 (1) of the Patent Cooperation Treaty, he/she may substitute a Korean translation of the amended claims for the Korean translation of the claims filed on the international filing date. <Amended by Act No. 5329, Apr. 10,1997; Act No. 5576, Sep. 23, 1998; Act No. 6768, Dec. 11, 2002; Act No. 7871, Mar. 3, 2006>

(2) If the translations of the specification and claims under paragraph (1) have not been submitted within the period for submitting domestic documents, the international patent application shall be deemed to have been withdrawn.

(3) An applicant who has submitted the translation referred to in paragraph (1) may submit a new translation to replace the prior translation within the period for submitting domestic documents: Provided, That this shall not apply where the applicant has made a request for examination.

(4) Matters stated in the specification, claims and text matter of drawings of an international patent application filed on the international filing date, but not stated in the translation under paragraph (1) or (3) (hereinafter referred to as "translated version") submitted within the period for submitting domestic documents (or the date of the request for examination where the applicant has made such request within the said period; hereinafter referred to as "relevant date") shall be deemed not to have been stated in the specification and claims of the said international patent application filed on the international filing date or deemed to have no text in the drawings of such application.

(5) An application of an international patent application submitted on the international filing date shall be deemed an application submitted under Article 42 (1).

(6) The translated version of the specification, scope of claims, drawings and abstract of an international patent application (the specification, scope of claims, drawings and abstract submitted on the international filing date, in cases of an international patent application made in the Korean language) shall be deemed the specification, drawings and abstract submitted under Article 42 (2). <Amended by Act No. 5576, Sep. 23,1998>

(7) Article 204 (1) and (2) shall not apply where a Korean translation of the amended claims has beensubmitted pursuant to the proviso to paragraph (1). <Newly Inserted by Act No. 5329, Apr. 10, 1997>

(8) Where the Korean translation for only the amended claims has been submitted

pursuant to the proviso to paragraph (1), the claims submitted at the international filing date shall not be recognized. <Newly Inserted by Act No. 5329, Apr. 10, 1997>

第 202 條　專利申請之優先權聲明之特別規定等

(1) 國際專利申請不適用第55條第2項及第56條第2項之規定。

(2) 適用第55條第4項時，「申請案初始說明書或圖式」係指「依第201條第1項規定在國際申請日提交之說明書、申請專利範圍或圖式文字，及第201條第4項規定文件之韓譯本版或在國際申請日提交國際申請之不含文字之圖式」；且「公開予公眾檢視」係指「依專利合作條約第21條規定之國際公開」。

(3) 先申請案係國際專利申請或依韓國新型法第34條第2項規定之國際新型登記申請者，為第55條第1項、第3項至第5項及第56條第1項之目的，應適用下列各款：

1. 第55條第1項本文、第3項及第5項本文所稱「申請案初始說明書或圖式」，係指「在國際申請日提交國際申請之說明書、申請專利範圍或圖式」。
2. 第55條第4項所稱「申請案初始說明書或圖式」，係指「先申請之在國際申請日提交國際申請之說明書、申請專利範圍或圖式」；且有關「先申請案之公開」係指「依專利合作條約第21條規定有關先申請案之國際公開」。
3. 第56條第1項本文所稱「申請日起1年3個月屆滿時」，係指「國際申請日或依第201條第4項或韓國新型法第35條第4項規定基準日起1年3個月屆滿時，以後屆滿者為準」。

(4) 依第55條第1項規定之先申請案係國際申請，成為依第214條第4項規定之專利申請或依韓國新型法第40條第4項規定之新型登記申請時，為第55條第1項、第3項至第5項及第56條第1項之目的，應適用下列各款規定：

1. 第55條第1項本文、第3項及第5項本文所稱「申請案初始說明書或圖式」，係指「依第214條第4項或韓國新型法第40條第4項規定視為國際申請日之國際申請之說明書、申請專利範圍或圖式」。
2. 第55條第4項所稱「先申請案之說明書或圖式」，係指「依第214條第4項或韓國新型法第40條第4項規定視為國際申請日之先申請國際申請之說明書、申請專利範圍或圖式」。
3. 第56條第1項本文所稱「申請日起1年3個月屆滿時」，係指「依第214條第4項或韓國新型法第40條第4項規定視為國際申請日，或依第214條第4項或韓國新型法第40條第4項規定作成決定起1年3個月屆滿時，以後屆滿者為準」。

Article 202 (Special Provisions on Priority Claim by Patent Application, etc.)

(1) Articles 55 (2) and 56 (2) shall not apply to an international patent application.

(2) In applying Article 55 (4), "specification or drawings initially attached to the

earlier application" shall be construed as "specification, scope of claims or drawings (only text matter thereof) submitted on the international filing date under Article 201 (1), and the translated version of the said documents under Article 201 (4) or drawings (excluding the text matter thereof) of the international application submitted on the international filing date", and "laying open for public inspection" shall be construed as "international publication under Article 21 of the Patent Cooperation Treaty." <Amended by Act No. 7871, Mar. 3, 2006>

(3) Where an earlier application is an international patent application or an application for registration of an international utility model pursuant to Article 34 (2) of the Utility Model Act, the following subparagraphs shall apply for the purposes of Articles 55 (1) and (3) through (5) and 56 (1): <Amended byAct No. 9381, Jan. 30, 2009>

1. "Specification or drawings initially attached to an application" in the main text of Article 55 (1), Article 55 (3) and the main text of Article 55 (5) shall be construed as "specification, scope of claims or drawings of an international application submitted on the international filing date";
2. "Specification or drawings initially attached to an earlier application" in Article 55 (4) shall be construed as "specification, scope of claims or drawings of an international application submitted on the international filing date of an earlier application", and "laid open with respect to an earlier application" shall be construed as "published internationally pursuant to Article 21 of the Patent Cooperation Treaty with respect to the earlier application";
3. "At the time of expiration of one year and three months from the filing date" in the main text of Article 56 (1) shall be construed as "at the time of expiration of one year and three months from the international filing date, or on the basic date pursuant to Article 201 (4) of this Act, or Article 35 (4) of the Utility Model Act, whichever comes later."

(4) Where an earlier application pursuant to Article 55 (1) is an international application which becomes a patent application or application for registration of a utility model pursuant to Article 214 (4) of this Act, or Article 40 (4) of the Utility Model Act, the following subparagraphs shall apply for the purposes of Articles 55 (1) and (3) through (5) and 56 (1): <Amended by Act No. 9381, Jan. 30, 2009>

1. "Specification or drawings initially attached to an application" in the main text of Article 55 (1), Article 55 (3), and the main text of Article 55 (5) shall be construed as "specification, scope of claims, or drawings of an international application on the date which may have been deemed the international filing

date pursuant to Article 214 (4) of this Act, or Article 40 (4) of the Utility Model Act";

2. "Specification or drawings initially attached to an earlier application" in Article 55 (4) shall be construed as "specification, scope of claims, or drawings of an international application of an earlier application on the date which may have been deemed the international filing date pursuant to Article 214 (4) of this Act, or Article 40 (4) of the Utility Model Act";
3. "At the time of expiration of one year and three months from the filing date" in the main text of Article 56 (1) shall be construed as "at the time of expiration of one year and three months from the date which may have been deemed the international filing date pursuant to Article 214 (4) of this Act, or Article 40 (4) of the Utility Model Act, or when a decision is made pursuant to Article 214 (4) of this Act, or Article 40 (4) of the Utility Model Act, whichever comes later."

第 203 條　提交文件

(1) 國際專利申請人應於提交國內文件期限內，向韓國智慧財產局局長提交記載下列事項之文件。以外文提起國際專利申請者，應併同依第201條第1項規定之韓文譯本提交下列文件。
   1. 申請人之姓名及住所，如為法人者，其名稱及營業所；
   2. 如有代理人者，代理人之姓名及住所或營業所(如代理人係專利事務所，其名稱、營業所及指定之專利師姓名)；
   3. 刪除；
   4. 發明名稱；
   5. 發明人之姓名及住所、或營業所；
   6. 國際申請日及國際申請字號。

(2) 下列各款情形之一者，韓國智慧財產局局長應命指定期限命修正：
   1. 第1項前段所稱之文件，未於提交國內文件期限內提交。
   2. 第1項前段所稱之文件，違反本法或依本法所為命令所定程式。

(3) 未於第2項規定期限內修正者，韓國智慧財產局局長得認相關之國際專利申請無效。

Article 203 (Submission of Documents)

(1) An applicant for an international patent shall submit to the Commissioner of the Korean Intellectual Property Office a document stating the following matters within the period for submitting domestic documents. In such cases, an applicant who has filed an international patent application in a foreign language shall submit a Korean translation under Article 201 (1), together with such

document: <Amended by Act No. 6411, Feb. 3, 2001; Act No. 6768, Dec. 11, 2002>

1. The name and domicile of the applicant (if the applicant is a juristic person, its title and location of place of business);
2. The name and domicile or place of business of the representative, if any (if the representative is a patent corporation, its title, location of office and designated patent attorney's name);
3. Deleted; <by Act No. 6411, Feb. 3, 2001>
4. The title of the invention;
5. The name and domicile, or place of business of the inventor;
6. The international filing date and the international application number.

(2) The Commissioner of the Korean Intellectual Property Office shall, in any of the following cases, order an amendment thereto designating a deadline: <Newly Inserted by Act No. 6768, Dec. 11, 2002>

1. Where a document under the former part of paragraph (1) is not submitted within the period for submitting domestic documents;
2. Where a document submitted under the former part of paragraph (1) is in violation of the formalities as specified by this Act or by an order made by this Act.

(3) Where a person who receives an order for amendment under paragraph (2) fails to make such amendment within the designated deadline, the Commissioner of the Korean Intellectual Property Office may invalidate the international patent application concerned. <Newly Inserted by Act No. 6768, Dec. 11, 2002>

第 204 條　收受國際檢索報告後之修正

(1) 申請人提出國際專利申請，於收受依專利合作條約第19條第1項規定之國際檢索報告後，修正國際申請之申請專利範圍者，應在相關日(相關日係申請實體審查日時，指實體審查之申請時；以下相同情形應適用於本條及第205條規定)前，向韓國智慧財產局局長提交下列各款之一之文件：

1. 以外文提出國際申請者，該修正部分之韓文譯本；
2. 以韓文提出國際申請者，該修正部分之副本。

(2) 依第1項規定提交修正部分之韓文譯本或副本者，依第47條第1項規定之申請專利範圍，視為已依該韓文譯本或副本修正。但以韓文提出之國際專利申請，其修正依專利合作條約第20條在相關日前提出於韓國智慧財產局者，申請專利範圍視為已依此修正而修正。

(3) 提出國際專利申請之申請人已依專利合作條約第19條第1項規定向國際局提

交簡短聲明者，應於相關日之前，向韓國智慧財產局局長提交下列各款文件之一：

1. 以外文提出國際申請者，該聲明之韓文譯本；
2. 以韓文提出國際申請者，該聲明之副本。

(4) 在相關日之前，不符合第1項或第3項規定程式之國際專利申請，該依專利合作條約第19條第1項之書面修正或聲明，視為未提交。但以韓文提出之國際申請，其書面修正或聲明，已依專利合作條約第20條規定在相關日前送達韓國智慧財產局者，不適用之。

Article 204 (Amendment after Receipt of International Search Report)

(1) Where an applicant who filed an international patent application, after having received an international search report pursuant to Article 19 (1) of the Patent Cooperation Treaty, has amended the scope of claims of the international application, he/she shall submit the documents falling under any of the following subparagraphs to the Commissioner of the Korean Intellectual Property Office by the relevant date (where the relevant date is the date of request for examination of application, referring to such time when a request for examination of application is made; hereafter the same shall apply in this Article and Article 205):

1. In cases of an international application filed in a foreign language, the Korean translation of such amendment;
2. In cases of an international application filed in the Korean language, a copy of such amendment.

(2) When the translation or a copy of the amendment has been submitted in accordance with paragraph (1), the scope of claims pursuant to Article 47 (1) shall be deemed to have been amended according to the translation or a copy of such amendment: Provided, That when the amendment (limited to cases of an international patent application filed in the Korean language) has been served on the Korean Intellectual Property Office by the relevant date pursuant to Article 20 of the Patent Cooperation Treaty, the scope of claims shall be deemed to have been amended according to such amendment.

(3) Where an applicant who filed an international patent application has submitted a brief statement pursuant to Article 19 (1) of the Patent Cooperation Treaty to the International Bureau, he/she shall submit the documents falling under any of the following subparagraphs to the Commissioner of the Korean Intellectual Property Office by no later than the relevant date:

1. In cases of an international application filed in a foreign language, the Korean translation of such statement;
2. In cases of an international application filed in the Korean language, a copy of

such statement.

(4) Where an applicant who filed an international patent application has failed to comply with the formalities pursuant to paragraph (1) or (3) by the relevant date, the written amendment or statement pursuant to Article 19 (1) of the Patent Cooperation Treaty shall be deemed not to have been submitted: Provided, That this shall not apply when the written amendment or statement of an international application filed in the Korean language has been served on the Korean Intellectual Property Office by the relevant date pursuant to Article 20 of the Patent Cooperation Treaty.

第 205 條　國際初步審查報告作出前之修正

(1) 提出國際專利申請之申請人依專利合作條約第 34 條第 2 項第 b 款規定修正說明書、申請專利範圍及圖式者，應於相關日之前向韓國智慧財產局局長提交下列各款文件：

1. 以外文提出國際申請者，該修正部分之韓文譯本；
2. 以韓文提出國際申請者，該修正部分之副本。

(2) 依第 1 項規定提交修正部分之韓文譯本或副本者，依第 47 條第 1 項規定之說明書及圖式，視為已依該韓文譯本或副本修正。但以韓文提出之國際申請，其書面修正或聲明，已依專利合作條約第 36 條第 3 項第 a 款規定在相關日前送達韓國智慧財產局者，不適用之。

(3) 在相關日之前，不符合第1項規定程式之國際專利申請，該依專利合作條約第34條第2項第b款之書面修正，視為未提交。但以韓文提出之國際申請，其書面修正或聲明，已依專利合作條約第36條第3項第a款規定之相關日前送達韓國智慧財產局者，不適用之。

Article 205 (Amendment before Preparation of International Preliminary Examination Report)

(1) Where an applicant who filed an international patent application has amended the specification, scope of claims, and drawings of an international patent application pursuant to Article 34 (2) (b) of the Patent Cooperation Treaty, he/she shall submit the documents falling under any of the following subparagraphs to the Commissioner of the Korean Intellectual Property Office by the relevant date:

1. In cases of an international application filed in a foreign language, the Korean translation of such amendment;
2. In cases of an international application filed in the Korean language, a copy of such amendment.

(2) When the translation or a copy of the amendment has been submitted

pursuant to paragraph (1), the specification and drawings prescribed in Article 47 (1) shall be deemed to have been amended according to the translation or a copy of such amendment: Provided, That this shall not apply when the written amendment (limited to cases of an international patent application filed in the Korean language) has been served on the Korean Intellectual Property Office by the relevant date pursuant to Article 36 (3) (a) of the Patent Cooperation Treaty.

(3) Where an applicant who filed an international patent application has failed to comply with the formalities pursuant to paragraph (1) by the relevant date, a written amendment pursuant to Article 34 (2) (b) of the Patent Cooperation Treaty shall be deemed not to have been submitted: Provided, That this shall not apply when the written amendment (limited to cases of an international patent application filed in the Korean language) has been served on the Korean Intellectual Property Office by the relevant date pursuant to Article 36 (3) (a) of the Patent Cooperation Treaty.

第 206 條　非居民之專利管理人之特別規定

(1) 雖有第5條之規定外，國際專利之非居民申請人可於相關日前提起專利相關程序申請，無需經由專利管理人。

(2) 依第1項規定提交申請之譯本者，應於產業通商資源部令規定之期限內，指定一專利管理人並向韓國智慧財產產局局長回報。

(3) 未依第2項規定期限內回報專利管理人者，國際申請視為撤回。

Article 206 (Special Provisions on Patent Administrators for Overseas Residents)

(1) Notwithstanding the provisions of Article 5 (1), an overseas resident applicant for an international patent may initiate a patent-related procedure application without a patent administrator by the relevant date.

(2) An overseas resident who has submitted a translation of an application under paragraph (1) shall appoint a patent administrator and report such fact to the Commissioner of the Korean Intellectual Property Office within the deadline prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(3) An international application shall be deemed to have been withdrawn where the appointment of a patent administrator is not reported within the deadline prescribed by paragraph (2).

第 207 條　申請案公開之效果與時間之特別規定

(1) 第64條第1項適用於國際申請案之公開者，「下述日期起1年6個月屆滿時」係指「提交國內文件期限屆滿時(如國際申請之申請人已請求實體審查且已依專利合作條約第21條規定為國際公開，指在優先權日或請求實體審查日後1年6個月內，以後屆滿的為準)」。

(2) 雖有第1項規定，以韓文提出之國際申請案在依第1項公開前，已依專利合作條約第21條規定國際公開者，該國際申請視為在國際公開時公開。

(3) 國際申請在國內公開之後(以韓文提出之國際申請案，指依專利合作條約第21條之國際公開，以下相同情形應適用於本項)，國際申請案之申請人已以發出記載有該國際專利申請所請發明內容之文件進行警告者，對於在警告後專利權登記前商業性或產業性實施該發明之人，得請求支付數額相當於由申請人實施該發明時通常可得金額之補償。縱未為警告，仍得對在國內公開前在商業性或產業性實施該發明並知悉該發明是國際專利申請中要求保護之發明之人，提出相同要求。但專利權登記前，申請人不得請求補償。

Article 207 (Special Provisions on Time and Effect of Laying Open Application)

(1) When Article 64 (1) applies to the laying-open of an international patent application, "at the time of expiration of one year and six months from any of the following dates" shall be construed as "at the time of expiration of the period for submitting domestic documents (in cases of an international application for which an applicant has requested an examination of a patent application and which has been internationally published pursuant to Article 21 of the Patent Cooperation Treaty, when one year and six months have passed from the preference date or the date of request for examination of application, whichever is later)." <Amended by Act No. 9381, Jan. 30, 2009>

(2) Notwithstanding paragraph (1), where an international application filed in the Korean language has already been published internationally in accordance with Article 21 of the Patent Cooperation Treaty before the application is laid open pursuant to paragraph (1), such international application shall be deemed to have been laid open at the time of such international publication. <Newly Inserted by Act No. 9381, Jan. 30, 2009>

(3) An applicant who filed an international patent application may, after the domestic laying-open (in cases of an international application filed in the Korean language, referring to an international publication pursuant to Article 21 of the Patent Cooperation Treaty; hereafter the same shall apply in this paragraph) and after having issued a warning in the form of a document describing the contents of the invention claimed in the international patent application, demand of a person who has commercially or industrially worked

the invention, after the warning but before the registration of a patent right, the payment of compensation in an amount equivalent to what he/she would normally receive for the working of the invention. Even in the absence of a warning, this shall apply to a person who commercially or industrially worked the invention before the domestic laying-open and who had known that the invention was the one claimed in the international patent application: Provided, That the applicant shall not claim the right for compensation before the registration of a patent right. <Amended by Act No. 5329, Apr. 10, 1997; Act No. 9381, Jan. 30, 2009>

第 208 條　修正之特別規定

(1) 雖有第47條第1項之規定，國際專利申請之修正(第204條第2項及第205條第2項之修正除外)，除符合下列各款情形外，不得為之：
   1. 已支付第82條規定之費用；
   2. 已提交依第201條第1項規定之韓文譯本，但以韓文提出國際專利申請者，不適用之；
   3. 已經過相關日(相關日指申請實體審查日者，指提出實體審查申請時)。
(2) 刪除。
(3) 就外文提出國際專利申請之修正範圍，第47條第2項所稱「專利申請案最初提出之說明書與圖式所揭露之特徵」，係指「在國際申請日提出之國際專利申請中之說明書、申請專利範圍或圖式文字之譯本所揭露之特徵，或除文字外圖式所揭露之特徵」。
(4) 刪除
(5) 刪除

Article 208 (Special Provisions on Amendment)

(1) Notwithstanding Article 47 (1), no amendment (excluding an amendment under Articles 204 (2) and 205 (2)) to an international patent application shall be made unless all the following requirements are satisfied: <Amended by Act No. 9381, Jan. 30, 2009>
   1. Official fees pursuant to Article 82 (1) shall be paid;
   2. The Korean translation pursuant to Article 201 (1) shall be submitted: Provided, That this shall not apply to an international patent application filed in the Korean language;
   3. The relevant date shall have passed (where the relevant date is the date of request for an examination of application, referring to the time of filing a request for examination of application).
(2) Deleted. <by Act No. 6411, Feb. 3, 2001>

(3) With regard to the scope of an amendment made to an international patent application filed in a foreign language, "features stated in the specification or drawings initially attached to the patent application" in Article 47 (2) shall be construed as "features stated in a translation of the specification, scope of claims or drawings (only the text matter therein), or the features stated in the drawings (excluding the text matter therein), in the international patent application submitted on the international filing date." <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

(4) and (5) Deleted. <by Act No. 6411, Feb. 3, 2001>

第 209 條　新型登記申請之改請時間限制

雖有第53條第1項之規定，申請專利係基於並由於一國際申請依韓國新型法第34條第1項規定被視為在國際申請日提出之新型登記申請改請而來者，在依韓國新型法第17條第1項規定支付費用前，及依韓國新型法第35條第1項規定提出申請之譯文(不包括以韓文提出之國際新型登記申請)提交前(國際申請被認定係依韓國新型法第40條第4項規定提出新型登記申請者，在該認定決定作成前)，該專利申請不得提出。

Article 209 (Restriction on Time of Conversion of Utility Model Registration Application)

Notwithstanding Article 53 (1) of this Act, a patent application made on the basis of and by converting from an international application which is deemed a utility model registration application filed on the international filing date under Article 34 (1) of the Utility Model Act may not be filed until the fees under Article 17 (1) of the Utility Model Act have been paid, and a translation of the application under Article 35 (1) of the Utility Model Act (excluding cases of international utility model registration application made in the Korean language) has been submitted (with respect to an international application considered to be a utility model registration application under Article 40 (4) of the Utility Model Act, until the decision under the said provision has been made). <Amended by Act No. 7871, Mar. 3, 2006>

第 210 條　申請實體審查時點之限制

雖有第59條第2項之規定，國際專利申請之申請人，在第201條第1項規定程序(不包括以韓文提出之國際新型登記申請)進行前，及依第82條第1項規定之費用支付前，不得申請實體審查。國際專利申請人以外之人，在第201條第1項規定期間經過前，不得申請實體審查。

Article 210 (Restriction on Time of Request for Examination)

Notwithstanding Article 59 (2), an applicant of an international patent application may not make a request for examination of his/her application until the proceedings (excluding cases of international patent application made in the Korean language) under Article 201 (1) have been taken and the official fees under Article 82 (1) have been paid. A person, other than the applicant of an international patent application, may not make a request for examination of the international patent application until the period under Article 201 (1) has lapsed. <Amended by Act No. 5576, Sep. 23, 1998>

第 211 條　命提出國際檢索報告引證文件等

韓國智慧財產局局長得要求國際專利申請人於指定期間內，提出依專利合作條約第18條規定之國際檢索報告及依同條約第35條規定之國際初步審查報告中引證文件之副本。

Article 211 (Orders to Submit Documents Cited in International Search Report, etc.)

The Commissioner of the Korean Intellectual Property Office may require an applicant for an international patent to submit copies of the references cited in the international search report under Article 18 of the Patent Cooperation Treaty and the international preliminary examination report under Article 35 of the said Treaty, designating a deadline. <Amended by Act No. 7871, Mar. 3, 2006>

第 212 條　刪除

Article 212 Deleted. <by Act No. 7871, Mar. 3, 2006>

第 213 條　專利無效審判之特別規定

有關對以外文提出之國際專利申請授予專利者，其發明不符下列各款情形之一，或其發明有第133條第1項各款情形者，得提出專利無效審判：

1. 在國際申請日提出之國際申請之說明書、申請專利範圍或圖式文字及其譯本中，均有記載該發明；
2. 在國際申請日提交之國際申請之圖式(不包括圖式之文字)中，有記載該發明。

Article 213 (Special Provisions on Invalidation Trial of Patent)

With respect to a patent granted for an international patent application filed in a foreign language, an invalidation trial thereagainst may be brought on the grounds that the invention concerned does not fall under any of the following subparagraphs as well as the grounds falling under any subparagraph of Article 133 (1): <Amended

by Act No. 7871, Mar. 3, 2006>

1. An invention described in both the specification, scope of claims or drawings (limited to the text matter therein) in the international application submitted on the international filing date and the translated version thereof;
2. An invention described in the drawings (excluding the text matter therein) in the international application submitted on the international filing date.

第 214 條　以裁決判定屬專利申請之國際申請

(1) 對於將韓國納為專利合作條約第4條第1項第ii款規定之指定國家之國際申請(僅適用於專利申請)屬下列各款情形者，提出國際申請之申請人得請求韓國智慧財產局局長，在產業通商資源部令所定期間內，依同條約第25條第2項第a款規定作出裁決：

1. 專利合作條約第2條(xv)所稱受理局，依同條約第25條第1項第a款規定，否決該國際申請者；
2. 專利合作條約第2條(xv)所稱受理局，依同條約第25條第1項第a款或第b款規定，作出該國際申請之宣布者；
3. 國際局依同條約第25條第1項第a款規定，認可該國際申請者。

(2) 欲提出第1項之請求者，應向韓國智慧財產局局長提交說明書、申請專利範圍或圖式文字及其他依產業通商資源部令規定有關國際申請文件之韓文譯本。

(3) 依第1項請求後，韓國智慧財產局局長應依專利合作條約及其細則之規定，決定該否決、宣布或認可是否正當。

(4) 韓國智慧財產局局長依第3項規定決定該否決、宣布或認可係不當者，相關國際申請應認係在若無該否決、宣布或認可作成時之國際申請日提出之專利申請。

(5) 韓國智慧財產局局長為第3項之判斷後，應向國際專利的相關申請人送達該決定之正本。

(6) 國際申請依第4項規定認係專利申請者，準用第199條第2項、第200條、第201條第4項至第8項、第201條第1項及第2項、第208條、第210條及第213條。

(7) 國際申請依第4項規定認係專利申請者，就其公開，第64條第1項所稱之「專利申請之申請日」，應認係第201條第1項所稱之「優先權日」。

Article 214 (International Application Considered to be Patent Application by Ruling)

(1) An applicant who has filed an international application may, where the international application (only applicable to a patent application) which includes the Republic of Korea in the designated states listed in Article 4 (1) (ii) of the Patent Cooperation Treaty falls under any of the following subparagraphs, request that the Commissioner of the Korean Intellectual Property Office render

a decision pursuant to Article 25 (2) (a) of the same Treaty, within the period prescribed by Ordinance of the Ministry of Trade, Industry and Energy, as prescribed by Ordinance of the Ministry of Trade, Industry and Energy: <Amended by Act No. 9381. Jan 30, 2009; Act No. 11690, Mar. 23, 2013>

1. Where a receiving office referred to in Article 2 (xv) of the Patent Cooperation Treaty has rejected such international application pursuant to Article 25 (1) (a) of the same Treaty;
2. Where a receiving office referred to in Article 2 (xv) of the Patent Cooperation Treaty has made a declaration on such international application pursuant to Article 25 (1) (a) or (b) of the same Treaty;
3. Where the International Bureau has recognized such international application pursuant to Article 25 (1) (a) of the same Treaty.

(2) A person who intends to make a request under paragraph (1) shall submit to the Commissioner of the Korean Intellectual Property Office a Korean translation of the specification, scope of claims or drawings (limited to the text matter thereof) as well as other documents relating to the international application provided by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 4541, Mar. 6,1993; Act No. 5080, Dec. 29, 1995; Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23,2013>

(3) Where a request under paragraph (1) has been made, the Commissioner of the Korean Intellectual Property Office shall decide whether the refusal, declaration or finding was justified under the Patent Cooperation Treaty and the Regulations thereunder. <Amended by Act No. 7871, Mar. 3, 2006>

(4) Where the Commissioner of the Korean Intellectual Property Office has made a decision under paragraph (3) to the effect that the refusal, declaration or finding was not justified under the Patent Cooperation Treaty and the Regulations thereunder, the international application concerned shall be considered to be a patent application filed on the date which would have been recognized as the international filing date if the said refusal, declaration or finding had not been made in respect of the said international application. <Amended by Act No. 7871, Mar. 3, 2006>

(5) Where the Commissioner of the Korean Intellectual Property Office decides on the justification pursuant to paragraph (3), he/she shall serve a certified copy of the decision on the relevant applicant for an international patent. <Newly Inserted by Act No. 8197, Jan. 3, 2007>

(6) Articles 199 (2), 200, 201 (4) through (8), 202 (1) and (2), 208, 210 and 213 shall apply mutatis mutandis to international applications considered to be patent applications under paragraph (4). <Amended by Act No. 5576, Sep. 23, 1998;

Act No. 7871, Mar. 3, 2006>

(7) In cases of the laying open of an international application considered to be a patent application under paragraph (4), "filing date of a patent application" in Article 64 (1) shall be construed as "priority date referred to in Article 201 (1)."

第 215 條之 2　二請求項以上之專利申請登記之特別規定

(1) 收受二請求項以上之專利申請之核准審定者，於繳納登記費用後，得將個別請求項拋棄。

(2) 依第1項規定所為拋棄之必要事項，以產業通商資源部令定之。

Article 215-2 (Special Provisions for Registration of Patent Application with Two or More Claims)

(1) Where a person who has received a decision to grant a patent for a patent application with two or more claims has paid the registration fees, the person may abandon individual claims.

(2) Matters necessary for the abandonment of claims under paragraph (1) shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar.23, 2013>

第 216 條　文件查閱等

(1) 欲取得專利證書或審判證明、文件之正本或摘要，或查閱或影印專利登記或文件者，得向韓國智慧財產局局長或智慧財產法庭主席請求。

(2) 如涉及尚未登記或未公開供公眾查閱，或違反公共秩序或道德之專利申請，韓國智慧財產局局長或智慧財產法庭主席得拒絕第1項之請求。

Article 216 (Inspection of Documents, etc.)

(1) A person who intends to receive a certificate for a patent or a trial, a certified copy or extract of documents, or inspect or copy the Patent Register or documents may request the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal to that effect. <Amended by Act No. 4892, Jan. 5, 1995>

(2) The Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal may refuse to permit the request referred to in paragraph (1) if it relates to a patent application, the establishment of which has not been registered or which has not been laid open for public inspection, or if it relates to matters liable to contravene public order or morality. <Amended by Act No.4892, Jan. 5, 1995; Act No. 5329, Apr. 10, 1997; Act No. 9381, Jan. 30, 2009>

第 217 條　禁止有關專利申請、審查、審判、再審、專利登記等文件之攜出或公開

(1) 除下列情形外，有關專利申請、審查、審判、再審、專利登記等文件禁止攜出：

1. 依第58條第1項或第2項規定，為檢索先前技術之目的等，而攜出專利申請或審查相關文件；
2. 依第217條之2第1項規定，為委託數位化專利文件之目的，而攜出專利申請、審查、審判、再審、專利登記相關文件；
3. 依電子管理法(2)第32條第2項規定，為上網遠距工作之目的，而攜出專利申請、審查、審判、再審、專利登記相關文件。

(2) 有關進行中之專利申請、審查、審判、再審之內容，或審查官之審定、審判決定或決定之內容，請求為專家意見、證言或詢問者，不得回應。

Article 217 (Prohibition of Documents Relating to Patent Application, Examination, Trial, Retrial, Patent Register, etc. from being Taken out or Opened to Public)

(1) Documents relating to a patent application, examination, trial or retrial or the Patent Register shall be prohibited from being taken out except for any of the following cases: <Amended by Act No. 7871, Mar. 3,2006; Act No. 8171, Jan. 3, 2007; Act No. 10012, Feb. 4, 2010>

1. Where documents relating to patent applications or examinations are taken out for the purpose of searching prior art, etc. under Article 58 (1) or (2);
2. Where documents relating to patent applications, examinations, trials or retrials or the Patent Register are taken out for the purpose of entrusting the affairs of digitizing patent documents under Article 217-2 (1);
3. Where documents relating to patent applications, examinations, trials or retrials or the Patent Register are taken out for the purpose of online remote working under Article 32 (2) of the Electronic Government Act.

(2) A response shall not be given to a request for an expert opinion, testimony or an inquiry as to the contents of a pending patent application, examination, trial, or retrial that is in process, or as to the contents of an examiner's decision, trial decision or ruling. <Amended by Act No. 5329, Apr. 10, 1997; Act No.6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

第 217 條之 2　數位化專利文件業務機構

(1) 當認有效處理專利相關程序是必要的，韓國智慧財產局局長得委託任何配備符合產業通商資源部令規定之設施及人力之機構，透過電子資訊處理系統及其利用電子資訊處理系統技術數位化專利申請、審查、審判、再審、專利登

記相關文件(以下稱「數位化專利文件業務」)。

(2) 刪除

(3) 第1項受委託處理數位化專利文件之機構(以下稱「數位化專利文件機構」)之職員或雇員,不得洩露在履行職務期間所接觸之發明之機密資訊或盜用申請中已公開之發明。

(4) 韓國智慧財產局局長得依第1項規定，將未提交依第28條之3第1項所定電子文件之書面專利申請或其他依產業通商資源部令所定文件數位化,並儲存於韓國智慧財產局或智慧財產法庭之電子資訊處理系統檔案中。

(5) 依第4項規定所為之檔案，視為與書面文件有同一效力。

(6) 依第1項規定執行數位化專利文件業務，及其他執行數位化專利文件業務之必要事項，應定產業通商資源部令定之。

(7) 數位化專利文件之機構未符合第1項所定產業通商資源部令規定之設施及人力，且未依韓國智慧財產局局長之改正措施改正者，韓國智慧財產局局長得解除與該機構之委託，但應事先給予該機構陳述意見之機會。

Article 217-2 (Agency for Affairs of Digitizing Patent Documents)

(1) Where it is deemed necessary to effectively deal with patent-related procedures, the Commissioner of the Korean Intellectual Property Office may entrust any corporation equipped with facilities and manpower prescribed by Ordinance of the Ministry of Trade, Industry and Energy with the digitization of documents relating to patent applications, examinations, trials or retrials or the Patent Register through an electronic information processing system and its technology of utilizing the electronic information processing system (hereinafter referred to "affairs of digitizing patent documents"). <Amended by Act No.6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(2) Deleted. <by Act No. 7871, Mar. 3, 2006>

(3) A person who is or was an executive or employee of the person who has been entrusted with the affairs of digitizing patent documents pursuant to paragraph (1) (hereinafter referred to as "agency of digitizing patent documents") shall not divulge confidential information on inventions or appropriate the invention disclosed in a pending application to which he/she had access during the course of his/her duties.

(4) The Commissioner of the Korean Intellectual Property Office may, pursuant to paragraph (1), digitize a written patent application or other documents prescribed by Ordinance of the Ministry of Trade, Industry and Energy, which fail to be submitted by means of an electronic document as prescribed in Article 28-3 (1), and may record them in a file of an electronic information processing system operated by the Korean Intellectual Property Office or the Intellectual

Property Tribunal. <Newly Inserted by Act No. 5576, Sep. 23,1998; Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(5) The details written in a file under paragraph (4) shall be deemed the same as those entered in the documents concerned. <Newly Inserted by Act No. 5576, Sep. 23, 1998>

(6) The method of carrying out the affairs of digitizing patent documents under paragraph (1), and other matters necessary for carrying out the affairs of digitizing patent documents, shall be determined by Ordinance of the Ministry of Trade, Industry and Energy. <Amended by Act No. 6411, Feb. 3, 2001; Act No.8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(7) Where any agency of digitizing patent documents which fails to meet the standards for facilities and manpower determined by Ordinance of the Ministry of Trade, Industry and Energy under paragraph (1) does not comply with corrective measures therefor taken by the Commissioner of the Korean Intellectual Property Office, the latter may cancel the entrustment of the affairs of digitizing patent documents to the agency. In such cases, he/she shall first provide the agency an opportunity to present its opinion thereabout. <Newly Inserted by Act No. 7871, Mar. 3, 2006; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23,2013>

第 218 條　文件送達

本法有關文件送達程序等之必要事項，應以總統令定之。

Article 218 (Service of Documents)

Necessary matters related to procedures for service of documents, etc. in this Act shall be prescribed by Presidential Decree. <Amended by Act No. 8197, Jan. 3, 2007>

第 219 條　公示送達

(1) 因當事人之住所或營業所不明而無法送達者，應以公示送達為之。

(2) 公示送達應將通知刊登於專利公報，應受送達之當事人即可隨時收受送達。

(3) 公示送達自刊登專利公報時起，經二星期發生效力。但對同一當事人之後續公示送達，自刊登時起發生效力。

Article 219 (Service by Public Announcement)

(1) In cases where documents cannot be served because the domicile or place of business of a person to be served is unclear, service shall be made by public announcement.

(2) Service by public announcement shall be implemented by publishing a notice in

the Patent Gazette to the effect that the documents will be served at any time to the person to be served.

(3) The initial service by public announcement shall come into force after the expiry of two weeks from the date it is published in the Patent Gazette: Provided, That subsequent service by public announcement on the same party shall come into force from the date following its publication in the Patent Gazette.

第 220 條　非居民之文件送達

(1) 非居民有專利管理人者，應向專利管理人為送達。

(2) 非居民無專利管理人者，以掛號航空郵件送達之。

(3) 依第2項規定為送達者，以寄出日視為送達日。

Article 220 (Service of Documents to Overseas Residents)

(1) For an overseas resident having a patent administrator, documents shall be served on his/her patent administrator.

(2) For an overseas resident without a patent administrator, documents may be sent to him/her by registered airmail.

(3) When documents have been sent by registered airmail under paragraph (2), such documents shall be deemed to have been served on the mailing date.

第 221 條　專利公報

(1) 依總統令之規定，韓國智慧財產局局長應出版專利公報。

(2) 依產業通商資源部令之規定，專利公報得以電子形式出版之。

(3) 以電子形式出版專利公報者，韓國智慧財產局局長應在資訊通訊網路上公布專利公報之出版、主要內容及公示送達之事項。

Article 221 (Patent Gazette)

(1) The Commissioner of the Korean Intellectual Property Office shall publish the Patent Gazette, as prescribed by Presidential Decree. <Amended by Act No. 11654, Mar. 22, 2013>

(2) The Patent Gazette may be published by electronic media, as prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Newly Inserted by Act No. 5329, Apr. 10, 1997; Act No. 6411, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(3) In publishing the Patent Gazette by the electronic media, the Commissioner of the Korean Intellectual Property Office shall make public matters regarding the fact of publication of the Patent Gazette, its main contents, and service by public announcement through information and communication networks.

<Newly Inserted by Act No. 5329, Apr. 10, 1997; Act No. 6411, Feb. 3, 2001>

第 222 條　文件之提交等

韓國智慧財產局局長或審查官得要求相關當事人提交有關審判或再審以外之處理程序之必要文件及物品。

Article 222 (Submission, etc. of Documents)

The Commissioner of the Korean Intellectual Property Office or any examiner may require a party concerned to submit documents and articles necessary for dealing with proceedings, other than those relating to trial or retrial.

第 223 條　專利標示

專利權人或專屬或非專屬被授權人得於物之發明或方法之發明所製造之專利物上標示專利證書號碼，不能於專利物上標示者，得於產品容器或包裝上標示。

Article 223 (Patent Indication)

A patentee or an exclusive or non-exclusive licensee may indicate an identification of the patent upon a patented product in cases of an invention of a product or in cases of an invention of process, on the manufactured product. If it is not possible to place such indication on the product, the identification may be made on the container or package thereof.

第 224 條　禁止虛偽標示

下列行為，不得為之：

1. 在未授予專利或未提出專利申請之產品或方法製造物，或其包裝、容器上標示表明已授予專利或已提出專利申請或任何可能令人混淆之標誌；
2. 移轉、出租或展示標示第1項標誌之產品；
3. 為製造、使用、移轉或出租第1項所指產品之目的，在廣告、招牌或標籤上標示已授予專利、已提出專利申請、已由授予專利或專利申請中之方法生產，或任何可能令人混淆之標誌；
4. 為使用、移轉或出租未授予專利或未申請專利之方法之目的，在廣告、招牌或標籤上標示已授予專利、已提出方法專利申請，或任何可能令人混淆之標誌。

Article 224 (Prohibition of False Indication)

No person shall be allowed to perform any of the following acts:

1. Marking with an indication of a patent having been granted or patent application having been filed, or any sign likely to cause confusion therewith,

on an article for which a patent has not been granted, a patent application is not pending, or upon an article manufactured by a process for which a patent has not been granted or a patent application is not pending, or a container or package thereof;

2. Assigning, leasing or displaying an article which has been marked with an indication referred to in subparagraph 1;
3. For the purpose of manufacture, use, assignment or lease of an article referred to in subparagraph 1, marking with an indication upon advertisements, signboards or tags that a patent has been granted, a patent application had been filed for it, that it has been produced by a process for which a patent has been granted, a patent application is pending, or marking with any sign likely to cause confusion therewith;
4. For the purpose of use, assignment or lease of a process for which a patent has not been granted or a patent application is not pending, marking with an indication on advertisements, signboards or tags that a patent has been granted, a patent application had been filed for the process, or marking with any sign likely to cause confusion therewith.

第 224 條之 2　不服之限制

(1) 不得依據任何其他法律規定對拒絕修正之決定、可專利性之決定、審判決定或駁回審判或再審請求之決定不服，亦不得依據任何其他法律對依本法不得不服之處置不服。

(2) 對第1項以外之處置不服者，依行政訴願法或行政訴訟法之規定。

Article 224-2 (Restriction on Objection)

(1) No objection may be raised under any other Act against a ruling to dismiss an amendment, a decision of patentability, a trial decision, or a ruling to dismiss a request for trial or retrial, and no objection may be raised under any other Act against any disposition against which no objection may be raised under this Act. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

(2) Any objection against a disposition, other than that referred to in paragraph (1) shall be governed by the Administrative Appeals Act or the Administrative Litigation Act. <Newly Inserted by Act No. 7871, Mar.3, 2006>

第 224 條之 3　秘密保持令

(1) 在專利權或專屬授權侵權訴訟中，敘明下列理由者，有關當事人所持有之營業秘密(指不公平競爭防止及營業秘密保護法第2條第2款之營業秘密)，法院

得依當事人之請求，以裁定命他方當事人(如為法人者，其代表人)、訴訟擔當人或任何其他因相關訴訟得知營業秘密之人，不得於進行訴訟以外之目的使用該相關營業秘密或不得向依本條規定收受有關營業秘密命令之人以外之人揭露該秘密。但他方當事人(如為法人者，其代表人)、訴訟擔當人或任何其他得知營業秘密之人在相關申請前，以閱覽準備文件或檢視第1款證據以外之方法已取得該秘密者，不適用之：

1. 準備文件中之營業秘密已提交或應提交，或證據已被檢視或應檢視；
2. 應限制營業秘密之使用或揭露，以防止以提起相關訴訟以外之目的使用或揭露第1款之營業秘密，而影響當事人之商業運作。

(2) 依第1項請求核發命令(以下稱「秘密保持令」)，應以書面記載下列事項為之：

1. 收受秘密保持令之人；
2. 足以指明核發秘密保持令之營業秘密之實際事實；
3. 第1項各款之實際事實。

(3) 秘密保持令之裁定作出後，法院應以書面送達收受秘密保持令之人。

(4) 秘密保持令於依第3項規定送達後生效。

(5) 得對不受理或駁回秘密保持令請求之裁定即時不服。

Article 224-3 (Order of Secrecy)

(1) When the following grounds are explained in a lawsuit against infringement of a patent right or exclusive license, with regard to trade secret (referring to trade secret pursuant to subparagraph 2 of Article 2 of the Unfair Competition Prevention and Trade Secret Protection Act) possessed by the relevant party, the court may order, in its ruling, the other relevant party (in cases of a juristic person, referring to the representative thereof), a person who files a lawsuit on behalf of the relevant party or any other person who becomes aware of trade secret due to the relevant lawsuit not to use the relevant trade secret for purposes other than for continuing the relevant lawsuit or not to disclose such secret to any person, other than a person who has received an order with respect to the relevant trade secret pursuant to this paragraph, upon the request of the relevant party: Provided, That this shall not apply where the other relevant party (in cases of a juristic person, referring to the representative thereof), a person who files a lawsuit on behalf of the relevant party or any other person who becomes aware of trade secret has already acquired such secret by methods, other than the perusal of preparatory documents or examination of evidence prescribed in subparagraph 1 until the time of the relevant application:

1. That trade secret is included in preparatory documents which have already been submitted or should be submitted, or evidence which has already been

examined or should be examined;

2. That the usage or disclosure of trade secret shall be restricted to prevent the trade secret under subparagraph 1 from being used or disclosed for purposes other than for filing the relevant lawsuit, as such usage or disclosure is likely to affect the business operation of the relevant party.

(2) Requests for order (hereinafter referred to as "order of secrecy") under paragraph (1) shall be made in written documents containing the following:

1. A person who receives an order of secrecy;
2. Actual facts which are enough to specify trade secret subject to order of secrecy;
3. Actual facts falling under subparagraphs of paragraph (1).

(3) When a decision is made on the order of secrecy, the court shall deliver such written decision to a person who has received the order of secrecy.

(4) The order of secrecy shall take effect from the date when a written decision under paragraph (3) is delivered to a person who has received the order of secrecy.

(5) The immediate appeal may be made against a trial which has dismissed or rejected requests for the order of secrecy.

第 224 條之 4　秘密保持令之撤銷

(1) 未符合或不再符合第224條之3第1項之規定者，請求秘密保持令之人或收受該命令之人，得請求有審判紀錄之法院(如未有法院有審判紀錄者，指核發該秘密保持令之法院)撤銷秘密保持令。

(2) 有關請求撤銷秘密保持令之審判進行時，法院應以書面向提起此請求之人及他方當事人送達決定。

(3) 得對請求撤銷秘密保持令之審判即時不服。

(4) 撤銷秘密保持令之審判，於確定後生效。

(5) 撤銷秘密保持令之審判法院，應即通知他方當事人以外之請求撤銷秘密保持令之人或收受該命令之人，關於撤銷秘密保持令之審判。

Article 224-4 (Revoking Order of Secrecy)

(1) In cases where requirements prescribed in Article 224-3 (1) have not been satisfied or fail to be satisfied any longer, any person who has requested the order of secrecy or has received such order may request the court which keeps trial records (if there is no court which keeps trial records, referring to the court which has issued the order of secrecy) to revoke the order of secrecy.

(2) When a trial is to be conducted concerning requests for revocation of the order of secrecy, the court shall deliver the relevant written decision to a person who

has made such requests and the other party.

(3) The immediate appeal may be made against a trial concerning requests for revocation of the order of secrecy.

(4) A trial which revokes the order of secrecy shall become effective only after it is made final and conclusive.

(5) A court which has held a trial concerning revocation of the order of secrecy shall inform a person who has requested the revocation of the order of secrecy or a person who has received such order concerning the relevant trade secret, other than the other party, of a trial on the revocation of the order of secrecy, without delay.

第 224 條之 5　請求審判紀錄之閱覽等之通知等

(1) 審判紀錄經核發秘密保持令之訴訟(秘密保持令已撤銷之訴訟除外)依民事訴訟法第163條第1項規定作成決定後，如相關當事人請求閱覽上述機密資訊，但未收受秘密保持令之人於相關訴訟中已依程序請求者，第四級、第五級、第六級法院書記官或第七級法院書記官(本條以下稱「第五級法院書記官等」)應即通知依民事訴訟法第163條第1項規定提出請求之相關當事人(請求相關閱覽之人除外；以下相同情形應適用第3項規定)該閱覽之請求。

(2) 第1項規定之情形，在第1項規定之請求作出後二星期內(在期限內對已遵循程序為相關請求之人請求秘密保持令者，指在相關申請案之審判確定前)，第五級法院書記官等不得准許於相關訴訟中已依程序請求之人閱覽第1項之機密資訊。

(3) 第二項之規定不適用於所有已依民事訴訟法第163條第1項規定提出請求之當事人同意依第1項提出請求之人閱覽第1項之機密資訊之情形。

Article 224-5 (Notice, etc. on Requests for Perusal, etc. of Trial Records)

(1) In cases where a decision under Article 163 (1) of the Civil Procedure Act is made with respect to trial records concerning a lawsuit in which the order of secrecy is issued (excluding a lawsuits in which all orders of secrecy are revoked), if the relevant party has requested the perusal, etc. of confidential information prescribed in the abovementioned paragraph, but a person who has not received the order of secrecy has followed procedures for requests in the relevant lawsuit, the court clerical official of Grade IV, court clerical official of Grade V, court clerical official of Grade VI or court clerical official of Grade VII (hereinafter referred to as "court clerical official of Grade V, etc." in this Article) shall inform the relevant party who has filed a request (excluding a person who requested the relevant perusal, etc.; hereinafter the same shall apply in paragraph (3)) pursuant to Article 163 (1) of the Civil Procedure Act of the

request for the relevant perusal immediately after such request.

(2) In cases under paragraph (1), court clerical official of Grade V, etc. shall not allow a person who has followed procedures for the relevant request to peruse confidential information under paragraph (1) until two weeks lapse (if a request for the order of secrecy is made during the period against a person who has followed procedures for the relevant request, until the time when a trial on the relevant application becomes final and conclusive) from the date when a request under paragraph (1) is made.

(3) The provisions of paragraph (2) shall not apply to cases where all the relevant parties who have filed a request pursuant to Article 163 (1) of the Civil Procedure Act have agreed to allow a person who has made a request pursuant to paragraph (1) to peruse the confidential information under paragraph (1).

第 225 條　侵害專利罪

(1) 侵害專利權或專利授權者，處七年以下有期徒刑，或一億韓元以下罰金。

(2) 第1項規定之罪，須告訴乃論。

Article 225 (Offense of Infringement)

(1) Any person who infringes a patent right or exclusive license shall be punished by imprisonment not exceeding seven years or by a fine not exceeding 100 million won. <Amended by Act No. 5329, Apr. 10, 1997;Act No. 6411, Feb. 3, 2001>

(2) Prosecution for offenses under paragraph (1) shall be initiated upon filing of a complaint by an injured party.

第 226 條 洩密罪

任何韓國智慧財產局或智慧財產法庭之現任或前任員工，洩露或盜用在執行職務過程中接觸到之申請中(包括國際申請)公開之發明，處五年以下有期徒期，或五千萬韓元以下罰金。

Article 226 (Offense of Divulging Confidential Information, etc.)

Where any present or former employee of the Korean Intellectual Property Office or the Intellectual Property Tribunal has divulge confidential information on inventions or appropriate the invention disclosed in a pending patent application (including an invention for which an international application is pending) to which he/she had learned in the course of performing his/her duties, such employee shall be punished by imprisonment not exceeding five years or by a fine not exceeding 50 million won. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 9381, Jan. 30, 2009>

第 226 條之 2　專業機構等之職員及員工視為公務員

現為或曾為專業機構或第58條第1項之數位化專利文件機構之職員及員工者，在適用第226條規定時，視為韓國智慧財產局之員工。

Article 226-2 (Executives and Employees of Specialized Institutions, etc. Deemed to be as Public Officials)

A person who is or was an executive or employee of any specialized institution or any agency of digitizing patent documents under Article 58 (1) shall be deemed one who is or was an employee of the Korean Intellectual Property Office for purposes of applying Article 226. <Amended by Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006; Act No. 9381, Jan. 30, 2009>

第 227 條　偽證罪

(1) 依本法宣誓之證人、專家證人或翻譯，向智慧財產法庭作出虛偽之陳述、專家意見或翻譯者，處五年以下有期徒刑，或一千萬韓元以下罰金。

(2) 犯第1項之罪，在審判決定確定前自白者，得減輕或免除其刑。

Article 227 (Offense of Perjury)

(1) Where a witness, expert witness or interpreter, having taken an oath under this Act, has made a false statement or provided a false expert opinion or interpreted falsely before the Intellectual Property Tribunal, he/she shall be punished by imprisonment not exceeding five years or by a fine not exceeding 10 million won. <Amended by Act No. 4892, Jan. 5, 1995; Act No. 6411, Feb. 3, 2001>

(2) Any person who has committed an offense under paragraph (1), who confesses it before the trial decision concerned becomes final and conclusive, may be partially or totally exempted from the application of the sentence. <Amended by Act No. 5329, Apr. 10, 1997; Act No. 7871, Mar. 3, 2006>

第 228 條　虛偽標示罪

違反第224條之規定者，處三年以下有期徒期或二千萬元以下韓元罰金。

Article 228 (Offense of False Marking)

Any person who violates Article 224 shall be punished by imprisonment not exceeding three years or by a fine not exceeding 20 million won.

第 229 條　詐欺罪

以詐欺或任何其他不正方式取得專利權、專利權期間延長登記或審判決定者，處三年以下有期徒刑或二千萬元韓元以下罰金。

Article 229 (Offense of Frauds)

Any person who has obtained a patent, the registration of an extension of a patent term, or a trial decision by means of a fraudulent or any other unjust act shall be punished by imprisonment not exceeding three years or by a fine not exceeding 20 million won. <Amended by Act No. 5329, Apr. 10, 1997; Act No. 6411, Feb. 3, 2001; Act No. 7871, Mar. 3, 2006>

第 229 條之 2　違反秘密保持令罪

(1) 在韓國或外國無正當理由違反第224之3條第1項規定之秘密保持令者，處五年以下有期徒刑或五千萬韓元以下罰金。

(2) 犯第1項之罪，須請求秘密保持令之人提起告訴，方為訴追。

Article 229-2 (Offences Violating Order of Secrecy)

(1) Any person who has violated the order of secrecy under Article 224-3 (1) in the Republic of Korea or in a foreign country without any justifiable ground shall be punished by imprisonment not exceeding five years or by a fine not exceeding 50 million won.

(2) A public action against an offence under paragraph (1) shall be instituted only if a complaint thereof is filed by a person who has requested the order of secrecy.

第 230 條　併罰規定

法人之代表人、法人或自然人之代理人、員工或其他任何受雇人員，在履行法人或自然人之義務時，犯第225條第1項、第228條或第229條之罪者，除行為人應為處罰外，該法人應併處下列各款之罰金，該自然人應併處相關法條規定之罰金。但該法人或自然人在指揮監督相關義務之執行以避免犯罪並無過失者，不適用之：

1. 犯第225條第1項之罪者，處三億韓元以下之罰金；
2. 犯第228條或第229條之罪者，處六千萬韓元以下之罰金。

Article 230 (Joint Penal Provisions)

If a representative of a juristic person, or an agent, an employee or any other employed person of a juristic person or individual has committed an offense under Articles 225 (1), 228 or 229 with respect to the duties of the juristic person or individual, not only shall the offender be punished, but also the juristic person shall

be punished by a fine under any of the following subparagraphs and the individual shall be punished by a fine referred to in the relevant provisions: Provided, That this shall not apply to cases where the juristic person or individual has not been negligent in giving due attention and supervision concerning the relevant duties to prevent such offense: <Amended by Act No. 9381, Jan. 30, 2009>

1. Cases referred to in Article 225 (1): A fine not exceeding 300 million won;
2. Cases referred to in Article 228 or 229: A fine not exceeding 60 million won.

第 231 條　沒收等

(1) 任何作為第225條第1項規定之侵害行為客體之物品，或任何因侵害行為產生之物品，應予沒收，或依受害人之請求，以判決將該等物品交付給受害人。

(2) 依第1項規定，將物品交付給受害人者，受害人得對超過該物品價值部分之損失要求賠償。

Article 231 (Confiscation, etc.)

(1) Any article that is the subject of an infringing act under Article 225 (1), or any article arising out of such act, shall be confiscated or, upon request of the injured party, a judgment shall be rendered to the effect that such article shall be delivered to the injured party. <Amended by Act No. 5329, Apr. 10, 1997>

(2) Where the article is delivered to the injured party under paragraph (1), the person may claim compensation for losses in excess of the value of the article.

第 232 條　過失犯

(1) 過失犯下列各款之罪者，處五十萬韓元以下罰金：

1. 依民事訴訟法第299條第2項及第367條規定宣誓後，向智慧財產法庭作出虛偽陳述者；
2. 無正當理由，未依智慧財產法庭之命令，提出或出示關於取得或保存證據之文件或其他資料；
3. 刪除；
4. 無正當理由，未依智慧財產法庭之傳喚為證人、專家證人或翻譯出庭，或拒絕宣誓、陳述、證言、出具專家意見或翻譯者。

(2) 第1項之罰金，由韓國智慧財產局局長依總統令決定及收取。

(3) 刪除。

(4) 刪除。

(5) 刪除。

Article 232 (Fines for Negligence)

(1) Any person falling under any of the following subparagraphs shall be punished by a fine for negligence not exceeding 500,000 won: <Amended by Act No. 4892,

Jan. 5, 1995; Act No. 6626, Jan. 26, 2002; Act No. 7871, Mar. 3, 2006>

1. Where a person who has taken an oath under Articles 299 (2) and 367 of the Civil Procedure Act has made a false statement before the Intellectual Property Tribunal;
2. Where a person was ordered by the Intellectual Property Tribunal to submit or show documents or other materials with respect to taking evidence or to the preservation of evidence, and has failed to comply with the order without justifiable grounds;
3. Deleted; <by Act No. 7871, Mar. 3, 2006>
4. Where a person was summoned by the Intellectual Property Tribunal as a witness, expert witness or interpreter and has failed to comply with the subpoena, or has refused to take an oath, to make a statement, to testify, to give an expert opinion or to interpret, without justifiable grounds.

(2) Fines for negligence referred to in paragraph (1) shall be imposed and collected by the Commissioner of the Korean Intellectual Property Office, as prescribed by Presidential Decree.

(3) Deleted. <by Act No. 11117, Dec. 2, 2011>

(4) Deleted. <by Act No. 11117, Dec. 2, 2011>

(5) Deleted. <by Act No. 11117, Dec. 2, 2011>