

DESIGN PROTECTION ACT

Wholly Amended by Act No. 4208, Jan. 13, 1990

Amended by Act No. 4541, Mar. 6, 1993

Act No. 4595, Dec. 10, 1993

Act No. 4894, Jan. 5, 1995

Act No. 5082, Dec. 29, 1995

Act No. 5329, Apr. 10, 1997

Act No. 5354, Aug. 22, 1997

Act No. 5576, Sep. 23, 1998

Act No. 6024, Sep. 7, 1999

Act No. 6413, Feb. 3, 2001

Act No. 6626, Jan. 26, 2002

Act No. 6767, Dec. 11, 2002

Act No. 7289, Dec. 31, 2004

Act No. 7556, 2005

Act No. 7869, Mar. 3, 2006

Act No. 8187, Jan. 3, 2007

Act No. 8357, Apr. 11, 2007

Act No. 8456, 2007

Act No. 8852, Feb. 29, 2008

Act No. 9223, Dec. 26, 2008

Act No. 9381, Jan. 30, 2009

Act No. 9764, Jun. 9, 2009

Act No. 10012, Feb. 4, 2010

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to encourage the creation of designs by ensuring their protection and utilization, so as to contribute to the development of industry. *<Amended by Act No. 7289, Dec. 31, 2004>*

Article 2 (Definitions)

The terms used in this Act shall be defined as follows: *<Amended by Act No. 5082, Dec. 29, 1995; Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*

1. The term "design" means the shape, pattern, or color, or a combination of these of an article [including part of an article (excluding [Article 12](#)) and font; hereinafter the same shall apply], which produces an aesthetic impression in the sense of sight;

1-The term "font" means a set of characters (including forms, such as numbers, letter marks,

2. symbols, etc.) of the same style which is used for recording, marking or printing;
2. The term "registered design" means a design for which design registration has been granted;
3. The term "design registration" means examined design registration or unexamined design registration;
4. The term "examined design registration" means registration of a design that is subject to examination as to whether the application for design registration satisfies all the requirements for design registration;
5. The term "unexamined design registration" means registration of a design that is subject to examination as to whether the application for design registration satisfies the requirements for design registration under this Act, with the exception of the requirements not applicable under [Article 26](#) (2);
6. The term "working of a design" means any act of manufacturing, using, assigning, leasing, importing, or offering for assignment or lease of (including displaying for the purpose of assignment or lease; hereinafter the same shall apply) an article to which a design has been applied.

Article 3 (Persons Entitled to Obtain Design Registration)

- (1) Any person who creates or succeeds to a design shall be entitled to obtain a design registration therefor in accordance with this Act: *Provided*, That employees of the Korean Intellectual Property Office and the Intellectual Property Tribunal shall not obtain a design registration during their employment at the office except for inheritance or bequest.
<Amended by Act No. 4595, Dec. 10, 1993; Act No. 4894, Jan. 5, 1995; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (2) If two or more persons jointly create a design, the right to obtain a design registration shall be jointly owned. <Amended by Act No. 4595, Dec. 10, 1993; Act No. 7289, Dec. 31, 2004>

Article 4 (Legal Capacity of Minors, etc.)

- (1) Minors, quasi-incompetents or incompetents shall not undertake the procedure for filing an application, requesting an examination, or any other procedure related to registration of designs (hereinafter referred to as "design-related procedure") unless represented by their legal representatives: *Provided*, That this shall not apply where a minor or a quasi-incompetent is capable of performing legal acts by becoming independent.
- (2) The legal representative referred to in paragraph (1) may, without the consent of the family council, act in any procedure for objection against unexamined design registration, trial or retrial initiated by another party.

[This Article Wholly Amended by Act No. 9764, Jun. 9, 2009]

Article 4-2 (Association, etc. which is not Juristic Person)

A representative or an administrator, who has been so designated by an association or a foundation, other than a juristic person, may file an objection against any unexamined design registration, or appear as a plaintiff or a defendant in a trial or retrial in its association or foundation name.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-3 (Design Administrators for Overseas Residents)

- (1) Any 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 where such overseas resident (or a representative thereof in cases of a juristic person) is sojourning in the Republic of Korea, initiate any design-related procedure, nor appeal any disposition issued by an administrative agency in accordance with this Act or any order thereunder, unless he/she is represented by an agent with respect to such overseas resident's design, who has an address or a place of business in the Republic of Korea (hereinafter referred to as "design administrator").

- (2) Each design administrator shall, within the scope of power delegated to him/her, represent a party in any design-related procedure and in any legal actions against a disposition issued by an administrative agency in accordance with this Act or any order thereunder.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-4 (Scope of Authority of Representation)

No agent who is delegated to undertake a design-related procedure by a person who has an address or a place of business in the Republic of Korea shall conduct any of the acts described in the following subparagraphs, unless expressly so empowered:

1. To abandon or withdraw an application for design registration, or to abandon a design right;
2. To withdraw an application;
3. To withdraw a request;
4. To request for a trial under [Article 67-2](#) or [67-3](#);
5. To appoint a subagent.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-5 (Proof of Authority of Representation)

An agent of a person who is initiating a design-related procedure (including a design administrator; hereinafter the same shall apply) shall present a written proof of his/her authority of representation.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-6 (Ratification of Defects in Legal Capacity, etc.)

Design-related procedures, initiated by a person who has no legal capacity or authority of legal representation or who has defects in his/her delegated authority necessary to initiate such procedures, shall become effective retroactively to the time such procedures are performed if the procedures are ratified by the party concerned when he/she has gained capacity to proceed or by his/her legal representative.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-7 (Non-Extinguishment of Authority of Representation)

No authority of representation of an agent commissioned by a person undertaking a design-related procedure shall be extinguished due to any reason prescribed in the following subparagraphs:

1. Death or loss of legal capacity of the party concerned;
2. Extinguishment of the party concerned, which is a juristic person, due to a merger;
3. Termination of the trust duty of the party concerned;
4. Death or loss of legal capacity of the legal representative;
5. Modification or extinguishment of the authority of representation of the legal representative.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-8 (Independence of Representation)

Where two or more agents of a person initiating a design-related procedure have been designated, each of them shall independently represent the party concerned before the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-9 (Replacement of Agents, etc.)

- (1) If the Commissioner of the Korean Intellectual Property Office or a presiding administrative patent judge considers that a person initiating a design-related procedure is not qualified to conduct such procedure without difficulties or make oral statements, etc., he/she may order an agent to undertake the procedure.
- (2) If the Commissioner of the Korean Intellectual Property Office or a presiding administrative patent judge considers that the agent of a person initiating a design-related procedure is not qualified to conduct such procedure without difficulties or make oral statements, etc. he/she may order the replacement of the agent.
- (3) The Commissioner of the Korean Intellectual Property Office or a presiding administrative patent judge may, in cases referred to in paragraphs (1) and (2), order the appointment of a patent attorney to undertake the procedure.
- (4) The Commissioner of the Korean Intellectual Property Office or a presiding administrative patent judge may invalidate, in part or in whole, a design-related procedure taken before the Korean Intellectual Property Office or the Intellectual Property Tribunal by the person initiating the design-related procedure referred to in paragraph (1) or by the agent referred to in paragraph (2) prior to the appointment or the replacement of the agent under paragraph (1) or (2) after the issuance of an order referred to in paragraph (1) or (2).

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-10 (Representation of Two or More Persons)

- (1) Where two or more persons jointly initiate a design-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 Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal thereof:
 1. Abandonment or withdrawal of an application for design registration;
 2. Withdrawal of an application;
 3. Withdrawal of a request;
 4. Request for a trial under [Article 67-2](#) or [67-3](#).
- (2) Where the common representative has been appointed and notified under the proviso to paragraph (1), a written proof of the fact that the representative has been appointed shall be presented.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-11 (Mutatis Mutandis Application of the [Civil Procedure Act](#))

Except where there are special provisions relating to agents in this Act, the provisions of Section 4 of Chapter II of Part I of the

[Civil Procedure Act](#) shall apply *mutatis mutandis* to agents under this Act.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-12 (Jurisdiction for Overseas Residents)

If an overseas resident has appointed a design administrator with respect to his/her design right or any other right relating to a design, the domicile or place of business of the design administrator shall be regarded as the location of the property under

[Article 11 of the Civil Procedure Act](#); where there is no such design administrator, the location of the Korean Intellectual Property Office shall be regarded as that of the property under [Article 11 of the Civil Procedure Act](#).

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-13 (Calculation of Period)

The period provided for in this Act or any orders thereunder shall be calculated as follows:

1. The first day of the period shall not be counted unless the period starts at midnight;
2. If the period is expressed in months or years, it shall be counted according to the calendar;
3. If 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 design-related procedure falls on an official holiday (including the Workers' Day under the Designation of Workers' Day Act) or Saturday, the said period shall expire on the working day following such holiday or Saturday.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-14 (Extension of Period, etc.)

- (1) The Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal may extend the period to amend the reasons for objecting unexamined design registration, etc. under [Article 29-3](#) and the period for requesting a trial under [Article 67-2](#) or [67-3](#), upon request or *ex officio*, only once by up to thirty days: *Provided*, That for the benefit of a person residing in an area that is remote and difficult to access, the number and period of extension may be increased.
- (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 set a period for a design-related procedure under this Act, he/she may extend or reduce it upon request, or may, *ex officio*, extend it. In such cases, the Commissioner of the Korean Intellectual Property Office, etc. shall decide on extension or reduction of such period so as not to unfairly jeopardize interest of interested parties for relevant procedures.
- (3) When a presiding administrative patent judge or an examiner has set a date for initiating a design-related procedure under this Act, he/she may change the date upon request or *ex officio*.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-15 (Invalidation of Procedure)

- (1) When an applicant ordered to make an amendment in accordance with [Article 17](#) 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 design-related procedure.
- (2) When a design-related procedure has been invalidated under paragraph (1) and if the delay of the time is deemed to have been caused by reasons not attributable to an applicant ordered to make an amendment, the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal may revoke a disposition of invalidation at the request of the applicant ordered to make an amendment within 14 days from the date on which the reasons for the delay cease to exist: *Provided*, That this shall not apply where one year has elapsed after the designated period expires.
- (3) When the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal orders a disposition of invalidation under paragraph (1) or revokes a disposition of invalidation under the main sentence of paragraph (2), he/she shall serve a notification of such measure on the person who has been ordered to make an amendment.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-16 (Subsequent Completion of Procedure)

If a person who initiated a design-related procedure has failed to observe the deadline for requesting a trial under [Article 67-2](#) or [67-3](#) or the deadline for requesting a retrial under [Article 73-3](#) due to any cause not attributable to himself/herself, he/she may subsequently complete the procedure that he/she has failed to take within 14 days after the said cause ceases to exist: *Provided*, That this shall not apply where one year has elapsed after the said period expired.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-17 (Succession of Procedural Effect)

The effect of a procedure taken in relation to a design right or any other right relating to a design shall extend to the successor in title thereof.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-18 (Continuation of Procedure by Successor)

Where a design right or other right relating to a design is transferred while a design-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 have the successor in title continue the design-related procedure.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-19 (Interruption of Procedure)

If any design-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 an agent authorized to perform the procedure:

1. When the party involved has deceased;

2. When the juristic person involved has ceased to exist by reason of merger;
3. When the party involved has lost the ability to perform the procedure;
4. When the legal representative of the party involved has deceased or lost his/her authority of representation;
5. When the duty of a trustee entrusted by the party involved has terminated;
6. When the representative referred to in the proviso to the part other than the subparagraphs of [Article 4-10](#) (1) has deceased or lost his/her qualification;
7. When a bankruptcy trustee, etc. who acted on behalf of the party involved in his/her own name under a certain qualification has lost his/her qualification or deceased.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-20 (Resumption of Interrupted Procedure)

When a procedure pending in the Korean Intellectual Property Office or the Intellectual Property Tribunal has been interrupted under [Article 4-19](#), any person who falls under any of the following subparagraphs shall resume the procedure:

1. In cases of subparagraph 1 of [Article 4-19](#), the deceased person's successor, administrator of inheritance, or any other person legally authorized to resume the procedure under an Act: *Provided*, That the deceased person's successor shall not resume the procedure until such time as his/her right to succession is no longer subject to renunciation;
2. In cases of subparagraph 2 of [Article 4-19](#), the juristic person established by or existing after the merger;
3. In cases of subparagraphs 3 and 4 of [Article 4-19](#), the party whose ability to take the necessary procedure has been restored or any person who becomes the legal representative of the party, respectively;
4. In cases of subparagraph 5 of [Article 4-19](#), a new trustee;
5. In cases of subparagraph 6 of [Article 4-19](#), a new representative or each party involved;
6. In cases of subparagraph 7 of [Article 4-19](#), a person having the same qualification.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-21 (Requests for Resumption)

- (1) Resumption of a procedure interrupted under [Article 4-19](#) may be requested by a person falling under any subparagraph of [Article 4-20](#) and the other party.
- (2) When resumption of a procedure interrupted under [Article 4-19](#) is requested, the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge shall notify the other party of such fact.
- (3) The Commissioner of the Korean Intellectual Property Office or an administrative patent judge shall, if he/she deems that a request for resumption of the procedure interrupted under [Article 4-19](#) is groundless, after examining the request *ex officio*, dismiss the request by a decision.
- (4) The Commissioner of the Korean Intellectual Property Office or an administrative patent judge shall decide, upon request for resumption, whether to permit resumption of the interrupted procedure after a certified copy of the decision or trial decision is served.
- (5) If a person referred to in [Article 4-20](#) fails to take over the interrupted procedure, the Commissioner of the Korean Intellectual Property Office or an administrative patent judge

- shall, *ex officio*, order the person to resume such procedure by setting a period.
- (6) If no resumption has been made within the set period provided for in paragraph (5), it is considered that the resumption has been made on the day following the expiration of such set period.
- (7) If the Commissioner of the Korean Intellectual Property Office or a presiding administrative patent judge deems that resumption is made in accordance with paragraph (6), he/she shall notify the parties involved thereof.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-22 (Suspension of Procedure)

- (1) If the Commissioner of the Korean Intellectual Property Office or an 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.
- (2) If a party involved is unable to resume a procedure pending in the Korean Intellectual Property Office or the Intellectual Property Tribunal on account of impediments for an indefinite period, the Commissioner of the Korean Intellectual Property Office or an administrative patent judge may order its suspension by issuing a decision.
- (3) The Commissioner of the Korean Intellectual Property Office or an administrative patent judge may cancel the decision made under paragraph (2).
- (4) If a procedure is suspended under paragraph (1) or (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.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-23 (Effect of Interruption or Suspension)

Where a design-related procedure pending is interrupted or suspended, the running of a term shall be suspended and the entire term shall start to run again from the time of the notification of resumption or continuation of the procedure.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-24 (Capacity of Foreigners)

Among overseas residents, foreigners shall not enjoy design rights or other rights relating to a design except as provided for in any of the following subparagraphs:

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

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-25 (Effect of Treaty)

Where a treaty contains special provisions relating to designs that are different from those

specified in this Act, such special provisions shall prevail.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-26 (Effective Dates of Submitted Documents)

- (1) Applications, requests or other documents (including articles; hereafter the same shall apply in this Article) submitted to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal under this Act, or any order thereunder, shall take effect on the date on which they are delivered to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal.
- (2) Where applications, requests or other documents under paragraph (1) are submitted, by mail, to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal, they are deemed delivered to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal on the date stamped by the postal service if the stamped date is clear; however, if such stamped date is unclear, they are deemed delivered on the date proved by a receipt therefor: *Provided*, That this shall not apply where written applications for registration of a design right and other rights related thereto are submitted by mail.
- (3) Matters concerning the submission of documents with regard to the delay or loss of mail, or interruption of the postal service, other than those provided for in paragraphs (1) and (2), shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-27 (Entry of Identification Number)

- (1) A person provided for in by Ordinance of the Ministry of Knowledge Economy among those who initiate a design-related procedure shall apply for the grant of his/her identification number to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal.
- (2) If 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 him/her an identification number and notify him/her thereof.
- (3) If a person fails to apply for the grant of an identification number under paragraph (1), the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal shall, *ex officio*, grant him/her 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 design-related procedure, he/she shall enter his/her identification number in any document prescribed by Ordinance of the Ministry of Knowledge Economy. In such cases, notwithstanding the provisions of this Act or any order thereunder, a domicile (a place of business in cases of a juristic person) need not be entered in the said document.
- (5) The provisions of paragraphs (1) through (4) shall apply *mutatis mutandis* to an agent of a person who initiates a design-related procedure.
- (6) An application for grant of an identification number, the grant and notification thereof or other matters necessary therefor shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-28 (Procedure for Filing Design Applications by Means of Electronic Documents)

- (1) A person who initiates a design-related procedure may, pursuant to the methods prescribed by Ordinance of the Ministry of Knowledge Economy, convert a written application for design registration or other documents to be submitted 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 information and communications networks or electronic recording media, such as a floppy disk or optical disk.
- (2) Electronic documents presented under paragraph (1) shall have the same effect as other documents presented under this Act.
- (3) Electronic documents presented through an information and communications network under paragraph (1) shall, if the presenter thereof confirms a receipt number through the information and communications network, be deemed to have been received as contents recorded in a file of a computer system for receipt operated by the Korean Intellectual Property Office or the Intellectual Property Tribunal.
- (4) Types of documents which can be presented by means of electronic documents under paragraph (1), and the methods of such presentation or other necessary matters therefor shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-29 (Reporting on Use of Electronic Documents and Electronic Signature)

- (1) A person who intends to initiate a design-related procedure by means of 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 onto the electronic documents to be submitted to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal so that the presenters may be discerned.
- (2) Electronic documents presented under [Article 4-28](#) shall be deemed to have been filed by the person who affixes his/her electronic signature under paragraph (1).
- (3) Matters necessary for the procedure for reporting the use of electronic documents and the methods of affixing an electronic signature under paragraph (1) shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 4-30 (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 notice on and serve (hereinafter referred to as "notification, etc.") any pertinent documents to or on a person who reports the use of electronic documents under [Article 4-29](#) (1), he/she may do so through an information and communications network.
- (2) Notification, etc. of any pertinent documents given through an information and communications network under paragraph (1) shall have the same effect as written notification.

- (3) Notification, etc. of any pertinent documents under paragraph (1) shall be deemed reached as contents recorded in a file of a computer system for transmission operated by the Korean Intellectual Property Office or the Intellectual Property Tribunal when it is recorded in a file of a computer system operated by a person who receives the said notification.
- (4) Matters necessary for the types and methods of notification, etc. given through an information and communications network under paragraph (1) shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

CHAPTER II REQUIREMENTS AND APPLICATIONS FOR DESIGN REGISTRATION

Article 5 (Requirements for Design Registration)

- (1) Designs industrially applicable may be registered unless they fall under any of the following subparagraphs: *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*
1. Any design publicly known or publicly worked in the Republic of Korea or in a foreign country prior to the application for design registration;
 2. Any design which has been carried in a publication distributed in the Republic of Korea or in a foreign country, or which has become utilizable by the public through telecommunication lines prior to the application for design registration;
 3. Any design similar to a design falling under subparagraph 1 or 2.
- (2) Where a design could easily have been created by a person having ordinary skill in the art to which the design pertains, on the basis of a combination of designs falling under paragraph (1) 1 or 2 or on the basis of a shape, pattern or color or a combination thereof widely known in the Republic of Korea (excluding a design referred to in any of the subparagraphs of paragraph (1)) prior to the application for design registration, no design registration shall be granted for such design notwithstanding paragraph (1). *<Amended by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*
- (3) Notwithstanding paragraph (1), no design registration shall be granted where a design for which an application for registration has been filed is identical with or similar to a part of a design indicated in a specification, represented in a drawing, photograph or sample attached to another application for design registration that was filed before and laid open, published or inserted in the Design Gazette pursuant to [Article 23-6](#) after the filing date of the aforesaid design application. *<Newly Inserted by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007>*

Article 6 (Unregistrable Designs)

Notwithstanding [Article 5](#), no design falling under any of the following subparagraphs shall be registered: *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007>*

1. Designs which are identical with or similar to the national flag, national emblem, military flags, decorations, orders of merit, badges and medals of public organizations, national flags and national emblems of foreign countries, or characters or indications of international

- organizations;
2. Designs whose meanings, contents, etc. are likely to cause an offense to public morality that represents the normal moral sense of the public, or disrupt public order;
 3. Designs which are feared to give rise to confusion with respect to articles connected with another person's business;
 4. Designs consisting solely of a shape that is indispensable to secure the functions of the article.

Article 7 (Similar Designs)

- (1) Any owner of design right or applicant for design registration shall be entitled to register the design which is similar only to his/her registered design or design for which an application for registration has been filed (hereinafter referred to as "basic design") as a similar design (hereinafter referred to as "similar design"). *<Amended by Act No. 5354, Aug. 22, 1997; Act No. 7289, Dec. 31, 2004>*
- (2) The provisions of paragraph (1) shall not apply to a design that is similar only to a similar design registered or applied for registration under paragraph (1). *<Amended by Act No. 7289, Dec. 31, 2004>*

Article 8 (Exception to Loss of Novelty)

- (1) Where a design owned by a person entitled to a design registration falls under [Article 5](#) (1) 1 or 2, it shall not be deemed to fall under paragraph (1) 1 or 2 of the same Article in applying paragraphs (1) and (2) of the same Article to the design for which an application for registration was filed within six months from such date. *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007>*
- (2) A person who intends to be subject to the provisions of paragraph (1) shall, at the time of filing the application for design registration, submit a written application for design registration specifying the purport of said intention to the Commissioner of the Korean Intellectual Property Office, and submit documents proving the relevant facts within 30 days from the date of application for design registration: *Provided*, That this shall not apply where the design falls under any subparagraph of [Article 5](#) (1) against his/her will. *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*

[This Article Wholly Amended by Act No. 5354, Aug. 22, 1997]

Article 9 (Application for Design Registration)

- (1) Any person desiring to obtain design registration shall submit a written application for examined design registration or application for unexamined design registration to the Commissioner of the Korean Intellectual Property Office, stating each of the following:
<Amended by Act No. 4595, Dec. 10, 1993; Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
 1. The name and address of the applicant for design registration (in cases of a juristic person, its title and place of business);
 2. The name and address, or place of business, of the agent of applicant for design registration, if any (in cases of a patent corporation, its title, location of the office, and the name of an appointed patent attorney);
 3. *Deleted; <by Act No. 6413, Feb. 3, 2001>*

4. The article which is the object of the design;
 - 4-Whether the application is for independent design registration or for similar design registration;
 5. The registration or application number of the basic design (limited to cases where the applicant intends to obtain registration for similar design under Article 7 (1));
 6. The name and address of the creator of the design;
 7. Matters provided for in [Article 23](#) (3) (only for a priority claim).
- (2) A written application for examined design registration or application for unexamined design registration under paragraph (1) shall be accompanied by drawings specifying the following matters concerning each design: *<Amended by Act No. 4595, Dec. 10, 1993; Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*
1. The article that is the object of the design;
 2. An explanation of the design and the gists of the creation;
 3. The serial number of the design (limited to cases where the application is for multiple design registration under [Article 11-2](#)).
- (3) An applicant for design registration may submit a photograph or sample of the design in lieu of drawings referred to in paragraph (2). *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*
- (4) A person desiring to obtain unexamined design registration shall record, in the written application for unexamined design registration, whether the application is for multiple design registration under [Article 11-2](#), and the number of designs in addition to matters falling under each subparagraph of paragraph (1). *<Amended by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*
- (5) A person desiring to file an application for multiple design registration under [Article 11-2](#) shall record, in the written application for unexamined design registration, matters referred to in the subparagraphs of paragraph (1) and the serial number of each design. *<Amended by Act No. 7289, Dec. 31, 2004>*
- (6) Designs qualifying for unexamined design registration shall be limited to articles designated by Ordinance of the Ministry of Knowledge Economy among articles classified under Article 11 (2). In cases of designated articles, an application may be filed only for unexamined design registration. *<Newly Inserted by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8852, Feb. 29, 2008>*
- (7) Matters other than those provided for in paragraphs (1) through (6), which are necessary for application for design registration, shall be determined by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 4541, Mar. 6, 1993; Act No. 5082, Dec. 29, 1995; Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8852, Feb. 29, 2008>*

Article 10 (Joint Application)

Where the right to obtain design registration is jointly owned under [Article 3](#) (2), all joint owners shall jointly file an application for design registration. *<Amended by Act No. 7289, Dec. 31, 2004>*

Article 11 (One Application Per Design Registration)

- (1) An application for design registration shall be filed for each design. <Amended by Act No. 7289, Dec. 31, 2004>
- (2) Any person desiring to file an application for design registration shall be subject to the classification of articles prescribed by Ordinance of the Ministry of Knowledge Economy. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5082, Dec. 29, 1995; Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8852, Feb. 29, 2008>

Article 11-2 (Application for Multiple Design Registration)

- (1) Notwithstanding [Article 11](#) (1), an application for unexamined design registration may be filed for 20 or less designs as one application for design registration (hereinafter referred to as "application for multiple design registration"). In such cases, each design shall be represented separately. <Amended by Act No. 7289, Dec. 31, 2004>
- (2) The scope of designs qualifying for application for multiple design registration shall be the same as that of the classification of articles under [Article 11](#) (2), prescribed by Ordinance of the Ministry of Knowledge Economy. <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8852, Feb. 29, 2008>
- (3) A person desiring to file an application for multiple design registration may file an application for similar design registration falling within the category of a basic design, together with the basic design. <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (4) Where a person files an application for multiple design registration of designs similar to his/her registered design or a design for which design registration has been applied, he/she may file an application for multiple design registration only with respect to similar designs belonging to one basic design, notwithstanding the provisions of paragraph (3). <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

[This Article Newly Inserted by Act No. 5354, Aug. 22, 1997]

Article 12 (Design of One Set of Articles)

- (1) Where two or more articles are used together as one set of articles, and where the design of such set of articles has a unity as a whole, the design may be applied for registration as one design. <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (2) The classification of a set of articles referred to in paragraph (1) shall be determined by Ordinance of the Ministry of Knowledge Economy. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5082, Dec. 29, 1995; Act No. 6413, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008>
- (3) Deleted. <by Act No. 6413, Feb. 3, 2001>

Article 13 (Confidential Designs)

- (1) An applicant for design registration may request that the design be kept confidential for a prescribed period not exceeding three years from the registration date of establishment of the design right: *Provided*, That for a design for which multiple design registration has been applied, the request shall be made for all designs for which a design registration is applied. <Amended by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (2) An applicant for design registration may make the request referred to in paragraph (1) from the date he/she applies for the design registration until the date he/she pays the first design

registration fee: *Provided*, That where the registration fee has been exempted pursuant to [Article 35](#) (1) 1 and (2), he/she may make such request until the registration for establishment of the design right prescribed in [Article 39](#) (2) is made. <Amended by Act No. 8187, Jan. 3, 2007>

(3) An applicant for design registration or an owner of design right may reduce or extend the period fixed by him/her under paragraph (1) by a request. In such cases, where he/she extends that period, it shall not exceed three years from the registration date of establishment of the design right. <Amended by Act No. 7289, Dec. 31, 2004>

(4) In any of the following cases, the Commissioner of the Korean Intellectual Property Office shall comply with a request for inspection of confidential design under paragraph (1): <Amended by Act No. 4894, Jan. 5, 1995; Act No. 5354, Aug. 22, 1997; Act No. 7289, Dec. 31, 2004>

1. Where the request is made by a person who has obtained the consent of the owner of the design right;
2. Where the request is made by a party or an intervener in an examination, objection against unexamined design registration, trial, retrial or litigation proceedings relating to a design identical with or similar to the design kept confidential;
3. Where the request is made by a person who has clearly stated that he/she was warned of infringement of the design right;
4. Where the request is made by a court or the Intellectual Property Tribunal.

(5) In cases of a request for laying open of application under [Article 23-2](#), the request pursuant to paragraph (1) shall be deemed to have been withdrawn. <Newly Inserted by Act No. 5354, Aug. 22, 1997>

Article 14 (Applications for Design Registration Filed by Unentitled Persons and Protection of Lawful Holders)

Where design registration could not be granted under [Article 26](#) (1) 3 because the applicant for design registration, who was not the creator of the design nor the successor to the right to obtain design registration, was not a person entitled to obtain design registration (hereinafter referred to as "unentitled person") pursuant to the main sentence of [Article 3](#) (1), a subsequent application filed by the lawful holder shall be deemed to have been filed on the date of the application previously filed by the unentitled person: *Provided*, That this shall not apply where the subsequent application is filed by the lawful holder after 30 days have elapsed since the unentitled person failed to obtain design registration. <Amended by Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007>

Article 15 (Design Registration Obtained by Unentitled Persons and Protection of Lawful Holders)

If design registration is revoked or invalidated by a trial decision for lack of entitlement to obtain design registration under the main sentence of [Article 3](#) (1), a subsequent application for design registration filed by the lawful holder shall be deemed to have been filed at the time of filing of the application for design registration which was revoked or invalidated: *Provided*, That this shall not apply where the subsequent application is filed after 30 days have elapsed since the decision to revoke or to invalidate it became final and binding. <Amended by Act No. 5354, Aug. 22,

1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

Article 16 (Earlier Application)

- (1) Where two or more applications for design registration relating to the same or a similar design are filed on different dates, only the applicant who files the application first may obtain registration for the design. <Amended by Act No. 7289, Dec. 31, 2004>
- (2) Where two or more applications for design registration relating to the same or a similar design are filed on the same date, only one person agreed upon by all applicants after consultation may obtain registration for the design and, if no agreement is reached or no consultation is possible, none of the applicants shall obtain the registration therefor. <Amended by Act No. 7289, Dec. 31, 2004>
- (3) Where an application for design registration is invalidated, withdrawn or abandoned, or a decision to reject an application for design registration or a trial decision to reject an application for design registration becomes final and binding, the application for design registration shall, in applying the provisions of paragraphs (1) and (2), be deemed to have never been filed: *Provided*, That where a decision or a trial decision to reject an application for design registration becomes final and binding because the application falls under the latter part of paragraph (2), this shall not apply. <Amended by Act No. 8187, Jan. 3, 2007>
- (4) An application for design registration filed by a person who is not the creator of a design, nor successor entitled to obtain design registration shall, in applying the provisions of paragraphs (1) and (2), be deemed to have never been filed. <Amended by Act No. 4595, Dec. 10, 1993; Act No. 7289, Dec. 31, 2004>
- (5) The Commissioner of the Korean Intellectual Property Office shall, in cases of paragraph (2), order the applicants to notify him/her of the results of the consultation within a designated period; if such notification is not made within the designated period, the applicants shall be deemed not to have concluded agreement under paragraph (2). <Amended by Act No. 7289, Dec. 31, 2004>

Article 17 (Amendment of Procedure)

The Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal shall order the amendment of a procedure for design registration within a designated period where the procedure falls under any of the following subparagraphs:

<Amended by Act No. 6413, Feb. 3, 2001; Act No. 6767, Dec. 11, 2002; Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007; Act No. 9764, Jun. 9, 2009>

1. Where it violates [Article 4](#) (1) or [4-4](#);
2. Where it violates the formalities specified in this Act or orders by this Act;
3. Where the official fees to be paid in accordance with [Article 34](#) have not been paid.

Article 18 (Amendment of Application and Change of Gists)

- (1) Any applicant for design registration may amend matters mentioned in the written application, drawings attached to the written application, matters described in the drawing, pictures and samples to the extent that the gists of the initial application for design registration are not changed.
- (2) Any applicant for design registration may make amendments to the application for similar design registration for changing it into the application for independent design registration, and

vice versa.

- (3) Notwithstanding [Article 8](#) (2), any person who intends to have the provisions of paragraph (1) of the same Article applied in make amendments to an application for similar design registration for changing it into an application for independent design registration shall record the purport in the written amendment and submit it to the Commissioner of the Korean Intellectual Property Office, and shall submit a paper verifying it to the Commissioner of the Korean Intellectual Property Office within 30 days from the date when the written amendment is submitted. <Newly Inserted by Act No. 8187, Jan. 3, 2007>
- (4) Any applicant for design registration may make amendments to the application for unexamined design registration for changing it into the application for examined design registration, and *vice versa.*
- (5) Any applicant for design registration may amend matters pursuant to paragraphs (1) through (4) before a notification of decision to grant design registration under [Article 28](#) or a notification of decision to reject design registration under [Article 26](#) (hereinafter referred to as "decision to grant or reject design registration") is served: *Provided*, That where a request for retrial under [Article 27-2](#) is filed, amendments may be made when such request for retrial is filed. <Amended by Act No. 8187, Jan. 3, 2007; Act No. 9764, Jun. 9, 2009>
- (6) Where it is acknowledged after the registration of establishment of a design right that the amendments pursuant to paragraphs (1) through (4) were made to change the gists of the initial application for design registration, the application for design registration shall be deemed to have been filed at the time of submitting the written amendment. <Amended by Act No. 8187, Jan. 3, 2007>

[This Article Wholly Amended by Act No. 7289, Dec. 31, 2004]

Article 18-2 (Dismissal of Amendments)

- (1) Where any amendment pursuant to [Article 18](#) is made to change the gists of the application for design registration, an examiner shall dismiss the amendment by decision. <Amended by Act No. 7289, Dec. 31, 2004>
- (2) Where a ruling to dismiss an amendment under paragraph (1) has been rendered, an examiner shall not make a decision to grant or reject design registration about the application concerned until 30 days elapse from the date when the certified copy of the said decision is served on the applicant for design registration. <Amended by Act No. 7289, Dec. 31, 2004>
- (3) Where an applicant for design registration requests a trial under [Article 67-2](#) against a ruling to dismiss an amendment under paragraph (1), an examiner shall suspend examination of the application for design registration until the trial decision becomes final and binding. <Amended by Act No. 7289, Dec. 31, 2004>
- (4) A ruling to dismiss an amendment under paragraph (1) shall be made in writing and shall state the reasons therefor.

[This Article Newly Inserted by Act No. 6413, Feb. 3, 2001]

Article 19 (Division of Applications)

- (1) A person falling under any of the following subparagraphs may divide any part of his/her application for design registration into one or more new applications: <Amended by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 9764,

Jun. 9, 2009>

1. A person who has filed one application for design registration of two or more designs in contravention of [Article 11](#);
 2. A person who has filed an application for multiple design registration;
 3. *Deleted. <by Act No. 6413, Feb. 3, 2001>*
- (2) Where an application for design registration has been divided pursuant to the provisions of paragraph (1) (hereinafter referred to as "divisional application"), such divisional application shall be deemed to have been filed at the time the initial application for design registration was filed: *Provided*, That this shall not apply for the purpose of [Article 8](#) (2) or [23](#) (3) and (4). *<Amended by Act No. 4595, Dec. 10, 1993; Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007>*
- (3) Division of an application for design registration under paragraph (1) may be made within the period of amendment under [Article 18](#) (5). *<Amended by Act No. 9764, Jun. 9, 2009>*
- (4) *Deleted. <by Act No. 6413, Feb. 3, 2001>*

Articles 20 and 20-2 Deleted. *<by Act No. 7289, Dec. 31, 2004>*

Articles 21 and 22 Deleted. *<by Act No. 5576, Sep. 23, 1998>*

Article 23 (Priority Claim under Treaty)

- (1) When a national of a member country of a treaty which recognizes under the treaty a right of priority for an application filed by a national of the Republic of Korea claims a right of priority for an application for design registration in the Republic of Korea on the basis of the earlier application for the same design filed in his/her country or in one of other member countries, the filing date of the earlier application in the foreign country shall be deemed to be the filing date in the Republic of Korea in applying the provisions of [Articles 5](#) and [16](#). Where a national of the Republic of Korea has filed an application for design registration in a country which recognizes, under a treaty, a right of priority for an application filed by a national of the Republic of Korea, and claims the right of priority for the application for design registration in the Republic of Korea on the basis of the initial application for the same design in said country, this shall also apply. *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*
- (2) A person intending to claim a right of priority under paragraph (1) shall not request it without filing an application for design registration within six months from the filing date of the initial application serving as the basis for claiming the right of priority. *<Amended by Act No. 7289, Dec. 31, 2004>*
- (3) A person intending to claim a right of priority under paragraph (1) shall, at the time of filing an application for design registration, specify such claim, the name of the country in which the initial application was filed, and the filing date of the initial application, in the application for design registration. *<Amended by Act No. 7289, Dec. 31, 2004>*
- (4) A person who has claimed a right of priority in accordance with paragraph (3) shall submit a written statement setting forth the filing date of the application, certified by the government of the country where the prior application was filed, and a certified copy of the drawing of the design, to the Commissioner of the Korean Intellectual Property Office within three months from the filing date of the application for design registration. *<Amended by Act No. 7289,*

Dec. 31, 2004>

- (5) Where a person who has claimed a right of priority in accordance with paragraph (3) fails to submit the document provided for in paragraph (4) within the required deadline under paragraph (4), the claim to the right of priority shall lose its effect.

Article 23-2 (Laying Open of Applications)

- (1) An applicant for design registration may request the laying open of his/her application for design registrations, as prescribed by Ordinance of the Ministry of Knowledge Economy: *Provided*, That a request for multiple design registration shall be limited to a request for all the designs being applied. *<Amended by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8852, Feb. 29, 2008>*
- (2) Where a request for the laying open of an application is filed under paragraph (1), the Commissioner of the Korean Intellectual Property Office shall lay open the design application in the Design Gazette in accordance with [Article 78](#): *Provided*, That the Commissioner of the Korean Intellectual Property Office may choose not to lay open the application if the meanings, contents, etc. of the design are against the good morals that represent the normal moral sense of ordinary people, or have a possibility to disrupt public order: *<Amended by Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007; Act No. 9764, Jun. 9, 2009>*
1. Where the meanings, contents, etc. that the design gives may be detrimental to the good customs being the normal moral sense of the public or may disrupt public order;
 2. Where it should be kept confidential for national defense under [Article 41 \(1\) of the Patent Act](#), applied *mutatis mutandis* under [Article 24](#) of this Act.
- (3) No request to lay open an application provided for in paragraph (1) shall be available after the initial certified copy of the decision to grant or reject design registration on the application for design registration has been transmitted. *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*
- (4) *Deleted. <by Act No. 6413, Feb. 3, 2001>*
- [This Article Newly Inserted by Act No. 5082, Dec. 29, 1995]*

Article 23-3 (Effect of Laying Open of Applications)

- (1) After an application is laid open, the applicant may give warning to any person who has worked as a business the filed design or a design similar thereto, in writing, indicating that an application for design registration has been filed. *<Amended by Act No. 7289, Dec. 31, 2004>*
- (2) An applicant may request a person who has received warning under the provisions of paragraph (1), or worked as a business the filed design or a design similar thereto knowing that the design has been laid open, to pay compensation in an amount equivalent to what he/she would normally receive for working of the design registered or a design similar thereto from the time of receipt of the warning or the time he/she became aware of the fact that the design application had been filed to the time of registration of the establishment of design right. *<Amended by Act No. 7289, Dec. 31, 2004>*
- (3) The right to request compensation under paragraph (2) may be exercised only after the establishment of design right is registered. *<Amended by Act No. 7289, Dec. 31, 2004>*
- (4) The exercise of the right to demand compensation under paragraph (2) shall not affect the

- exercise of the design right. <Amended by Act No. 7289, Dec. 31, 2004>
- (5) The provisions of [Articles 63](#) and [67](#) of this Act and [Articles 760](#) and [766 of the Civil Act](#) shall apply *mutatis mutandis* to the exercise of the right to request compensation under paragraph (1). In such cases, "time when the damaged party or his/her legal representative became aware of such damage and of the identity of the person causing it" in [Article 766 \(1\) of the Civil Act](#) shall be construed as "date on which the establishment of the design right is registered". <Amended by Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007>
- (6) Where an application for design registration is abandoned, invalidated or withdrawn after laying open of the application, a decision to reject design registration, a decision to revoke design registration under [Article 29-7](#) (3), or a trial decision to invalidate a design registration under [Article 68](#) (excluding cases under [Article 68](#) (1) 4) has become final and binding, the right to request compensation under paragraph (2) shall be deemed to have never existed. <Newly Inserted by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 9764, Jun. 9, 2009>

[This Article Newly Inserted by Act No. 5082, Dec. 29, 1995]

Article 23-4 (Transfer, etc. of Right to Obtain Design Registration)

- (1)The (1)The right to obtain design registration is transferable: *Provided*, That the right to obtain basic design registration and the right to obtain similar design registration shall be transferred together. <Amended by Act No. 7289, Dec. 31, 2004>
- (2)The (2)The right to obtain design registration may not serve as the object of a pledge. <Amended by Act No. 7289, Dec. 31, 2004>
- (3)Where (3)Where the right to obtain design registration is held jointly by two or more persons, none of the joint owners may assign his/her share without obtaining consent from all the other joint owners. <Amended by Act No. 7289, Dec. 31, 2004>

[This Article Newly Inserted by Act No. 5354, Aug. 22, 1997]

Article 23-5 (Furnishing of Information)

Any person may furnish the Commissioner of the Korean Intellectual Property Office with information about a design for which application for registration has been filed, together with evidence to the effect that the design concerned is unregistrable as it falls under any subparagraph of [Article 26](#) (1). <Amended by Act No. 7289, Dec. 31, 2004>

[This Article Newly Inserted by Act No. 6413, Feb. 3, 2001]

Article 23-6 (Insertion in Design Gazette of Application Decided to be Rejected)

Where a decision to reject an application for design registration or a trial decision to the effect that an application for design registration shall be rejected becomes final and binding pursuant to the latter part of [Article 16](#) (2), the Commissioner of the Korean Intellectual Property Office shall insert matters regarding the application for design registration in the Design Gazette pursuant to [Article 78](#): *Provided*, That where the design that has been filed for design registration falls under the proviso to [Article 23-2](#) (2), it may not be inserted. <Amended by Act No. 9764, Jun. 9, 2009>

[This Article Newly Inserted by Act No. 8187, Jan. 3, 2007]

Article 24 (Succession to Right to Obtain Design Registration)

- (1) No succession to the right to obtain a design registration before filing of an application for the design registration may be duly asserted against a third party unless the successor in title files the said application.
- (2) Where two or more applications for design registration are filed on the same date on the basis of the right to obtain a design registration for the same design derived by succession from the same person, the succession to the right to obtain a registration by any person, other than the one agreed upon by all the design registration applicants, shall not be effective.
- (3) If the right to obtain a design registration is succeeded after an application for the design registration is filed, the succession shall not be effective without a notice of change of applicant filing for a design registration, except for the cases of inheritance and other general succession.
- (4) Upon inheritance or other general succession with respect to the right to obtain a design registration, the successor in title shall notify the Commissioner of the Korean Intellectual Property Office of the purport without delay.
- (5) Where two or more notices of the change of applicant are made on the same date, on the basis of the right to obtain a design registration that has been derived by succession from the same person, a notice given by any person, other than the one agreed upon after consultations among all the persons who gave notices, shall not be effective.
- (6) [Article 16](#) (5) shall apply *mutatis mutandis* to cases under paragraphs (2) and (5).

[This Article Wholly Amended by Act No. 9764, Jun. 9, 2009]

CHAPTER III EXAMINATION

Article 25 (Examination by Examiners)

- (1) The Commissioner of the Korean Intellectual Property Office shall have examiners examine applications for design registration and objections against unexamined design registration.
<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (2) Necessary matters concerning eligibility requirements for examiners shall be prescribed by Presidential Decree.

Article 25-2 (Search for Prior Designs, etc.)

- (1) If deemed necessary for examination of applications for design registration, the Commissioner of the Korean Intellectual Property Office may designate a specialized organization and commission it to search prior designs and perform other work determined by Presidential Decree.
- (2) If deemed necessary for examination of applications for design registration, the Commissioner of the Korean Intellectual Property Office may request the cooperation of, or seek advice from, relevant administrative authorities, organizations specialized in the relevant technology or experts with profound knowledge and experience in designs. In such cases, the Commissioner of the Korean Intellectual Property Office may pay them allowances or expenses within budgetary limits.

- (3) Necessary matters concerning the designation standards of specialized organizations and the commission of search, etc. for prior designs under paragraph (1), shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 25-3 (Cancellation of Designation of Specialized Organizations, etc.)

- (1) Where a specialized organization referred to in [Article 25-2](#) (1) falls under subparagraph 1, the Commissioner of the Korean Intellectual Property Office shall cancel such designation, and where a specialized organization falls under subparagraph 2, he/she may cancel such designation or order suspension of its business operation by fixing a period not exceeding six months:
1. Where the organization obtains its designation through false or unfair means;
 2. Where the organization fails to conform to the standard for designation under [Article 25-2](#) (3).
- (2) Where the Commissioner of the Korean Intellectual Property Office intends to cancel the designation of a specialized organization in accordance with paragraph (1), he/she shall conduct a public hearing.
- (3) Necessary matters for the standards and procedures for the designation cancellation or suspension of business operations of specialized organizations under paragraph (1) shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 25-4 (Accelerated Examination)

The Commissioner of the Korean Intellectual Property Office may direct an examiner to preferentially examine an application for design registration falling under any of the following subparagraphs over other applications:

1. Where it is acknowledged that a person, other than the applicant, is working, as a business, the design claimed in a design registration application after the laying-open of the application;
2. Where it is acknowledged that it is necessary to urgently process a design registration application prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 26 (Decisions to Reject Design Registration)

- (1) An examiner shall render a decision to reject design registration where an application for design registration falls under any of the following subparagraphs: *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 9764, Jun. 9, 2009>*
1. Where design registration cannot be made in accordance with [Articles 4-24](#), [5 through 7](#), [9](#) (6), [10](#), [11](#), [11-2](#), [12](#), and [16](#) (1) and (2);
 2. *Deleted; <by Act No. 6413, Feb. 3, 2001>*
 3. Where the applicant is not entitled to obtain a design registration under the main sentence of [Article 3](#) (1), or where the applicant is unable to obtain a design registration under the proviso to [Article 3](#) (1);
 4. Where the application for design registration is in violation of the provisions of a treaty;
 5. Where the application for unexamined similar design registration falls under any of the following items:

- (a) Where a design registered as a similar design or a design for which similar design registration has been applied, is indicated as a basic design;
 - (b) Where the term of the design right of a basic design has expired;
 - (c) Where an application for basic design registration has been invalidated, withdrawn, or abandoned, or where a decision to reject basic design registration becomes final and binding;
 - (d) Where an applicant for unexamined similar design registration is not identical with the owner of a basic design right or an applicant for basic design registration;
 - (e) Where a design for which unexamined similar design registration is applied is not similar to a basic design.
- (2) Notwithstanding paragraph (1), the provisions of [Articles 5, 7](#), and [16](#) (1) and (2) shall not apply to an application for unexamined design registration: *Provided*, That where the design that has been filed for unexamined design registration is not industrially applicable pursuant to the main sentence of [Article 5](#) (1), or can be easily created on the basis of the shape, pattern or color, or a combination thereof which is widely known in the Republic of Korea under [Article 5](#) (2), a decision to reject the design registration shall be rendered. <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007>
- (3) Notwithstanding paragraph (2), an examiner may render a decision to reject an unexamined design registration pursuant to paragraph (1) on the basis of information and evidence concerning an application for unexamined design registration for which information and evidence have been provided pursuant to [Article 23-5](#). <Newly Inserted by Act No. 7289, Dec. 31, 2004>

[This Article Wholly Amended by Act No. 5354, Aug. 22, 1997]

Article 27 (Notification of Grounds for Rejection)

- (1) Where (1) Where an examiner intends to render a decision to reject a design registration under [Article 26](#), he/she shall notify the ground for rejection (referring to a ground falling under any subparagraph of [Article 26](#) (1); hereinafter referred to as "ground for rejection") to the applicant for design registration, and provide him/her an opportunity to submit an argument by a designated deadline. <Amended by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (2) Where (2) Where an examiner renders a decision to reject some of the designs for which multiple design registration has been applied, he/she shall specify the serial number of the rejected design, the article that is the object of the rejected design and the grounds for rejection. <Newly Inserted by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

Article 27-2 (Requests for Re-Examination)

- (1) An applicant for a design registration may request re-examination (hereinafter referred to as "re-examination") with respect to his/her application for a design registration after making amendments to the drawings, specifications described in the drawings, photographs or samples attached to the relevant application within 30 days (or, within the extended period if the period prescribed in [Article 67-3](#) is extended under [Article 4-14](#) (1)) from the date when the certified copy of the decision to reject the application for a design registration is served:

Provided, That if a decision to reject the design registration is rendered after re-examination, or a request for a trial is made under [Article 67-3](#), this shall not apply.

(2) If a request for re-examination is filed under paragraph (1), the decision to reject the relevant design registration rendered prior to the request for re-examination shall be deemed revoked.

(3) No request for re-examination filed under paragraph (1) may be withdrawn.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 28 (Decisions to Grant Design Registration)

Where an examiner finds no ground for rejecting an application for design registration, he/she shall render a decision to grant design registration. *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*

Article 29 (Method of Rendering Decisions to Grant or Reject Design Registration)

(1) A decision to grant or reject design registration shall be rendered in writing and shall state the grounds therefor. *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*

(2) Where a decision to grant or reject design registration has been rendered, the Commissioner of the Korean Intellectual Property Office shall serve a certified copy of the decision on the applicant for the design registration. *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*

Article 29-2 (Objections against Unexamined Design Registration)

(1) Any person may raise an objection against unexamined design registration to the Commissioner of the Korean Intellectual Property Office on the grounds that such registration falls under any of the following subparagraphs, from the date when the establishment of design right is registered under an application for the unexamined design registration to the date when three months have passed since a public notification of unexamined design registration was made. In such cases, an objection against unexamined design registration may be raised for each design in cases of designs for which multiple design registration is applied: *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 9762, Jun. 9, 2009>*

1. Where the unexamined design registration is in violation of [Article 4-24](#), [5](#), [6](#), [7](#) (1), [10](#), or [16](#) (1) and (2);
2. Where the relevant person is not entitled to obtain a design registration under the main sentence of [Article 3](#) (1), or is unable to obtain a design registration under the proviso to [Article 3](#) (1);
3. Where the unexamined design registration is in violation of the provisions of a treaty.

(2) A person raising an objection against unexamined design registration (hereinafter referred to as "person raising an objection against unexamined design registration") shall submit an application for objection against unexamined design registration which states each of the following matters to the Commissioner of the Korean Intellectual Property Office, together with supporting evidence: *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*

1. The name and address of the person raising an objection against unexamined design registration (in cases of a juristic person, its title and place of business);
1-The name, address, or place of business, if any, of the agent (in cases of a patent

2. corporation, its title, the location of office, and the name of the appointed patent attorney);
 2. The indication of the registered design subject to the objection against unexamined design registration;
 3. The purpose of the objection against unexamined design registration;
 4. The grounds for the objection against unexamined design registration and indication of supporting evidence.
- (3) Where an objection against unexamined design registration is filed, the presiding examiner designated under [Article 29-4](#) (3) shall serve a certified copy of the objection against unexamined design registration on the owner of the registered design right subject to the objection and provide him/her an opportunity to submit a written reply by a designated deadline. <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (4) The provisions of [Article 68](#) (6) shall apply *mutatis mutandis* to the raising of an objection against unexamined design registration under paragraph (1). <Amended by Act No. 7289, Dec. 31, 2004>

[This Article Newly Inserted by Act No. 5354, Aug. 22, 1997]

Article 29-3 (Amendment of Grounds, etc. for Objection against Unexamined Design Registration)

A person raising an objection against unexamined design registration may amend the grounds or evidence indicated on a written objection against unexamined design registration within 30 days from the date of filing of the said objection. <Amended by Act No. 7289, Dec. 31, 2004>

[This Article Newly Inserted by Act No. 5354, Aug. 22, 1997]

Article 29-4 (Board of Examiners for Examination and Decision)

- (1) A board of three examiners shall examine and decide on an objection against unexamined design registration. <Amended by Act No. 7289, Dec. 31, 2004>
- (2) The Commissioner of the Korean Intellectual Property Office shall designate examiners constituting a board of examiners for each objection against unexamined design registration. <Amended by Act No. 7289, Dec. 31, 2004>
- (3) The Commissioner of the Korean Intellectual Property Office shall appoint one of the examiners designated under paragraph (2) as a presiding examiner.
- (4) [Articles 72-7](#) (2), [72-8](#) (2), and [72-9](#) (2) and (3) shall apply *mutatis mutandis* to a board of examiners and a presiding examiner. <Amended by Act No. 9764, Jun. 9, 2009>

[This Article Newly Inserted by Act No. 5354, Aug. 22, 1997]

Article 29-5 (Ex Officio Examination of Objections against Unexamined Design Registration)

- (1) When an objection against unexamined design registration is examined, the grounds for the objection that are not raised by the applicant for objection against unexamined design registration may be examined. In such cases, the owner of design right or the applicant for objection against unexamined design registration shall be provided an opportunity to state his/her opinion about such grounds within a specified period.
- (2) When an objection against unexamined design registration is examined, the registered design for which an applicant for objection against unexamined design registration has not applied shall not be examined.

[This Article Newly Inserted by Act No. 8187, Jan. 3, 2007]

Article 29-6 (Amalgamation or Separation of Objections against Unexamined Design Registration)

A board of examiners may examine and decide on two or more objections against unexamined design registration by amalgamating or separating them.

[This Article Newly Inserted by Act No. 8187, Jan. 3, 2007]

Article 29-7 (Decisions on Objections against Unexamined Design Registration)

- (1) A board of examiners shall render a decision on any objection against unexamined design registration after the time set under [Articles 29-2](#) (3) and [29-3](#) has lapsed. *<Amended by Act No. 7289, Dec. 31, 2004>*
- (2) Notwithstanding [Article 29-2](#) (3), where a person filing an objection against unexamined design registration fails to submit the grounds and evidence thereon, the presiding examiner may dismiss the objection against unexamined design registration by decision after such time as referred to in [Article 29-3](#) has lapsed. *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*
- (3) Where it is deemed that an objection against unexamined design registration is reasonable, a board of examiners shall render a decision to revoke the registered design (hereinafter referred to as "decision to revoke design registration"). *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*
- (4) Where a decision to revoke a design registration becomes final and binding, the design right shall be deemed to have never existed. *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*
- (5) Where it is deemed that an objection against unexamined design registration is unreasonable, a board of examiners shall render a decision to maintain the design registration (hereinafter referred to as "decision to maintain design registration"). *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*
- (6) No appeal shall be made against a decision to dismiss an objection against unexamined design registration or a decision to maintain design registration. *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*

[This Article Newly Inserted by Act No. 5354, Aug. 22, 1997]

Article 29-8 (Method of Deciding on Objections against Unexamined Design Registration)

- (1) Any decision on an objection against unexamined design registration shall be made in documents which describe each of the following matters, and the examiner who rendered a decision shall put his/her name and seal thereon:
 1. Number of the case of application for the objection against unexamined design registration;
 2. Names and addresses of the owner of design right and of the applicant for the objection against unexamined design registration (in cases of a juristic person, its title and location of its place of business);
 3. Where the owner of design right or the applicant for the objection against unexamined design registration has an agent, his/her name, address and location of a business office (where the agent is a patent corporation, its title and location of its business office and the name of the designated patent attorney);
 4. Indication of the design related with the decision;

5. Conclusion and grounds for the decision;

6. Date of the decision.

(2)The (2)The presiding examiner shall serve a certified copy of decision on the applicant for the objection against unexamined design registration and the owner of design right when a decision on the objection against unexamined design registration has been rendered.

[This Article Newly Inserted by Act No. 8187, Jan. 3, 2007]

Article 29-9 (Withdrawal of Applications for Objection against Unexamined Design Registration)

(1) No application for objection against unexamined design registration shall be withdrawn after a notice of statement of opinion pursuant to the latter part of [Article 29-5](#) (1) is given, or a certified copy of decision pursuant to [Article 29-8](#) (2) is served.

(2) If an application for objection against unexamined design registration is withdrawn, the said application shall be deemed not to exist from the beginning. *<Amended by Act No. 9764, Jun. 9, 2009>*

[This Article Newly Inserted by Act No. 8187, Jan. 3, 2007]

Article 30 (Mutatis Mutandis Application of Provisions on Trial to Examination)

[Article 72-11](#) (excluding subparagraph 6 of the same Article) shall apply *mutatis mutandis* to the examination of applications for design registration. In such cases, "trial" shall be construed as "examination", and "administrative patent judge" as "examiner".

[This Article Wholly Amended by Act No. 9764, Jun. 9, 2009]

Article 30-2 (Suspension of Examination or Litigation Proceedings)

(1) The examination procedure of a design registration application may, if necessary, be suspended until a trial decision thereon becomes final and binding or litigation proceedings concerned have been complete.

(2) The court may, if necessary, suspend litigation proceedings until a decision on the design registration application becomes final and binding.

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

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 30-3 (Provisions Applicable Mutatis Mutandis)

The provisions of [Articles 30-2](#), [72-5](#), [72-11](#) (excluding subparagraph 6 of the same Article), [72-18](#) (7), [72-21](#), [72-29](#) (3) through (6), and [72-30](#) shall apply *mutatis mutandis* to the examination and decision of an application for objection against unexamined design registration.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

CHAPTER IV REGISTRATION FEES AND DESIGN REGISTRATION, ETC.

Article 31 (Design Registration Fees)

(1) Any person desiring to register the establishment of a design right under [Article 39](#) (1) shall pay a design registration fee (hereafter referred to as "registration fee") covering the three-year period from the date when he/she intends to register the establishment (hereinafter referred to as "registration date of the establishment"), and the owner of a design right shall

- pay an annual registration fee, starting from the registration fee for the next year, based on the date corresponding to the registration date of the establishment. *<Amended by Act No. 9764, Jun. 9, 2009>*
- (2) Notwithstanding paragraph (1), the owner of a design right may pay the registration fees for several years or all years in lump sum in accordance with the order of payment. *<Amended by Act No. 9764, Jun. 9, 2009>*
- (3) The registration fees, methods and periods of payment of such fees, and other necessary matters under paragraphs (1) and (2) shall be prescribed by Ordinance of the Ministry of Knowledge Economy. *<Newly Inserted by Act No. 9764, Jun. 9, 2009>*

Article 31-2 (Abandonment by Each Design at Time of Payment of Registration Fee)

- (1) Any person who receives a decision to grant registration of designs for which multiple design registration is applied may abandon such by each design at the time of payment of the registration fee. *<Amended by Act No. 7289, Dec. 31, 2004>*
- (2) Matters necessary for the abandonment of a design under paragraph (1) shall be prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 7289, Dec. 31, 2004; Act No. 8852, Feb. 29, 2008>*

[This Article Newly Inserted by Act No. 6413, Feb. 3, 2001]

Article 32 (Payment of Registration Fees by Interested Parties)

- (1) Regardless of the intent of a person liable to pay a registration fee, any interested party may pay such fee.
- (2) An interested party who has paid the registration fee in accordance with paragraph (1) may request reimbursement of the fee from a person liable to it to the extent that the person liable to it receives any profit therefrom at present.

Article 33 (Late Payment, etc. of Registration Fees)

- (1) Any person wishing to register the establishment of a design right, or an owner of a design right, may make late payment of the registration fee within six months from the expiration of the payment period under [Article 31](#) (3). *<Amended by Act No. 9764, Jun. 9, 2009>*
- (2) Where late payment of the registration fee is made under paragraph (1), an amount determined by Ordinance of the Ministry of Knowledge Economy within the extent not exceeding twice the amount of the registration fee shall be paid. *<Amended by Act No. 9764, Jun. 9, 2009>*
- (3) Where the registration fee is not paid within the period of late payment referred to in paragraph (1) (referring to cases where remainder payment is not made within the period of remainder payment referred to in [Article 33-2](#) (2), if, in spite of the expiration of the period of late payment, the period of remainder payment does not expire), a person intending to register the establishment of a design right shall be considered to have withdrawn the application for design registration, and the design right of the owner thereof shall be considered to have been extinguished retroactively to the day following the expiration date of the period covered by the registration fee paid under [Article 31](#) (1) or (2). *<Amended by Act No. 9764, Jun. 9, 2009>*

Article 33-2 (Remainder Payment of Registration Fees)

- (1) Where a person wishing to register the establishment of a design right or an owner of a

design right fails to pay part of the registration fee within the period fixed under [Article 31](#) (3) or [33](#) (1), the Commissioner of the Korean Intellectual Property Office shall order him/her to pay the remaining portion. <Amended by Act No. 7289, Dec. 31, 2004; Act No. 9764, Jun. 9, 2009>

- (2) A person who receives an order to pay the remaining portion under paragraph (1) may make the remainder payment of the registration fee within one month after the order is received.
- (3) A person who makes the remainder payment of the registration fee under paragraph (2) shall pay an amount determined by Ordinance of the Ministry of Knowledge Economy within the extent not exceeding twice the amount of the unpaid registration fee, if he/she falls under any of the following subparagraphs: <Amended by Act No. 9764, Jun. 9, 2009>
 1. Where he/she pays the remaining portion of the registration fee after the period of payment under [Article 31](#) (3) has elapsed;
 2. Where he/she pays the remaining portion of the registration fee after the period of late payment under [Article 33](#) (1) has elapsed.

[This Article Newly Inserted by Act No. 6767, Dec. 11, 2002]

Article 33-3 (Restoration, etc. of Application for Design Registration and Design Right by Late Payment or Remainder Payment of Registration Fees)

- (1) Where a person wishing to register the establishment of a design right or an owner of a design right fails to pay the registration fee within the period of late payment under [Article 33](#) (1) or to pay the remaining portion of the registration fee within the period of remainder payment under [Article 33-2](#) (2) for any reasons not attributable to him/her, he/she may pay the whole or remaining portion of the registration fee within 14 days from the date on which the reason ceases to exist: *Provided*, That this shall not apply where six months have elapsed since the expiration date of the period of late payment or remainder payment, whichever is later. <Amended by Act No. 6767, Dec. 11, 2002; Act No. 7289, Dec. 31, 2004; Act No. 9764, Jun. 9, 2009>
- (2) Where the whole or remaining portion of the registration fee is paid in accordance with paragraph (1), the application for design registration concerned shall be deemed not to have been abandoned, and the design right concerned shall be deemed to have continued to exist, notwithstanding the provisions of [Article 33](#) (3). <Amended by Act No. 6767, Dec. 11, 2002; Act No. 7289, Dec. 31, 2004; Act No. 9764, Jun. 9, 2009>
- (3) Where a design right is extinguished during the working of the relevant registered design due to failure to pay the registration fee within the period of late payment under [Article 33](#) (1) or to pay the remaining portion of the registration fee within the period of remainder payment under [Article 33-2](#) (2), the owner of the design right may make an application for the restoration of the extinguished right within three months from the date when the period of late or remainder payment expired, subject to the payment of an amount equivalent to three times the registration fee referred to in [Article 31](#). In such cases, the relevant design right shall be deemed to have continued to exist. <Newly Inserted by Act No. 7556, May 31, 2005; Act No. 9764, Jun. 9, 2009>
- (4) The effects of an application for design registration or a design right under paragraph (2) or (3) shall not extend to the act of working the said design or a design similar thereto by

another person from the date of expiration of the period for late payment of the registration fee to the date of actual payment or remainder payment of the fee (hereinafter referred to as "period of limited effect"). <Amended by Act No. 6767, Dec. 11, 2002; Act No. 7289, Dec. 31, 2004; Act No. 7556, May 31, 2005; Act No. 9764, Jun. 9, 2009>

- (5) Where a person has, in good faith, been working as a business or is preparing to work a design for which design registration has been applied, a registered design, or a design similar thereto under paragraph (2) or (3) in the Republic of Korea during the period of limited effect, he/she shall have a non-exclusive license for the relevant design right, within the scope of the object of the design or business that he/she is working as a business or preparing to work. <Amended by Act No. 7289, Dec. 31, 2004; Act No. 7556, May 31, 2005>
- (6) Any person who has been granted a non-exclusive license in accordance with paragraph (5) shall pay reasonable consideration to the owner of the design right or the exclusive licensee. <Amended by Act No. 7289, Dec. 31, 2004; Act No. 7556, May 31, 2005>

[This Article Newly Inserted by Act No. 6413, Feb. 3, 2001]

Article 34 (Official Fees)

- (1) Any person who files an application for design registration, files a request, or undertakes any other procedure shall pay an official fee. <Amended by Act No. 7289, Dec. 31, 2004>
- (2) Matters necessary for the payment of official fees, including the method and deadline for payment of the official fees under paragraph (1), shall be prescribed by Ordinance of the Ministry of Knowledge Economy. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5082, Dec. 29, 1995; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8852, Feb. 29, 2008>

Article 35 (Reduction of or Exemption from Registration Fees or Official Fees)

- (1) Notwithstanding [Articles 31](#) and [34](#), the Commissioner of the Korean Intellectual Property Office shall grant an exemption from the payment of registration fees or official fees falling under any of the following subparagraphs: <Amended by Act No. 7289, Dec. 31, 2004>
1. Official fees or registration fees in relation to applications for design registration or design right belonging to the State;
 2. Official fees for request for an invalidation trial made by an examiner under [Article 68](#) (1).
- (2) Notwithstanding [Articles 31](#) and [34](#), where an application for design registration has been filed by an entitled person in accordance with [Article 5 of the National Basic Living Security Act](#), or a person prescribed by Ordinance of the Ministry of Knowledge Economy, the Commissioner of the Korean Intellectual Property Office may grant a reduction or exemption of the registration fees for the first three years for the registration of the establishment of a design right, and the official fees prescribed by Ordinance of the Ministry of Knowledge Economy. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5082, Dec. 29, 1995; Act No. 6024, Sep. 7, 1999; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007; Act No. 8852, Feb. 29, 2008>
- (3) A person who wishes to obtain a reduction or exemption of the registration fees and the official fees in accordance with paragraph (2) shall submit documents prescribed by Ordinance of the Ministry of Knowledge Economy to the Commissioner of the Korean Intellectual Property Office. <Amended by Act No. 4541, Mar. 6, 1993; Act No. 5082, Dec.

29, 1995; Act No. 6413, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008>

Article 36 (Refund of Registration Fees, etc.)

- (1) The registration fees and official fees which have been paid shall not be refundable:
Provided, That such fees shall be refunded at the request of the payer where they fall under any of the following subparagraphs: <Amended by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007>
1. Registration fees and official fees erroneously paid;
 2. Amounts corresponding to the registration fees for the years following the year in which the decision to revoke or invalidate the design registration becomes final and binding;
 3. Application fees for design registration which have already been paid where the application for design registration concerned has been withdrawn or abandoned within one month after the date when the application for design registration (excluding an application for design registration with a request for an accelerated examination, a divisional application, or an application for design registration that would be the basis of a divisional application) was filed.
- (2) Where the registration fees and official fees that have been paid fall under any subparagraph of paragraph (1), the Commissioner of the Korean Intellectual Property Office shall notify those who have paid them thereof. <Amended by Act No. 8187, Jan. 3, 2007>
- (3) Requests for the refund of registration fees and official fees pursuant to the proviso to the main sentence of paragraph (1) shall not be filed three years after the date the notification pursuant to the provisions of paragraph (2) is received. <Amended by Act No. 8187, Jan. 3, 2007; Act No. 8456, May 17, 2007>

[This Article Wholly Amended by Act No. 4595, Dec. 10, 1993]

Article 37 (Design Register)

- (1) The Commissioner of the Korean Intellectual Property Office shall keep a Design Register at the Korean Intellectual Property Office, and register the following matters: <Amended by Act No. 6767, Dec. 11, 2002; Act No. 7289, Dec. 31, 2004>
1. The establishment, transfer, extinguishment, restoration, or restriction on disposal of a design 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 disposal of a pledge on a design right or on an exclusive or non-exclusive license.
- (2) The Design Register under paragraph (1) may be stored in whole or in part in electronic format, such as an electronic recording medium. <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (3) Necessary matters for the particulars and procedures of registration, etc. other than those provided for in paragraphs (1) and (2) shall be prescribed by Presidential Decree.

Article 38 (Issuance of Design Registration Certificate)

- (1) When the establishment of a design right has been registered, the Commissioner of the Korean Intellectual Property Office shall issue a design registration certificate to the owner of the design right. <Amended by Act No. 7289, Dec. 31, 2004>

- (2) When a design registration certificate does not coincide with the Design Register or other documents, the Commissioner of the Korean Intellectual Property Office shall, upon request or *ex officio*, reissue the design registration certificate with amendments, or issue a new design registration certificate. <Amended by Act No. 7289, Dec. 31, 2004>

CHAPTER V DESIGN RIGHT

Article 39 (Registration of Establishment of Design Right)

- (1) A design right shall be created by dint of the registration of its establishment. <Amended by Act No. 7289, Dec. 31, 2004>
- (2) When a registration fee has been paid in accordance with [Article 31](#) (1), the late payment of a registration fee has been made in accordance with [Article 33](#) (1), the remainder payment of a registration fee has been made in accordance with [Article 33-2](#) (2), the payment or remainder payment of a registration fee has been made in accordance with [Article 33-3](#) (1), or an exemption from payment of a registration fee has been granted in accordance with [Article 35](#) (1) 1 or (2), the Commissioner of the Korean Intellectual Property Office shall register the establishment of the design right concerned. <Amended by Act No. 6767, Dec. 11, 2002; Act No. 7289, Dec. 31, 2004>
- (3) When a registration pursuant to paragraph (2) has been made, the Commissioner of the Korean Intellectual Property Office shall publicize the registration by inserting matters prescribed by Presidential Decree, such as the name and address of the owner of the design right, design registration number, etc., in the Design Gazette. <Amended by Act No. 8187, Jan. 3, 2007>

Article 40 (Duration of Design Right)

- (1) The duration of a design right shall be 15 years from the date of registration of its establishment: *Provided*, That the expiration date of the duration of a design right relating to a similar design shall be the expiration date of the duration of the design right relating to a basic design. <Amended by Act No. 4595, Dec. 10, 1993; Act No. 5354, Aug. 22, 1997; Act No. 7289, Dec. 31, 2004>
- (2) Where the establishment of a design right is registered under [Article 15](#) with respect to an application for design registration of a lawful holder, the duration of the design right under paragraph (1) shall be counted from the day following the date of registration of the design right previously filed by an unentitled person. <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

Article 41 (Effect of Design Right)

An owner of a design right shall, as a business, have the exclusive right to work a registered design and a design similar thereto: *Provided*, That where the design right is subject to an exclusive license, this shall not apply to the extent that the exclusive licensee has the exclusive right to work the registered design or a design similar thereto under [Article 47](#) (2). <Amended by Act No. 4595, Dec. 10, 1993; Act No. 7289, Dec. 31, 2004>

Article 42 (Design Right for Similar Designs)

A design right relating to a similar design as provided for in [Article 7](#) (1) shall be incorporated in a

design right for its basic design. <Amended by Act No. 7289, Dec. 31, 2004>

Article 43 (Scope of Protection of Registered Designs)

The scope of protection of a registered design shall be determined by the matters entered in an application for design registration, the design represented in a drawing or photograph attached to the application, and in the explanation of the design described in the sample and drawing.

<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

Article 44 (Scope to which Effect of Design Right is not Extended)

(1) The effect of a design right shall not extend to any of the following: <Amended by Act No. 7289, Dec. 31, 2004>

1. Working of a registered design for the purpose of research or experiment;
2. Vessels, aircraft or vehicles merely passing through the Republic of Korea, or the machinery, instruments, equipment or other things used therein;
3. Things existing in the Republic of Korea since an application for design registration was filed.

(2) Where a font is registered as a design right, the effect of such design right shall not extend insofar as it falls under any of the following subparagraphs: <Newly Inserted by Act No. 7289, Dec. 31, 2004>

1. Where the font is used in the ordinary process, such as typing, typesetting, printing, etc.;
2. Where it is the resulting material produced by the use of font pursuant to the provisions of subparagraph 1.

Article 45 (Relationship with Another Person's Registered Design, etc.)

(1) Where a registered design is made by use of another person's registered design or design similar thereto, patented invention, registered utility model or registered trademark under an application filed prior to the filing date of the application for the registration of the design concerned, or where a design right conflicts with another person's patent right, utility model right or trademark right under an application filed prior to the filing date of the application for registration of the design concerned, the owner of the design right or exclusive or non-exclusive licensee shall not work, as a business, the registered design without the permission from the owner of the earlier design right, patent right, utility model right or trademark right, or without compliance with [Article 70](#). <Amended by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

(2) Where a design similar to a registered design is made by use of another person's registered design or design similar thereto, patented invention, registered utility model or registered trademark under an application filed prior to the filing date of the application for the registration of the design concerned, or where a right of the design similar to the registered design conflicts with another person's design right, patent right, utility model right or trademark right under an application filed prior to the filing date of the application for registration of the design concerned, the owner of the design right or exclusive or non-exclusive licensee shall not work, as a business, the design similar to the registered design without the permission from the owner of the earlier design right, patent right, utility model right or trademark right, or without compliance with [Article 70](#). <Newly Inserted by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

- (3) Where a registered design or a design similar thereto is made by use of, or conflicts with, another person's copyright, effective prior to the filing date of the application for registration of the design concerned, the owner of the design right or exclusive or non-exclusive licensee shall not work, as a business, the registered design or design similar thereto without the permission from the owner of the copyright. <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

Article 46 (Assignment and Joint Ownership of Design Right)

- (1) A design right may be assigned: *Provided*, That a design right for a basic design and a design right for a similar design thereto shall be assigned together. <Amended by Act No. 7289, Dec. 31, 2004>
- (2) Where a design right is owned jointly, each joint owner may neither assign his/her share nor establish a pledge upon it without the consent of all the other joint owners. <Amended by Act No. 7289, Dec. 31, 2004>
- (3) Where a design right is owned jointly, each joint owner may, except as otherwise agreed by a contract among all the joint owners, work the registered design or the design similar thereto by himself/herself without the consent of the other joint owners. <Amended by Act No. 4595, Dec. 10, 1993; Act No. 7289, Dec. 31, 2004>
- (4) Where a design right is owned jointly, each joint owner may neither establish an exclusive license nor permit a non-exclusive license under the design right without the consent of all the other joint owners. <Amended by Act No. 7289, Dec. 31, 2004>
- (5) A design right registered as a multiple design may be divided and transferred for each design. <Newly Inserted by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

Article 47 (Exclusive License)

- (1) An owner of a design right may establish an exclusive license on the design right for another person. <Amended by Act No. 7289, Dec. 31, 2004>
- (2) An exclusive licensee who has an exclusive license established under paragraph (1) shall have the exclusive right to work the registered design or the design similar thereto, within the limit provided for in the act of establishment. <Amended by Act No. 7289, Dec. 31, 2004>
- (3) An exclusive licensee shall not transfer the exclusive license without the consent of the owner of the design right, except where it is transferred together with the business in which it is worked or where inheritance or other general succession takes place. <Amended by Act No. 7289, Dec. 31, 2004>
- (4) An exclusive licensee shall not establish a pledge or grant a nonexclusive license on the exclusive license without the consent of the owner of the design right. <Amended by Act No. 7289, Dec. 31, 2004>
- (5) The provisions of [Article 46](#) (2) through (4) shall apply *mutatis mutandis* to exclusive licenses.

Article 48 (Effect of Registration of Design Right and Exclusive License)

- (1) Each of the following shall be of no effect unless it is registered:
1. The transfer (excluding cases through inheritance or other general succession) or extinguishment by abandonment, or restriction on the disposal of a design right;
 2. The grant, transfer (excluding cases through inheritance or other general succession),

modification, extinguishment (excluding cases through confusion), or restriction on the disposal of an exclusive license;

3. The establishment, transfer (excluding cases through inheritance or other general succession), modification, extinguishment (excluding cases through confusion), or restriction on the disposal of a pledge on a design right or exclusive license.
- (2) Inheritance of, or other general succession relating to a design right, exclusive license, and pledge under any subparagraph of paragraph (1) shall be notified, without delay, to the Commissioner of the Korean Intellectual Property Office.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 49 (Non-Exclusive License)

- (1) An owner of a design right may grant a non-exclusive license on his/her design right for another person. *<Amended by Act No. 7289, Dec. 31, 2004>*
- (2) A non-exclusive licensee shall have the right to work the registered design and a design similar thereto within the limit provided for in this Act or the act of establishment. *<Amended by Act No. 4595, Dec. 10, 1993; Act No. 7289, Dec. 31, 2004>*
- (3) A non-exclusive license under [Article 70](#) shall be transferred together with the relevant design right of the non-exclusive licensee, and shall be extinguished at the same time as the relevant design right is extinguished. *<Amended by Act No. 9764, Jun. 9, 2009>*
- (4) No non-exclusive license, other than those described in paragraph (3), may be transferred without the consent of the design right holder (or the design right holder and the exclusive licensee in cases of a non-exclusive license on an exclusive license), unless the transfer is made together with the underlying business or through inheritance or other general succession. *<Newly Inserted by Act No. 9764, Jun. 9, 2009>*
- (5) No pledge may be established on a non-exclusive license, other than those under paragraph (3), without the consent of the design right holder (or the design right holder and the exclusive licensee in cases of a non-exclusive license on an exclusive license). *<Newly Inserted by Act No. 9764, Jun. 9, 2009>*
- (6) [Article 46](#) (2) and (3) shall apply *mutatis mutandis* to non-exclusive licenses. *<Newly Inserted by Act No. 9764, Jun. 9, 2009>*

Article 50 (Non-Exclusive License by Prior Use)

Where, at the time of filing an application for design registration, a person who has created the design which is identical with or similar to the design in an existing application, without having prior knowledge of the design in the application, or has learned the design from the creator, and has been working the design in the Republic of Korea, or has been making preparations therefor, such person shall have a non-exclusive license for the design right to the design applied for registration, to the extent of the objective of design and project which he/she works or prepares for. *<Amended by Act No. 4595, Dec. 10, 1993; Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007>*

Article 50-2 (Non-Exclusive License by Earlier Application)

Where, at the time of registering the establishment of a design right of another person, a person (excluding those falling under [Article 50](#)) who has created the design which is identical with or similar to the design in an existing application, without having prior knowledge of the design in

the application, or has learned the design from the creator, and has been working the design in the Republic of Korea, or has been making preparations therefor, such person shall have a non-exclusive license for the design right, to the extent of the objective of design and project which he/she works or prepares for:

1. It is required that he/she applied for registration of the design or similar design before the date when another person applied for design registration for the establishment and registration of design right, and has started or has prepared to start a business practicing the design regarding the application for design registration;
2. It is required that a decision or a trial decision to reject an application for design registration filed ahead of others for a design referred to in subparagraph 1 has been final and binding.

[This Article Newly Inserted by Act No. 8187, Jan. 3, 2007]

Article 51 (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 a registered design or a design similar thereto or has been making preparations therefor in the Republic of Korea, prior to the registration of a request for an invalidation trial on the design registration concerned, without knowing that the design registration is subject to invalidation, such person shall have a non-exclusive license on that design right or on the exclusive license existing at the time the design registration was invalidated, to the extent of the objective of design and project which he/she works or prepares for: *<Amended by Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007; Act No. 9764, Jun. 9, 2009>*

1. The original owner of the design right, where one of two or more design registrations granted for the same or a similar design has been invalidated;
2. The original owner of the design right, where his/her design registration has been invalidated and a design registration for the same or a similar design has been granted to a lawful holder;
3. A person who has already been granted an exclusive or non-exclusive license, or non-exclusive license on the exclusive license, at the time of registration of the request for an invalidation trial on the design right that has been invalidated in cases of subparagraph 1 or 2 and who falls under any of the following items:
 - (a) A person who has completed registration of the non-exclusive license or exclusive license concerned;
 - (b) A person who has been granted a non-exclusive license falling under [Article 52-2](#) (2).

(2) A person who has been granted a non-exclusive license in accordance with paragraph (1) shall pay reasonable consideration for the right to the owner of the design right or the exclusive licensee. *<Amended by Act No. 7289, Dec. 31, 2004>*

Article 52 (Non-Exclusive License After Expiration of Duration of Design Right, etc.)

(1) Where a design similar to a registered one conflicts with a design right which has been registered prior to or on the date of application for registration of the design (hereinafter referred to as "original design right"), the owner of the original design right shall have a non-exclusive license with respect to the design right within the scope of the original design right when the duration of original design right expires, or have a nonexclusive license with

- respect to the exclusive license of the design right which exists at the time the duration of original design right expires. <Amended by Act No. 7289, Dec. 31, 2004>
- (2) In cases of paragraph (1), an exclusive licensee of an original design right which exists at the time the duration of the original right expires, or a non-exclusive licensee registered under [Article 52-2](#) (1), shall have a non-exclusive license with respect to the design right within the scope of the original design right, or have a non-exclusive license with respect to the exclusive license of the design right which exists at the time the duration of original design right expires. <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007; Act No. 9764, Jun. 9, 2009>
- (3) The provisions of paragraphs (1) and (2) shall apply *mutatis mutandis* where a registered design or a design similar thereto conflicts with a patent right or a utility model right which has been registered prior to or on the date of application for design registration, and where the duration of the patent right or utility model right expires. <Amended by Act No. 7289, Dec. 31, 2004>
- (4) A non-exclusive licensee pursuant to the provisions of paragraph (2) (including cases as applicable *mutatis mutandis* in paragraph (3)) shall pay reasonable consideration for it to the owner of the design right or the exclusive licensee in relation to the design right. <Amended by Act No. 7289, Dec. 31, 2004>

[This Article Wholly Amended by Act No. 5354, Aug. 22, 1997]

Article 52-2 (Effect 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 design right or an exclusive license.
- (2) A non-exclusive license granted under [Article 33-3](#) (5), [50](#), [50-2](#), [51](#), [52](#), [58](#), [74-2](#) or [74-3](#) of this Act and Article 10 (1) of the Invention Promotion Act shall have the same effect as prescribed by paragraph (1) of this Article even if it has not been registered.
- (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 they are registered.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 53 (Abandonment of Design Right)

An owner of a design right may abandon his/her design right. <Amended by Act No. 7289, Dec. 31, 2004>

Article 54 (Restriction on Abandonment of Design Right, etc.)

- (1) No owner of a design right shall abandon his/her design right without the consent of the exclusive licensee, pledgee, or non-exclusive licensee under [Articles 47](#) (4) or [49](#) (1) of this Act or Article 10 (1) of the Invention Promotion Act. <Amended by Act No. 7289, Dec. 31, 2004; Act No. 7869, Mar. 3, 2006; 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 the provisions of [Article 47](#) (4).
- (3) No non-exclusive licensee shall abandon his/her non-exclusive license without the consent of the pledgee.

Article 55 (Effect of Abandonment)

Where a design right or exclusive or non-exclusive license thereon is abandoned, such right or license shall lose its effect from that time on. <Amended by Act No. 7289, Dec. 31, 2004>

Article 56 (Pledge)

Where a pledge right the object of which is a design right or exclusive or non-exclusive license is established, the pledgee shall not work the registered design except as otherwise prescribed by a contract. <Amended by Act No. 7289, Dec. 31, 2004>

Article 57 (Subrogation of Pledge Right)

A pledge may be exercised against compensation under this Act or against consideration or goods to be received for the working of the design right: *Provided*, That an attachment order shall be made prior to the payment or delivery of such. <Amended by Act No. 5354, Aug. 22, 1997; Act No. 7289, Dec. 31, 2004>

Article 58 (Non-Exclusive License Depending on Transfer of Design Right by Exercise of Pledge Right)

Where an owner of a design right has worked the registered design or the design similar thereto which is the object of a pledge prior to the establishment of the pledge, and the design right is subsequently sold at auction, etc., he/she shall have a non-exclusive license for the design right. In such cases, the owner of the design right shall pay reasonable consideration to the transferee of the design right. <Amended by Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007>
[This Article Wholly Amended by Act No. 4595, Dec. 10, 1993]

Article 59 (Extinguishment of Design Right in Absence of Successor)

A design right shall be extinguished if, at the time of succession, no successor exists. <Amended by Act No. 7289, Dec. 31, 2004>

Article 60 Deleted. <by Act No. 7289, Dec. 31, 2004>

Article 61 (Title of Execution on Consideration and Amount of Compensation)

A final and binding ruling by the Commissioner of the Korean Intellectual Property Office on consideration or the amount of compensation to be paid under this Act shall have the same effect as an enforceable title of execution. In such cases, the enforceable writ shall be issued by a public official of the Korean Intellectual Property Office.
[This Article Wholly Amended by Act No. 9764, Jun. 9, 2009]

CHAPTER VI PROTECTION OF OWNERS OF DESIGN RIGHTS

Article 62 (Right to Seek Injunction against Infringement, etc.)

- (1) An owner of a design right or exclusive licensee may demand a person who is infringing or is likely to infringe on his/her rights to discontinue or prevent such infringement. <Amended by Act No. 7289, Dec. 31, 2004>
- (2) An owner of design right or exclusive licensee of a design which has been requested to be kept confidential pursuant to [Article 13](#) (1) shall not claim pursuant to the provisions of paragraph (1), until he/she issues a warning by submitting a document certified by the

Commissioner of the Korean Intellectual Property Office, as prescribed by Ordinance of the Ministry of Knowledge Economy, on the following matters regarding such design: <Newly Inserted by Act No. 7289, Dec. 31, 2004; Act No. 8852, Feb. 29, 2008>

1. Name and address (in cases of a juristic person, its title and location of the main office) of the owner of the design right or the exclusive licensee (limited to cases where the exclusive licensee requests);
 2. Number and date of an application for design registration;
 3. Number and date of an design registration;
 4. Drawings, pictures or contents of samples attached to the written application of design registration.
- (3) An owner of a design right or an exclusive licensee who makes a demand under paragraph (1) may request the destruction of the articles which resulted from the act of infringement, the removal of the facilities used for the act of infringement, or other measures necessary to prevent the infringement. <Amended by Act No. 7289, Dec. 31, 2004>

Article 63 (Acts Deemed Infringement)

The acts of commercially or industrially manufacturing, using, assigning, leasing, importing or offering for assigning or leasing, as a business, articles used exclusively for the manufacture of articles to which a registered design or design similar thereto is applied shall be deemed an infringement of the design right or exclusive license. <Amended by Act No. 4595, Dec. 10, 1993; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

Article 64 (Presumption, etc. of Amount of Damages)

- (1) Where an owner of a design right or exclusive licensee claims compensation from a person who has intentionally or negligently infringed the design right or exclusive license and the latter transfers articles which cause the infringement, the amount of damages suffered by the owner of the design right or exclusive licensee may be calculated by multiplying the number of transferred articles by the profit per unit of the articles that the owner of the design right or exclusive licensee might have sold in the absence of said infringement. In such cases, the amount of damages shall not exceed the amount calculated by multiplying, the number obtained by subtracting the number of articles actually sold from the number of articles which the owner of the design right or exclusive licensee could have produced, by the estimated profit per unit: *Provided*, That where circumstances, except the acts of infringement, exist that prevent the owner of the design right or exclusive licensee from selling some of articles, a sum equivalent to the number of transferred articles subject to said circumstances shall be deducted. <Newly Inserted by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (2) Where an owner of a design right or exclusive licensee claims compensation for damages from a person who has intentionally or negligently infringed the design 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 owner of the design right or exclusive licensee. <Amended by Act No. 7289, Dec. 31, 2004>
- (3) An owner of a design right or exclusive licensee may claim, the amount of money which he/she would normally be entitled to receive for the working of the registered design from the person who has intentionally or negligently infringed the design right or exclusive license, as

the amount of damages suffered by him/her by the infringement. <Amended by Act No. 7289, Dec. 31, 2004>

- (4) Notwithstanding paragraph (3), where the amount of damages exceeds the amount referred to in the same paragraph, the amount in excess may also be claimed as compensation for damages. 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 design right or the exclusive license when awarding damages. <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (5) In litigation relating to the infringement of a design right or an 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 damages that has occurred, notwithstanding paragraphs (1) through (4), the court may determine a reasonable amount on the basis of an examination of the evidence and a review of all the arguments. <Newly Inserted by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

Article 65 (Presumption of Negligence)

- (1) A person who has infringed a design right or exclusive license of another person shall be presumed to have been negligent regarding such act of infringement: *Provided*, That this shall not apply to the infringement of a design right or exclusive license relating to a design registered as a confidential design under [Article 13](#) (1). <Amended by Act No. 7289, Dec. 31, 2004>
- (2) The provisions of paragraph (1) shall apply *mutatis mutandis* where an owner of a design right or exclusive or non-exclusive licensee of design of unexamined design registration infringes another person's design right or exclusive license. <Newly Inserted by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

Article 66 (Recovery of Reputation of Owner of Design Right, etc.)

Upon the request of an owner of a design right or exclusive licensee, the court may, in lieu of damages or in addition thereto, order a person who has injured the business reputation of the owner of a design right or exclusive licensee by intentionally or negligently infringing the design right or exclusive license, to take necessary measures to recover the business reputation of the said owner or exclusive licensee. <Amended by Act No. 7289, Dec. 31, 2004>

Article 67 (Submission of Documents)

In litigation relating to the infringement of a design right or exclusive license, the court may, upon the request of a party, order the other party to submit documents necessary for the assessment of damages caused by such infringement: *Provided*, That this shall not apply when the person possessing the documents has justifiable reasons for refusing to submit them.

[This Article Wholly Amended by Act No. 9764, Jun. 9, 2009]

CHAPTER VII TRIAL

Article 67-2 (Trial on Ruling to Dismiss Amendment)

Where a person who receives a ruling to dismiss an amendment under [Article 18-2](#) (1) is dissatisfied therewith, he/she may request a trial within 30 days from the date of receipt of the

certified copy of the decision.

[This Article Newly Inserted by Act No. 6413, Feb. 3, 2001]

Article 67-3 (Trial on Decision to Reject or Revoke Design Registration)

Where a person who receives a decision to reject or revoke design registration is dissatisfied therewith, he/she may request a trial within 30 days from the date of receipt of the certified copy of the decision. *<Amended by Act No. 7289, Dec. 31, 2004>*

[This Article Newly Inserted by Act No. 6413, Feb. 3, 2001]

Article 68 (Trial to Invalidate Design Registration)

(1) An interested person or an examiner may request a trial to invalidate design registration in any of the following cases. In such cases, a request may be made with respect to each design for which an application for multiple design registration is filed pursuant to [Article 11-2](#): *<Amended by Act No. 4595, Dec. 10, 1993; Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007; Act No. 9764, Jun. 9, 2009>*

1. Where the registration is in violation of [Article 4-24](#), [5](#), [6](#), [7](#) (1), [10](#), [16](#) (1) or (2);
2. Where a person is not entitled to obtain a design registration under the main sentence of [Article 3](#) (1) or unable to obtain a design registration under the proviso to [Article 3](#) (1);
3. Where the registration has been effected contrary to the provisions of a treaty;
4. Where an owner of a design right, after the design registration, is no longer capable of enjoying the design right under [Article 4-24](#), or the design registration no longer complies with a treaty.

(2) A trial under paragraph (1) may be requested even after the extinguishment of a design right. *<Amended by Act No. 7289, Dec. 31, 2004>*

(3) Where a trial decision to invalidate a design registration (excluding a similar design registration) has become final and binding, the design right shall be deemed to have never existed: *Provided*, That where a trial decision to invalidate a design registration has become final and binding under paragraph (1) 4, the design right shall be deemed not to have existed from the time the design registration first fell under the said subparagraph. *<Amended by Act No. 7289, Dec. 31, 2004>*

(4) Where a trial decision to invalidate a basic design registration has become final and binding, a similar design registration shall also become invalid. *<Amended by Act No. 7289, Dec. 31, 2004>*

(5) Where a trial decision to invalidate similar design registration has become final and binding or where similar design registration becomes invalid under paragraph (4), the similar design right shall be deemed to have never existed: *Provided*, That where a trial decision to invalidate similar design registration under paragraph (1) 4 has become final and binding, the similar design right shall be deemed not to have existed from the time the similar design registration first fell under the said subparagraph. *<Amended by Act No. 7289, Dec. 31, 2004>*

(6) Where a trial for invalidation under paragraph (1) has been requested, the presiding administrative patent judge shall notify the exclusive licensee of the design right and other persons who are entitled to obtain a design registration of the purport of such request.

<Amended by Act No. 7289, Dec. 31, 2004>

Article 69 (Trial to Confirm Scope of Design Right)

The owner of a design right, exclusive licensee or interested parties may request a trial to confirm the scope of the design right in order to confirm the protection scope of the registered design. <Amended by Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007>

Article 70 (Trial for Granting Non-Exclusive License)

- (1) If the owner of a design right, or exclusive or non-exclusive licensee, desires to obtain permission to work the registered design or a design similar thereto as such design falls under [Article 45](#) (1) or (2), and if the other party refuses to grant permission without justifiable grounds or it is impossible to obtain such permission, the said owner or exclusive or non-exclusive licensee may request a trial for granting a non-exclusive license to the extent necessary to work the registered design or a design similar thereto. <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (2) If a person who has granted a non-exclusive license under paragraph (1) desires to work the registered design or design similar thereto which is owned by the non-exclusive licensee, and if the latter rejects to permit the working of such design or if it is impossible to obtain such permission, he/she may request a trial to grant a non-exclusive license within the scope necessary to work the registered design or a design similar thereto. <Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (3) A non-exclusive licensee under paragraphs (1) and (2) shall pay consideration to the patentee, the owner of the utility model right, the owner of the design right or the exclusive licensee thereof: *Provided*, That if payment is impossible for reasons beyond the control of the said non-exclusive licensee, the consideration shall be deposited. <Amended by Act No. 7289, Dec. 31, 2004>
- (4) No non-exclusive licensee under paragraph (3) shall work the patented invention, registered utility model or registered design or design similar thereto without payment of consideration or deposit thereof. <Amended by Act No. 4595, Dec. 10, 1993; Act No. 7289, Dec. 31, 2004>

Article 71 (Mutatis Mutandis Application of Provisions on Examination to Trial against Decision to Reject Design Registration)

- (1) The provisions of [Article 18](#) (1) through (4), the main sentence of [Article 18](#) (5), [Articles 18-2](#), [27](#) and [28](#) shall apply *mutatis mutandis* to a trial against a decision to reject design registration. In such cases, "before a notification of decision to grant design registration under [Article 28](#) or decision to reject design registration under [Article 26](#) (hereinafter referred to as "decision to grant or reject design registration") is served" in the main sentence of [Article 18](#) (5) shall be construed as "within the deadline designated for submission of argument by notification of grounds for rejection", "where an applicant requests a trial under [Article 67-2](#)" in [Article 18-2](#) (3) shall be construed as "where an action has been brought pursuant to [Article 75-1](#)", and "until the trial decision has become final and binding" in [Article 18-2](#) (3) shall be construed as "until the ruling has become final and binding". <Amended by Act No. 9764, Jun. 9, 2009>
- (2) [Articles 18-2](#) (1) and (4) and [27](#) applied *mutatis mutandis* under paragraph (1) shall apply only where the grounds for rejection differ from the grounds for the examiner's original

decision to reject design registration. <Amended by Act No. 7289, Dec. 31, 2004; Act No. 9764, Jun. 9, 2009>

[This Article Newly Inserted by Act No. 6413, Feb. 3, 2001]

Article 72 (Request for Joint Trial, etc.)

- (1) Where two or more persons request an invalidation trial under [Article 68](#) (1) or a trial to confirm the scope of a design right under [Article 69](#) with regard to the same design right, the request may be filed individually, or jointly.
- (2) Where a trial is requested against any of the owners of a design right under joint ownership, all the joint owners shall be made defendants.
- (3) Notwithstanding paragraph (1), where the joint owners of a design right or of a right to obtain a design registration request a trial concerning the right under joint ownership, the request shall be made jointly by all the joint owners.
- (4) Where there exist grounds for suspension or interruption 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 or interruption shall be effective against all of them.

[This Article Wholly Amended by Act No. 9764, Jun. 9, 2009]

Article 72-2 (Formal Requirements of Request for Trial)

- (1) Any person who intends to request a trial shall submit a written request to the President of the Intellectual Property Tribunal, stating the following:
 1. The names and domiciles of the parties (in cases of a juristic person, its title and location of the place of business);
 2. The name and domicile, or location of the place of business, of the agent, if designated (if the agent is a patent corporation, its title, location of office and designated patent attorney's name);
 3. Identification of the trial case;
 4. The purport of the request and the grounds therefor.
- (2) No amendment to a written request for a trial submitted under paragraph (1) shall be made with regard to the intent or purpose thereof: *Provided*, That this shall not apply when such amendment falls under any of the following subparagraphs:
 1. An amendment (including supplementation) is made to correct the description of an owner of the design right among the parties prescribed by paragraph (1) 1;
 2. The ground for a request is amended under paragraph (1) 4;
 3. At a trial requested by an owner of a design right or an exclusive licensee as a petitioner to confirm the scope of a design right, the drawings of the design subject to confirmation on the written request for a trial are amended by the petitioner in order to make them identical with the design which is used by the defendant, in cases where the defendant insists that the design subject to confirmation on the written request for a trial (referring to the defendant's design claimed by the petitioner) is different from the design which is used by him/herself.
- (3) When a trial is requested to confirm the scope of a design right under [Article 69](#), drawings that can be compared with the registered design shall be attached to the written request.
- (4) A written request for a trial to grant a non-exclusive license under [Article 70](#) (1) shall, in addition to the particulars referred to in paragraph (1), state the following:

1. The number and title of his/her registered design to be worked;
2. The number, title and date of patent or registration of the other party's patented invention, 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.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-3 (Formal Requirements of Request for Trial against Decision to Reject Design Registration, etc.)

(1) Any person who intends to request a trial against a ruling to dismiss an amendment, a decision to reject a design registration, or a decision to cancel a design registration under [Article 67-2](#) or [67-3](#) shall, notwithstanding the provisions of [Article 72-2](#) (1), submit a written request stating the following matters to the President of the Intellectual Property Tribunal, and if there is a request for a trial against a decision to cancel a design registration under [Article 67-3](#), the President of the Intellectual Property Tribunal shall notify the purport of such request to the applicant for objection against unexamined design registration:

1. The name and domicile of the petitioner (if the petitioner is a juristic person, its title and location of the place of business);
2. The name and domicile, or location of the place of business, of the agent, if designated (if the agent is a patent corporation, its title, location of the office and designated patent attorney's name);
3. The filing date and number of the application (in cases of an appeal against a decision to cancel a design registration, the registration date and registration number of the design);
4. Goods made by the design;
5. The date of the decision to reject a design registration, the date of decision to cancel a design registration or the date of ruling to dismiss an amendment;
6. The identification of the trial case;
7. The purport of the request and the grounds therefor.

(2) If a written request for a trial submitted under paragraph (1) is to be amended, the purport thereof shall not be amended: *Provided*, That this shall not apply to any of the following subparagraphs:

1. An amendment (including supplementation) is made to correct the description of a petitioner prescribed in paragraph (1) 1;
2. An amendment is made to correct the grounds for request prescribed in paragraph (1) 7.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-4 (Dismissal of Request for Trial by Ruling)

(1) The presiding administrative patent judge shall order an amendment to a written request within a specified period in any of the following cases:

1. Where a written request for trial does not comply with [Article 72-2](#) (1), (3), (4) or [72-3](#) (1);
2. Where a procedure relating to a trial falls under any of the following items:
 - (a) Where the procedure is not in compliance with [Article 4](#) (1) or [4-4](#);
 - (b) Where official fees payable in accordance with [Article 34](#) have not been paid;
 - (c) Where the procedure is not in compliance with the methods specified in this Act or orders

thereunder.

(2) Where a person who has been ordered to make an amendment to a written request under paragraph (1) fails to do so within the specified period, the presiding administrative patent judge shall dismiss the request for trial by a ruling.

(3) A ruling under paragraph (2) shall be issued in writing and shall state the grounds therefor.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-5 (Dismissal of Request for Trial containing Incurable Defects by Trial Decision)

If an application for objection against unexamined design registration or a request for a trial contains unlawful defects which cannot be amended, such request may be dismissed by a trial decision without providing the defendant an opportunity to submit a written reply.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-6 (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.

(2) The eligibility requirements of administrative patent judges shall be prescribed by Presidential Decree.

(3) Administrative patent judges shall conduct their official duties for a trial in an independent manner.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-7 (Designation of Administrative Patent Judges)

(1) For each trial case, the President of the Intellectual Property Tribunal shall designate administrative patent judges constituting a board under [Article 72-9](#).

(2) When any administrative patent judge designated in accordance with paragraph (1) is unable to participate in a trial, the President of the Intellectual Property Tribunal may appoint another administrative patent judge to take his/her place.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-8 (Presiding Administrative Patent Judge)

(1) The President of the Intellectual Property Tribunal shall select one of the administrative patent judges designated under [Article 72-7](#) (1) as the presiding administrative patent judge.

(2) The presiding administrative patent judge shall preside over all matters relating to a trial.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-9 (Board for Trial)

(1) A trial shall be conducted by a board comprised of three or five administrative patent judges.

(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.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-10 (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 response within a designated period.

(2) Upon receipt of a 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 a trial.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-11 (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:

1. Where the administrative patent judge or his/her present or former spouse is a party, an intervenor, or an applicant for objection against unexamined design registration;
2. Where the administrative patent judge is or was a relative of a party, an intervenor or an applicant for objection against unexamined design registration;
3. Where the administrative patent judge is or was a legal representative of a party, an intervenor, or an applicant for objection against unexamined design registration;
4. Where the administrative patent judge has become a witness or an expert witness or was an expert witness;
5. Where the administrative patent judge is or was an agent of a party, an intervenor, or an applicant for objection against unexamined design registration;
6. Where the administrative patent judge has participated as an examiner or an administrative patent judge in a decision to reject an amendment, a decision to grant or reject design registration, or a decision on an application for objection against unexamined design registration, or a trial decision thereof;
7. Where the administrative patent judge has a direct interest in the relevant case.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-12 (Request for Exclusion)

Where there exist grounds for exclusion under [Article 72-11](#), a party or an intervenor may request exclusion of the relevant administrative patent judge.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-13 (Recusation of Administrative Patent Judges)

- (1) Where there exist circumstances wherein the participation of an administrative patent judge would prejudice the fairness of the proceedings in a trial, a party or intervenor may request recusation of such administrative patent judge.
- (2) After a party or intervenor has made a written or oral statement with regard to the case before an administrative patent judge, he/she may not request recusation of the administrative patent judge: *Provided*, That where the party or intervenor did not know that there exists a ground for recusation or where a ground for recusation arose subsequently, this shall not apply.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-14 (Indication of Grounds for Exclusion or Recusation)

- (1) Any person who requests exclusion or recusation under [Articles 72-12](#) and [72-13](#) shall submit a document stating the grounds therefor to the President of the Intellectual Property Tribunal: *Provided*, That in oral proceedings, such may be made orally.
- (2) The underlying causes for exclusion or recusation shall be substantiated within three days

from the date the motion was presented.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-15 (Decision on Petition for Exclusion or Recusation)

- (1) Where a petition for exclusion or recusation is filed, the decision shall be rendered by a trial.
- (2) An administrative patent judge subject to exclusion or recusation shall not participate in the trial of the exclusion or recusation: *Provided*, That he/she may state his/her opinion.
- (3) A decision under paragraph (1) shall be rendered in writing and shall state the grounds therefor.
- (4) No appeal shall be made against a decision rendered under paragraph (1).

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-16 (Suspension of Trial Proceedings)

When a petition for exclusion or recusation has been filed, the trial proceedings shall be suspended until a decision thereon has been rendered: *Provided*, That this shall not apply to matters requiring urgent attention.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-17 (Administrative Patent Judges Recusing Themselves)

Where an administrative patent judge falls under [Article 72-11](#) or [72-13](#), he/she may recuse himself/herself from trial proceedings relating to the relevant case with permission from the President of the Intellectual Property Tribunal.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-18 (Trial Proceedings, etc.)

- (1) Trial proceedings shall be conducted by oral proceedings or documentary proceedings: *Provided*, That where requested by the party concerned, trial proceedings shall be conducted only by oral proceedings except where it is recognized that a decision can be rendered on the basis of documentary proceedings alone.
- (2) Oral proceedings shall be conducted in public: *Provided*, That this shall not apply where public order or morality is likely to be injured thereby.
- (3) Where trial proceedings are conducted by oral proceedings in accordance with paragraph (1), the presiding administrative patent judge 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 having attended the relevant case have already been notified thereof.
- (4) The presiding administrative patent judge shall, where trial proceedings are conducted by oral proceedings under paragraph (1), have an official designated by the President of the Intellectual Property Tribunal prepare a protocol setting forth the gist of the proceedings and other necessary matters in time for the date of each trial proceeding.
- (5) The presiding administrative patent judge and the official who has prepared a protocol under paragraph (4) shall sign the protocol and affix their seals thereto.
- (6) The provisions of [Articles 153](#), [154](#), and [156 through 160 of the Civil Procedure Act](#) shall apply *mutatis mutandis* to protocols under

paragraph (4).
(7) The provisions of [Articles 143](#),
[259](#),
[299](#) and
[367 of the Civil Procedure Act](#) shall apply *mutatis mutandis* to trials.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-19 (Intervention)

- (1) Any person having the right to request a trial under [Article 72](#) (1) may intervene in the trial until the trial proceedings are concluded.
- (2) An intervenor under paragraph (1) may continue trial proceedings even after the request for the trial has been withdrawn by the party for whose honor he/she intervened.
- (3) Any person having an interest in the result of a trial may intervene in the trial until the trial proceedings are concluded 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 exist grounds for suspension of trial proceedings applicable to an intervenor under paragraph (1) or (3), the suspension shall also be effective against the party for whose honor he/she intervened.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-20 (Request for Intervention and Decision thereon)

- (1) Any person intending to intervene in a trial shall submit a written request for intervention to the presiding administrative patent judge.
- (2) The presiding administrative patent judge shall serve a copy of the request for intervention on the parties and other intervenors and provide them an opportunity to submit arguments within a designated period.
- (3) Where a request for intervention is made, the decision thereon shall be rendered by trial.
- (4) A decision under paragraph (3) shall be rendered in writing and shall state the grounds therefor.
- (5) No appeal shall be made against a decision rendered under paragraph (3).

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-21 (Examining and Preserving Evidence)

- (1) With respect to a trial, evidence may be examined or preserved upon the request of a party, intervenor, interested person, or *ex officio*.
- (2) The provisions of the [Civil Procedure Act](#) relating to the examination and preservation of evidence shall apply *mutatis mutandis* to any examination and preservation thereof under paragraph (1):
Provided, That the administrative patent judge may not impose fines for negligence, order compulsory appearance, or require the deposit of money as security.
- (3) A request to preserve evidence shall be filed with the President of the Intellectual Property Tribunal prior to a request for a trial and to the presiding administrative patent judge of the case while the trial is pending.

- (4) Where a petition for preservation of evidence has been filed under paragraph (1) prior to a request for a trial, the President of the Intellectual Property Tribunal shall designate an administrative patent judge to be responsible for the preservation of evidence.
- (5) Where evidence has been examined 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 an argument within a designated period.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-22 (Continuation of Trial Proceedings)

Notwithstanding the failure of a party or intervenor to take any proceedings within the period designated in accordance with this Act, or prescribed by other Acts, or failure to appear on the designated date in accordance with [Article 72-18](#) (3), the presiding administrative patent judge may proceed with the trial proceedings.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-23 (Ex Officio Trial Proceedings)

- (1) Grounds which have not been pleaded by a party or intervenor may be examined in a trial. In such cases, the parties and intervenors shall be provided an opportunity to state their opinions regarding such grounds, within a designated period.
- (2) In a trial, no examination shall be made on the purpose of a claim not requested by the petitioner.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-24 (Joint or Separate Conduct of Trial Proceedings or Trial Decisions)

An administrative patent judge may combine the trial examination or trial decision of two or more trial proceedings where one or both of the parties thereto are the same, or, may examine them separately.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-25 (Withdrawal of Request for Trial)

- (1) A request for a trial may be withdrawn before a trial decision has become final and binding: *Provided*, That the consent of the other party shall be obtained if such withdrawal is to be made after a response has already been submitted.
- (2) Where a request for a trial is withdrawn in accordance with paragraph (1), the said request shall be deemed to have never been filed.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-26 (Trial Decisions)

- (1) Except as otherwise provided for, when a trial decision has been rendered, the trial shall be closed.
- (2) A trial decision under paragraph (1) shall be rendered in writing, signed and sealed by the administrative patent judges who have rendered it, and shall state the following matters:
 1. The number of the trial;
 2. The names and domiciles of the parties and intervenors (in cases of a juristic person, its title and location of the place of business);

3. The name and domicile or place of business of the agent, if any (if the agent is a patent corporation, its title, place of office and name of the designated patent attorney);
 4. The identification of the trial case;
 5. The text of the trial decision (including the scope, duration and consideration of a non-exclusive license in trial cases under [Article 70](#));
 6. The grounds for the trial decision (including the purport and a summary of the ground for the request);
 7. The date of the trial decision.
- (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 of the closure of the trial examination.
- (4) Even after notification of the closure of a trial examination under paragraph (3), the presiding administrative patent judge may, if necessary, reopen the case upon the request of a party or intervenor or *ex officio*.
- (5) A trial decision shall be rendered within 20 days following the date on which notification of the closure of the trial examination is served under paragraph (3).
- (6) When a trial decision or a decision has been rendered, the presiding administrative patent judge shall serve a certified copy of the trial decision or decision on the parties, intervenors, and persons who have requested intervention in the trial but have been rejected.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-27 (Res Judicata)

When a trial decision has become final and binding pursuant to this Act, no person may request the trial again for the relevant case on the basis of the same facts and evidence: *Provided*, That this shall not apply where the final and binding trial decision is a decision of dismissal.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-28 (Relationship with Litigations)

- (1) A presiding administrative patent judge shall, if necessary for a trial, suspend the proceedings until the decision on an application for objection against unexamined design registration or the trial decision of another trial relevant to the trial becomes final and binding, or litigation proceedings thereon are concluded.
- (2) The court may, if necessary for litigation proceedings, suspend the litigation proceedings until a trial decision on the design becomes final and binding.
- (3) Where an action relating to the infringement of a design right or exclusive license is instituted, the relevant court shall notify the President of the Intellectual Property Tribunal of the purport thereof. This shall also apply where the litigation proceedings have been terminated.
- (4) Where a trial for invalidating a design right, etc. is requested in response to a legal action against an infringement of a design right or exclusive license under paragraph (3), the President of the Intellectual Property Tribunal shall notify the relevant court under paragraph (3) of the purport thereof. This shall also apply where there is a decision to dismiss a request for trial, a trial decision or a withdrawal of a request.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-29 (Costs of Trial)

- (1) The imposition of costs in connection with a trial under [Articles 68](#) (1) and [69](#) 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.
- (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 of a trial under paragraph (1).
- (3) The costs of a trial under [Article 67-2](#), [67-3](#), or [70](#) shall be borne by a petitioner or an applicant for objection against unexamined design registration.
- (4) [Article 102 of the Civil Procedure Act](#) shall apply *mutatis mutandis* to costs borne by a petitioner or an applicant for objection against unexamined design registration under paragraph (3).
- (5) The President of the Intellectual Property Tribunal shall decide upon the total costs of a trial upon the request of a party and after the trial decision or the decision has become final and binding.
- (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 a trial, shall be governed by the examples of relevant provisions of the Costs of [Civil Procedure Act](#), unless contrary to its nature.
- (7) The official fees which a party has paid or will pay to a patent attorney who represents the party in a trial shall be deemed the costs of the trial to the extent determined 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 to have been represented by one patent attorney.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-30 (Title of Enforcement of Trial Costs or Consideration)

A final and binding ruling on the costs of a trial decided upon by the President of the Intellectual Property Tribunal or on the consideration decided upon by an administrative patent judge under this Act shall have the same effect as an enforceable title of liability. In such cases, the enforceable writ shall be issued by a public official of the Intellectual Property Tribunal.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-31 (Special Provisions for Trial against Decision to Reject Design Registration)

[Articles 72-10](#) (1) and (2), [72-19](#) and [72-20](#) shall not apply to a trial under [Article 67-2](#) or [67-3](#).

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-32 (Effects of Examination or Application for Objection against Unexamined Design Registration Proceedings)

Design-related procedures previously taken during the course of an examination or with regard to an application for objection against unexamined design registration shall also remain effective in a trial against a decision to reject a design registration or a decision to cancel a design registration.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 72-33 (Revocation of Decision to Reject Design Registration, etc.)

- (1) Where an administrative patent judge acknowledges that a request for a trial filed under [Article 67-2](#) or [67-3](#) is well grounded, he/she shall revoke a ruling to dismiss an amendment, reject a design registration, or revoke a design registration by a trial decision.
- (2) Where a ruling to dismiss an amendment, reject a design registration, or cancel a design registration is revoked in a trial, a trial decision may be rendered to refer the relevant matter to an examination.
- (3) The grounds for a trial decision rendered under paragraphs (1) and (2) which constitute the basis for the revocation shall be binding on the examiner with respect to the case.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

CHAPTER VIII RETRIAL AND LITIGATION

Article 73 (Request for Retrial)

- (1) Any party may request a retrial on a trial decision that has become final and binding.
- (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. 8187, Jan. 3, 2007>*

Article 73-2 (Request for Retrial on Trial Decision of Fraudulence)

- (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 trial decision which has become final and binding.
- (2) Where a request for a retrial under paragraph (1) is filed, the parties of the trial shall be joint defendants.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 73-3 (Period for Requesting Retrial)

- (1) A retrial shall be requested within 30 days from the date on which the petitioner becomes aware of the grounds for the retrial after the trial decision became final and binding.
- (2) Where a retrial is requested by reason of defects in the authority of representation, 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 has been rendered, by means of service of a certified copy of such trial decision.
- (3) No request for a retrial shall be filed after the expiration of three years from the date on which the trial decision becomes final and binding.
- (4) Where grounds for a retrial arise after the trial decision has become final and binding, the period prescribed in paragraph (3) shall be counted from the day following the date on which

the grounds first accrue.

- (5) Paragraphs (1) and (3) shall not apply to a request for a retrial on the grounds that the trial decision conflicts with a final and binding trial decision previously rendered.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 74 (Restriction on Effects of Design Rights Restored by Retrial)

- (1) In any of the following cases, no effect of a design right shall be extended to goods imported in good faith, or produced or acquired in the Republic of Korea after the trial decision becomes final and binding but before a request for a retrial is registered: *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*

1. Where a design right (including a design right that has been finally and bindingly revoked in a trial against a decision to revoke a design registration) had been invalidated but is restored by a retrial;
2. Where, after a trial decision became final and binding, ruling that a product was outside the scope of the design right, a decision to the contrary at a retrial has become final and binding;
3. Where a trial decision to reject an application for design registration has become final and binding but the establishment of the design right is registered by a retrial.

- (2) Where a design right falls under any subparagraph of paragraph (1), the effect of the design right shall not extend to any of the following acts: *<Amended by Act No. 5082, Dec. 29, 1995; Act No. 7289, Dec. 31, 2004>*

1. Working of the design in good faith after the trial decision became final and binding but before the request for a retrial is registered;
2. Manufacturing, assigning, leasing, importing, or offering for assigning or leasing of the products to which the registered design has been applied, after the trial decision became final and binding but before the request for a retrial is registered.

Article 74-2 (Non-Exclusive License for Prior User of Design Right Restored by Retrial)

For cases which fall under any subparagraph of [Article 74](#) (1), any person who has been, in good faith, commercially conducting a business using the relevant design in the Republic of Korea, or has been preparing therefor, after a trial decision became final and binding but prior to the registration of a request for retrial, shall have a non-exclusive license on the design right to the extent of the design and of the purpose of business which is being conducted or prepared for.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 74-3 (Non-Exclusive License for Person Deprived of Non-Exclusive License by Retrial)

- (1) Where, after a trial decision to grant a non-exclusive license under [Article 70](#) (1) or (2) has become final and binding, a trial decision to the contrary is rendered finally and bindingly at a retrial, any person who has been, in good faith, commercially conducting a business using the design concerned in the Republic of Korea, or has been preparing therefor prior to the registration of a retrial request shall have a non-exclusive license on the design right or on the exclusive license existing at the time the trial decision of the retrial becomes final and binding, within the objective of the non-exclusive license and the scope of the design.
- (2) Any person holding a non-exclusive license under paragraph (1) shall pay reasonable consideration to the owner of the design right or the exclusive licensee.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 74-4 (Mutatis Mutandis Application of Provisions on Trial to Retrial)

The provisions relating to trial proceedings shall apply *mutatis mutandis* to a retrial, unless contrary to its nature.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 74-5 (Mutatis Mutandis Application of the Civil Procedure Act)

[Article 459 \(1\) of the Civil Procedure Act](#) shall apply *mutatis mutandis* to a request for retrial.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 75 (Actions against Trial Decisions, etc.)

- (1) The Patent Court of Korea shall have exclusive jurisdiction over any action against a trial decision, a decision of rejection under [Article 18-2](#) (1) applied *mutatis mutandis* pursuant to [Article 71](#) (1) (including cases as applicable *mutatis mutandis* in [Article 74-4](#)), a decision of rejection of a request for a trial or retrial.
- (2) An action prescribed in paragraph (1) may be brought by a person who is a party, an intervenor or any person who has requested intervention in the trial but has been rejected.
- (3) An action prescribed in paragraph (1) may be brought within 30 days from the date of receipt of a certified copy of the trial decision or decision.
- (4) The period prescribed in paragraph (3) shall be a peremptory period.
- (5) With respect to a peremptory period referred to in paragraph (3), the presiding administrative patent judge may, *ex officio*, determine any additional period for the benefit of a person whose domicile or residence is in a remote area or a person residing in an area difficult to access.
- (6) An action on matters for which a trial may be requested may not be brought unless it is related to a trial decision.
- (7) An action under paragraph (1) on a trial decision on consideration under [Article 72-26](#) (2) 5 and a trial decision or decision on trial costs under [Article 72-29](#) (1) may not be brought independently.
- (8) Any person who has received a ruling from the Patent Court under paragraph (1) may appeal to the Supreme Court.

[This Article Wholly Amended by Act No. 9764, Jun. 9, 2009]

Article 75-2 (Qualifications for Defendants)

In any action under [Article 75](#) (1), the Commissioner of the Korean Intellectual Property Office shall be the defendant: *Provided*, That in cases of an action against the trial decision of a trial, or a retrial thereof, under [Articles 68](#) (1), [69](#), and [70](#) (1) and (2), the petitioner or the defendant thereof shall be the defendant.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 75-3 (Notification of Institution of Action and Service of Original Copies of Judgments)

- (1) When any action is instituted against a trial decision or a decision of dismissal under [Article](#)

[18-2](#) (1) applied *mutatis mutandis* pursuant to [Article 71](#) (1) (including cases as applicable *mutatis mutandis* in [Article 74-4](#)), or an appeal is filed under [Article 75](#) (8), the court shall notify, without delay, the President of the Intellectual Property Tribunal of the purport thereof.

(2) When a litigation procedure regarding an action under the proviso to [Article 75-2](#) has been concluded, the court shall serve the original copies of the judgments rendered in all instance levels with regard to the action on the President of the Intellectual Property Tribunal.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 75-4 (Revocation of Trial Decision or Decision)

(1) Where the court has deemed that an action filed under [Article 75](#) (1) was well grounded, it shall revoke the trial decision or decision by judgment.

(2) Where a revocation of a trial decision or decision becomes final and binding under paragraph (1), the administrative patent judge shall review the case and issue a trial decision or decision.

(3) The grounds for a judgment on an action under paragraph (1) which constitute the basis for the revocation shall be binding on the Intellectual Property Tribunal with respect to the case.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 75-5 (Action against Decision on Consideration)

(1) Any person who is dissatisfied with a trial decision or decision regarding consideration under [Article 70](#) (3) may file an action in the court.

(2) An action under paragraph (1) shall be filed within 30 days from the date of receipt of a certified copy of the trial decision or decision.

(3) The period prescribed in paragraph (2) shall be a peremptory period.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 75-6 (Defendant in Action relating to Consideration)

In any action under [Article 75-5](#), the exclusive licensee, non-exclusive licensee, or owner of the design right shall be the defendant with regards to consideration under [Article 70](#) (3).

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 75-7 (Remuneration for Patent Attorneys and Costs of Litigation)

With respect to remuneration for a patent attorney representing a party in an action, [Article 109 of the Civil Procedure Act](#) shall apply *mutatis mutandis*. In such cases, "lawyer" shall be construed as "patent attorney".

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

CHAPTER IX SUPPLEMENTARY PROVISIONS

Article 76 (Inspection, etc. of Documents)

(1) A person who needs certification of application for a design registration or trial, etc., delivery of a certified copy or extract of documents, inspection or copy of the Design Register or other documents may request the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal to do so. <Amended by Act No. 4894, Jan. 5, 1995; Act No. 7289, Dec. 31, 2004>

- (2) The Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal may reject a request under paragraph (1) if the required document relates to an application that is not laid open and the establishment of design right is not registered, or it is liable to contravene public order or virtuous manners and customs. <Amended by Act No. 4894, Jan. 5, 1995; Act No. 5082, Dec. 29, 1995; Act No. 7289, Dec. 31, 2004>

Article 77 (Prohibition of Carrying Out or Opening of Documents Relating to Application, Examination, Trial, etc.)

- (1) Documents relating to applications for design registration, examinations, applications for objection against unexamined design registration, trials or retrials, and the Design Register shall not be carried out to the outside unless they fall under any of the following subparagraphs: <Amended by Act No. 8187, Jan. 3, 2007; Act No. 9764, Jun. 9, 2009; Act No. 10012, Feb. 4, 2010>
1. Where documents relating to an application for design registration or examination are carried out to the outside in order to investigate, etc. into a prior design pursuant to [Article 25-2](#) (1) or (2);
 2. Where documents relating to an application for design registration, examination, application for objection against unexamined design registration, trial or retrial, and the Design Register are carried out to the outside for the entrustment of affairs of digitizing design documents pursuant to [Article 77-2](#) (1);
 3. Where documents relating to an application for design registration, examination, application for objection against unexamined design registration, trial or retrial, and the Design Register are carried out to the outside for on-line remote performance of duties pursuant to [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 application for design registration, examination, objection against unexamined design registration, trial or retrial or as to the contents of a trial decision or ruling. <Amended by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>

Article 77-2 (Agency for Affairs of Digitizing Design Documents)

- (1) Where it is considered necessary to deal effectively with design-related procedures, the Commissioner of the Korean Intellectual Property Office may entrust any juristic person equipped with facilities and manpower prescribed by Ordinance of the Ministry of Knowledge Economy with affairs of digitizing documents relating to design registration applications, examinations, applications for objection against unexamined design registration, trials or retrials or the Design Register through an electronic information processing system and the technology of utilizing the electronic information processing system, or any affairs similar thereto (hereinafter referred to as "affairs of digitizing design documents").
- (2) No present or former executive or employee of a person entrusted with the affairs of digitizing design documents pursuant to paragraph (1) (hereinafter referred to as "agency for digitizing design documents") shall divulge nor appropriate confidential information on a design contained in a pending application to which he/she had access during the course of his/her

duties.

- (3) The Commissioner of the Korean Intellectual Property Office may, pursuant to paragraph (1), digitize written applications for design registration or other documents prescribed by Ordinance of the Ministry of Knowledge Economy, which are not submitted in electronic documents prescribed in [Article 4-28](#) (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.
- (4) The details written in a file under paragraph (3) shall be deemed to be same as those entered in the relevant documents.
- (5) Methods of performing affairs of digitizing design documents and other matters necessary therefor shall be determined by Ordinance of the Ministry of Knowledge Economy.
- (6) Where any agency for digitizing design documents which falls short of the standards for the facilities and manpower prescribed by Ordinance of the Ministry of Knowledge Economy under paragraph (1) fails to take corrective measures therefor requested by the Commissioner of the Korean Intellectual Property Office, the latter may cancel the entrustment of the affairs of digitizing design documents to the said agency. In such cases, he/she shall first provide the agency an opportunity to present its opinion thereabout.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 77-3 (Service of Documents)

Necessary matters related to the procedure, etc. for serving documents prescribed in this Act shall be provided for by Presidential Decree.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 77-4 (Service by Public Announcement)

- (1) Where documents cannot be served because the domicile or place of business of a person to be served is unclear, such documents shall be served by public announcement.
- (2) Service by public announcement shall be implemented by publishing a notice in the Design Gazette to the effect that the documents to be served will be delivered at any time to the person to be served.
- (3) The initial service by public announcement shall come into force after two weeks elapse from the date it is published in the Design Gazette: *Provided*, That a subsequent service by public announcement on the same party shall come into force from the date following the date of publishing it in the Design Gazette.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 77-5 (Service on Overseas Residents)

- (1) For an overseas resident having a design administrator, documents to be served to him/her shall be served on his/her design administrator.
- (2) For an overseas resident without a design administrator, documents to be served to him/her 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.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 78 (Design Gazette)

- (1) The Korean Intellectual Property Office shall publish the Design Gazette. <Amended by Act No. 7289, Dec. 31, 2004; Act No. 8187, Jan. 3, 2007; Act No. 9764, Jun. 9, 2009>
- (2) The Design Gazette may be published through electronic media, as prescribed by Ordinance of the Ministry of Knowledge Economy. <Newly Inserted by Act No. 5329, Apr. 10, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004; Act No. 8852, Feb. 29, 2008>
- (3) When the Design Gazette is published through electronic media, the Commissioner of the Korean Intellectual Property Office shall make public the fact of publication of the Design Gazette, its principal contents and service by public announcement through information and communications networks. <Newly Inserted by Act No. 5329, Apr. 10, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>
- (4) Matters to be published in the Design Gazette under paragraph (1) shall be determined by Presidential Decree. <Amended by Act No. 7289, Dec. 31, 2004>

Article 78-2 (Submission, etc. of Documents)

The Commissioner of the Korean Intellectual Property Office or an examiner may require a party concerned to submit documents and articles necessary for dealing with proceedings, other than those relating to a trial or retrial.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 79 (Indication of Design Registration)

An owner of a design right or an exclusive or non-exclusive licensee may indicate the design registration on the articles to which the registered design is applied, or vessels, packing, etc. of such articles. <Amended by Act No. 7289, Dec. 31, 2004>

Article 80 (Prohibition of False Indication)

No person shall perform the following acts: <Amended by Act No. 7289, Dec. 31, 2004>

1. Indicating design registration or application for design registration or making an indication to be confused easily with it on the articles whose designs are not registered, or whose design registration is not applied, or on the vessels or packing of such articles;
2. Transferring, lending or displaying those made an indication as referred to in subparagraph 1;
3. Indicating articles whose designs are not registered or whose design registration is not applied, in an advertisement, signboard or tag as if the design registration or application for design registration were made, or making an indication to be confused easily with it, for the purpose of producing, using, transferring or lending them.

Article 81 (Restriction on Appeal)

- (1) No appeal may be filed under other Acts against a ruling to dismiss an amendment, a decision to grant or reject a design registration, a decision to cancel a design registration, a trial decision, or a decision to reject a request for a trial or retrial under this Act, and no objection may be raised under other Acts against any disposition against which no appeal may be filed under this Act.
- (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](#).

[This Article Wholly Amended by Act No. 9764, Jun. 9, 2009]

CHAPTER X PENAL PROVISIONS

Article 82 (Offense of Infringement)

- (1) Any person who infringes a design right or an exclusive license shall be punished by imprisonment for not more than seven years or by a fine not exceeding 100 million won. *<Amended by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*
- (2) The offense under paragraph (1) shall be initiated upon filing of a complaint by an injured party.

Article 83 (Offense of Perjury)

- (1) Where any witness, expert witness or interpreter who took an oath under this Act makes a false statement, or provides a false expert opinion or interprets falsely before the Intellectual Property Tribunal, he/she shall be punished by imprisonment for not more than five years or by a fine not exceeding 10 million won. *<Amended by Act No. 4894, Jan. 5, 1995; Act No. 6413, Feb. 3, 2001>*
- (2) Where a person who has committed an offense as referred to in paragraph (1), surrenders himself/herself to justice before the decision to grant or reject a design registration, decision on objection against unexamined design registration, or trial decision on the case becomes final and binding, the sentence may be reduced or exempted. *<Amended by Act No. 5354, Aug. 22, 1997; Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*

Article 84 (Offense of False Indication)

Any person who violates the provisions of [Article 80](#) shall be punished by imprisonment for not more than three years or by a fine not exceeding 20 million won.

Article 85 (Offense of Fraud)

Any person who has obtained a design registration or a trial decision by means of a fraudulent or any other unjust act, shall be punished by imprisonment for not more than three years or by a fine not exceeding 20 million won. *<Amended by Act No. 6413, Feb. 3, 2001; Act No. 7289, Dec. 31, 2004>*

Article 86 (Offense of Divulging Confidential Information, etc.)

Where any present or former employee of the Korean Intellectual Property Office or the Intellectual Property Tribunal has divulged or appropriated confidential information relating to a design contained in a pending application, or requested to be kept confidential under [Article 13](#) (1) to which he/she had access during the course of his/her duties, he/she shall be punished by imprisonment for not more than five years, or by a fine not exceeding 50 million won. *<Amended by Act No. 4894, Jan. 5, 1995; Act No. 7289, Dec. 31, 2004; Act No. 9764, Jun. 9, 2009>*
[This Article Wholly Amended by Act No. 4595, Dec. 10, 1993]

Article 86-2 (Executives and Employees of Specialized Organization, etc. Deemed Public Officials)

Any person who is or was an executive or employee of any specialized organization under

[Article 25-2](#) (1) or any agency for digitizing design documents under [Article 77-2](#) shall be deemed one who is or was an employee of the Korean Intellectual Property Office for purposes of applying [Article 86](#).

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 87 (Joint Penal Provisions)

Where a representative of a juristic person or an agent, employee, or any other servant of a juristic person or individual commits any violation under [Article 82](#) (1), [84](#), or [85](#) in connection with the business of the juristic person or individual, the juristic person, in addition to the offender, shall be sentenced to a fine which falls under any of the following subparagraphs and the individual shall be sentenced to a fine provided for in the relevant Article: *Provided*, That if the said juristic person or individual has not been negligent in giving due attention and supervision over the relevant business in order to prevent such violation, this shall not apply:

1. In cases of [Article 82](#) (1): A fine not exceeding 300 million won;
2. In cases of [Article 84](#) or [85](#): A fine not exceeding 60 million won.

[This Article Wholly Amended by Act No. 9223, Dec. 26, 2008]

Article 87-2 (Confiscation, etc.)

- (1) Any article that is the subject of an infringing act falling under [Article 82](#) (1), or any article arising out of such act, shall be confiscated, or, upon the request of the injured party, a judgment shall be rendered to the effect that such article shall be delivered to the injured party.
- (2) Where an article is delivered to the injured party under paragraph (1), that person may claim compensation for damages in excess of the value of the article.

[This Article Newly Inserted by Act No. 9764, Jun. 9, 2009]

Article 88 (Fines for Negligence)

- (1) Any person who falls under any of the following subparagraphs shall be punished by a fine for negligence not exceeding five hundred thousand won: *<Amended by Act No. 4894, Jan. 5, 1995; Act No. 6626, Jan. 26, 2002; Act No. 8187, Jan. 3, 2007>*
 1. Any person who took an oath under [Articles 299](#) (2) and [367 of the Civil Procedure Act](#), and makes a false statement before the Intellectual Property Tribunal;
 2. Any person who has been ordered by the Intellectual Property Tribunal to submit or present documents or other articles in relation to examining or preservation of evidence, but fails to comply with the order without justifiable grounds;
 3. *Deleted; <by Act No. 7289, Dec. 31, 2004>*
 4. Any person with a subpoena of the Intellectual Property Tribunal to appear as a witness, expert witness or interpreter fails to comply with such subpoena, or refuses to make an oath or statement, or give a testimony or expert opinion or 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) through (5) *Deleted. <by Act No. 9764, Jun. 9, 2009>*

Article 89 Deleted. <by Act No. 9764, Jun. 9, 2009>

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on September 1, 1990.

Article 2 (General Transitional Measures)

Except as otherwise provided for in Articles 3 through 7 of the Addenda, this Act shall also apply to matters that have taken place before this Act enters into force: *Provided*, That this Act shall have no influence on any effect produced pursuant to the previous provisions.

Article 3 (Transitional Measures concerning Applications, etc.)

Any appellate trial on dissatisfaction with an examination of an application for design registration and a rejection ruling made before this Act enters into force shall be governed by the previous provisions.

Article 4 (Transitional Measures concerning Trial, etc. on Registered Design Right of which is Established)

Any trial, appellate trial, retrial and lawsuit on a registered design of which the right is established on the base of an application for design registration filed before this Act enters into force shall be governed by the previous provisions.

Article 5 (Transitional Measures concerning Dismissal of Amendments)

Any amendment made before this Act enters into force shall be governed by the previous provisions.

Article 6 (Transitional Measures concerning Expropriation, etc. of Design Right)

Any disposition or lawsuit pertaining to a restriction, expropriation, revlocation or working of a design right requested before this Act enters into force shall be governed by the previous provisions.

Article 7 (Transitional Measures concerning Procedure and Expenses of Trial and Compensation for Damages, etc.)

Any procedure, expenses, compensation for damages, etc. as to a trial, appellate trial, retrial and lawsuit requested before this Act enters into force shall be governed by the previous provisions.

ADDENDA <Act No. 4541, Mar. 6, 1993>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 5 Omitted.

ADDENDA<Act No. 4595, Dec. 10, 1993>

(1) (Enforcement Date) This Act shall enter into force on January 1, 1994.

(2) (Transitional Measures concerning Term of Design Right) Notwithstanding the amended provisions of [Article 40](#) (1), the term of a design right established, or to be established by an application for registration of design, before this Act enters into force, shall be governed by the

previous provisions.

(3) (Transitional Measures concerning Period for Return of Design Registration Fees, etc.) The return of design registration fees and other official fees erroneously paid before this Act enters into force shall be governed by the previous provisions.

(4) (Applicability concerning Return of Design Registration Fees) The revised provisions of [Article 36](#) (1) 2 concerning the return of design registration fees due to a final decision on invalidation of a design registration shall apply to those the invalidation of which is decided conclusively after this Act enters into force.

ADDENDA<Act No. 4894, Jan. 5, 1995>

Article 1 (Enforcement Date)

This Act shall enter into force on March 1, 1998.

Article 2 (Transitional Measures on Cases Pending)

- (1) Any case for which a request for trial has been filed or a case pending for which a request for appellate trial against a ruling of rejection or a decision to dismiss an amendment before this Act enters into force shall be deemed to have been brought before the Intellectual Property Tribunal and to have been pending therein.
- (2) Any case for which a request for appellate trial against a trial decision has been filed or a case pending for which a request for immediate appeal against a decision to dismiss a written request for trial before this Act enters into force shall be deemed to have been brought before the Patent Court under this Act and to have been pending therein.

Article 3 (Transitional Measures on Cases, etc. against which Appeal may be Filed)

- (1) A court action may be brought against a case on which a trial decision, a decision to dismiss a request for trial, a ruling of rejection, or a decision to dismiss an amendment by an examiner as at the time this Act enters into force, and against which an appeal has not been filed with the Intellectual Property Tribunal under the previous provisions within 30 days from the date this Act enters into force; a court action as referred to in Article 186 (1) of the [Patent Act](#) applied *mutatis mutandis* pursuant to [Article 75](#) of this Act may be brought against a trial decision and a decision to dismiss a request for trial; and a trial as referred to in [Article 132-3](#) or [132-4 of the Patent Act](#) applied *mutatis mutandis* pursuant to [Article 72](#) of this Act may be requested against a ruling of rejection, or a decision to dismiss an amendment by an examiner: *Provided*, That this shall not apply where any period for requesting a retrial has expired under the previous provisions as at the time this Act enters into force.
- (2) Any appeal may be filed, within 30 days from the date this Act enters into force, against a case on which a trial decision of an appellate trial, a decision to dismiss a request for appellate trial and a decision to dismiss an amendment by an appellate administrative patent judge, as at the time this Act enters into force has been served, with the Supreme Court: *Provided*, That this shall not apply where any period for requesting a retrial has expired under the previous provisions as at the time this Act enters into force.
- (3) Any case against which an appeal has been filed with the Supreme Court and which is pending therein before this Act enters into force and any case against which an appeal has

been filed pursuant to paragraph (2) shall be deemed to have been pending or to have been filed with the Supreme Court by this Act.

Article 4 (Transitional Measures on Cases of Retrial)

The provisions of Articles 2 and 3 of the Addenda shall apply *mutatis mutandis* to any case of retrial pending.

Article 5 (Transfer, etc. of Documents)

- (1) The Commissioner of the Korean Intellectual Property Office shall transfer documents on cases which are pending as prescribed in Article 2 (1) of the Addenda (including those as applicable *mutatis mutandis* under Article 4 of the Addenda) without delay to the President of the Intellectual Property Tribunal.
- (2) The Commissioner of the Korean Intellectual Property Office shall transfer documents on any case which is pending as prescribed in Article 2 (2) of the Addenda (including those as applicable *mutatis mutandis* under Article 4 of the Addenda) without delay to the Chief Judge of the Patent Court. In such cases, matters necessary for the transfer, etc. of documents shall be determined by the Supreme Court Regulations.

ADDENDA<Act No. 5082, Dec. 29, 1995>

- (1) (Enforcement Date) This Act shall enter into force on July 1, 1996.
- (2) (Transitional Measures concerning Procedure and Expenses for Trial, and Compensation for Damage, etc.) The procedure, expenses, compensation for damages, etc. related to the trial, appellate trial, retrial and lawsuit requested against any act committed before this Act enters into force, shall be governed by the previous provisions.

ADDENDA <Act No. 5329, Apr. 10, 1997>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 1997. (Proviso Omitted.)

Articles 2 through 5 *Omitted.*

ADDENDA<Act No. 5354, Aug. 22, 1997>

Article 1 (Enforcement Date)

This Act shall enter into force on March 1, 1998.

Article 2 (Transitional Measures as to Applications, etc.)

An examination or ruling of rejection in respect of an application for registration of design filed before this Act enters into force shall be governed by the previous provisions.

Article 3 (Transitional Measures as to Trials, etc. on Registered Designs)

Trials, retrials, and court actions in respect of registered designs on which rights are established in accordance with applications for registration of design before this Act enters into force shall be governed by the previous provisions.

Article 4 (Transitional Measures as to Dismissal of Amendments)

Any amendment made before this Act enters into force shall be governed by the previous provisions.

Article 5 (Applicability concerning Allowance of Exceptions to Loss of Novelty)

The amended provisions of [Article 8](#) (1) and (2) shall apply to applications for design registration filed on or after the date this Act enters into force.

Article 6 (Applicability concerning Extension of Terms of Design Rights)

The amended provisions of [Article 40](#) (1) shall apply to design rights registered by applications for design registration filed on or after the date this Act enters into force.

Article 7 (Applicability concerning Relationship with Third Persons' Design Rights, etc.)

The amended provisions of [Article 45](#) (2) shall apply to owners of design rights registered by applications for design registration filed on or after the date this Act enters into force, or to exclusive licensees thereto.

ADDENDA <Act No. 5576, Sep. 23, 1998>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 1999: *Provided, That ... <Omitted>..., the amended provisions of Articles 21 and 22 of the Design Act among Article 5 (1) of the Addenda, shall enter into force on July 1, 1999.*

Articles 2 through 5 Omitted.

ADDENDA <Act No. 6024, Sep. 7, 1999>

Article 1 (Enforcement Date)

This Act shall enter into force on October 1, 2000. (Proviso Omitted.)

Articles 2 through 13 Omitted.

ADDENDA <Act No. 6413, Feb. 3, 2001>

(1) (Enforcement Date) This Act shall enter into force on July 1, 2001: *Provided, That the amended provisions of [Article 36](#) (2) and (3) shall enter into force on the date of its promulgation.*

(2) (General Transitional Measures) The previous provisions shall apply to the requirements for registration, division, modification, examination, design registration, design right, objection to an unexamined design registration, trial, retrial, or litigation related to an application for a design registration which is submitted as at the time this Act enters into force: *Provided, That this shall not apply to cases falling under any of the following subparagraphs:*

1. The amended provisions of [Article 31-2](#) shall apply to cases where each design in an application for multiple design registration is abandoned;
2. The amended provisions of [Article 33-2](#) shall apply to cases where an application for design registration or design right is deemed to have existed retroactively by late payment of registration fees;
3. The proviso to Article 140-2 (1) and Article 140-2 (3) of the [Patent Act](#) applied *mutatis mutandis* under the amended provisions of [Article 72](#) shall apply to cases where a trial against a ruling to reject a design registration is requested.

ADDENDA <Act No. 6626, Jan. 26, 2002>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2002.

Articles 2 through 7 Omitted.

ADDENDA <Act No. 6767, Dec. 11, 2002>

(1)(Enforcement Date) This Act shall enter into force five months after the date of its promulgation.

(2)(Applicability concerning Handling of Objections against Unexamined Design Registrations) The amended provisions of [Article 30](#) (2) shall apply to objections against unexamined design registrations filed on or after the date this Act enters into force.

ADDENDA <Act No. 7289, Dec. 31, 2004>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Article 2 (Transitional Measures concerning Applications, etc.)

The qualifications for registration, modification, examination, trial, retrial of application, and legal proceedings concerning an application for design registration made before this Act enters into force shall be governed by the previous provisions.

Article 3 (Transitional Measures concerning Trials, etc. of Registered Design)

Any objection against unexamined design registration, trial, retrial and litigation concerning a registered design over which right is established pursuant to an application for design registration filed before this Act enters into force shall be governed by the previous provisions.

Article 4 (Transitional Measures concerning Change of Name, such as Registered Design)

A registered design or application for design registration pursuant to the previous provisions as at the time this Act enters into force shall be deemed a registered design or application for design registration pursuant to the amended provisions of this Act.

Article 5 Omitted.

ADDENDUM <Act No. 7556, May 31, 2005>

This Act shall enter into force on September 1, 2005.

ADDENDA <Act No. 7869, Mar. 3, 2006>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 6 Omitted.

ADDENDA <Act No. 8187, Jan. 3, 2007>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation: *Provided*, That the amended provisions of the latter part of [Article 4](#), [Articles 13](#) (2), [16](#) (3), [18](#) (3) through (6), [23-6](#), [26](#) (2), [29-5](#)

[through 29-9](#), [30](#) (2), [36](#) (1) [3](#), (2) and (3), and [50-2](#), the latter part of [Article 72](#) and the latter part of [Article 81](#) shall enter into force on July 1, 2007.

Article 2 (Applicability concerning Confidential Designs)

The amended provisions of [Article 13](#) (2) shall apply to applications for design registration filed on or after July 1, 2007.

Article 3 (Applicability concerning Prior Applications, etc.)

- (1) The amended provisions of [Article 16](#) (3) shall apply to applications for design registration filed on or after July 1, 2007 but abandoned, or for which decisions of rejection or trial decisions to reject such are concluded.
- (2) The amended provisions of [Article 23-6](#) shall apply to applications for design registration filed on or after July 1, 2007 for which decisions of rejection or trial decisions to reject such are concluded.

Article 4 (Applicability concerning Amendments to Applications)

The amended provisions of [Article 18](#) (3) shall apply to independent applications for design registration amended on or after July 1, 2007.

Article 5 (Applicability concerning Decisions to Reject Design Registration)

The amended provisions of [Article 26](#) (2) shall apply to applications for unexamined design registration filed on or after July 1, 2007.

Article 6 (Applicability concerning Refund of Registration Fees, etc.)

The part regarding application fees for design registration under the amended provisions of [Article 36](#) (1) [3](#), (2) and (3) shall apply to applications for design registration filed on or after July 1, 2007.

Article 7 (Applicability concerning Non-Exclusive License following Prior Application)

The amended provisions of [Article 50-2](#) shall apply to applications for design registration filed on or after July 1, 2007 and meeting the requirements of the aforementioned amended provisions.

Article 8 (Applicability concerning Remuneration for Patent Attorneys)

The amended provisions of [Article 75](#) shall apply to cases in which patent attorneys stand proxy on or after the date this Act enters into force.

Article 9 (Transitional Measures concerning Refund of Registration Fees, etc.)

Notwithstanding the amended provisions of [Article 36](#) (2) and (3), the former provisions of [Article 36](#) (3) shall apply to requests for refund of amounts corresponding to registration fees under [Article 36](#) (1) [2](#) where decisions to cancel design registration or trial decisions to invalidate design registration become final and binding before July 1, 2007.

ADDENDA <Act No. 8357, Apr. 11, 2007>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDA <Act No. 8456, May 17, 2007>

(1)(Enforcement Date) This Act shall enter into force six months after the date of its

promulgation.

(2)(Applicability concerning Refund of Registration Fees, etc.) The amended provisions of [Article 36](#) (3) shall also apply to the registration fee and official fee for which the period of request for refund pursuant to the former provisions has not passed as at the time this Act enters into force.

ADDENDA <Act No. 8852, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 9223, Dec. 26, 2008>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 9381, Jan. 30, 2009>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2009. (Proviso Omitted.)

Articles 2 through 11 Omitted.

ADDENDA <Act No. 9764, Jun. 9, 2009>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2009.

Article 2 (Applicability concerning Payment, Late Payment and Remainder Payment of Design Registration Fees)

The amended provisions of [Articles 31](#), [33](#), [33-2](#) and [33-3](#) shall apply to payment, late payment or remainder payment of registration fees on or after the date this Act enters into force.

Article 3 (Applicability concerning Amendments to Written Requests for Trial)

The amended provisions of [Articles 72-2](#) (2) and [72-3](#) (2) shall apply to requests for a trial on or after the date this Act enters into force.

Article 4 (General Transitional Measures)

With respect to any application for a design registration filed pursuant to the previous provisions as at the time this Act enters into force, the previous provisions shall apply.

ADDENDA <Act No. 10012, Feb. 4, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 6 Omitted.
