

(Provisional Translation)

**Utility Model Act\***  
**(Act No.123 of April 13,1959,**  
**as amended by Act No. 220 of December 22, 1999)**

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## CHAPTER I GENERAL PROVISIONS

### *Purpose*

1. The purpose of this Law shall be to encourage devices by promoting the protection and utilization of devices relating to the shape or construction of articles or a combination of articles, so as to contribute to the development of industry. on

### *Definitions*

2.—(1) “Device” in this Law means the creation of technical ideas by which a law of nature is utilized.

(2) “Registered utility model” in this Law means a device for which a utility model registration has been effected. 1

(3) “Working” of a device in this Law means acts of manufacturing, using, assigning, leasing, importing or offering for assignment or lease (including displaying for the purpose of assignment or lease—hereinafter the same) of, articles embodying the device. ,

### *Amendment*

**2bis.**—(1) A person who is proceeding on a utility model application or a demand or taking any other procedure relating to utility model registration (hereinafter referred to as “procedure”) may make amendments only during the pendency of the case before the Patent Office. However, he may not amend the specification, the drawings or the abstract attached

to the request after the expiration of the time limit to be set by Cabinet Order from the filing date of the utility model application.

(2) An amendment of the specification or drawings under the principal sentence of the preceding subsections shall remain within the scope of the features disclosed in the specification or drawings originally attached to the request. he

(3) The Commissioner of the Patent Office may invite an amendment, designating an adequate time limit, in the following cases: n

(i) when the requirements of Sections 7(1) to (3) or 9 of the Patent Law (Law No. 121 of 1959) as applied under Section 2 *quinquies* of this Law have not been complied with; o.121

(ii) when the formal requirements specified in this Law or in an order or ordinance thereunder have not been complied with; e

(iii) when the fee to be paid under Section 32(1) has not been paid with respect to a procedure; oa

(iv) when the fee to be paid under Section 54(1) or (2) has not been paid with respect to a procedure. t

(4) Any amendment (except in the case of the payment of the annual fee or fees) shall be submitted in writing. l

#### *Dismissal of Procedure*

**2ter.** The Commissioner of the Patent Office may dismiss a procedure when a person whom he has invited to make an amendment in accordance with Section 2 *bis* (3) or Section 6 *bis* fails to do so within the time limit designated in accordance with that subsection or that Section.

#### *Capacity of Associations, etc., which are not Legal Entities to Proceed Before the Office*

**2quater.**—(1) An association or foundation which is not a legal entity but for which an officer representing it or an administrator has been designated may, in its name:

(i) make a request for technical opinion as to registrability of a utility model referred to in Section 12(1); o

(ii) demand a trial ;

(iii) demand a retrial against a final and conclusive trial decision. on.

(2) An association or foundation which is not a legal entity but for which an officer representing it or an administrator has been designated may be made a party in its name to a retrial against a final and conclusive trial decision. r

#### *Application mutatis mutandis of Patent Law*

**2quinquies.**—(1) Sections 3 and 5 of the Patent Law shall apply mutatis mutandis to the time limits and dates prescribed in this Law.

(2) Sections 7 to 9, 11 to 16, 18*bis* to 24 of the Patent Law shall apply mutatis mutandis to the procedure.

(3) Section 25 of the Patent Law shall apply mutatis mutandis to utility model rights and other rights relating to utility model registrations.

(4) Section 26 of the Patent Law shall apply mutatis mutandis to utility model registrations.

## CHAPTER II UTILITY MODEL REGISTRATION AND APPLICATIONS THEREFOR

### *Registrability of Utility Models*

**3.**—(1) Any person who has made a device which is industrially applicable and which relates to the shape or construction of articles or a combination of articles may obtain utility model registration therefor, except in the case of the following devices:

(i) devices which were publicly known in Japan or elsewhere prior to the filing of the utility model application; he

(ii) devices which were publicly worked in Japan or elsewhere prior to the filing of the utility model application; he

(iii) devices which were described in a distributed publication or made available to the public through electric telecommunication lines in Japan or elsewhere prior to the filing of the utility model application. he

(2) Where a device could very easily have been made, prior to the filing of the utility model application, by a person with ordinary skill in the art to which the device pertains, on the basis of a device or devices referred to in any of the paragraphs of the preceding subsection, utility model registrations shall not be effected for such a device notwithstanding the preceding subsection. y

**3bis.** Where a device claimed in a utility model application is identical with a device or invention (excluding a device or invention made by the same person as the creator of the device claimed in the utility model application) disclosed in the specification or drawings originally attached to the request of another application for utility model registration or for a patent (in the case of the foreign language filer referred to in Section 36*bis* (2) of the Patent Law, the foreign language filer referred to in Section 36*bis* (1) of said Law) which was filed prior to the filing date of the utility model application and for which the Utility Model Gazette which states the matter referred to in each paragraph of Section 14(3) (hereinafter referred to as “the Gazette containing the Utility Model”) was published under said subsection after the filing of the utility model application or for which the Patent Gazette which states the matter referred to in each paragraph of Section 66(3) of the Patent Law (hereinafter referred to “the

Patent Gazette”) was published under said subsection of said Law or the laying open for public inspection (Kôkai) is effected, the utility model registrations shall not be granted for the device notwithstanding Section 3(1). However, this provision shall not apply where, at the time of filing of the utility model application, the applicant of the utility model application and the applicant of the other application for utility model registration or the application for a patent are the same person.

*Unregistrable Devices*

4. Devices which are liable to contravene public order, morality or public health shall not be the subject of utility model registration notwithstanding Section 3(1). 1

*Applications for Utility Model Registration*

5.—(1) Any person desiring a utility model registration shall submit a request to the Commissioner of the Patent Office stating the following:

(i) the name and the domicile or residence of the applicant for utility model registration; 1

(ii) the name and the domicile or residence of the creator .

(2) The request shall be accompanied by the specification, the drawings and the abstract. he

(3) The specification under Subsection (2) shall state the following :

(i) the title of the device ;

(ii) a brief explanation of the drawings ;

(iii) a detailed explanation of the device ;

(iv) utility model claim(s) .

(4) The detailed explanation of the device under Paragraph (iii) of the preceding subsection shall state in a manner sufficiently clear and complete for the device to be carried out by a person having ordinary skill in the art to which the device pertains as provided for in an ordinance of the Ministry of Economy, Trade and Industry. g

(5) In the utility model claim under Subsection (3)(iv), there shall be set forth, by statements separated on a claim-by-claim basis, all matters which an applicant for utility model registration considers necessary in defining a device for which utility model registration is sought. y

(6) The statements of the utility model registration claim under Subsection (3)(iv) shall comply with each of the following paragraphs as being: 1

(i) the device for which utility model registration is sought shall be described in the detailed explanation of the device; he

- (ii) a device for which a utility model registration is sought shall be clear ;
  - (iii) each claim shall be concise ;
  - (iv) in addition, the utility model registration claim(s) shall comply with an ordinance of the Ministry of Economy, Trade and Industry. e
- (7) The abstract under Subsection (2) shall state the summary of the device disclosed in the specification or drawings and other matters provided for in an ordinance of the Ministry of Economy, Trade and Industry. n
- 6.** Where there are two or more devices, they may be the subject of a utility model application in the same request provided that these devices are of a device claimed in one claim (hereinafter referred to as “the specified device”) and of another or other devices having the relationship as indicated below with respect to such specified device: l
- (i) devices of which the industrial applicability and the problem to be solved are the same as those of the specified device; he
  - (ii) devices of which the industrial applicability and the substantial part of the feature stated in the claim are the same as those of the specified device; s
  - (iii) devices having a relationship as provided for in Cabinet Order .

*Invitation to Amendment*

**6bis.** The Commissioner of the Patent Office may invite an amendment, designating an adequate time limit, where a utility model application falls under any of the following paragraphs:

- (i) the device claimed in the utility model application is not a device that relates to the shape or construction of articles or a combination of articles; he
- (ii) the device claimed in the utility model application is not registrable in accordance with Section 4; e
- (iii) the utility model application does not comply with the requirements of Section 5(6)(iv) or Section 6; on
- (iv) where the specification or drawings attached to the request does not contain the necessary matters or the description in the specification or drawings is very unclear. he

*First-to-File Rule*

**7.—(1)** Where two or more utility model applications relating to the same device are filed on different dates, only the first applicant may obtain utility model registration for the device.

(2) Where two or more utility model applications relating to the same device are filed on the same date, none of the applicants shall obtain utility model registration for the device. d

(3) Where a device claimed in a utility model application is the same as an invention claimed in a patent application and the applications are filed on different dates, the applicant for a utility model registration may obtain registration only if his application was filed before the patent application. on

(4) Where a utility model application or a patent application is abandoned, withdrawn or dismissed, such applications shall, for the purposes of the three preceding subsections, be deemed never to have been made. n

(5) Where an examiner's decision or trial decision that a patent application is refused has become final and conclusive, such applications shall, for the purposes of Subsection (3), be deemed never to have been made. However, this provision shall not apply where an examiner's decision or trial decision that the patent application is to be refused under the provision of the last sentence of Section 39(2) of the Patent Law becomes final and conclusive. obe

(6) A utility model application or a patent application filed by a person who is neither the creator nor the inventor nor the successor in title to the right to obtain utility model registration or patents shall, for the purposes of Subsections (1) to (3), be deemed not to be a utility model application or a patent application. r

(7) If no agreement is reached or no consultation is possible under Section 39(4) of Patent Law, the applicant for a utility model registration shall not obtain registration for such device. he

#### *Priority Claim Based on Utility Model Application*

**8.**—(1) Any person desiring a utility model registration may declare a priority claim for the device claimed in a utility model application on the basis of the device which has been disclosed in the specification or drawings originally attached to the request (in the case of a foreign language file application referred to in Section 36bis (2) of the Patent Law, in the foreign language file referred to in Section 36bis (1) of the Patent Law) of a utility model or a patent application in which he has the right to obtain utility model registration or a patent and which has been filed earlier (hereinafter referred to as “earlier application”) except in the following cases:

(i) the utility application concerned is not one filed within one year from the filing date of the earlier application; e

(ii) the earlier application is a new utility model application divided out from a utility model application under Section 44(1) of the Patent Law as applied under Section 11(1) of the Utility Model Law, a utility model application converted from an application under Section 10(1) or (2) of the Utility Model Law, a new patent application divided out from a patent application under Section 44(1), or a patent application converted from an application under Section 46(1) or (2) of the Patent Law; y

(iii) at the time when the utility model application concerned is filed, the earlier application has been abandoned, withdrawn or dismissed; r



(iv) at the time when the utility model application concerned is filed, the examiner's decision or the trial decision on the earlier application has become final and conclusive;

(v) at the time when the utility model application concerned is filed, the registration of establishment referred to in Section 14(2) with respect to the earlier application has been effected.

(2) For devices which are among those claimed in a utility model application containing a priority claim under the preceding subsection and which are disclosed in the specifications or drawings originally attached to the request of an earlier application whose priority is so claimed [in the case where the earlier application contains a priority claim under that subsection or Section 41(1) of the Patent Law, or a priority claim under Section 43(1) or Section 43*bis* (1) or (2) of the Patent Law (including its application under Section 11(1) of this Law), excluding the devices disclosed in the file (limited to those equivalent to the specifications and drawings) submitted at the time of the filing of the application whose priority is claimed for the earlier application; in the case where the earlier application is a foreign language file application referred to in Section 36*bis* (2) of the Patent Law, in the foreign language file referred to in Section 36*bis* (1) of that Law], the utility model application shall be considered to have been filed at the time when the earlier application was filed for the purposes of Section 3, the principal sentence of Section 3*bis* , Section 7(1) to (3), Section 30(1) to (3) of the Patent Law as applied under Section 11(1) of this Law, Section 17 of this Law, Sections 69(2)(ii), 79, 81 and 82(1) of the Patent Law as applied under Section 26 of this Law, Sections 39(3) and (4) and 72 of the Patent Law, Sections 26, 31(2) and 32(2) of the Design Law (Law No. 125 of 1959) and Sections 29 and 33*bis* (3) and Section 33*ter* (3) (including its application *mutatis mutandis* under Section 68(3) of the Trademark Law) of the Trademark Law (Law No. 127 of 1959).

(3) For devices which are among those disclosed in the specification or drawing originally attached to the request of a utility model application containing a priority claim under subsection (1) and which are the devices [excluding those devices disclosed in the documents (limited to those equivalent to the specification and drawings) submitted at the time of the filing of an application whose priority is claimed for an earlier application in the case where that earlier application contains a priority claim under Subsection (1) of this Section or Section 41(1) or under 43(1) or 43*bis* (1) or (2) of the Patent Law (including its application under Section 11(1) of this Law)] disclosed in the specification or drawings originally attached to the request of the earlier application whose priority is so claimed (in the case where that earlier application is the foreign language file application under Section 36*bis*(2) of the Patent Law, the foreign language file referred to in Section 36*bis* (1)), the Gazette containing the Utility Model or the laying open for public inspection in respect of the earlier application shall be considered to have been published or effected at the time when the Gazette containing the Utility Model in respect of the utility model application was published, for the purposes of the principal sentence of Section 3*bis* of this Law or the principal sentence of Section 29*bis* of the Patent Law.

(4) A person desiring to declare a priority claim under Subsection (1) shall, simultaneously with the utility model application, submit to the Commissioner of the Patent

Officeadocumentsettingforthastatementtothateffectandanidentificationoftheearlier application.

*WithdrawalofEarlierApplication,etc.*

**9.**—(1)TheearlierapplicationwhosepriorityisclaimedunderSection8(1)shallbe deemedwithdrawnattheexpirationofoneyearandthreemonthsfromthefilingdateofthat earlierapplication.However,wherethatearlierapplicationhasbeenabandoned,withdrawn ordismitted,wheretheexaminer’sdecisionortrialdecisiononthatearlierapplicationhas becomefinalandconclusive,wheretheregistrationofestablishmentreferredtoinSection 14(2)withrespecttotheearlierapplicationhasbeeneffected,orwhereallofthepriority claimsbasedonthatearlierapplicationhavebeenwithdrawn,thisprovisionshallnotapply.

(2) Theapplicantofautilitymodelapplicationcontainingapriorityclaimunde r Section8(1)shallnotwithdrawthepriorityclaimaftertheexpirationofoneyearandthree monthsfromthefilingdateoftheearlierapplication.

(3) WherethepatentapplicationcontainingapriorityclaimunderSection8(1)i s withdrawnwithinoneyearandthreemonthsfromthefilingdateoftheearlierapplications, thepriorityclaimshallbedeemedwithdrawnsimultaneously.

*ConversionofApplications*

**10.**—(1)Anapplicantforapatentmayconvertthisapplicationintoautilitymodel application.However,thisprovisionshallnotapplyafter30daysfromthetransmittalofthe examiner’sfirstdecisionthatthepatentapplicationistoberefusedorafterfiveyearsandsix monthsfromthefilingdateofthepatentapplication.

(2) Anapplicantforadesignregistrationmayconvertthisapplicationintoautilit y modelapplication.However,thisprovisionshallnotapplyafter30daysfromtransmittalof theexaminer’sfirstdecisionthatthedesignapplicationistoberefusedorafterfiveyearsand sixmonthsfromthefilingdateofthedesignapplication.

(3) Whereanapplicationhasbeenconvertedunderthetwoprecedingsubsections,t he utilitymodelapplicationshallbedeemedtohavebeenfiledatthetimeoffilingofthepatent ordesignapplication.However,thisprovisionshallnotapplywheretheutilitymodel applicationiseitheranotherapplicationforautilitymodelregistrationasreferredtoin Section3*bis* ofthisLaworanapplicationforautilitymodelregistrationasreferredtoin Section29*bis* ofthePatentLaw,forthepurposesofthosesectionsandSection8(4)ofthis LawaswellasSections30(4)and43(1)ofthePatentLawasappliedunderSection11(1)of thisLaw(includingitsapplicationunderSection43*bis* (3)ofthePatentLawasappliedunder Section11(1)ofthisLaw).

(4) ForthepurposeofSection43(2)ofthePatentLaw(includingitsapplicationunde r Section43*bis* (3)ofthesamelawasappliedinSubsection(1)ofthefollowingsectionofthis Law)whereautilitymodelapplicationisconvertedundertheprovisionofSubsection(1)or (2),“withinoneyearandfourmonthsfromtheearliestofthefilingdates”inSection43(2)

shall read “within the one year and four months from the earliest of the following filing dates or within three months from the filing date of the new patent application converted from the application under the provision of Section 10(1) or (2), whichever comes later”.

(5) Where an application has been converted under Subsection (1) or (2), the patent design applications shall be deemed to have been withdrawn. or

(6) The 30-day period prescribed in the proviso to Subsection (1) shall, when the time limit prescribed in Section 121(1) of the Patent Law has been extended in accordance with Section 4 of that Law, be deemed to have been extended only for that period as extended. e

(7) The 30-day period prescribed in the proviso to Subsection (2) shall, when the time limit prescribed in Section 46(1) of the Design Law has been extended in accordance with Section 4 of the Patent Law as applied under Section 68(1) of the Design Law, be deemed to have been extended only for that period as extended. e

(8) Where the conversion of an application under Subsection (1) is made, any statements or documents which have been submitted with respect to the original application for patent and which shall be submitted with respect to the new application for utility model registration in accordance with Section 8(4) of this Law or Sections 30(4) or 43(1) and (2) of the Patent Law as applied under Section 11(1) of this Law (including its application under Section 43bis (3) of the Patent Law as applied under Section 11(1) of this Law), shall be deemed to have been submitted to the Commissioner of the Patent Office simultaneously with the said new utility model application.

(9) The preceding subsections shall apply *mutatis mutandis* to the conversion of a application under Subsection (2). n

#### *Application mutatis mutandis of Patent Law*

**11.**—(1) Section 30 (exception to lack of novelty of invention), Section 38 (joint applications), Sections 43 to 44 (priority claim under the Paris Convention and division of patent applications) of the Patent Law shall apply *mutatis mutandis* to utility model applications.

(2) Sections 33 and 34(1) and (2), and (4) to (7) (right to obtain patent) of the Patent Law shall apply *mutatis mutandis* to the right to obtain utility model registration. nt

(3) Section 35 (employees' inventions) of the Patent Law shall apply *mutatis mutandis* to devices made by an employee, an executive officer of a legal entity or a national or local public official.

### CHAPTER III TECHNICAL OPINION AS TO REGISTRABILITY OF UTILITY MODEL

#### *Request for Technical Opinion as to Registrability of Utility Model*

12.—(1) Any person may make, to the Commissioner of the Patent Office, a request for a technical opinion as to registrability of a claimed device in a registered utility model or utility model application (hereinafter referred to as “a technical opinion as to registrability of a utility model”) provided for in Section 3(1)(iii) and (2) (only on the basis of a device or devices referred to in Sections 3(1)(iii), 3*bis* and 7(1) to (3) and (7)). In such a case, if there are two or more claims, a request may be made for each claim.

(2) Where a request is made, the Commissioner of the Patent Office shall have an examiner establish a report of a technical opinion as to registrability of the utility model (hereinafter referred to as “Jitsuyoshinan Gijutsu Hyokasho”) with respect to such a request.

(3) A request under Subsection (1) may be made even after the extinguishment of a utility model right. However, this provision shall not apply after the registration has been invalidated in a trial under Section 37(1).

(4) Section 47(2) of the Patent Law shall apply *mutatis mutandis* to the establishment of a report of a technical opinion as to registrability of a utility model.

(5) A request under Subsection (1) may not be withdrawn.

13. The Commissioner of the Patent Office shall, where a request for a technical opinion as to registrability of a utility model has been made before the publication of the Gazette containing the Utility Model, publish such fact in said Gazette at the time said Gazette is published or as soon as possible thereafter and where a request for a technical opinion as to registrability of a utility model has been made after the publication of said Gazette, he shall publish such fact in said Gazette without delay.

## CHAPTER IV THE UTILITY MODEL RIGHT

### 1. The Utility Model Right

#### *Registration of Establishment of Utility Model Right*

14.—(1) A utility model right shall come into force upon registration of its establishment.

(2) The establishment of a utility model right shall be registered when the application for a utility model registration has been filed, unless the application has been abandoned, withdrawn or dismissed.

(3) Upon registration under the preceding subsection, the following items shall be published in the Utility Model Gazette:

- (i) the name and the domicile or residence of the owner of the utility model right ;
- (ii) the number and the date of the application ;

- (iii) the name and the domicile or residence of the creator ;
- (iv) the title of the device, the brief explanation of the drawings and the claim contained in the specification as well as the contents of the drawings attached to the request;
- (v) the matters appearing in the abstract attached to the request ;
- (vi) the number and the date of the registration;
- (vii) other necessary particulars .
- (4) Section 64(3) of the Patent Law shall apply *mutatis mutandis* to the publication of the matters appearing in the abstract under Subsection (3)(v) in the Utility Model Gazette in accordance with Subsection (3).

#### *Correction of Specification or Drawings*

**14bis.**—(1) The owner of a utility model right may correct the specification or drawings attached to a request only where such correction has as its object the cancellation of a claim or claims. However, where a trial under Section 37(1) of this Law is pending before the Office, he may not correct the specification or drawings attached to the request after the notification under Section 156(1) of the Patent Law as applied under Section 41 of this Law (in the case of a trial examination reopened under Section 156(2), after the further notification under Section 156(1)).

(2) The correction under the preceding subsection may be made even after the extinguishment of the utility model right. However, this provision shall not apply after the registration has been invalidated in a trial under Section 37(1).

(3) Where the correction under Subsection (1) has been made, the utility model application and the registration of the utility model right shall be deemed to have been made on the basis of the corrected specification or drawings.

(4) Where the correction under Subsection (1) has been made, it shall be published in the Utility Model Gazette.

(5) Sections 127 and 132(3) of the Patent Law shall apply *mutatis mutandis* to the case under Subsection (1).

#### *Term of Utility Model Right*

**15.** The term of the utility model right shall be six years from the filing date of the utility model application.

#### *Effects of Utility Model Right*

**16.** The owner of a utility model right shall have an exclusive right to commercial work registered as a utility model. However, where the utility model right is the subject of an

exclusive license, this provision shall not apply to the extent that the exclusive licensee exclusively possesses the right to work the registered utility model.

*Relationship with Another's Registered Utility Model, etc.*

**17.** When a registered utility model would utilize another person's registered utility model, patented invention or registered design or design similar thereto under an application filed prior to the filing date of the utility model application concerned, or when the utility model right conflicts with another person's design right or trademark right under an application for registration of a design or trademark filed prior to the filing date of the utility model application concerned, the owner of the utility model right, exclusive licensee or non-exclusive licensee shall not commercially work the registered utility model.

*Exclusive Licenses*

**18.**—(1) The owner of a utility model right may grant an exclusive license on such right.

(2) An exclusive licensee shall have an exclusive right to commercially work the registered utility model, to the extent laid down in the license contract.

(3) Section 77(3) to (5) (transfer, etc.), Section 97(2) (surrender) and Section 98(1)(i) and (2) (effects of registration) of the Patent Law shall apply *mutatis mutandis* to exclusive licenses.

*Non-Exclusive Licenses*

**19.**—(1) The owner of a utility model right may grant a non-exclusive license on such right.

(2) A non-exclusive licensee shall have the right to commercially work the registered utility model, to the extent prescribed in this Law or laid down in the license contract.

(3) Section 73(1) (joint ownership), Section 97(3) (surrender) and Section 99 (effects of registration) of the Patent Law shall apply *mutatis mutandis* to non-exclusive licenses.

*Non-Exclusive License due to Working Prior to Registration of Demand for Invalidation Trial*

**20.**—(1) When a person coming within any of the paragraphs set out below has been commercially working a device or invention in Japan or has been making preparations therefor, prior to the registration of a demand for a trial under Section 123(1) of the Patent Law, without knowing that the patent falls under any of the requirements of any of the paragraphs of Section 123(1) of the Patent Law, such person shall have a non-exclusive license on the utility model right or on the exclusive license existing at the time when the patent was invalidated, such non-exclusive license being limited to the invention which is being worked or for which preparations for working are being made and to the purpose of such working or the preparations therefor:

(i) the original patentee, where a device registered as a utility model and a patente invention are the same and the patent has been invalidated; d

(ii) the original patentee, where his patent has been invalidated and a utility model registration for the same device as the invention has been granted to the person entitled; l

(iii) in the cases referred to in the two preceding paragraphs, a person, who, at the time of registration of the demand for a trial under Section 123(1) of the Patent Law, has either the exclusive license or an exclusive license on the patent that has been invalidated or an exclusive license that is effective under Section 99(1) of the Patent Law against the patent right or the exclusive license. e -

(2) The owner of the utility model right or the exclusive license shall have a right to reasonable remuneration as consideration for the non-exclusive license under the preceding subsection. oa

*Arbitration Decision on Grant of Non-Exclusive License in Case of Non-Working*

**21.**—(1) Where a registered utility model has not been sufficiently and continuously worked during a period of three years or more in Japan, a person who intends to work the registered utility model may request the owner of the utility model right or the exclusive license to hold consultations on the grant of a non-exclusive license thereon. However, this provision shall not apply unless four years have elapsed since the filing date of the application corresponding to the registered utility model.

(2) If no agreement is reached or no consultation is possible under the preceding subsection, a person who intends to work the registered utility model may request the Commissioner of the Patent Office for an arbitration decision. ng

(3) Sections 84 to 91 *bis* (arbitration procedure, etc.) of the Patent Law shall apply *mutatis mutandis* to arbitrations under the preceding subsection. y

*Arbitration Decision on Grant of Non-Exclusive License on One's Own Registered Utility Model*

**22.**—(1) Where a registered utility model falls under any of the cases provided for in Section 17, the owner of the utility model right or the exclusive license may request the other person referred to in that section to hold consultations on the grant of a non-exclusive license to work the registered utility model or of a non-exclusive license on the patent right or the design right.

(2) The other person referred to in Section 17 who has been requested to hold the consultations under the preceding subsection may request the owner of the utility model right or the exclusive license having requested the consultations to hold consultations on the grant of a non-exclusive license within the scope of the registered utility model which the owner of the utility model right or the exclusive license desires to work by obtaining the non-exclusive he

license on the utility model right, the patent right or the design right through the consultations requested by the owner of the utility model right or the exclusive licensee.

(3) If no agreement is reached or no consultation is possible under Subsection (1), the owner of the utility model right or the exclusive licensee may request the Commissioner of the Patent Office for an arbitration decision. he

(4) If no agreement is reached or no consultation is possible under Subsection (2) a an arbitration under the preceding subsection is requested, the other person referred to in Section 17 may request the Commissioner of the Patent Office for an arbitration decision only within the time limit which the Commissioner of the Patent Office designates as the time limit for the other person to submit a written reply in accordance with Section 84 of the Patent Law as applied under Subsection (7). nd

(5) If, in the case of Subsection (3) or the preceding subsection, the grant of a non-exclusive license would unduly injure the interests of the other person referred to in Section 17 or the owner of the utility model right or the exclusive licensee, the Commissioner of the Patent Office shall not render an arbitration decision ordering a non-exclusive license to be granted.

(6) In the case of Subsection (4) in addition to the case provided for in the preceding subsection, the Commissioner of the Patent Office shall not render an arbitration decision ordering a non-exclusive license to be granted if an arbitration decision ordering a non-exclusive license to be granted is not rendered with respect to other request for the arbitration decision under Subsection (3). g

(7) Sections 84, 85(1) and 86 to 91 *bis* (arbitration procedure, etc.) of the Patent Law shall apply *mutatis mutandis* to arbitrations under Subsection (3) or (4). w

*Arbitration Decision on Grant of Non-Exclusive License in Public Interest*

**23.**—(1) Where the working of a registered utility model is particularly necessary in the public interest, a person who intends to work the utility model may request the owner of the utility model right or the exclusive licensee to hold consultations on the grant of a non-exclusive license.

(2) If no agreement is reached or no consultation is possible under the preceding subsection, a person who intends to work the registered utility model may request the Minister of Economy, Trade and Industry for an arbitration decision. ng

(3) Sections 84, 85(1) and 86 to 91 *bis* (arbitration procedure, etc.) of the Patent Law shall apply *mutatis mutandis* to arbitrations under the preceding subsection. w

*Transfer, etc. of Non-Exclusive License*

**24.**—(1) A non-exclusive license, with the exception of one which results from an arbitration decision under Section 21(2), 22(3) or (4), or 23(2) of this Law, Section 92(3) of the Patent Law or Section 33(3) of the Design Law, may be transferred, but only together with



the business in which it is worked or only with the consent of the owner of the utility model right (or the owner and the exclusive licensee in the case of a non-exclusive licensee or an exclusive licensee) or in the case of inheritance or other general succession.

(2) A non-exclusive licensee may, except in the case of a non-exclusive licensee resulting from an arbitration decision under Section 21(2), 22(3) or (4), or 23(2) of this Law, Section 92(3) of the Patent Law or Section 33(3) of the Design Law, establish a pledge on the non-exclusive licensee, but only with the consent of the owner of the utility model right (or the owner and the exclusive licensee in the case of a non-exclusive licensee or an exclusive licensee).

(3) A non-exclusive licensee resulting from an arbitration decision under Section 21(2) or 23(2) may be transferred only together with the business in which it is worked. (2)

(4) A non-exclusive licensee resulting from an arbitration decision under Section 22(2) of this Law, Section 92(3) of the Patent Law or Section 33(3) of the Design Law shall be transferred together with the utility model, patent or design right to which the non-exclusive licensee is entitled, and if such right has been transferred independently from the business in which it is worked or extinguished, then the non-exclusive licensee shall be extinguished simultaneously. (3)

(5) A non-exclusive licensee resulting from an arbitration decision under Section 22(2) of this Law shall be transferred together with the utility model, patent or design right to which the non-exclusive licensee is entitled and shall be extinguished at the same time as the utility model, patent or design right has been extinguished. (4)

### *Pledges*

**25.**—(1) Where a utility model right or an exclusive or non-exclusive licensee is the subject of a pledge, the pledge may not work there registered utility model except as otherwise provided by contract.

(2) Section 96 (attachment) of the Patent Law shall apply *mutatis mutandis* to pledges on a utility model right, exclusive licensee or non-exclusive licensee.

(3) Section 98(1)(iii) and (2) (effects of registration) of the Patent Law shall apply *mutatis mutandis* to pledges on a utility model right or exclusive licensee.

(4) Section 99(3) (effects of registration) of the Patent Law shall apply *mutatis mutandis* to pledges on a non-exclusive licensee.

### *Application mutatis mutandis of Patent Law*

**26.** Sections 69(1) and (2), 70 to 71 *bis* (limits of patent right, and technical scope of patented inventions), Section 73 (joint ownership), Section 76 (extinguishment of patent right in absence of heir), Section 79 (non-exclusive licensee by virtue of prior use), Sections 81 and 82 (non-exclusive licensee after expiration of design right), Section 97(1) (surrender) and

Section 98(1)(i) and (2) (effects of registration) of the Patent Law shall apply *mutatis mutandis* to utility model rights.

## 2. Infringement

### *Injunctions*

**27.**—(1) The owner of a utility model right or exclusive license may require a person who is infringing or is likely to infringe the utility model right or exclusive license (hereinafter referred to as “an infringer, etc.”) to discontinue or refrain from such infringement.

(2) The owner of a utility model right or an exclusive license who is acting under the preceding subsection may demand the destruction of the articles by which the act of infringement was committed, the removal of the facilities used for the act of infringement, or other measures necessary to prevent the infringement. he

### *Acts Deemed to be Infringement*

**28.** Acts of manufacturing, assigning, leasing, importing or offering for assignment or lease of, in the course of trade, articles to be used exclusively for the manufacture of the article covered by the registered utility model shall be deemed to be an infringement of the utility model right or exclusive license. or

### *Presumption, etc. of Amount of Damage*

**29.**—(1) Where the owner of a utility model right or exclusive license claims, from a person who has intentionally or negligently infringed his utility model right or exclusive license, compensation for damage caused to him by the infringement, and the person's act is the assignment of articles by which the act of the infringement was committed, the sum of money with the unit price of such article multiplied by the number of articles (hereinafter referred to in this paragraph as the “number of assigned articles”) which the owner of a utility model right or exclusive license could have sold in the absence of the infringement may be estimated as the amount of damages suffered by the owner of a utility model right or exclusive license within a limit not exceeding an amount attainable depending on working capability of the owner of a utility model right or exclusive license. Where there is any circumstance that prevents the owner of a utility model right or exclusive license from selling part or the whole of the number of assigned articles, a sum equivalent to the number of assigned articles subject to that circumstance shall be deducted.

(2) Where the owner of a utility model right or exclusive license claims, from a person who has intentionally or negligently infringed the utility model right or exclusive license, compensation for damage caused to him by the infringement, the profits gained by the infringer through the infringement shall be presumed to be the amount of damages suffered by the owner or exclusive licensee. on

(3) The owner of a utility model right or exclusive license may claim, from a person who has intentionally or negligently infringed the utility model right or exclusive license, an amount of money which he would be entitled to receive for the working of the registered utility model, as the amount of damages suffered by him.

(4) The preceding subsections shall not preclude a claim to damages exceeding the amount referred to therein. In such a case, where there has been neither willfulness nor gross negligence on the part of the person who has infringed the utility model right or the exclusive license, the court may take this into consideration when awarding damages.

*Warning in the Form of Report of Technical Opinion as to Registrability of Utility Model*

**29bis.** The owner of a utility model right or the exclusive license may not exercise his rights pertaining to his utility model rights or exclusive rights against an infringer, etc., until he has given a warning in the form of a report of a technical opinion as to registrability of the utility model (Jitsuyoshinan Gijutsu Hyokasho).

*Responsibility of Owner of Utility Model Right, etc.*

**29ter.**—(1) Where the owner of a utility model right or the exclusive license has exercised his utility model right or exclusive license or given a warning to an infringer, etc. and a trial decision (other than a trial decision on the grounds set out in Section 37(1)(vi)) that the utility model registration is to be invalidated has become final and conclusive, such owner or exclusive licensee shall be liable to indemnify any other party in respect of any damage caused to that party by the exercise of that right or by the giving of the warning. However, this provision shall not apply where such exercise or warning was based on a technical opinion of the report of a technical opinion as to registrability of the Utility Model (Jitsuyoshinan Gijutsu Hyokasho) (other than a technical opinion that the device claimed in the utility model application or the registered utility model is not registrable in accordance with Section 3(1)(iii) and (2) (only with respect to the device in Sections 3(1)(iii)), 3bis and 7(1) to (3) and (7)) as to registrability of the utility model, and the owner or exclusive licensee has taken appropriate care in exercising the right or giving the warning.

(2) The preceding subsections shall apply where the right is exercised or the warning is given with respect to a device which, as a result of a correction under Section 14bis (1) to the specification or drawings attached to the request of the utility model application, no longer falls within the scope of the claim(s) as at the time of the registration of the utility model right.

*Application mutatis mutandis of Patent Law*

**30.** Sections 104bis to 106 (obligation to clarify relevant act in concrete manner, production of documents etc., expert opinion for proof of damage, award of reasonable damages, and measures for recovery of reputation) of the Patent Law shall apply mutatis mutandis to the infringement of a utility model right or exclusive license.

### 3. Annual Fees

#### *Annual Fees*

31.—(1) A person who obtains registration of a utility model right or the owner of a utility model right shall pay, as annual fees, the amounts specified in the right-hand column of the following table corresponding to the relevant period in the left-hand column, for each case and for each year up to the expiration of the term under Section 15 from the registration of a utility model right:

<i>Division of year</i>	<i>Amounts</i>
First to third year	Annually, ¥7,600 plus ¥700 per claim
Fourth to sixth year	Annually, ¥15,100 plus ¥1,400 per claim

(2) The preceding subsections shall not apply to utility model rights belonging to the State or independent administrative institutions (referring to the independent administrative institutions prescribed in Section 2(1) of the Law concerning the General Provisions of Independent Administrative Institutions (Law No. 103 of 1999), hereinafter the same) which are those to be set up by Cabinet Order by taking into consideration the substance of their business and other circumstances.

(3) The provision of Subsection (1) shall not apply to utility model right owned jointly by the State and the independent administrative institutions prescribed by Cabinet Order in the preceding subsection or owned jointly by the independent administrative institutions prescribed by Cabinet Order in the same subsection.

(4) Where the State and the like (referring to the State or the independent administrative institutions prescribed by Cabinet Order in Subsection (2), the same in Section 54(3) and (5)) and the person other than the State and the like (referring to the person other than the State and the independent administrative institutions prescribed by Cabinet Order in Subsection (2), hereinafter the same in this subsection and the same section (6)) jointly own a utility model right and there is an agreement with respect to their shares of the right, the annual fees under Subsection (1) shall be a sum with the prescribed annual fees under Subsection (1) multiplied by the ratios of the shares of the persons other than the State and the like and the persons other than the State and the like shall pay such sum, notwithstanding the provision of Subsection (1).

(5) Where the amount of the annual fees calculated in accordance with the provision of the preceding subsection has a fractional figure less than 10 yen, that fractional figure shall be discarded.

(6) The payment of the annual fees under Subsection (1) shall be made by patent revenue stamps as prescribed by an ordinance of the Ministry of Economy, Trade and Industry. However, where so prescribed by an ordinance of the Ministry of Economy, Trade and Industry, such payment may be made in cash.

*Time Limit for Payment of Annual Fees*

**32.**—(1) The annual fees for each year from the first to the third year under Section 31(1) shall be paid in lump sum, simultaneously with the utility model application (in the case of the conversion of an application under Section 10(1) or (2) or the division of an application under Section 44(1) of the Patent Law as applied under Section 11(1) of this Law, simultaneously with that conversion or division).

(2) The annual fees for the fourth and subsequent years under Section 31(1) shall be paid during the preceding year or prior thereto.

(3) Upon the request of the person liable to pay an annual fee, the Commissioner of the Patent Office may extend the period prescribed in Subsection (1) by a period not exceeding 30 days.

*Reduction or Deferment of Payment of Annual Fees or Exemption Therefrom*

**32bis.** Where the Commissioner of the Patent Office recognizes that a person liable to pay the annual fees for each year from the first to the third year under Section 31(1) is the creator of the device claimed in the utility model application or the creator's heir and that he cannot afford to pay the annual fees because of poverty, he may reduce the annual fees, exempt him therefrom or grant him deferment of payment thereof as prescribed by Cabinet Order.

*Late Payment of Annual Fees*

**33.**—(1) Where the owner of a utility model right is unable to pay an annual fee within the time limit prescribed in Section 32(2) or within the time limit for deferred payment under Section 32bis, he may pay the annual fee belatedly within six months from the expiration of the time limit.

(2) In the case of late payment of an annual fee in accordance with the preceding subsection, the owner of the utility model right shall, in addition to the annual fee provided for in Section 31(1), pay a surcharge of the same amount as the annual fee.

(3) The payment of the surcharge under the preceding subsections shall be made by patent revenue stamps as prescribed by an ordinance of the Ministry of Economy, Trade and Industry. However, where so prescribed by an ordinance of the Ministry of Economy, Trade and Industry, such payment may be made in cash.

(4) Where the owner of a utility model right fails to pay an annual fee for the fourth year or a subsequent year under Section 31(1) as well as the surcharge under Subsection (2)

within the time limit for late payment under Subsection (1), the utility model right shall be deemed to have been extinguished retroactively from the moment that the time limit prescribed in Section 32(2) expired.

(5) Where the owner of a utility model right fails to pay an annual fee whose payment has been deferred under Section 32bis and the surcharge under Subsection (2) within the time limit for late payment under Subsection (1), the utility model right shall be deemed never to have existed.

*Restoration of Utility Model Right by Late Payment of Annual Fees*

**33bis.**—(1) Where the utility model right is one which was deemed to have been extinguished under Section 33(4) or which was deemed never to have existed under Section 33(5) and the owner of the extinguished utility model right is unable to pay an annual fee and surcharge belatedly within the time limit for late payment under Section 33(1) due to reasons outside his control, he may pay the annual fee and surcharge referred to in Section 33(4) or (5) within 14 days (where he is a resident abroad, within two months) from the date on which the reasons ceased to be applicable but not later than six months following the expiration of the said time limit.

(2) Where the annual fee and surcharge have been paid in accordance with the preceding subsection, the utility model right shall be deemed to have been maintained retroactively from the time of the expiration of the time limit prescribed in Section 32(2) or existed from the beginning.

*Restriction on Effects of Utility Model Right Restored*

**33ter.**—(1) Where a utility model right has been restored under Section 33bis (2), the effects of the utility model right shall not extend to the article covered by a registered utility model which was imported into, or manufactured or acquired in Japan after the expiration of the time limit for late payment under Section 33(1) but before the registration of the restoration of the utility model right.

(2) The effects of a utility model right restored under Section 33bis (2) shall not extend, after the expiration of the time limit for late payment under Section 33(1) but before the registration of restoration of the utility model right, to the following acts:

- (i) the working of the device ;
- (ii) acts of manufacturing, assigning, leasing, importing or offering for assignment or lease of, articles to be used exclusively for the manufacture of the product covered by the registered utility model.

*Refund of Annual Fees*

**34.**—(1) Annual fees shall be refunded, upon the request of the person who paid them, only in the following cases:

- (i) the annual fees paid by mistake or in excess ;
  - (ii) the annual fees in the case where the disposition that the utility model application is to be dismissed became final and conclusive; s
  - (iii) the annual fees for the year following the year in which the trial decision that the utility model registration is to be invalidated became final and conclusive, and subsequent years; he
  - (iv) the annual fees for the year following the year in which the date of expiration of the term of utility model right falls, and subsequent years. he
- (2) No refund of annual fees under the preceding subsection may be requested after one year from the date of payment in the case of annual fees under Paragraph (i), or after six months from the date on which the disposition or the trial decision became final and conclusive in the case of annual fees under Paragraph (ii) or (iii) or after one year from the date of the registration of establishment of a utility model right in the case of the annual fees under Paragraph (iv) of the preceding subsection. e

35. [Deleted]

*Application mutatis mutandis of Patent Law*

36. Section 110 (payment of annual fees by an interested person) of the Patent Law shall apply *mutatis mutandis* to the annual fee under this Law. w

CHAPTER V  
TRIAL

*Trial for Invalidation of Utility Model Registration*

37.—(1) In the following cases, a trial may be demanded for the invalidation of a utility model registration. In this context, if there are two or more claims, a trial may be demanded for each claim. The cases referred to are:

- (i) where the registration has been effected in respect of a utility model application with the amendment which does not comply with Section 2*bis* (2); h
- (ii) where the registration has been effected contrary to Section 25 of the Patent Law as applied under Section 2*quinquies* (3) of this Law, to Section 3, 3*bis*, 4 or 7(1) to (3) or (7) or to Section 38 of the Patent Law as applied under Section 11(1) of this Law; s
- (iii) where the registration has been effected contrary to the provisions of a treaty ;
- (iv) where the registration has been effected in respect of a utility model application which does not comply with the requirements of Section 5(4) or (6) [excluding (iv)]; on

(v) where the registration has been effected in respect of a utility model application filed by a person who is not the creator and has not succeeded to the right to obtain utility model registration for the device concerned;

(vi) where, after the registration, the owner of the utility model right has become a person who can no longer enjoy such right under Section 25 of the Patent Law as applied under Section 2 *quinquies* (3) of this Law or the registration no longer complies with that treaty.

(2) Even after the extinguishment of a utility model right, a trial under the preceding subsection may be demanded.

(3) Where a trial under Subsection (1) has been demanded, the trial examiner-in-chief shall notify the exclusive licensee with respect to the utility model right and other persons who have any registered rights relating to the utility model registration.

#### *Formal Requirements of Demands for Trial*

**38.**—(1) A person demanding a trial shall submit a written demand to the Commissioner of the Patent Office stating the following:

- (i) the name and the domicile or residence of the demandant and his representative ;
- (ii) an identification of the trial case ;
- (iii) the reliefs sought in the demand and the grounds therefor .

(2) An amendment of the written demand submitted under the preceding subsection shall not change the gist thereof.

#### *Submission of Written Reply, etc.*

**39.**—(1) When a trial has been demanded, the trial examiner-in-chief shall transmit a copy of the written demand to the defendant and shall give him an opportunity to submit a written reply, designating an adequate time limit.

(2) Upon receipt thereof or where, during the pendency of the trial under Section 37(1), a correction under Section 14 *bis* (1) has been made, the trial examiner-in-chief shall transmit a copy of the written reply or the correction to the demandant.

(3) The trial examiner-in-chief may examine the parties and intervenors with respect to the trial.

#### *Relationship with Litigation*

**40.**—(1) The trial proceedings may, if it is deemed necessary in the trial, be suspended until the trial decision in another trial has become final and conclusive or until litigation proceedings have been concluded.



(2) Where asuit or an application for provisional attachment or provisional disposal has been filed, if the court deems it necessary, it may suspend the litigation proceedings until the trial decision becomes final and conclusive. l

(3) Where asuit with respect to infringement of a utility model right or an exclusive license has been filed, the court shall notify the Commissioner of the Patent Office thereof. The same shall apply where the litigation proceedings have been concluded. ve

(4) Where the Commissioner of the Patent Office receives the notification under the preceding subsection, he shall notify the court of a demand or non-demand for the trial with respect to the utility model right. The same shall apply where the writtendemand for a trial is ruled to be dismissed, the trial decision is rendered or the demand for the trial is withdrawn. he

**40bis.**—(1) Subject to Section 40(2), where asuit or an application for provisional attachment or provisional disposal has been filed with respect to the infringement of the utility model right, and when a motion for the suspension of the litigation proceedings by the defendant or debtor is made for the reason that a trial for invalidation under Section 37(1) has been demanded, the court shall suspend such proceedings until after a trial decision has been given in respect of the trial for invalidation under Section 37(1), unless it is obviously deemed that such suspension is not necessary.

(2) No appeal shall lie from a ruling with respect to a motion under the preceding subsection. g

(3) When the reason for the suspension is no longer applicable, or circumstances have otherwise changed, the court may revoke the ruling of suspension under Subsection (1). e

*Application mutatis mutandis of Patent Law*

**41.** Sections 125, 132 to 133bis, 135 to 157, 167, 169(1), (2), (5) and (6) and 170 of Patent Law shall apply *mutatis mutandis* to trials under this Law. he

CHAPTER VI  
RETRIAL AND LITIGATION

*Demand for Retrial*

**42.**—(1) Against a final and conclusive trial decision. The party concerned or an intervenor may demand a retrial.

(2) Sections 338(1) and (2) and 339 (grounds for retrial) of the Code of Civil Procedure (Law No. 109 of 1996) shall apply *mutatis mutandis* to demands for a retrial under the preceding subsection. e

**43.**—(1) Where the demandant and the defendant in a trial have in collusion caused a trial decision to be rendered, with the purpose of injuring the rights or interests of a third person, such person may demand a retrial against the final and conclusive trial decision.

(2) In such a retrial, the demandant and the defendant shall be made joint defendants .

*Restriction on Effects of Utility Model Right Restored by Retrial*

**44.**—(1) Where the utility model right relating to an invalidated utility model registration has been restored through a retrial, the effects of the utility model right shall not extend to the article covered by the registered utility model which was imported into Japan, or manufactured or acquired there, in good faith after the time when the trial decision became final and conclusive but before the trial demand for a retrial was registered.

(2) Where a utility model right relating to an invalidated utility model registration has been restored through a retrial, the effects of the utility model right shall not extend, after the trial decision became final and conclusive but before, the trial demand for a retrial was registered to the following acts:

(i) the working of the device in good faith;

(ii) act of manufacturing, assigning, leasing or importing or offering for assignment or lease of, in good faith, articles to be used exclusively for the manufacture of the article covered by the registered utility model.

*Application mutatis mutandis of Patent Law*

**45.**—(1) Section 173 (time limit for demand for retrial), Section 174(3) and (5) (application of provisions on trial, etc.) and Section 176 (non-exclusive licensed use to working before registration of demand for retrial) of the Patent Law shall apply *mutatis mutandis* to retrials under this Law. In such a case, “Section 131” in Section 174(3) of the Patent Law shall read “Sections 38 and 39 of the Utility Model Law” and “Section 168” of the Patent Law shall read “Sections 40 and 40bis of the Utility Model Law”.

(2) Section 4 of the Patent Law shall apply *mutatis mutandis* to the time limits prescribed in Section 173(1) of the Patent Law as applied under Subsection (1).

**46.** [Deleted]

*Actions Against Trial Decisions, etc.*

**47.**—(1) An action against a trial decision and an action against a ruling of dismissal of a demand for a retrial shall come under the exclusive jurisdiction of the Tokyo High Court.

(2) Section 178(2) to (6) (time limit for institution of action, etc.) and Sections 179 to 182 (defendant in the action, notification of institution of action, annulment of the trial decision or ruling, and sending of certified copy of the judgment) of the Patent Law shall apply *mutatis mutandis* to actions under the preceding subsection.

*Action on Amount of Remuneration*

**48.**—(1) Where a person who is concerned in an arbitration decision under Section 21(2), 22(3) or (4) or 23(2) is dissatisfied with the amount of remuneration fixed in the decision, he may institute an action for the increase or decrease of the remuneration.

(2) Section 183(2) (time limit for institution of action) and Section 184 (defendant in the action) of the Patent Law shall apply *mutatis mutandis* to actions under the preceding subsection.

*Relationship Between Administrative Appeal and Litigation*

**48bis.** Section 184bis (relationship between administrative appeal and litigation) of the Patent Law shall apply *mutatis mutandis* to actions for the annulment of measures (with the exception of measures under Section 55(5)) taken under this Law or an order or ordinance thereunder.

CHAPTER VII  
SPECIAL PROVISIONS CONCERNING INTERNATIONAL APPLICATIONS UNDER  
THE PATENT COOPERATION TREATY

*Utility Model Application Based on International Application*

**48ter.**—(1) An international application (a utility model application only) for which the international filing date has been accorded in accordance with Article 11(1) or (2) (b) or Article 14(2) of the Patent Cooperation Treaty done at Washington on June 19, 1970 (hereinafter referred to as “Treaty” in this Chapter) and which contains the designation of Japan as a designated State referred to in Article 4(1)(ii) of the Treaty shall be considered to be a utility model application having been filed on its international filing date.

(2) Section 184ter (2) (patent application based on international application) of the Patent Law shall apply *mutatis mutandis* to the international application considered to be a utility model application by virtue of the provision of the preceding subsection (hereinafter referred to as “international utility model application”).

*Translation of International Utility Model Application in Foreign Language*

**48quater.**—(1) The applicant of an international utility model application made in a foreign language (hereinafter referred to as “foreign language utility model application”) shall furnish to the Commissioner of the Patent Office a translation into Japanese of the description, the claims and the drawings (limited to any text matter of the drawings) referred to in Article 3(2) of the Treaty as of the international filing date referred to in Section 48ter (1) (hereinafter referred to as “international filing date”), within one year and eight months [in the case of an international utility model application in which an international preliminary examination referred to in Article 33 of the Treaty had been demanded within one year and seven months from the priority date and, further, Japan has been elected as an elected State under Article 31(4) (a) of the Treaty—within two years and six months from the priority date

(hereinafter referred to as “time limit for the submission of the national form paper”)] from the priority date referred to in Article 2(xi) of the Treaty (hereinafter referred to as “priority date”).

(2) In the case of the preceding subsection, the applicant of the foreign language utility model application may, where he has made an amendment under Article 19(1) of the Treaty, furnish a translation of the amended claims in lieu of the translation of the claims referred to in that subsection.

(3) When the translation of the description referred to in Subsection (1) and the translation of the claims referred to in Subsections (1) and (2) have not been furnished within the time limit for the submission of the national form paper, the international utility model applications shall be deemed withdrawn.

(4) The applicant who has furnished the translation of the claims referred to in Subsection (1) may, where he has made an amendment under Article 19(1) of the Treaty, further furnish a translation into Japanese of the amended claims only no later than the date on which the expiration of the time limit for the submission of the national form paper [or where the applicant has made a request for the national processing within the time limit for the submission of the national form paper under Articles 23(2) and 40(2) of the Treaty (hereinafter referred to as “request for national processing”), the date on which the request for the national processing was made—hereinafter referred to as “relevant time for the national processing” occurs].

(5) The principal sentence of Section 184 *septies* (3) of the Patent Law shall apply *mutatis mutandis* where the translation referred to in Subsection (2) or (4) has not been furnished.

*Submission of Paper and Invitation to Correction, etc.*

**48quinquies.**—(1) The applicant of an international utility model application shall, within the time limit for the submission of the national form paper, submit to the Commissioner of the Patent Office a paper stating the following:

- (i) the name and the domicile or residence of the applicant ;
- (ii) the name and the domicile or residence of the creator ;
- (iii) the international application number and other matters provided for in an ordinance of the Ministry of Economy, Trade and Industry. e

(2) The Commissioner of the Patent Office may invite correction, designating a n adequate time limit, in the following cases:

- (i) when the paper to be submitted under the preceding subsection has not been filed within the time limit for the submission of the national form paper or at the time prescribed in the said subsection; d

(ii) when any proceeding under the preceding subsection does not comply with Section 7(1) to (3) and Section 9 of the Patent Law as applied under Section 2 *quinquies* (2) of this Law;

(iii) when any proceeding under the preceding subsection does not comply with the formality requirements provided for in an ordinance of the Ministry of Economy, Trade and Industry;

(iv) when the translation of the abstract to be submitted under Section 48 *quater* (1) has not been filed within the time limit for the submission of the national form paper;

(v) When the annual fee to be paid under Section 32(1) has not been paid within the time limit for the submission of the national form paper;

(vi) when the fee to be paid under Section 54(2) has not been paid within the time limit for the submission of the national form paper.

(3) Section 184 *quinquies* (3) of the Patent Law applies *mutatis mutandis* to the correction to be made on an invitation under the preceding subsection.

(4) The applicant of an international utility model application may not make a request for the national processing for his international utility model application until, in respect of an international utility model application made in the Japanese language (hereinafter referred to as a "Japanese language utility model application"), after the proceeding under Section 48 *quinquies* (1) has been taken, and in respect of a foreign language utility model application, after the proceedings under Section 48 *quater* (1) and Section 48 *quinquies* (1) have been taken and, further, after the annual fee to be paid under Section 32(1) and the fee to be paid under Section 54(2) have been paid.

*Effect, etc., of Request, Description, etc., of International Application*

**48sexies.**—(1) The request of an international utility model application as of the international filing date shall be deemed to be the request submitted under Section 5(1).

(2) The description and the claims of a Japanese language utility model application as of the international filing date and the translation of the description and the claims of a foreign language utility model application as of the international filing date shall be deemed to be the specification as submitted attached to the request under Section 5(2), the claims of a Japanese language utility model application as of the international filing date and the translation of the claims of a foreign language utility model application as of the international filing date shall be deemed to be the utility model claims set forth in the specification as submitted attached to the request under Section 5(2), and the drawings in a Japanese language utility model application as of the international filing date and the drawings (excluding any text matter of the drawings) and the translation of the text matter of the drawings in a foreign language utility model application as of the international filing date are deemed to be the drawings as submitted attached to the request under Section 5(2), and the abstract of a Japanese language utility model application and the translation of the abstract of a foreign language utility model

applications are deemed to be the abstract as submitted attached to the request under Section 5(2).

(3) Where the translation of the claims amended under Article 19(1) of the Treaty has been furnished under Section 48*quater* (2) or (4), the translation of the description of the international filing date and the translation of the amended claims shall be deemed to be the translation of the specification as submitted attached to the request under Section 5(2), and the translation of the amended claims shall be deemed to be the utility model registration claims set forth in the specification as submitted attached to the request under Section 5(2) notwithstanding Subsection (2).

### *Submission of Drawings*

**48septies.**—(1) The applicant of an international utility model application shall submit drawings to the Commissioner of the Patent Office not later than the date on which the relevant time for the national processing occurs if the international application did not include the drawings on the international filing date.

(2) The Commissioner of the Patent Office may invite the applicant of the international utility model application to submit drawings, designating an adequate time limit when the drawings referred to in the preceding subsection have not been submitted by the date on which the relevant time for the national processing occurs.

(3) The Commissioner of the Patent Office may dismiss an international utility model application when a person whom he has invited to submit drawings under the preceding subsection fails to do so within the time limit designated in accordance with the said subsection.

(4) The submission of drawings under Subsection (1) or in compliance with the invitation under Subsection (2) (or—when a brief explanation of the drawings was submitted attached to the drawings—the submission of the drawings and the brief explanation of the drawings) shall be deemed the amendment under Section 2*bis* (1). In this case, the proviso to the said subsection shall not apply.

### *Special Provisions Concerning Amendment*

**48octies.**—(1) The proviso to Section 2*bis* (1) of this Law shall not apply to an amendment which is deemed to have been made under Section 2*bis* (1) of this Law in accordance with Sections 184*septies* (2) and 184*octies* (2) of the Patent Law as applied under Section 48*quindicies* (1) of the Patent Law.

(2) The proviso to Section 2*bis* (1) shall not apply to an amendment under Article 28(1) or 41(1) of the Treaty concerning an international utility model application.

(3) For the purposes of the scope of the amendment concerning the description or drawings of a foreign language utility model application, “the specification or drawings originally attached to the request” in Section 2*bis* (2) shall be replaced by “the description, the

claims or the drawings of the international application as of the international filing date referred to in Section 48*quater* (1)".

(4) Section 184*duodecies* (1) of the Patent Law shall apply to an amendment under the principal sentence of Section 2*bis* (1) of this Law or under Articles 28(1) or 41(1) of the Treaty concerning an international utility model application. In such a case, "Section 195(2)" and "has been paid and the relevant time for the national processing has occurred" in Section 184*duodecies* (1) of the Patent Law shall read "annual fee to be paid under Section 32(1) and Section 54(2) of the Utility Model Law" and "has been paid," respectively.

#### *Special Provisions Concerning Registrability of Utility Model*

**48novies.** For the purposes of Section 3*bis* of this Law where another application for a utility model registration or for a patent referred to in Section 3*bis* of this Law is an international utility model application or an international patent application referred to in Section 184*ter* (2) of the Patent Law, the passage reading "of another application for a utility model registration or for a patent" in Section 3*bis* of this Law shall be replaced by "of another application for a utility model registration or for a patent (excluding a foreign language utility model application referred to in Section 48*quater* (1) or a foreign language patent application referred to in Section 184*quater* (1) of the Patent Law which is deemed to have been withdrawn under Section 48*quater* (3) of this Law or Section 184*quater* (3) of the Patent Law);" the passage reading "was published or" in that section shall be replaced by "was published;" the passage reading "or the laying open for public inspection (Kôkai)" in that section shall be replaced by "or the laying open for public inspection (Kôkai) or the international publication referred to in Article 21 of the Patent Cooperation Treaty done at Washington on June 19, 1970;" and the passage reading "the specification or drawings originally attached to the request" in that section shall be replaced by "the description, the claims and the drawings of the international application as of the international filing date referred to in Section 48*quater* (1) of this Law or Section 184*quater* (1) of the Patent Law".

#### *Special Provisions Concerning Priority Claim Based on Utility Model Application, etc.*

**48decies.**—(1) Section 8(4) and Section 9(2) shall not apply to an international utility model application.

(2) For the purposes of Section 8(3) for a Japanese language utility model application, "the Gazette containing the Utility Model was published" in Section 8(3) shall be considered to have been replaced by "the Gazette containing the Utility Model was published or the international publication referred to in Article 21 of the Patent Cooperation Treaty done at Washington on June 19, 1970".

(3) For the purposes of Section 8(3) for a foreign language utility model application, "the specification or drawings originally attached to the request of a utility model application" in Section 8(3) shall be considered to have been replaced by "the description, the claims or the drawings of the international application as of the international filing date referred to in Section 48*quater* (1)" and "the Gazette containing the Utility Model was published" in Section

8(3) shall be considered to have been replaced by “the Gazette containing the Utility Model was published or the international publication referred to in Article 21 of the Patent Cooperation Treaty done at Washington on June 19, 1970 was effected”.

(4) For the purposes of Section 8(1) to (3) and Section 9(1) in the case where the earlier application under Section 8(1) is an international utility model application or an international patent application referred to in Section 184<sup>ter</sup> (2) of the Patent Law, “the specification or drawings originally attached to the request” in Section 8(1) and (2) shall be considered to have been replaced by “the description, the claims or the drawings of an international application as of the international filing date referred to in Section 48<sup>quater</sup> (1) of this Law or Section 184<sup>quater</sup> (1) of the Patent Law,” “the specification or drawings originally attached to the request of the earlier application” and “the laying open for public inspection” in Section 8(3) shall be considered to have been replaced by “the description, the claims or the drawings of an international application as of the international filing date referred to in Section 48<sup>quater</sup> (1) of this Law or Section 184<sup>quater</sup> (1) of the Patent Law of the earlier application” and “the international publication referred to in Article 21 of the Patent Cooperation Treaty done at Washington on June 19, 1970,” and “at the expiration of one year and three months from the filing date of the application” in Section 9(1) shall be considered to have been replaced by “at the expiration of the relevant time for the national processing under Section 48<sup>quater</sup> (4) of this Law or Section 184<sup>quater</sup> (4) of the Patent Law at the expiration of one year and three months from the international filing date referred to in Section 48<sup>quater</sup> (1) of this Law or Section 184<sup>quater</sup> (1) of the Patent Law, whichever is later”.

#### *Special Provisions Concerning Conversion of Applications*

**48undecies.** Conversion of an international application having been considered or recognized to be a patent application under Section 184<sup>ter</sup> (1) or 184<sup>vicies</sup> (4) of the Patent Law into a utility model application may not be made until, in respect of a Japanese language patent application referred to in Section 184<sup>sexies</sup> (2) of the Patent Law, after the proceeding under Section 184<sup>quinquies</sup> (1) of the Patent Law has been taken, and in respect of a foreign language patent application referred to in Section 184<sup>quater</sup> (1) of the Patent Law, after proceedings under the said subsection and Section 184<sup>quinquies</sup> (1) of the Patent Law have been taken and, further, after the fee to be paid under Section 195(2) of the Patent Law has been paid (or—in respect of an international application having been recognized as a patent application under Section 184<sup>vicies</sup> (4) of the Patent Law—after the decision referred to in the said subsection has been made).

#### *Special Provisions Concerning Time Limit for Payment of Annual Fees*

**48duodecies.** For the purposes of a payment of the annual fees for each year from the first to the third years with respect to an international utility model application, “simultaneously with the utility model application” in Section 32(1) shall be considered to have been replaced by “within the time limit for the submission of the national form paper referred to in Section 48<sup>quater</sup> (1) (in the case where a request for the national processing



referred to in the proviso to Section 48*quater* (4) has been made, until the time of making that request for the national processing”.

*Time Limit for Making Request for Technical Opinion as to Registrability of Utility Model*

**48terdecies.** For the purposes of a request for the opinion as to registrability of a utility model concerning an international utility model application, “any person” in Section 12(1) shall be considered to have been replaced by “after the expiration of the relevant time for the national processing referred to in Section 48*quater* (4), any person”.

*Special Provisions Concerning Grounds for Invalidity*

**48quaterdecies .** For the purposes of a trial for invalidation of utility model registration concerning a foreign language utility model application, “where the registration has been effected in respect of a utility model application with the amendment which does not comply with Section 2*bis* (2)” in Section 37(1)(i) shall be replaced by “where the features disclosed in the specification or drawings attached to the request of the utility model registration concerning a foreign language utility model application referred to in Section 48*quater* (1) does not remain within the scope of the features disclosed in the description, the claims or the drawings of the international application as of the international filing date referred to in Section 48*quater* (1)”.

*Application mutatis mutandis of Patent Law*

**48quindecies.**—(1) Section 184*septies* (amendment under Article 19 of the Treaty concerning the Japanese language patent application) and Section 184*opties* (1) to (3) (amendment under Article 34 of the Treaty) of the Patent Law shall apply *mutatis mutandis* to the amendment of an international utility model application under the Treaty. In such a case, “Section 17*bis* (1)” in Sections 184*septies* (2) and 184*opties* (2) of the Patent Law shall read “Section 2*bis* (1) of the Utility Model Law”.

(2) Section 184*undecies* of the Patent Law (special provisions concerning patent administrator for residents abroad) shall apply *mutatis mutandis* to proceedings relating to an international utility model application.

(3) Section 184*novies* (6) and Section 184*quaterdecies* of the Patent Law shall apply *mutatis mutandis* to an international utility model application.

*International Application Recognized as Utility Model Application by Decision*

**48sedecies.**—(1) The applicant of an international application defined in Article 2(vii) of the Treaty may, where the receiving Office defined in Article 2(xv) of the Treaty has made a refusal referred to in Article 25(1) (a) of the Treaty or has made a declaration referred to in Article 25(1) (a) or (b) of the Treaty or the International Bureau defined in Article 2(xix) of the Treaty has made a finding referred to in Article 25(1) (a) of the Treaty in respect of the international application (only a utility model application) which contains the designation of

Japan as a designated State referred to in Article 4(1)(ii) of the Treaty, request the Commissioner of the Patent Office as provided in an ordinance of the Ministry of Economy, Trade and Industry to make a decision referred to in Article 25(2) (a) of the Treaty within the time limit prescribed in an ordinance of the Ministry of Economy, Trade and Industry.

(2) A person whom a request under the preceding subsection is in respect of the international application made in a foreign language shall furnish to the Commissioner of the Patent Office at the time of making such a request a translation into Japanese of the description, the claims, the drawings (limited to any text matter of the drawings) and the abstract as well as other documents relating to the international application provided for in an ordinance of the Ministry of Economy, Trade and Industry.

(3) Where a request under Subsection (1) has been made, the Commissioner of the Patent Office shall decide whether the refusal, declaration, or finding referred to therein was justified under provisions of the Treaty and the Regulations under the Patent Cooperation Treaty.

(4) Where the Commissioner of the Patent Office has made a decision under the preceding subsection to the effect that the refusal, declaration, or finding referred to in the said subsection was not justified under the provisions of the Treaty and the Regulations under the Patent Cooperation Treaty, the international application concerned shall be recognized as a utility model application filed on the date which would be accorded as the international filing date if the said refusal, declaration, or finding were not made in respect of the said international application.

(5) For the purposes of the amendment of the international application having been recognized as a utility model application under the preceding subsection, “the filing date of the utility model application” in the proviso to Section 2bis (1) shall be replaced by “the date on which the decision under Section 48 *sedecies* (4) has been made”.

(6) Sections 48 *sexies* (1) and (2), 48 *septies*, 48 *octies* (3), 48 *novies*, 48 *decies* (1), (3) and (4), 48 *duodecies* to 48 *quaterdecies* of this Law, and Section 184 *ter* (2), 184 *novies* (6), 184 *duodecies* (1) and 184 *quaterdecies* of the Patent Law shall apply *mutatis mutandis* to an international application having been recognized as a utility model application under Subsection (4). In such a case, the technical replacement of words necessary to apply *mutatis mutandis* to these provisions shall be prescribed by Cabinet Order.

## CHAPTER VIII MISCELLANEOUS PROVISIONS

### *Registration in Utility Model Register*

**49.**—(1) The following matters shall be registered in the Utility Model Register kept in the Patent Office:

(i) the establishment, transfer, extinguishment, restoration or restriction on disposal of a utility model right;

- (ii) the establishment, maintenance, transfer, modification, extinguishment or restriction on disposal of an exclusive or non-exclusive license;
- (iii) the establishment, transfer, modification, extinguishment or restriction on disposal of rights in a pledge upon a utility model right or an exclusive or non-exclusive license.
- (2) The Utility Model Register, either in whole or in part, may be prepared by means of magnetic tapes (including other materials on which matters can be accurately recorded by an equivalent method—hereinafter referred to as “magnetic tapes”).
- (3) Other matters relating to registration that are not provided for in this Law shall be prescribed by Cabinet Order.

*Issuance of Utility Model Registration Certificate*

- 50.**—(1) When the establishment of a utility model right has been registered, the Commissioner of the Patent Office shall issue a utility model registration certificate to the owner of the utility model right.
- (2) Re-issuance of the certificate shall be prescribed by an ordinance of the Ministry of Economy, Trade and Industry.

*Special Provisions for Utility Model Registrations or Utility Model Rights Based on Two or More Claims*

**50bis.** For the purposes of the provisions of Sections 12(3) and 14bis (2) of this Law, Section 97(1) or Section 98(1)(i) of the Patent Law as applied under Section 26, Section 34(1)(iii), Section 37(2) of this Law, Section 125 of the Patent Law as applied under Section 41 of this Law, Section 132(1) of the Patent Law respectively as applied under Section 41 of this Law or under Section 174(3) of the Patent Law as applied under Section 45(1) of this Law, Section 44 of this Law, Section 176 of the Patent Law as applied under Section 45(1) of this Law, Section 193(2)(iv) of the Patent Law as applied under Section 49(1)(i) or Section 53(2) of this Law relating to the utility model registrations or the utility model rights covering two or more claims, the utility model registrations shall be considered to have been granted, or the utility model rights shall be deemed to exist, for each claim.

*Indication of Existence of Utility Model Registration*

**51.** The owner of a utility model right or an exclusive or non-exclusive license shall take steps, as prescribed in an ordinance of the Ministry of Economy, Trade and Industry, to mark articles covered by a registered utility model or their packaging with a statement to the effect that the articles are covered by a registered utility model (hereinafter referred to as “indication of utility model registration”).

*Prohibition of False Marking*

**52.** The following acts shall be unlawful :

(i) the marking of an article not covered by a registered utility model, or the packaging of such article, with an indication of a utility model registration or confusingly similar indication; ng

(ii) the assignment, lease or display for the purpose of assignment or lease of an article not covered by a registered utility model, where such article or its packaging is marked with an indication of a utility model registration or confusingly similar indication; e

(iii) the inclusion in an advertisement of an indication that an article is covered by a registered utility model or a confusingly similar indication, for the purpose of causing others to manufacture or use the article or of assigning or leasing the article, where it is not covered by a registered utility model. a

*Utility Model Gazette*

**53.**—(1) The Patent Office shall publish the Gazette containing the Utility Model.

(2) Section 193(2) (only (iv) to (vi), (viii) and (ix)) of the Patent Law shall apply *mutatis mutandis* to the Gazette containing the Utility Model. y

*Fees*

**54.**—(1) The persons specified hereunder shall pay the fee the amount of which shall be prescribed by Cabinet Order with the actual costs taken into consideration:

(i) person requesting extension of time limit under Section 5(1) of the Patent Law applied under Section 2 *quinquies* (1) of this Law, under Section 4 of the Patent Law applied under Section 32(3) or 45(2) of this Law, or change of date under Section 5(2) of the Patent Law as applied under Section 2 *quinquies* (1) of this Law; s

(ii) person making notification of succession in accordance with Section 34(4) of Patent Law as applied under Section 11(2) of this Law; he

(iii) person requesting re-issuance of utility model registration certificate ;

(iv) person requesting issuance of certificate in accordance with Section 186(1) of Patent Law as applied under Section 55(1) of this Law; he

(v) person requesting issuance of copy or extract of documents in accordance with Section 186(1) of the Patent Law as applied under Section 55(1) of this Law; h

(vi) person requesting inspection or copying of documents in accordance with Section 186(1) of the Patent Law as applied under Section 55(1) of this Law; on

(vii) person requesting issuance of documents containing matters recorded in that part of the Utility Model Register as prepared on magnetic tape, in accordance with Section 186(1) of the Patent Law as applied under Section 55(1) of this Law. t

(2) The persons specified in the left-hand column of the attached tables shall pay the fee the amount of which shall be prescribed by Cabinet Order within the limit of the amounts specified in the right-hand column of the table. e

(3) The two preceding subsections shall not apply where the person to pay the fee in accordance with the subsection is the State and the like. n

(4) The provisions of Subsections (1) and (2) shall not apply where the person to pay the fee in accordance with these provisions is the State entitled to own jointly a utility model right or a right to obtain a utility model registration and the independent administrative institutions prescribed by Cabinet Order in Section 31 (2) or the independent administrative institutions entitled to own jointly such rights prescribed by Cabinet Order in the same subsection. y

(5) Where the State and the like and persons other than the State and the like own jointly a utility model right or a right to obtain a utility model registration and there is an agreement with respect to their shares of the right, the annual fees under Subsection (1) or (2) (limited to the fees prescribed by Cabinet Order) shall be a sum with prescribed fees under these subsections multiplied by the ratios of the shares of the persons other than the State and the like, and the persons other than the State and the like shall pay such sum, notwithstanding the provisions of these subsections. n

(6) Where the amount of the fee calculated in accordance with the provision of the preceding subsection has a fractional figure less than 10 yen, that fractional figure shall be discarded. he

(7) The payment of the fee under Subsections (1) and (2) shall be made by patent revenue stamps as prescribed by an ordinance of the Ministry of Economy, Trade and Industry. However, where so prescribed by an ordinance of the Ministry of Economy, Trade and Industry, such payment may be made in cash. nt

(8) A fee paid by mistake or in excess shall be refunded upon the request of the person making the payment. on

(9) No request for a refund of a fee under the preceding subsection may be made after one year from the date of payment. r

(10) Where the Commissioner of the Patent Office recognizes that a person making a request for technical opinion as to registrability of a claimed device in a utility model application or a registered utility model is the creator of the device claimed in the utility model application or the registered utility model or the creator's heir and that he cannot afford to pay the fee for request for technical opinion as to registrability of a utility model payable under Subsection (2) because of poverty, he may reduce the fee or exempt him therefrom as prescribed by Cabinet Order. a

*Application mutatis mutandis of Patent Law*

**55.**—(1) Section 186 (request for certification, etc.) of the Patent Law shall apply *mutatis mutandis* to utility model registrations.

(2) Sections 189 to 192 (transmittal) of the Patent Law shall apply *mutatis mutandis* to transmittal under this Law.

(3) Section 194 of the Patent Law shall apply *mutatis mutandis* to the procedure. In such a case, “examination” in Section 194(2) shall read “the technical opinion as to registrability of a utility model referred to in Section 12(1) of this Law”.

(4) Section 195 *ter* of the Patent Law shall apply *mutatis mutandis* to measures under this Law or an order or ordinance thereunder.

(5) Section 195 *quater* (restriction on appeals under Administrative Appeal Law) of the Patent Law shall apply *mutatis mutandis* to examiners’ decisions, trial decisions and rulings of dismissal of a demand for trial or retrial under this Law as well as to measures from which no appeal lies under this Law.

## CHAPTER IX PENAL PROVISIONS

### *Offense of Infringement*

**56.** Any person who has infringed a utility model right or an exclusive license shall be liable to imprisonment with labor not exceeding three years or to a fine not exceeding 3,000,000 yen.

### *Offense of Fraud*

**57.** Any person who has obtained a utility model registration or a trial decision by means of a fraudulent act shall be liable to imprisonment with labor not exceeding one year or to a fine not exceeding 1,000,000 yen.

### *Offense of False Marking*

**58.** Any person infringing Section 52 shall be liable to imprisonment with labor not exceeding one year or to a fine not exceeding 1,000,000 yen.

### *Offense of Perjury, etc.*

**59.**—(1) A witness, expert witness or interpreter who, having taken an oath under this Law, has made a false statement or has given a false expert opinion or has interpreted falsely before the Patent Office or a court commissioned thereby shall be liable to imprisonment with labor for a term of not less than three months nor more than ten years.

(2) Where a person committing the offense in the preceding subsection has made a voluntary confession before, concerning the case, the certified copy of the interpretation is

transmitted or the trial decision has become final and conclusive, his sentence may be reduced or suppressed.

*Offense of Divulging Secrets*

**60.** Where any presenter or former official of the Patent Office has divulged or made surreptitious use of these secrets relating to a device in a utility model application to which he had access in the course of his duties, he shall be liable to imprisonment with labor not exceeding one year or to a fine not exceeding 500,000 yen.

*Dual Liability*

**61.** Where an officer representing a legal entity or a representative, employee or another servant of a legal entity or of a natural person has committed an act in violation of the provisions prescribed in the following paragraphs with regard to the business of the legal entity or natural person, the legal entity or the natural person shall, in addition to the offender, be liable to the fine prescribed in the following paragraphs:

- (i) Section 56, a fine not exceeding 100 million yen;
- (ii) Section 57 or 58, a fine not exceeding ¥30,000,000.

*Administrative Penalties*

**62.** Where a person who has taken an oath under Section 207(1) of the Code of Civil Procedure as applied under Section 151 of the Patent Law—as applied under Section 71(3) of the Patent Law as applied under Section 26 of this Law, Section 41 of this Law or Section 174(3) of the Patent Law as applied under Section 45(1) of this Law, respectively—has made a false statement before the Patent Office or a court commissioned thereby, he shall be liable to an administrative penalty not exceeding 100,000 yen.

**63.** Where a person who has been summoned by the Patent Office or a court commissioned thereby in accordance with this Law has failed to appear or has refused to take an oath, to make a statement, to testify, to give an expert opinion or to interpret, without a legitimate reason, he shall be liable to an administrative penalty not exceeding 100,000 yen.

**64.** Where a person who has been ordered by the Patent Office or a court commissioned thereby to produce or show documents or other evidence in accordance with the provisions of this Law relating to the examination or preservation of evidence has failed to comply with the order, without a legitimate reason, he shall be liable to an administrative penalty not exceeding 100,000 yen.

**Attached Table (Related to Section 54)**

<i>Person liable to pay</i>	<i>Amounts</i>
1. Person filing utility model application	¥14,000 per case

2.	Person taking proceeding under Section 48 <i>quinquies</i> (1)	¥14,000 per case
3.	Person making request under Section 48 <i>sedecies</i> (1)	¥14,000 per case
4.	Person making request for technical opinion as to registrability of utility model	¥42,000 per case plus ¥1,300 per claim
5.	Person correcting a specification or drawing	¥1,400 per case
6.	Person requesting interpretation in accordance with Section 71(1) of the Patent Law as applied under Section 26 of this Law	¥40,000 per case
7.	Person requesting arbitration decision	¥55,000 per case
8.	Person requesting cancellation of arbitration decision	¥27,500 per case
9.	Person demanding trial or retrial	¥49,500 per case plus ¥5,500 per claim
10.	Person demanding intervention in trial or retrial	¥55,000 per case

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\* Entry into force: January 6, 2001