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This English translation of the Design Act has been prepared (up to the revisions of Act No. 3 of 2019 (Effective October 1, 2020)).

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Design Act (Act No. 125 of 1959)

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Table of Contents

Chapter I General Provision (Article 1 and Article 2)

Chapter II Design Registrations and Applications for Design Registration (Article 3 to Article 15)

Chapter III Examination (Article 16 to Article 19)

Chapter IV Design Right

Section 1 Design Rights (Article 20 to Article 36)

Section 2 Infringement of rights (Article 37 to Article 41)

Section 3 Registration Fees (Article 42 to article 45)

Chapter V Trials and Appeals (Article 46 to Article 52)

Chapter VI Retrial and Litigation (Article 53 to Article 60-2)

Chapter VI-2 Special Provisions based on Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs

Section 1 Application for International Registration (Article 60-3 to Article 60-5)

Section 2 Special Provisions Concerning International Applications for Design Registration (Article 60-6 to Article 60-23)

Chapter VII Miscellaneous Provisions (Article 60-24 to Article 68)

Chapter VIII Penal Provisions (Article 69 to Article 77)

Supplementary Provisions

Chapter I General Provision

(Purpose)

Article 1 The purpose of this Act is, through promoting the protection and the utilization of designs, to encourage creation of designs, and thereby to contribute to the development of industry.

(Definition, etc.)

Article 2 (1) "Design" in this Act shall mean the shape, patterns or colors, or any combination thereof (hereinafter referred to as the "shape, etc."), of an article (including a part of an article, the same shall apply hereinafter), the shape, etc. of a building (including a part of a building, the same shall apply hereinafter), or a graphic image (limited to those provided for use in the operation of the device or those displayed as a result of the device performing its function, and including a part of a graphic image, the same shall apply hereinafter excluding Article 3(2), Article 37(2), Article 38(vii) and (viii), Article 44-3(2)(vi) and Article 55(2)(vi)), which creates an aesthetic impression through the eye.

(2) "Working" of a design in this Act shall mean the following acts;

(i) Manufacturing, using, assigning, leasing, exporting or importing, or offering for assignment or lease (including displaying for the purpose of assignment or lease, the same shall apply hereinafter) of an article to the design;

(ii) Building, using, assigning or leasing, or offering for assignment or lease of the building to the design;

(iii) Acts falling under any of the following performed for the graphic image to the design (including a computer program, etc. (refers to a computer program, etc. provided in Article 2(4) of the Patent Act (Act No.121 of 1959); the same shall apply hereinafter) that has a function to display the graphic image and the same shall

apply in the following items);

(a) Creating, using, or providing through an electric telecommunication line or offering for the provision (including displaying for the purpose of provision, the same shall apply hereinafter) of the graphic image to the design;

(b) Assigning, leasing, exporting or importing, or offering for assignment or lease of a recording medium that has recorded the graphic image to the design or a device incorporating the graphic image to the design (hereinafter referred to as a "graphic image recording medium, etc.");

(3) "Registered design" in this Act shall mean a design for which a design registration has been granted.

Chapter II Design Registrations and Applications for Design Registration

(Conditions for Design Registration)

Article 3 (1) A creator of a design that is industrially applicable may be entitled to obtain a design registration for the said design, except for the following:

(i) Designs that were publicly known in Japan or a foreign country, prior to the filing of the application for design registration;

(ii) Designs that were described in a distributed publication, or designs that were made publicly available through an electric telecommunication line in Japan or a foreign country, prior to the filing of the application for design registration; or

(iii) Designs similar to those prescribed in the preceding two items.

(2) Where, prior to the filing of the application for design registration, a person ordinarily skilled in the art of the design would have been able to easily create the design based on the shape, etc. or graphic images that were publicly known, described in a distributed publication or made publicly available through an electric telecommunication line in Japan or a foreign country, a design registration shall not be granted for such a design (except for designs prescribed in any of the items of the preceding paragraph), notwithstanding the preceding paragraph.

Article 3-2 Where a design in an application for design registration is identical with or similar to part of a design described in the statement in the application and drawing, photograph, model or specimen attached to the application of another application for design registration which has been filed prior to the date of filing of the said application and published after the filing of the said application in the design bulletin under Article 20(3) or Article 66(3) (hereinafter referred to in this

Article as the "earlier application"), a design registration shall not be granted for such a design, notwithstanding paragraph (1) of the preceding Article; provided, however, that this shall not apply where the applicant of the said application and the applicant of the earlier application are the same person and the said application was filed before the date when the design bulletin in which the earlier application was published under Article 20(3) (except for a design bulletin in which the matters listed in Article 20(3)(iv) were published under Article 20(4)) was issued.

(Exception to lack of novelty of design)

- Article 4 (1) In the case of a design which has fallen under item (i) or (ii) of Article 3(1) against the will of the person having the right to obtain a design registration, such a design shall be deemed not to have fallen under item (i) or (ii) of Article 3(1) for the purposes of Article 3(1) and (2) for any design in an application for design registration which has been filed by the said person within one year from the date on which the design first fell under either of those items.
- (2) In the case of a design which has fallen under item (i) or (ii) of Article 3(1) as a result of an act of the person having the right to obtain a design registration (excluding those which have fallen under item (i) or (ii) of Article 3(1) by being published in a gazette relating to an invention, utility model, design or trademark), the preceding paragraph shall also apply for the purposes of Article 3(1) and (2) to any design in an application for design registration which has been filed by the said person within one year from the date on which the design first fell under either of those items.
- (3) Any person seeking the application of the preceding paragraph shall submit to the Commissioner of the Patent Office, at the time of filing of the application for design registration, a document stating thereof and, within thirty days from the date of filing of the application for design registration, a document proving the fact that the design which has otherwise fallen under item (i) or (ii) of Article 3(1) is a design to which the preceding paragraph (referred to as a "certificate" in the following paragraph) may be applicable.
- (4) Notwithstanding the preceding paragraph, where, due to reasons beyond the control of a person who submits a certificate, the person is unable to submit the certificate within the time limit as provided in the said paragraph, the person may submit to the Commissioner of the Patent Office the certificate within 14 days (where overseas resident, 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.

(Unregistrable designs)

Article 5 Notwithstanding Article 3, the following designs shall not be registered.

- (i) a design which is liable to injure public order or morality;
- (ii) a design which is liable to create confusion with an article, building or graphic image pertaining to another person's business; or
- (iii) a design solely consisting of a shape that is indispensable for securing functions of the article or a shape that is indispensable for usage of the building, or a design solely consisting of a display that is indispensable for usage of the graphic image.

(Provisional non-exclusive license)

Article 5-2 (1) A person who has the right to obtain a design registration may grant a provisional non-exclusive license on the design right to be obtained based on the right to obtain a design registration to a third person within the scope of a design stated in the application for design registration and depicted in the drawing, or represented in the photograph, model or specimen attached to the application or a design similar thereto.

(2) Where the establishment of a design right has been registered with regard to the application for design registration pertaining to the provisional non-exclusive license under the preceding paragraph, a non-exclusive license shall be deemed to have been granted on regard to the design right to a person who has the said provisional non-exclusive license to the extent permitted by the contract granting the said provisional non-exclusive license.

(3) The provisions of Article 33(2) and (3), 34-3(4), (6), (8) to (10) and 34-5 of the Patent Act shall apply mutatis mutandis to a provisional non-exclusive license. In this case, the term "Article 46(1)" in Article 34-3(8) of the Patent Act shall be deemed to be replaced with "Article 13(2) of the Design Act," the term "Article 46(2) of the Patent Act with regard to an application for design registration pertaining to a provisional non-exclusive license under Article 5-2(1) of the Design Act (Act No.125 of 1959)" in Article 34-3(9) of the Patent Article shall be deemed to be replaced with "Article 13(1) of the Design Act with regard to a patent application pertaining to a provisional non-exclusive license under paragraph (1) or (4) of the preceding Article."

(Application for design registration)

Article 6 (1) A person requesting a design registration shall submit to the Commissioner of the Patent Office an application stating the following matters and drawing depicting the design for which registration is requested:

- (i) the name, and domicile or residence of the applicant for the design registration;
- (ii) the name and domicile or residence of the creator of the design; and
- (iii) the article to the design, or the usage of the building or graphic image to the design.

(2) Where so provided by an Ordinance of the Ministry of Economy, Trade and Industry, the applicant may submit photograph, model or specimen representing the design for which the registration is requested, in lieu of the drawing in the preceding paragraph. In such case, the applicant shall indicate in the application which among photograph, model and specimen is submitted.

(3) When neither the statement of the article to the design or the application of the building to the design required under item (iii) of paragraph (1), nor the drawing, photograph or model attached to the application would enable a person ordinarily skilled in the art to which the design pertains to understand the material or size of the article or building, and by this reason such a person would not be able to recognize the design, the material or size of the article or building to the design shall be specified in the application.

(4) Where the shape, patterns or colors of the article, the shape, patterns or colors of the building, or the graphic image to the design is changeable based on the function possessed by the article, building or graphic image if the applicant intends to request a design registration of the shapes, etc. the article, the shapes, etc. of the building or the graphic image as it appears before, during and after the said change, he/she shall state such an intention and include an explanation of said function of the article, building or graphic image in the application.

(5) Where colors of the design are applied to the drawing, photograph or model to be submitted under paragraph (1) or (2), the applicant may omit to apply either black or white to them.

(6) When the applicant omits to apply black or white under the preceding paragraph, the applicant shall state thereof in the application.

(7) Where the applicant submits the drawing depicting the design under paragraph (1) or the photograph or model representing the design under paragraph (2), if the whole or part of the article, building or graphic image to the design is transparent,

the applicant shall state thereof in the application.

(One application per design)

Article 7 An application for design registration shall be filed for each design in accordance with a classification of articles as provided by an Ordinance of the Ministry of Economy, Trade and Industry.

(Design for a set of articles)

Article 8 Where two or more articles, buildings or graphic images are used together and are specifically designated by Ordinance of the Ministry of Economy, Trade and Industry (hereinafter referred to as a "Set of Articles"), if the Set of Articles is coordinated as a whole, an application for design registration may be filed as one design, and the applicant may obtain a design registration, for designs for the articles, buildings or graphic images that constitute the Set of Articles.

(Design for interior)

Article 8-2 Where designs for articles, buildings or graphic images that constitute equipment and decorations inside a store, office and the other facilities (hereinafter referred to as "interior") create a coordinated aesthetic impression as a whole interior, an application for design registration may be filed as one design, and the applicant may obtain a design registration.

(Prior application)

Article 9 (1) Where two or more applications for design registration have been filed for identical or similar designs on different dates, only the applicant who filed the application for design registration on the earliest date shall be entitled to obtain a design registration for the design.

(2) Where two or more applications for design registration have been filed for identical or similar designs on the same date, only one applicant, who was selected by consultations between the applicants who filed the said applications, shall be entitled to obtain a design registration for the design. Where no agreement is reached by consultations or consultations are unable to be held, none of the applicants shall be entitled to obtain a design registration for the design.

(3) Where an application for design registration has been waived, withdrawn or dismissed, or where the examiner's decision or appeal and trial decision to the effect that an application for design registration is to be refused has become final

and binding, the application for design registration shall, for the purpose of the preceding two paragraphs, be deemed never to have been filed; provided, however, that this shall not apply to the case where the examiner's decision or appeal and trial decision to the effect that the application for design registration is to be refused has become final and binding on the basis that the latter sentence of the preceding paragraph is applicable to said application for design registration.

(4) The Commissioner of the Patent Office shall, in the case of paragraph (2), order the applicants to hold consultations as specified under paragraph (2) and to report the result thereof, designating an adequate time limit.

(5) Where no report under the preceding paragraph is submitted within the time limit designated under said paragraph, the Commissioner of the Patent Office may deem that no agreement under paragraph (2) has been reached.

(Amendment of statement in the application or the drawing, etc., and change of gist)

Article 9-2 Where, after the registration establishing a design right, it is found that an amendment made to any statement in the application (excluding the statements listed in items (i) and (ii) of Article 6(1) and the statement made under Article 6(2), the same shall apply to Article 17-2(1) and Article 24(1).) or to the drawing, photograph model or specimen attached to the application has changed the gist thereof, the application for design registration shall be deemed to have been filed at the time of submission of the written amendment of proceedings therefor.

(Related designs)

Article 10 (1) Notwithstanding Article 9(1) or (2), an applicant for design registration may obtain design registration of a design that is similar to another design selected from the applicant's own designs either for which an application for design registration has been filed or for which design registration has been granted (hereinafter the selected design is referred to as the "Principal Design" and a design similar to it is referred to as a "Related Design"), if the filing date of the application for design registration of the Related Design (or when the application for design registration of the Related Design contains a priority claim under Article 43(1) , 43-3(1) or 43-3(2) of the Patent Act as applied mutatis mutandis under Article 15(1) of this Act, the filing date of the earliest application, the filing date of an application that is deemed to be the earliest application under

Article 4.C(4) of the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958, and at Stockholm on July 14, 1967, or the filing date of an application that is recognized as the earliest application under Article 4.(A)2 of the Paris Convention, hereinafter the same shall apply in this paragraph) is on or after the filing date of the application for design registration of the Principal Design and before a lapse of 10 years from the date of filing of the application for design registration of the Principal Design; provided, however, that this shall not apply to a case where the design right of the Principal Design has been extinguished under the Article 44(4), appeal and trial decision to the effect that the design right of the Principle Design is to be invalidated has become final and binding, or the design right of a Principal Design has been waived at the time of the establishment of the design right of the Related Design.

- (2) Among the applicant's own designs which have fallen under item (i) or (ii) of Article 3, paragraph (1), those which are identical with or similar to the Principal Designs of the design for which the registration is requested under the preceding paragraph shall be deemed not to have fallen under item (i) or (ii) of the said Article, paragraph (1), for the purposes of the said Article, paragraph (1) and (2) for such a design for which the registration is requested.
- (3) The design for which the registration is requested under paragraph (1), for the purpose of application of the proviso to Article 3-2, the term "except for a design bulletin in which the matters listed in Article 20(3)(iv) were published under Article 20(4)" in the proviso to Article 3-2 shall be deemed to be replaced with "where the secrecy is requested for the earlier application for design registration under Article 14(1), limited to a design bulletin in which the matters listed in Article 20(3) (iv) were published under Article 20(4)."
- (4) With respect to a design similar only to a Related Design to be to be registered under paragraph (1), the Related Design shall be deemed to be the Principal Design and a design registration may be granted to the design under the said paragraph. The same shall apply to a design that is similar only to the Related Design for which the design registration above may be granted and to a design that is similar only to the gradual Related Design linked to the Related Design.
- (5) In the case of the preceding paragraph, for the purpose of application of the paragraph (1), the term "the Principal Design" in the said paragraph shall be

deemed to be replaced with "the primarily selected design pertaining to the Related Design".

- (6) Where an exclusive license has been established for the design right of the Principal Design, a design registration shall not be granted to its Related Designs, notwithstanding the paragraph (1) and (4).
- (7) Where applications for design registration of the Related Design are filed, if the applications for design registration are for two or more designs and each of such designs falls under the Related Designs (refers to the Related Designs of the Fundamental Design and the gradual Related Designs linked to the Related Design, the same shall apply hereinafter) pertaining to the Fundamental Design (refers to the primarily selected design pertaining to the Related Design, the same shall apply hereinafter), Article 9(1) or (2) shall not apply to these designs.
- (8) In the case as provided in the preceding paragraph, among the applicant's own designs which have fallen under item (i) or (ii) of Article 3, paragraph (1) , those which are identical with or similar to the Related Design pertaining to the Fundamental Design (excluding the cases where an application for design registration of the Related Design has been waived, withdrawn or dismissed, or where the examiner's decision or appeal and trial decision to the effect that an application for design registration of the Related Design is to be refused has become final and binding, or the design right of the Related Design has been extinguished under Article 44(4) or appeal and trial decision to the effect that the design right of the Related Design is to be invalidated has become final and binding or the design right of the Related Design has been waived) shall be deemed not to have fallen under item (i) or (ii) of Article 3, paragraph (1) for the purposes of said Article, paragraph (1) and (2) for such a design for which the registration is requested under the paragraph (1).

(Division of applications for design registration)

- Article 10-2 (1) An applicant for design registration may extract one or more new applications for design registration out of a single application for design registration containing two or more designs only while examination, appeal and trial or retrial of the application for design registration is pending.
- (2) Where an application for design registration is divided under the preceding paragraph, the new application(s) for design registration shall be deemed to have been filed at the time of the filing of the original application; provided, however, that this shall not apply for the purposes of applications of Article 4(3) of this Act

and Articles 43(1) and (2) of the Patent Act as applied mutatis mutandis under Article 15 of this Act (including the cases where they are applied mutatis mutandis pursuant to Article 43-3(3) of the Patent Act as applied mutatis mutandis pursuant to Article 15(1) of this Act).

- (3) Where a new application for design registration is filed under paragraph (1), any statements or documents which have been submitted in relation to the original application for design registration and are required to be submitted in relation to the new application under Article 4(3) of this Act and Article 43(1) and (2) of the Patent Act as applied mutatis mutandis under Article 15 of this Act (including cases where they are applied mutatis mutandis pursuant to Article 43-2(2) of the Patent Act (including the cases where they are applied mutatis mutandis pursuant to Article 43-3(3) of the Patent Act as applied mutatis mutandis pursuant to Article 15(1) of this Act) shall be deemed to have been submitted to the Commissioner of the Patent Office along with the new application for design registration.

Article 11 Deleted

Article 12 Deleted

(Conversion of application)

- Article 13 (1) An applicant of a patent may convert the patent application into an application for design registration; provided, however, that this shall not apply after the expiration of three months from the date the certified copy of the examiner's initial decision to the effect that the patent application is to be refused has been served.
- (2) An applicant of a utility model registration may convert the application for a utility model registration into an application for design registration
- (3) Where the period as provided in Article 121(1) of the Patent Act is extended under Article 4 of said Act, the period as provided in the proviso to paragraph (1) shall be deemed to have been extended only for that period as extended.
- (4) Where an application is converted under paragraph (1) or (2), the original application shall be deemed to have been withdrawn.
- (5) An applicant of a patent may, when there is a person who has a provisional exclusive license on the patent application, may convert the patent application pursuant to paragraph (1) only in the case where the consent of the person is

obtained.

(6) Articles 10-2(2) and (3) shall apply mutatis mutandis to the case of conversion of an application under paragraph (1) or (2).

(Special provisions on conversion of application concerning international applications under the Patent Cooperation Treaty)

Article 13-2 (1) An international application that has been deemed to be a patent application under Article 184-3(1) or 184-20(4) of the Patent Act may be converted to an application for design registration, only after the fees payable under Article 195(2) of said Act have been paid (or, in the case of an international application that is deemed to be a patent application under Article 184-20(4) of said Act, after the ruling as provided in 184-20(4) has been rendered), and, in the case of a Patent Application in Japanese Language under Article 184-6(2) of said Act, the procedures under Article 184-5(1) of said Act have been completed, or, in the case of a Patent Application in Foreign Language under Article 184-4(1) of said Act, the procedures under Articles 184-4(1) or (4) and 184-5(1) of said Act have been completed.

(2) An international application that has been deemed to be an application for utility model registration under Article 48-3(1) or 48-16(4) of the Utility Model Act (Act No. 123 of 1959) may be converted to an application for design registration, only after the fees payable under Article 54(2) of said Act have been paid (or, in the case of an international application that is deemed to be an application for utility model registration under Article 48-16(4) of said Act, after the ruling as provided in Article 48-16(4) has been rendered), and, in the case of a Utility Model Application in Japanese under Article 48-5(4) of said Act, the procedures under Article 48-5(1) of said Act have been completed, or, in the case of a Utility Model Application in Foreign Language under 48-4(1) of said Act, the procedures under Articles 48-4(1) or (4) and 48-5(1) of said Act have been completed.

(Secret design)

Article 14 (1) An applicant for design registration may request that the design be kept in secret for a period that shall be designated in the request and shall be no more than three years from the date of the registration establishing the design right.

(2) A person filing a request prescribed in the preceding paragraph shall submit to the Commissioner of the Patent Office, at the time of filing of the application for

design registration or payment of registration fee for the first year under Article 42(1), a document stating the following:

- (i) the name and domicile or residence of the applicant for design registration; and
 - (ii) the period for which the secrecy is requested.
- (3) The applicant for design registration or the holder of design right may request extension or reduction of the period for which the secrecy is requested under paragraph (1).
- (4) The Commissioner of the Patent Office shall disclose the design for which the secrecy is requested under paragraph (1) to persons other than the holder of design right, when:
- (i) consent of the holder of design right to do so has been obtained;
 - (ii) so requested by a party or an intervenor of examination, appeal and trial, retrial or litigation relating to the design or a design identical with or similar to the design;
 - (iii) so requested by a court; or
 - (iv) so requested by an interested person who has submitted a document stating the name of the holder of design right and the registration number and other documents required by an Ordinance of the Ministry of Economy, Trade and Industry.

(Application mutatis mutandis of provisions of the Patent Act)

Article 15 (1) Articles 38 (joint applications), 43(1) to (5), (8) and (9) (procedures for a priority claim under the Paris Convention) and 43-3 (priority claims recognized under the Paris Convention) of the Patent Act shall apply mutatis mutandis to applications for design registration. In this case, the term "within the time limit provided by Ordinance of Ministry of the Economy, Trade and Industry" in Article 43(1) of said Act shall be deemed to be replaced with "at the time of filing of the application for design registration"; the term "within one year and four months from the earliest of the following dates" in Article 43(2) of the said Act shall be deemed to be replaced with "within three months from the date of filing of the application for design registration"; the terms "a person who have received a notice under paragraph (6)," "the preceding paragraph," and "paragraph (2)" in Article 43(8) of the said Act shall be deemed to be replaced with "a person who submits documents under paragraph (2) or documents under paragraph (5)," "paragraph (2)," and "the said paragraph," respectively; and the term "the preceding two articles" in Article 43-3(3) of the said Act shall be deemed to be replaced with

"Article 43"

(2) Article 33 and Article 34(1), (2) and (4) to (7) of the Patent Act (right to obtain patent) shall apply mutatis mutandis to the right to obtain the design registration.

(3) Article 35 (excluding except the part pertaining to a provisional exclusive license) (inventions by employees) of the Patent Act shall apply mutatis mutandis to creation of a design by an employee, an officer of a juridical person, or a national or local government employee.

Chapter III Examination (Article 16 to Article 19)

(Examination by examiner)

Article 16 The Commissioner of the Patent Office shall direct the examination of applications for design registration by an examiner.

(Examiner's decision of refusal)

Article 17 The examiner shall render an examiner's decision to the effect that an application for design registration is to be refused where the application for design registration falls under any of the following:

(i) the design in the application for design registration is not registrable under Article 3, 3-2, 5, 8, 8-2, 9(1) or (2), 10(1), (4) or (6) of this Act, Article 38 of the Patent Act as applied under Article 15(1) of this Act, or Article 25 of the Patent Act as applied under Article 68(3) of this Act;

(ii) the design in the application for design registration is not registrable under the provisions of any relevant treaty;

(iii) the application for design registration does not comply with the requirements under Article 7; and

(iv) where an applicant of a design registration does not have the right to obtain a design registration on the design for the said design.

(Dismissal of amendments)

Article 17-2 (1) Where an amendment made to any statement in the application, or to the drawing, photograph, model or specimen attached to the application has changed the gist thereof, the examiner shall dismiss the amendment by a ruling.

(2) The ruling dismissing an amendment under the preceding paragraph shall be made in writing and state the reasons therefor.

(3) Where the ruling dismissing an amendment under the preceding paragraph (1) has been rendered, the examiner shall not render a decision on the application for

design registration before the expiration of three months from the date on which a certified copy of the ruling has been served.

- (4) Where an applicant for design registration files a request for appeal against an examiner's ruling dismissing an amendment under paragraph 1, examination of the application for design registration shall be suspended until the appeal and trial decision becomes final and binding.

(New application for amended design)

Article 17-3 (1) Where an applicant for design registration files, within three months from the date on which a certified copy of the ruling dismissing an amendment under paragraph 1 of the preceding Article has been served, a new application for design registration for the amended design, the new application shall be deemed to have been filed at the time when the written amendment of proceedings for the said amendment was submitted.

- (2) Where a new application for design registration is filed under the preceding paragraph, the original application for design registration shall be deemed to have been withdrawn.
- (3) The preceding two paragraphs shall apply only when the applicant for design registration has submitted to the Commissioner of the Patent Office, at the time of the filing of a new application, a document stating a request for the application of paragraph 1 to the new application for design registration under paragraph 1.

Article 17-4 (1) The Commissioner of the Patent Office may, upon request or ex officio, extend the period provided for in paragraph (1) of the preceding Article for a person in a remote area or an area with transportation difficulty.

- (2) The chief administrative judge may, upon request or ex officio, extend the period provided for in paragraph (1) of the preceding Article as applied mutatis mutandis under Article 50(1) (including its application under Article 57(1)) for a person in a remote area or an area with transportation difficulty.

(Examiner's decision to the effect that a design registration is to be granted)

Article 18 Where no reasons for refusal are found for an application for design registration, the examiner shall render a decision to the effect that a design registration is to be granted.

(Application mutatis mutandis of provisions of the Patent Act)

Article 19 Articles 47(2) (qualifications of examiners), 48 (exclusion of examiners), 50 (notice of reasons for refusal), 52 (formal requirements for decision) and 54 (in relation to litigation) of the Patent Act shall apply mutatis mutandis to examination of applications of design registration.

Chapter IV Design Right

Section 1 Design Rights (Article 20 to Article 36)

(Registration of establishment of a design right)

Article 20 (1) A design right shall become effective upon registration of its establishment.

(2) The establishment of a design right shall be registered where the registration fee for the first year under Article 42(1) has been paid.

(3) Where the registration under the preceding paragraph has been effected, the following matters shall be published in the design bulletin:

(i) the name, and the domicile or residence of the holder(s) of the design right;

(ii) the number and the filing date of the application for the design registration;

(iii) the registration number and the date of registration of establishment;

(iv) the contents of the application and drawing, photograph, model or specimen attached to the application; and

(v) other necessary matters.

(4) With regard to the design for which secrecy is requested under Article 14(1), notwithstanding the preceding paragraph, matters provided for in item (iv) of the preceding Article shall be published without delay after the lapse of the period designated under Article 14(1).

(Duration of design rights)

Article 21 (1) The duration of a design right (excluding the design right of a Related Design) shall expire after a period of 25 years from the date of the application for design registration.

(2) The duration of a design right of a Related Design shall expire after a period of 25 years from the date of the application for design registration of its Fundamental Design.

(Transfer of the design right of a Related Design)

Article 22 (1) The design right of a Fundamental Design and that of its Related Design may not be transferred independently of each other.

(2) Where the design right of a Fundamental Design has been extinguished under Article 44(4), appeal and trial decision to the effect that the design right of a Fundamental Design is to be invalidated has become final and binding, or the design right of a Fundamental Design has been waived, the design right of its Related Design thereof may not be transferred independently.

(Effect of design right)

Article 23 A holder of a design right shall have the exclusive right to work the registered design and designs similar thereto as a business; provided, however, that where an exclusive license regarding the design right is granted to a licensee, this shall not apply to the extent that the exclusive licensee is licensed to exclusively work the registered design and designs similar thereto.

(Scope of registered design, etc.)

Article 24 (1) The scope of a registered design shall be determined based upon the design stated in the application and depicted in the drawing or represented in the, photograph, model or specimen attached to the application.

(2) Whether a registered design is identical with or similar to another design shall be determined based upon the aesthetic impression that the designs would create through the eye of their consumers.

Article 25 (1) A request may be made to the Patent Office for its advisory opinion on the scope of a registered design and designs similar thereto.

(2) Where a request under the preceding paragraph is made, the Commissioner of the Patent Office shall designate three administrative judges to make an advisory opinion on the requested matter.

(3) Article 71(3) and (4) of the Patent Act shall apply mutatis mutandis to the advisory opinion under paragraph (1).

Article 25-2 (1) Where the Commissioner of the Patent Office is commissioned by the court for the provision of an expert opinion on the scope of a registered design and designs similar thereto, the Commissioner of the Patent Office shall appoint three administrative judges and direct them to provide an expert opinion on the requested matter.

(2) Article 71-2(2) of the Patent Act shall apply mutatis mutandis to the commissioning of the provision of an expert opinion prescribed in the preceding paragraph.

(Relationship to registered designs, etc. held by others)

Article 26 (1) Where a registered design uses another person's registered design, patented invention or registered utility model for which an application was filed prior to the date of filing of the application for the said design, or a design similar to another person's registered design, or where part of a design right pertaining to the registered design is in conflict with another person's patent right, utility model right or trademark right obtained based on an application filed prior to the date of filing of the application for the said registered design, or copyright which arose prior to the date of filing of the application for the said registered design, the holder of the said design right or exclusive licensee or non-exclusive licensees of the said design right may not work the said registered design as a business.

(2) Where a design similar to a registered design uses another person's registered design, patented invention or registered utility model for which an application was filed prior to the date of filing of the application for the said design, or a design similar to another person's registered design, or where part of a design right pertaining to designs similar to the registered design is in conflict with another person's design right, patent right, utility model right or trademark right obtained based on an application filed prior to the date of filing of the application for the said registered design, or copyright which arose prior to the date of filing of the application for the said registered design, the holder of the said design right or exclusive licensee or non-exclusive licensees of the said design right may not work such similar design as a business.

(Special provisions for pertaining to transfer of a design right)

Article 26-2 (1) Where a design registration falls under the requirements provided for in Article 48(1)(i) (limited to cases where the design registration has been granted obtained in violation of Article 38 of the Patent Act as applied mutatis mutandis in Article 15(1)) or in Article 48(1)(iii), a person who has the right to obtain a design registration on the design pertaining to the said design registration may, pursuant to the provision of an Ordinance of the Ministry of Economy, Trade and Industry, request an owner the holder of design right to transfer the said design right as provided by an Ordinance of the Ministry of

Economy, Trade and Industry.

- (2) A request with regard to the design right of a Fundamental Design or a Related Design under the preceding paragraph may not be filed after any of the right of its Fundamental Design or its Related Design has been extinguished, unless the extinguished design right has been deemed never to have existed from the beginning under Article 49.
- (3) Where the transfer of a design right has been registered based on the request under paragraph (1), the design right shall be deemed to have belonged to a person who has obtained the said registration from the beginning. The same shall apply to the right to claim on the design pertaining to the said design right under Article 60-12(1).
- (4) Where a share of a jointly owned design right is transferred based on the request under paragraph (1), Article 73(1) of the Patent Act as applied mutatis mutandis pursuant to Article 36 of this Act shall not apply.

(Exclusive license)

Article 27 (1) A holder of a design right may grant an exclusive license on the design right; provided, however, an exclusive license on a design right of a Fundamental Design or exclusive licenses on design rights of its Related Designs may be granted only where the exclusive licenses on the design rights of the Fundamental Design and all Related Designs are granted to the same person at the same time.

- (2) An exclusive licensee shall have an exclusive right to work the registered design or designs similar thereto as a business to the extent permitted by the contract granting the license.
- (3) Where the design right of a Fundamental Design has been extinguished under Article 44(4), appeal and trial decision to the effect that the design right of a Fundamental Design is to be invalidated has become final and binding, or the design right of a Fundamental Design has been waived, exclusive licenses on design rights of its Related Designs may be granted only where all the exclusive licenses on the design rights of the Related Designs are granted to the same person at the same time.
- (4) Articles 77 (iii) to (v) (Transfer, etc.), 97(2) (Waiver, etc.) and 98(1)(ii) and (2) (effect of registration) of the Patent Act shall apply mutatis mutandis to exclusive licenses.

(Non-exclusive license)

Article 28 (1) A holder of a design right may grant a non-exclusive license on the design right to any third party.

(2) A non-exclusive licensee shall have a right to work the registered design or designs similar thereto as a business to the extent prescribed by this Act or permitted by the contract granting the license.

(3) Articles 73(1) (joint ownership), 97(3) (waiver) and 99 (perfection of non-exclusive license) of the Patent Act shall apply mutatis mutandis to non-exclusive licenses.

(Non-exclusive license based on prior use)

Article 29 A person who, without knowledge of a design in an application for design registration, created a design identical or similar to the said design, or a person who, without knowledge of a design in an application for design registration, learned of the design from a person who created a design identical or similar to the said design, and has been working the design or a design similar thereto or preparing for the working of the design or a design similar thereto in Japan at the time of the filing of the application for design registration (where the application for design registration is deemed to have been filed at the time of submission of the written amendment of proceedings under Article 9-2 or 17-3(1) (including the cases where it is applied mutatis mutandis pursuant to Article 50(1) (including the cases where it is applied mutatis mutandis pursuant to Article 57(1)), at the time of filing the original application or the written amendment of proceedings), shall have a non-exclusive license on the design right, only to the extent of the design and the purpose of such business worked or prepared.

(Non-exclusive license based on prior application)

Article 29-2 A person who, without knowledge of a design in an application for design registration, created a design identical or similar to the said design, or a person who, without knowledge of a design in an application for design registration, learned the design from a person who created a design identical or similar to the said design, and has been working the design or a design similar thereto or preparing for the working of the design or a design similar thereto in Japan at the time of the filing of the application for design registration (excluding a person falling under the preceding paragraph), shall have a non-exclusive license on the design right, only if both of the following conditions are satisfied and only to the extent of the design and the purpose of such business worked or prepared:

(i) the person filed an application for design registration of the design in the said

application for design registration or design similar thereto prior to the date of filing of the said application, and has been working the design in the application or preparing for the working of the design in the application, and

- (ii) with regard to the application for design registration filed by the person as prescribed in the preceding item, an examiner's decision or appeal and trial decision to the effect that the application is to be refused on the ground that the design in the application falls under any of items of Article 3(1) has become final and binding.

(Non-exclusive licenses by due to the working of the design prior to the before registration of transfer of a design right)

Article 29-3 A person who had had a design right, an exclusive license on the design right or a non-exclusive license on the design right or the exclusive license at the time of the registration of transfer of design right based on the request pursuant to Article 26-2(1), and is doing a business working a design in Japan or preparing such business, before the registration of transfer of the design right, without knowledge that the design registration falls under the requirements as provided in Article 48(1)(i) (limited to cases where the design registration has been obtained in violation of Article 38 of the Patent Act as applied mutatis mutandis in Article 15(1) of this Act) or Article 48(1)(iii), shall have a non-exclusive license on the design right only to the extent of the design and the purpose of such business worked or prepared.

- (2) The holder of a design right shall have a right to receive reasonable consideration from the non-exclusive licensee under the preceding paragraph.

(Non-exclusive license due to the working of the design prior to the registration of the request for invalidation trial)

Article 30 (1) A person falling under any of the following items, who is doing a business working a design or a design similar thereto in Japan or preparing such business, before the registration of a request for invalidation trial of the design registration, without knowledge that the design registration falls under any of the items of Article 48(1), shall have a non-exclusive license regarding the invalidated design right or the exclusive license existing at the time of the invalidation, only to the extent of the design and the purpose of such business worked or prepared:

- (i) the original holder of a design right in the case where one of two or more design registrations granted for the same or similar design has been invalidated,

- (ii) the original holder of a design right in the case where, after a design registration has been invalidated, a design registration is granted to the person who is entitled to obtain a design registration for the same or similar design,
 - (iii) in the case referred to in items (i) and (ii), a person that, at the time of the registration of the request for invalidation trial of design registration, has an exclusive license regarding the design right pertaining to the design registration to be invalidated, or a non-exclusive license regarding the design right or an exclusive license on the design right
- (2) The holder of a design right or the exclusive licensee shall have a right to receive reasonable consideration from the non-exclusive licensee under the preceding paragraph.

(Non-exclusive license after expiration of duration of design right, etc.)

Article 31 (1) Where part of a design right that pertains to designs similar to the registered design with regard to an application for a design registration filed on or before the date of filing of a design application is in conflict with the design right with regard to the design application, the original holder of design right shall, upon expiration of the duration of the design right, have a non-exclusive license on the said design right or on the exclusive license actually existing at the time of expiration of the duration of the design right, limited to the extent of the original design right.

(2) The preceding paragraph shall apply mutatis mutandis to the case where a patent right or utility model right with regard to an application for registration filed on or before the date of filing of a design application is in conflict with the design right with regard to the design application upon expiration of the duration of the patent right or utility model right.

Article 32 (1) Where part of a design right that pertains to designs similar to the registered design with regard to an application for a design registration filed on or before the date of filing of a design application is in conflict with the design right with regard to the design application, a person who, at the time of expiration of the duration of the design right, actually owns the exclusive license on the expired design right, or a non-exclusive license on the design right or on the exclusive license shall, upon expiration of the duration of the design right, have a non-exclusive license on the design right or on the exclusive license actually existing at the time of expiration of the duration of the design right, limited to the extent

of the original right.

- (2) The preceding paragraph shall apply *mutatis mutandis* to the case where a patent right or utility model right with regard to an application for registration filed on or before the date of filing of a design application is in conflict with the design right with regard to the design application upon expiration of the duration of the patent right or utility model right.
- (3) The holder of a design right or the exclusive licensee shall have a right to receive reasonable consideration from the non-exclusive licensee under the preceding two paragraphs.

(Award granting non-exclusive license)

- Article 33 (1) Where a registered design or a design similar thereto falls under any of the cases as provided in Article 26, the holder or exclusive licensee of the design right may request the other person under the said Article to hold consultations to discuss granting a non-exclusive license to work the registered design or a design similar thereto or a non-exclusive license on the patent right or the utility model right.
- (2) The other person under Article 26 who is requested to hold consultations under the preceding paragraph may request the holder of design right or exclusive licensee requesting such consultations to hold consultations to discuss granting a non-exclusive license to the extent of the registered design or a design similar thereto that the said holder of design right or exclusive licensee intends to work with a non-exclusive license on the design right, on the patent right or on the utility model right granted through consultations
 - (3) Where no agreement is reached by consultations or no consultations are able to be held as provided in paragraph (1), the holder of design right or the exclusive licensee may request the Commissioner of the Patent Office for an award.
 - (4) Where no agreement is reached by consultations or no consultations are able to be held as provided in paragraph (2) and where a request for an award is filed under the preceding paragraph, the other person under Article 26 may request the Commissioner of the Patent Office for an award only within the time limit for the submission of a written answer by the said other person designated by the Commissioner of the Patent Office under Article 84 of the Patent Act as applied *mutatis mutandis* under paragraph (7) .
 - (5) In the case of paragraph (3) or (4), the Commissioner of the Patent Office shall not render an award to the effect that a non-exclusive license is to be granted

where the granting of the non-exclusive license will be unreasonably prejudicial to the interests of the other person under Article 26, the holder of design right or the exclusive licensee.

- (6) In the case of paragraph (4), in addition to the case provided for in the preceding paragraph, the Commissioner of the Patent Office shall not render an award ordering a non-exclusive license to be granted if an award ordering a non-exclusive license to be granted is not rendered with respect to the request for an award under paragraph (3).
- (7) Articles 84, 84-2, 85(1) and 86 to 91-2 (procedures for award) of the Patent Act shall apply *mutatis mutandis* to the award under paragraph (3) or (4).

(Transfer, etc. of non-exclusive license)

- Article 34 (1) Except for a non-exclusive license granted by an award under paragraph (3) or (4) of the preceding Article, Article 92(3) of the Patent Act or Article 22(3) of the Utility Model Act, a non-exclusive license may be transferred only where the business involving the working of the relevant design is also transferred, where the consent of the holder of a design right (or, in the case of a non-exclusive license on the exclusive license, the holder of a design right and the exclusive licensee) is obtained and where the transfer occurs as a result of general succession including inheritance.
- (2) Except for a non-exclusive license granted by an award under paragraph (3) or (4) of the preceding Article, Article 92(3) of the Patent Act or Article 22(3) of the Utility Model Act, a non-exclusive licensee may establish a right of pledge on the non-exclusive right only where the consent of the holder of a design right (or, in the case of a non-exclusive license on the exclusive license, the holder of a design right and the exclusive licensee) is obtained.
 - (3) Where a non-exclusive license is granted by an award under paragraph (3) of the preceding Article, Article 92(3) of the Patent Act or Article 22(3) of the Utility Model Act, the said non-exclusive license shall be transferred together with the design right, patent right or utility model right of the non-exclusive licensee on which the non-exclusive license is granted and the business involving the working of the relevant design in the case where each right is transferred together with the said business, and shall be extinguished in the case where each right of the said non-exclusive licensee is extinguished or transferred independently of the said business.
 - (4) A non-exclusive license granted by an award under paragraph (4) of the preceding

Article shall be transferred together with the design right, patent right or utility model right of the non-exclusive licensee on which the non-exclusive license is granted, and shall be extinguished in the case where the said design right, patent right or utility model right is extinguished.

(Right of pledge)

Article 35 (1) Unless otherwise agreed by contract, where a right of pledge is established on a design right, exclusive license or non-exclusive license, the pledge may not work the registered design or design similar thereto.

(2) Article 96 (extension of a right of pledge to the proceeds of the patent right, etc.) of the Patent Act shall apply mutatis mutandis to a right of pledge established on a design right, exclusive license or non-exclusive license.

(3) Article 98(1)(iii) and (2) (Effect of registration) of the Patent Act shall apply mutatis mutandis to a right of pledge established on a design right or exclusive license.

(Application mutatis mutandis of provisions of the Patent Act)

Article 36 Articles 69(1) and (2) (Limitations of patent right), 73 (Jointly owned patent rights), 76 (Lapse of patent rights in absence of heir), 97(1) (Waiver of patent right, etc.) and 98(1)(i) and (ii) (Effect of registration) of the Patent Act shall apply mutatis mutandis to design rights.

Section 2 Infringement of rights (Article 37 to Article 41)

(Right to seek injunction)

Article 37 (1) A holder of a design right or an exclusive licensee may demand of a person who infringes or is likely to infringe the design right or exclusive license to stop or prevent such infringement.

(2) In making a demand under the preceding paragraph, the holder of a design right or an exclusive licensee may demand measures necessary for the prevention of such infringements including the disposal of articles, buildings or graphic images (including a computer program, etc. that has a function to display the graphic image; the same shall apply hereinafter except in Articles 64 and 65(i)) or a recording medium that has recorded the graphic image or a device incorporating the graphic image (hereinafter referred to as a "general graphic image recording medium, etc."), or a computer program, etc. (except for a computer program, etc.

that have a function to display the graphic image; the same shall apply hereinafter) or a recording medium that has recorded computer program, etc. or a device recording computer program, etc. (hereinafter referred to as a "recording medium, etc. containing computer program, etc.") constituting such an act of infringement and the removal of the facilities used for the act of infringement.

- (3) With regard to a design for which secrecy is requested under Article 14(1), the holder of design right or the exclusive licensee may not make a demand under paragraph (1) unless he/she has given warning with documents stating the matters listed in Article 20(3) and certified by the Commissioner of the Patent Office.

(Acts Deemed to constitute infringement)

Article 38 The following acts shall be deemed to constitute infringement of a design right or an exclusive license:

- (i) Acts falling under any of the following that are conducted with regard to any article, or computer program, etc. or recording medium, etc. containing computer program, etc., to be used exclusively for the manufacturing of the article to the registered design or a design similar thereto as a business:
 - (a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or recording medium, etc. containing computer program, etc. to be used exclusively for the manufacturing;
 - (b) acts of creating any computer program, etc. to be used exclusively for the manufacturing, or providing it through an electric telecommunication line or offering for the provision;
- (ii) Acts falling under any of the following that are conducted with regard to any article, or computer program, etc. or recording medium, etc. containing computer program, etc., to be used for the manufacturing of the article to the registered design or a design similar thereto (excluding cases where these are widely distributed within Japan), which are indispensable for an aesthetic impression that the registered design or a design similar thereto would create through the eye, as a business, with knowledge that the design is a registered design or a design similar thereto and that the article or computer program etc., or the recording medium etc. containing computer program, etc., is used for the working of the design:
 - (a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or the recording medium, etc. containing

- computer program, etc. to be used for the manufacturing;
- (b) acts of creating any computer program, etc. to be used for the manufacturing, or providing it through an electric telecommunication line or offering for the provision;
- (iii) Acts of possessing an article to the registered design or a design similar thereto for the purpose of assigning, leasing or exporting it as a business;
- (iv) Acts falling under any of the following that are conducted with regard to any article, or computer program, etc. or recording medium, etc. containing computer program, etc., to be used exclusively for the building of the building to the registered design or a design similar thereto as a business:
 - (a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or recording medium, etc. containing computer program, etc. to be used exclusively for the building;
 - (b) acts of creating any computer program, etc. to be used exclusively for the building, or providing it through an electric telecommunication line or offering for the provision;
- (v) Acts falling under any of the following that are conducted with regard to any article, or computer program, etc. or the recording medium, etc. containing computer program, etc., to be used for the building of the building to the registered design or a design similar thereto (excluding cases where these are widely distributed within Japan), which are indispensable for an aesthetic impression that the registered design or a design similar thereto would create through the eye, as a business, with knowledge that the design is a registered design or a design similar thereto and that the article, or computer program etc. or the recording medium etc. containing computer program, etc., is used for the working of the design:
 - (a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or recording medium, etc. containing computer program, etc. to be used for the building;
 - (b) acts of creating any computer program, etc. to be used for the building, or providing it through an electric telecommunication line or offering for the provision;
- (vi) Acts of owning a building to the registered design, or a design similar thereto for the purpose of assigning or leasing it as a business;
- (vii) Acts falling under any of the following that are conducted with regard to any article, or graphic image or general graphic image recording medium, etc., or

computer program, etc. or recording medium, etc. containing computer program, etc., to be used exclusively for the creating of the graphic image to the registered design or a design similar thereto as a business:

- (a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or general graphic image recording medium, etc., or recording medium, etc. containing computer program, etc., to be used exclusively for the creating;
 - (b) acts of creating any graphic image or computer program, etc. to be used exclusively for the creating, or providing it through an electric telecommunication line or offering for the provision;
- (viii) Acts falling under any of the following that are conducted with regard to any article, graphic image or general graphic image recording medium, etc., or computer program, etc. or the recording medium, etc. containing computer program, etc., to be used for the creating of the graphic image to the registered design or a design similar thereto (excluding cases where these are widely distributed within Japan), which are indispensable for an aesthetic impression that the registered design or a design similar thereto would create through the eye, as a business, with knowledge that the design is a registered design or a design similar thereto and that articles, graphic images or general graphic image recording medium, etc., or computer program, etc. or the recording medium, etc. containing computer program, etc., is used for the working of the design:
- (a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or general graphic image recording medium, etc., or recording medium, etc. containing computer program, etc., to be used exclusively for the creating;
 - (b) acts of creating any graphic image or computer program, etc. to be used for the creating, or providing it through an electric telecommunication line or offering for the provision;
- (ix) Acts of holding a graphic image to the registered design or a design similar thereto for the purpose of providing it through an electric telecommunication line as a business, or acts of possessing a graphic image recording medium, etc. to the registered design or a design similar thereto for the purpose of assigning, leasing, or exporting it as a business.

(Presumption of Amount of Damage, etc.)

Article 39 (1) Where a holder of design right or an exclusive licensee claims against an infringer compensation for damage sustained as a result of the intentional or negligent infringement of the design right or exclusive license, and the infringer assigned articles that constitute the act of infringement, the amount of damages sustained by the holder of design right or the exclusive licensee may be presumed to be the total of the amounts written in each of the following items.

(i) the amount of profit per unit of the articles which would have been sold by the holder of design right or the exclusive licensee if there had been no such act of infringement, multiplied by the portion not exceeding the quantity (if there are circumstances due to which the holder of design right or the exclusive licensee would have been unable to sell the quantity of articles equivalent to all or part of the portion, the quantity due to such circumstances (referred to as “specified quantity” in the same item) shall be deducted) proportionate to the ability of the holder of design right or the exclusive licensee to work the articles (referred to as “working equivalent quantity” in the same item) within the quantity of articles assigned by the infringer who has committed the infringement of the design right or exclusive license (referred to in the next item as “assigned quantity”);

(ii) the amount equivalent to the amount of money to be received for the working of the registered design to the design right or exclusive license according to the quantity in the case where there is a quantity that exceeds the working equivalent quantity within the assigned quantity, or a specified quantity (except in the case where it is not recognized that the holder of design right or the exclusive licensee would have been able to establish the exclusive license or grant a non-exclusive license on the design right of the holder of design right, or grant a non-exclusive license on the exclusive license of the exclusive licensee).

(2) Where a holder of design right or an exclusive licensee claims against an infringer compensation for damages sustained as a result of the intentional or negligent infringement of the design right or exclusive license, and the infringer earned profits from the act of infringement, the amount of profits earned by the infringer shall be presumed to be the amount of damages sustained by the holder of design right or exclusive licensee.

(3) A holder of a design right or an exclusive licensee may claim against an infringer compensation for damages sustained as a result of the intentional or negligent infringement of the design right or exclusive license, by regarding the amount the

holder of design right or exclusive licensee would have been entitled to receive for the working of the registered design or design similar thereto as the amount of damages sustained.

- (4) When a court determines the amount equivalent to the amount of money to be received for the working of the registered design provided in paragraph (1) item (ii) and the preceding paragraph, if the holder of design right or the exclusive licensee agrees with the infringer on the premise that the design right or exclusive license may have been infringed as per the compensation of the working of the registered design to the design right or the exclusive license, the compensation which the holder of design right or the exclusive licensee is set to obtain may be taken into consideration.
- (5) Paragraph (3) shall not prevent any relevant party from claiming compensation for damages in an amount exceeding the amount provided for therein. In such a case, where the infringer committed the infringement of the design right or exclusive license without intent or gross negligence, the court may take these circumstances into consideration in determining the amount of damages.

(Presumption of negligence)

Article 40 An infringer of a design right or an exclusive license of another person is presumed negligent in the commission of the said act of infringement; provided, however, that this shall not apply to a design for which secrecy is requested under Article 14(1).

(Application mutatis mutandis of provisions of the Patent Act)

Article 41 Articles 104-2 to 105 (Obligation to clarify the specific circumstances, restriction on the exercise of the rights by the patentee, etc., limitation to assertions, and submission of documents, etc.), Articles 105-2-11 to 105-6 (expert opinion for calculation of damages, approval of reasonable amount as the value of damages, confidentiality protective order, vacating confidentiality protective order, and notice of a request for inspect a case record), and Article 106 (measures to restore credibility) of the Patent Act shall apply mutatis mutandis to infringement of a design right or an exclusive license.

Section 3 Registration Fees (Article 42 to Article 45)

(Registration fees)

Article 42 (1) A person obtaining the registration establishing a design right, or a holder of a design right, shall pay as registration fees the amounts specified in the following items, for each design registration and for each year to the expiration of the duration as provided in Article 21:

- (i) First to third year: annually 8,500 yen
- (ii) Fourth to twenty-fifth year: annually 16,900 yen

(2) The preceding paragraph shall not apply to design rights belonging to the State.

(3) Notwithstanding the provisions of paragraph (1), where a design right is jointly owned by the State and any other persons, and the portions of their respective shares of the said design right have been agreed upon, the registration fees payable under the said paragraph shall be determined as the sum calculated by multiplying the applicable registration fees as provided in the said paragraph by the ratio of the share of persons other than the State, and the persons other than the State shall pay such amounts.

(4) For the amount of registration fees calculated under the preceding paragraph, fractional figures of less than ten yen shall be discarded.

(5) The payment of registration fees under paragraph (1) shall be made by patent revenue stamps as provided by an Ordinance of the Ministry of Economy, Trade and Industry; provided, however, that where so provided by an Ordinance of the Ministry of Economy, Trade and Industry, a cash payment thereof shall be accepted.

(Time limit for payment of registration fees)

Article 43 (1) The registration fee for the first year under Article 42(1)(i) shall be paid within 30 days from the date on which a certified copy of the examiner's decision or the appeal and trial decision to the effect that the design is to be registered has been served.

(2) The registration fees for each year from the second and subsequent years under Article 42(1) shall be paid by the end of the previous year.

(3) The Commissioner of the Patent Office may, upon a request by a person by whom the registration fees are to be paid, extend the time limit under paragraph (1) by a period not exceeding 30 days.

(4) Where, due to reasons beyond the control of a person who pays registration fees, the person is unable to pay the registration fees within the time limit as provided in paragraph (1) (where the time limit under the preceding paragraph is extended, within the extended time limit), the person may, notwithstanding paragraph (1),

pay the registration fees within 14 days (where overseas resident, 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.

(Payment of registration fees by interested persons)

Article 43-2 (1) An interested person may pay the registration fees even against the will of the person by whom the registration fees are to be paid.

(2) The interested person who has paid the registration fees under the preceding paragraph may request the reimbursement of the expenses arising therefrom to the extent of the actual benefit obtained by the person by whom the patent fees were to be paid.

(Late payment of registration fees)

Article 44 (1) Where a holder of a design right is unable to pay the registration fees within the time limit under Article 43(2), the holder of design right may make a late payment of the registration fees after the expiration of the said time limit, but not later than 6 months following the expiration of the said time limit.

(2) The holder of design right who makes a late payment of the registration fees under the preceding paragraph shall pay, in addition to the registration fees to be paid under Article 42(1), a registration surcharge in the same amount as the registration fees.

(3) The payment of the registration surcharge under the preceding paragraph shall be made by patent revenue stamps as provided by an Ordinance of the Ministry of Economy, Trade and Industry; provided, however, that where so provided by an Ordinance of the Ministry of Economy, Trade and Industry, a cash payment thereof shall be accepted.

(4) Where a holder of a design right fails to pay, within the time limit for late payment of the registration fees under paragraph (1), the registration fees and the registration surcharge under paragraph (2), the design right shall be deemed to have been extinguished retroactively upon expiration of the time limit as provided in the Article 43(2).

(Restoration of design right by late payment of registration fees)

Article 44-2 (1) Where an original holder of a design right which was deemed to have been extinguished under paragraph (4) of the preceding Article, has justifiable reasons for having been unable to pay the registration fees and the

registration surcharge under Articles 44(4) within the time limit for late payment of the registration fees under Article 44(1), the original holder of the design right may make a late payment of the registration fees and the surcharge within two months from the date on which the justifiable reasons ceased to exist, but not later than one year following the expiration of the said time limit.

- (2) Where the registration fees and the surcharge are paid under the preceding paragraph, the design right shall be deemed to have been maintained retroactively from the time of expiration of the time limit as provided in Article 43(2).

(Restriction on effect of restored design right)

Article 44-3 (1) Where a design right has been restored under paragraph (2) of the preceding Article, such design right shall not be effective against an article or graphic image recording medium, etc., to the registered design or a design similar thereto, which was imported into, or manufactured or acquired within Japan, a building to the registered design or a design similar thereto, which was built or acquired within Japan, or an graphic image to the registered design or a design similar thereto, which was created or acquired within Japan after the lapse of the time limit during which the late payment of the registration fees is allowed under Article 44(1) but before the registration of the restoration of the design right.

- (2) A design right restored under paragraph 2 of the preceding Article shall not be effective against the following acts conducted after the lapse of the time limit during which the late payment of the registration fees is allowed under Article 44(1) but before the registration of the restoration of the design right:

(i) the working of the registered design or a design similar thereto;

(ii) Acts falling under any of the following that are conducted with regard to any article, or computer program, etc. or the recording medium, etc. containing computer program, etc., to be used for the manufacturing of the article to the registered design or a design similar thereto:

(a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or recording medium, etc. containing computer program, etc., to be used for the manufacturing;

(b) acts of creating any computer program, etc. to be used for the creating, or providing it through an electric telecommunication line or offering for the provision;

(iii) Acts of possessing an article to the registered design or a design similar thereto for the purpose of assigning, leasing or exporting it;

- (iv) Acts falling under any of the following that are conducted with regard to any article, or computer program, etc. or recording medium, etc. containing computer program, etc., to be used for the building of the building to the registered design or a design similar thereto:
 - (a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article, or recording medium, etc. containing computer program, etc., to be used for the building;
 - (b) acts of creating any computer program, etc. to be used for the building, or providing it through an electric telecommunication line or offering for the provision;
- (v) Acts of owning a building to the registered design or a design similar thereto for the purpose of assigning or leasing it;
- (vi) Acts falling under any of the following that are conducted with regard to any article, or graphic image or general graphic image recording medium, etc., or a computer program, etc. or recording medium, etc. containing computer program, etc., to be used for the creating of the graphic image to the registered design or a design similar thereto:
 - (a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or general graphic image recording medium, etc., or recording medium, etc. containing computer program, etc., to be used for the creating;
 - (b) acts of creating any graphic image or computer program, etc. to be used for the creating, or providing it through an electric telecommunication line or offering for the provision;
- (vii) Acts of holding a graphic image to the registered design or a design similar thereto for the purpose of providing it through an electric telecommunication line, or acts of possessing a graphic image recording medium, etc. to the registered design or a design similar thereto for the purpose of assigning, leasing, or exporting it.

(Application mutatis mutandis of provisions of the Patent Act)

Article 45 Article 111(1) (Excluding item (iii)) to (3) (Refund of patent fees) of the Patent Act shall apply mutatis mutandis to registration fees.

Chapter V Trials and Appeals (Article 46 to Article 52)

(Appeal against examiner's decision of refusal)

Article 46 (1) A person who has received an examiner's decision to the effect that an application is to be refused and is dissatisfied may file a request for an appeal against the examiner's decision of refusal within three months from the date the certified copy of the examiner's decision has been served.

(2) Where, due to reasons beyond the control of the person, said person is unable to file a request for appeal against an examiner's decision of refusal within the time limit as provided in the preceding paragraph, the said person may, notwithstanding the said paragraph, file the request within 14 days (where overseas resident, 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.

(Appeal against examiner's ruling dismissing an amendment)

Article 47 (1) A person who has received an examiner's decision to dismiss an amendment under Article 17-2(1) and is dissatisfied may file a request for an appeal against the examiner's ruling dismissing an amendment within three months from the date on which the certified copy of the examiner's decision has been served; provided, however, that this shall not apply where a new application for design registration under Article 17-3(1) has been filed.

(2) Paragraph (2) of the preceding Article shall apply mutatis mutandis to a request for appeal against an examiner's ruling dismissing an amendment.

(Invalidation trial of design registration)

Article 48 (1) Where a design registration falls under any of the following, a request for invalidation trial of design registration may be filed.

(i) where the design registration has been granted in violation of Articles 3, 3-2, 5, 9(1) or (2), 10(6) of this Act, Articles 38 of the Patent Act as applied mutatis mutandis under Article 15(1) of this Act, or Articles 25 of the Patent Act as applied mutatis mutandis under Article 68(3) of this Act (where the design registration has been obtained in violation of Article 38 as applied mutatis mutandis under Article 15(1), excluding the case where the transfer of a design right pertaining to the design has been registered based on the request under Article 26-2(1)).

(ii) where the design registration has been granted in violation of a treaty;

(iii) where the design registration has been granted on an application for design

registration filed by a person who has not had the right to obtain the design registration for the said design (excluding the case where the transfer of a design right pertaining to the design registration has been registered based on the request under Article 26-2(1)); and

- (iv) where, after the grant of a design registration, the holder of design right has become unable to hold a design right under Article 25 of the Patent Act as applied *mutatis mutandis* under Article 68(3) of this Act, or the design registration has become in violation of a treaty.
- (2) Any person may file a request for invalidation trial of design registration; provided, however, that where a request for invalidation trial of design registration is filed on the ground that the design registration falls under item (i) of the preceding paragraph (limited to cases where the design registration is obtained in violation of Article 38 of the Patent Act as applied *mutatis mutandis* under Article 15(1) of this Act) or item (iii) of the preceding paragraph, only a person who has the right to obtain a design registration pertaining to the said design registration may file a request for invalidation trial of design registration.
- (3) A request for invalidation trial of design registration may be filed even after the lapse of the design right.
- (4) Where a request for invalidation trial of design registration has been filed, the chief administrative judge shall notify the exclusive licensee of the design right and other persons who have any registered rights relating to the design registration.

Article 49 Where a trial decision to the effect that a design registration is to be invalidated has become final and binding, the design right shall be deemed never to have existed; provided, however, that where a design registration falls under paragraph (1), item (iv) of the preceding Article and where a trial decision to the effect that the design registration is to be invalidated has become final and binding, the design right shall be deemed not to have existed from the time the said item first became applicable to the design registration.

(Application *mutatis mutandis* of provisions on examination)

Article 50 (1) Article 17-2 and Article 17-3 shall apply *mutatis mutandis* to an appeal against an examiner's decision of refusal. In this case, the term "three months" in Article 17-2(3) and 17-3(1) shall be deemed to be replaced with "thirty days," and the term "files a request for an appeal against" in Article 17-2(4) shall

- be deemed to be replaced with "institutes, under Article 59(1), an action against."
- (2) Article 18 shall apply mutatis mutandis where a request for appeal against an examiner's decision of refusal is found to have reasonable grounds; provided, however, that this shall not apply where a trial decision is made to order a further examination to be carried out under Article 161(1) of the Patent Act as applied mutatis mutandis under Article 52.
- (3) Article 50 (notice of reasons for refusal) of the Patent Act shall apply mutatis mutandis where a reason for refusal which was not contained in an examiner's decision is found in appeal against the examiner's decision of refusal.

(Special provisions for appeal against examiner's ruling dismissing an amendment)

Article 51 Where appeal decision is made to rescind an examiner's ruling in appeal against the examiner's ruling dismissing an amendment, the decision made in the appeal decision shall be binding upon the examiner with respect to the case.

(Application mutatis mutandis of provisions of the Patent Act)

Article 52 Articles 131(1) and (2), 131-2 (excluding items paragraphs (1)(iii) and (2)(i)) to 134, 135 to 154, 155(1) and (2), 156(1), (3) and (4), 157, 158, 160(1) and (2), 161, and 167 to 170 (request for appeal and trial, administrative judge, procedures of appeal and trial, relation to litigation and costs of appeal and trial) of the Patent Act shall apply mutatis mutandis to appeal and trial. In this case, the term ", in appeal and trial other than invalidation trial, notify" in Article 156(1) shall be deemed to be replaced with "notify" the term "appeal against the examiner's decision of refusal" in Article 161 and the term "appeal against an examiner's decision of refusal and correction trial" in Article 169(3) of the said Act shall be deemed to be replaced with "an appeal against an examiner's decision of refusal and appeal against an examiner's ruling dismissing an amendment."

Chapter VI Retrial and Litigation (Article 53 to Article 60-2)

(Request for retrial)

- Article 53 (1) A party or an intervenor may file a request for a retrial against a final and binding trial decision.
- (2) Articles 338(1), 338(2) and 339 (Grounds for retrial) of the Code of Civil Procedure (Act No.109 of 1996) shall apply mutatis mutandis to a request for a retrial under

the preceding paragraph.

Article 54 (1) Where a demandant for a trial, in conspiracy with the demandee, has caused the trial decision to be rendered for the purpose of harming the right or interest of a third party, the third party may file a request for a retrial against the final and binding trial decision.

(2) A request for a retrial under the preceding paragraph shall be filed against the demandant and the demandee in the trial as joint demandees.

(Restriction on effect of design right restored by retrial)

Article 55 (1) Where a design right pertaining to an invalidated design registration has been restored by a retrial, such design right shall not be effective against any article or graphic image recording medium, etc., to the registered design or a design similar thereto, which was imported into, or manufactured or acquired within Japan without knowledge, a building to the registered design or a design similar thereto, which was built or acquired within Japan without knowledge, or graphic image to the registered design or a design similar thereto, which was created or acquired within Japan without knowledge after the trial decision became final and binding but before the registration of the request for a retrial.

(2) Where a design right pertaining to an invalidated design registration has been restored by a retrial, such design right shall not be effective against the following acts conducted after the trial decision became final and binding but before the registration of the request for a retrial:

(i) working of the said design or a design similar thereto without knowledge;

(ii) Acts falling under any of the following that are conducted with regard to any article, or computer program, etc. or recording medium, etc. containing computer program, etc., to be used for the manufacturing of the article to the registered design or a design similar thereto without knowledge:

(a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or recording medium, etc. containing computer program, etc. to be used for the manufacturing;

(b) acts of creating any computer program, etc. to be used for the manufacturing, or providing it through an electric telecommunication line or offering for the provision;

(iii) Acts of possessing an article to the registered design or a design similar thereto for the purpose of assigning, leasing or exporting it without knowledge;

- (iv) Acts falling under any of the following that are conducted with regard to any article, or computer program, etc. or recording medium, etc. containing computer program, etc., to be used for the building of the building to the registered design or a design similar thereto without knowledge:
 - (a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or recording medium, etc. containing computer program, etc. to be used for the building;
 - (b) acts of creating any computer program, etc. to be used for the building, or providing it through an electric telecommunication line or offering for the provision;
- (v) Acts of owning a building to the registered design or a design similar thereto for the purpose of assigning or leasing it without knowledge;
- (vi) Acts falling under to any of the following that are conducted with regard to any article, or graphic image or general graphic image recording medium, etc., or computer program, etc. or recording medium, etc. containing computer program, etc., to be used for the creating of the graphic image to the registered design or a design similar thereto without knowledge:
 - (a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or general graphic image recording medium, etc., or recording medium, etc. containing computer program, etc., to be used for the creating;
 - (b) acts of creating any graphic image or computer program, etc. to be used for the creating, or providing it through an electric telecommunication line or offering for the provision;
- (vii) Acts of holding a graphic image to the registered design or a design similar thereto for the purpose of providing it through an electric telecommunication line, or acts of possessing a graphic image recording medium, etc. to the registered design or a design similar thereto for the purpose of assigning, leasing or exporting it without knowledge.

Article 56 Where a design right pertaining to an invalidated design registration has been restored through a retrial or where the establishment of a design right with respect to an application for design registration refused by a trial decision has been registered through a retrial, and where a person has, without knowledge, been using the design or a design similar thereto in Japan or has, without knowledge, been making preparations therefor, after the trial decision became

final and binding but before the registration of the demand for a retrial, such person shall have a non-exclusive license on the design right, to the extent of the design and the purpose of such business used or prepared.

(Application mutatis mutandis of provisions on trial)

Article 57 (1) Article 50(1) and (3) shall apply mutatis mutandis to a retrial against a final and binding trial decision in appeal against an examiner's decision of refusal.

(2) Article 51 shall apply mutatis mutandis to a retrial against a final and binding trial decision in appeal against an examiner's ruling dismissing an amendment.

(Application mutatis mutandis of provisions of the Patent Act)

Article 58 (1) Articles 173 and 174(5) of the Patent Act shall apply mutatis mutandis to a retrial.

(2) Articles 131(1), the main clause of 131-2(1), 132(3) and (4), 133, 133-2, 134(4), 135 to 147, 150 to 152, 155(1), 156(1), (3) and (4), 157, 158, 160, the main clause of 167-2, 168, 169(3) to (6), and 170 of the Patent Act shall apply mutatis mutandis to a retrial against a final and binding trial decision in appeal against an examiner's decision of refusal. In this case, the term "appeal against an examiner's decision of refusal and a trial for correction" in Article 169(3) of the said Act shall be deemed to be replaced with "appeal against an examiner's decision of refusal."

(3) Articles 131(1), the main clause of 131-2(1), 132(3) and (4), 133, 133-2, 134(4), 135 to 147, 150 to 152, 155(1), 156(1), (3) and (4), 157, the main clause of 167-2, 168, 169(3) to (6), and 170 of the Patent Act shall apply mutatis mutandis to a retrial against a final and binding appeal and trial decision in appeal against an examiner's ruling dismissing an amendment. In this case, the term "appeal against an examiner's decision of refusal and correction trial" in Article 169(3) of the said Act shall be deemed to be replaced with "appeal against an examiner's ruling dismissing an amendment."

(4) Article 174(3) of the Patent Act shall apply mutatis mutandis to retrial against a final and binding trial decision in invalidation trial of design registration

(Actions against appeal and trial decisions, etc.)

Article 59 (1) The Tokyo High Court shall have exclusive jurisdiction over any action against appeal and trial decision, a ruling dismissing an amendment under Article 17-2(1) as applied mutatis mutandis under Article 50(1) (including its

application under Article 57(1)), and a ruling to dismiss a written request for appeal and trial or a retrial.

(2) Articles 178(2) to (6) (Statute of limitations for filing an action, etc.), 179 (Appropriate party as defendant), 180(1) (Notice of institution of action) and 180-2 to 182 (Opinion of the Commissioner of the Patent Office in litigation rescinding the appeal and trial decision, rescission of the appeal and trial decision or ruling and delivery of original copy of judgment) of the Patent Act shall apply mutatis mutandis to an action under the preceding paragraph. In this case, the term "necessary for identifying claims pertaining to an action with respect to which" in Article 182(ii) shall be deemed to be replaced with "stating that"

(Action against amount of compensation)

Article 60 (1) A person(s) who has received an award under Article 33(3) or (4) may, if not satisfied with the amount of the compensation determined in the award, institute an action demanding an increase or decrease of the said amount.

(2) Articles 183(2) (Statute of limitations for filing an action) and 184 (Standing as defendant) of the Patent Act shall apply mutatis mutandis to an action under the preceding paragraph.

Article 60-2 Deleted

Chapter VI-2 Special Provisions based on Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs

(Article 60-3 to Article 60-23)

Section 1 Application for International Registration

(Application for International registration)

Article 60-3 (1) A Japanese national or a foreign national domiciled or resident (or, in the case of a juridical person, with a business office) in Japan may file to the Commissioner of the Patent Office an international application as provided in Article 1(vii) of Geneva Act of the Hauge Agreement concerning the International Registration of Industrial Designs (hereinafter referred to as "Geneva Act") (hereinafter referred to as "international application"). In this case, where the requirements as provided by Ordinance of the Ministry of Economy, Trade and Industry are satisfied, two or more persons may jointly file an international

application.

(2) A person filing an international application under the preceding paragraph (hereinafter referred to as "application for international registration") shall submit an application written in a foreign language and necessary materials as provided by Ordinance of the Ministry of Economy, Trade and Industry.

(Application mutatis mutandis of provisions related to applications for design registration)

Article 60-4 The provisions of Articles 17(3) (limited to the part pertaining to (iii)) and 18(1) of the Patent Act as applied mutatis mutandis under Article 68(2) of this Act shall apply mutatis mutandis to the application for international registration.

(Delegation to Ordinance of the Ministry of Economy, Trade and Industry)

Article 60-5 In addition to those prescribed in the preceding two Articles, details of matters necessary for enforcing Geneva Act and the rules under Geneva Act relating to application for international registration shall be prescribed by Ordinance of the Ministry of Economy, Trade and Industry.

Section 2 Special Provisions Concerning International Applications for Design Registration (Article 60-6 to Article 60-23)

(Application for design registration based on International Application)

Article 60-6 (1) An international application designating Japan as a designated Contracting Party under Article 1 (xix) of Geneva Act, where publication of an international registration under Article 1 (vi) of Geneva Act (hereinafter referred to as "international registration") pertaining to the International Application (hereinafter referred to as "international publication") have been made under Article 10(3)(a) of Geneva Act shall be deemed to be an application for design registration filed on an international registration date under Article 10(2) of Geneva Act.

(2) For the purpose of application of the preceding paragraph to an international application including two or more designs, "an application for design registration filed" in the said paragraph shall read "an application for design registration filed for each design that is the subject of an international registration".

(3) Matters listed in the left columns of the following table recorded on International Register under Article 1(viii) of Geneva Act (hereinafter referred to as

"International Register") pertaining to an international application deemed to be an application for design registration under paragraph (1) (including cases of replacing under the preceding paragraph) (hereinafter referred to as "international application for design registration") shall be deemed to be the matters listed in the right columns of the said table stated in an application submitted under Article 6(1) of this Act.

the name, and domicile or residence of the registered person of an international registration;	the name, and domicile or residence of the applicant for design registration;
the name and the domicile of a person who has created a design that is the subject of an international registration;	the name, and the domicile or residence of a person who has created a design;
one or more products that constitute a design that is the subject of an international registration, or one or more products that will use a design that is the subject of an international registration;	the article to the design, or the usage of the building or graphic image to the design (if the product listed in the left column is a building or graphic image, limited to the cases where it is possible to recognize the usage of the building or the graphic image from the matters recorded on the International Register to the product);

(4) The design recorded on International Register concerning international applications for design registration shall be deemed to be a design for which registration is requested, which is depicted in the drawing submitted under Article 6(1) of this Act.

(Special provision for exception to lack of novelty of design)

Article 60-7 Notwithstanding Article 4(3), an applicant of an international application for design registration who requests the application of Article 4(2) may submit to the Commissioner of the Patent Office, after the date of international publication, but not later than the time limit as provided in Ordinance of the Ministry of Economy, Trade and Industry, a document stating thereof and a

document proving the fact that the design which has fallen under items (i) and (ii) of Article 3(1) is a design to which Article 4(2) may be applicable.

(Special provision for registration of related designs)

Article 60-8 (1) For the purpose of application of Article 10(1) (including cases of replacing under paragraph (5) of this article, hereinafter the same shall apply in this and the next paragraphs) when either or both of the applications for design registration of a Principle Design and the application for design registration of a Related Design are international applications for design registration, "or under Article 43-3(1) or 43-3(2)" in paragraph (1) of the said article shall read "or under Article 43-3(1) or (2), or Article 6(1)(a) of Geneva Act."

(2) For the purpose of the application of the proviso to Article 10(1) when the design right of the Principle Design is a design right based on the international registration prescribed in Article 60-14(2), "Article 44(4)" in the proviso to the said paragraph shall read "Article 60-14(2)".

(3) For the purpose of the application of the proviso to Article 10(8) when the design right of one or more Related Designs pertaining to the Fundamental Design is a design right based on the international registration prescribed in Article 60-14(2), "Article 44(4)" in the said paragraph shall read "Article 44(4) or Article 60-14(2)".

(Special provision for secret designs)

Article 60-9 Article 14 shall not apply to the applicant of an international application for design registration.

(Special provisions for procedures for a priority claim under the Paris Convention, etc.)

Article 60-10 (1)

Articles 43(1) to (5), (8) and (9) (including its mutatis mutandis application in Article 43-3(3) of the Patent Act to be applied mutatis mutandis in Article 15(1)) and 43-3(2) of the Patent Act to be applied mutatis mutandis in Article 15(1) shall not apply to international applications for design registration.

(2) Article 43(2) to (5), (8) and (9) of the Patent Act shall apply mutatis mutandis to a person who has made a declaration of priority under Article 6(1)(a) of Geneva Act. In this case, the term "within one year and four months from the earliest of the following dates" in Article 43(2) of the said Act shall be deemed to be replaced with "within the time limit provided by Ordinance of the Ministry of Economy,

Trade and Industry," and the terms "a person who has received notice under paragraph (6)," "the preceding paragraph," and "paragraph (2)" in Article 43(8) of the said Act shall be deemed to be replaced with "a person who submits documents under paragraph (2) or documents under paragraph (5)," "paragraph (2)," and "the said paragraph," respectively.

(Special provisions for the right to obtain a design registration)

Article 60-11 (1) For the purpose of application of Article 34(4) of the Patent Act as applied mutatis mutandis under Article 15(2) of this Act to an international application for design registration, "except in the case of general successions including inheritance, ... the Commissioner of the Patent Office " in the said paragraph shall read "the International Bureau under Article 1(xxviii) of Geneva Act".

(2) Article 34(5) and (6) as applied mutatis mutandis under Article 15(2) of this Act shall not apply to the international application for design registration.

(Effect etc., of international publication)

Article 60-12 (1) After the international publication, where the applicant of an international application for design registration has given warning with documents stating the design in the international application for design registration, the applicant of the international application for design registration may claim compensation against a person who has worked the design in the international application for design registration or designs similar thereto, as a business after the warning, prior to the registration establishing a design right, and the amount of compensation shall be equivalent to the amount the applicant would be entitled to receive for the working of the registered design or designs similar thereto if the design in the international application for design registration was the registered design. Even where the said warning has not been given, the same shall apply to a person who worked the design in the international application for design registration or designs similar thereto as a business prior to the registration establishing a design right, with knowledge of the design having been claimed in the international application for design registration that the international publication has been effected.

(2) Paragraphs (2) to (6) of Article 65 of the Patent Act shall apply mutatis mutandis to the exercise of the right to claim compensation under the preceding paragraph.

In this case, "after the laying open" in paragraph (5) of the said Article shall be replaced with "after international publication", and "Articles 101, 104 to 104-3, 105 to 105-2-11, 105-4 to 105-7 and "in paragraph (6) of the said Article shall be replaced with "Articles 104-2 to 105, 105-2-11 and 105-4 to 105-6 of the Patent Act as applied mutatis mutandis under Articles 38 and 41 of Design Act, and Patent Act as applied mutatis mutandis under Article 52 of Design Act."

(Special provision for registration of establishment of a design right)

Article 60-13 For the purpose of application of Article 20(2) of this Act to an international application for design registration, "payment of the registration fee for the first year under Article 42(1)" in the said paragraph shall read "decision or the appeal decision to the effect that the design is to be registered."

(Effect by extinguishment of international registration)

Article 60-14 (1) Where international registration on which an international application for design registration is based is extinguished, the international application for design registration shall be deemed to have been withdrawn.

(2) A design right obtained the registration establishment under Article 20(2) to be applied mutatis mutandis in the preceding paragraph (hereinafter referred to as "design right based on international registration") shall be deemed to have been extinguished where the international registration is extinguished.

(2) Effects of the preceding two paragraphs shall be taken as of the date on which the said international registration is extinguished from the International Register.

(Special provision for pertaining to transfer of a design right of a related design)

Article 60-15 For the purpose of application of Article 22(2) to the design right of a Fundamental Design based on international registration, "Article 44(4)" in the said paragraph shall read "Article 60-14(2)."

(Special provision for establishment of an exclusive license on the design right of a related design)

Article 60-16 For the purpose of application of Article 27(3) to the design right of a Fundamental Design based on international registration, "Article 44(4)" in the said paragraph shall read "Article 60-14(2)."

(Special provisions for waiving a design right)

Article 60-17 (1) A person who has a design right based on international registration may waive the design right.

(2) Article 97(1) of the Patent Act as applied mutatis mutandis under Article 36 shall not apply to the design right based on international registration.

(Special provisions for the effect of a design right registration)

Article 60-18 (1) Transfer, modification due to trust, lapse due to abandonment, or restriction on disposition of a design right based on international registration must be registered to take effect.

(2) Article 98(1)(i) and (2) of the Patent Act as applied mutatis mutandis under Article 36 shall not apply to the design right based on international registration.

(Special provisions for registration in the design registry)

Article 60-19 (1) For the purpose of application of Article 61(1)(i) to a design right based on international registration, "establishment, transfer, modification due to trust, lapse, restoration or restriction on disposition of a design right" in the said paragraph shall read "establishment, modification due to trust, extinguishment (limited to extinguishment upon expiration of the duration), or restriction on disposition of a design right."

(2) Transfer or extinguishment (excluding extinguishment upon expiration of the duration) of a design right based on international registration depends on the place at which the design right is registered in the International Register.

(Special provision for Design Bulletin)

Article 60-20 For the purpose of application of Article 66(2)(i) to a design right based on international registration, "excluding extinguishment under Article 44(4) or the restoration thereof (limited to restoration under Article 44-2(2))" in the said item shall read "excluding extinguishment under Article 60-14(2) (limited to extinguishment due to the fact that renewal under Article 17(2) of Geneva Act was not made))."

(Individual designation fee of international applications for design registration)

Article 60-21 (1) A person filing international applications for design registration shall pay, as the individual designation fee under Article 17(2) of Geneva Act (hereinafter referred to as individual designation fee, the amounts equivalent to 74,600 yen per case to the International Bureau under Article 1(xxviii) of Geneva

Act (referred to as "International Bureau" in the following paragraph).

- (2) A person making renewal under Article 7(2) of Geneva Act with regard to the international registration on which an international application for design registration or a design right based on the international registration is based shall pay, as the individual designation fee, the amounts equivalent to 84,500 yen per case to International Bureau.
- (3) Articles 42 to 45 and 67(2) (limited to the part listed in item (i) of Appended Table) shall not apply to a design right based on an international application for design registration or an international registration.

(Refund of individual designation fee)

Article 60-22 (1) Where an international application for design registration has been withdrawn, or decision of refusal or trial decision to the international application for design registration has become final and binding, amounts as provided in Cabinet Order shall be refunded upon the request of the person who paid the individual designation fee to be paid under paragraph (1) or (2) of the preceding Article.

- (2) No request for refunding the individual designation fee under the preceding paragraph may be filed after the expiration of six months from the date on which the international application for design registration has been withdrawn, or decision of refusal or trial decision to the international application for design registration has become final and binding.
- (3) Notwithstanding paragraph (1), where, due to reasons beyond the control of a person who files request for refund of the individual designation fee under the said paragraph, the person is unable to file the request within the time limit as provided in the preceding paragraph, the person may file the request within 14 days (where overseas resident, 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.

(Delegation to Ordinance of the Ministry of Economy, Trade and Industry)

Article 60-23 In addition to those prescribed in Articles 60-6 to 60-22, details of matters necessary for enforcing Geneva Act and the rules under Geneva Act shall be prescribed by Ordinance of the Ministry of Economy, Trade and Industry.

Chapter VII Miscellaneous Provisions (Article 60-24 to Article 68)

(Amendment of proceedings)

Article 60-24 A person undertaking a procedure with regard to an application for design registration, a request or any other procedures relating to design registration, may make amendments only while the case is pending in examination, appeal and trial or retrial.

(Registration in the design registry)

Article 61 (1) The following matters shall be registered in the design registry maintained in the Patent Office:

- (i) the establishment, transfer, modification due to trust, lapse, restoration or restriction on disposition, of a design right;
 - (ii) the establishment, maintenance, transfer, modification, lapse or restriction on disposal, of an exclusive license; and
 - (iii) the establishment, transfer, modification, lapse or restriction on disposal, of a right of pledge on a design right or exclusive license.
- (2) The design registry may be prepared, in whole or in part, in the form of magnetic tapes (including other storage media using a similar method that may record and reliably store certain matters, the same shall apply hereinafter.)
- (3) In addition to those prescribed in this Act, matters relating to registration shall be prescribed by Cabinet Order.

(Issuance of certificate of design registration)

Article 62 (1) The Commissioner of the Patent Office shall issue the certificate of design registration to the holder of design right where the establishment of a design right has been registered or transfer of the design right has been registered based on the request under Article 26-2(1).

- (2) Re-issuance of the certificate of design registration shall be prescribed by Ordinance of the Ministry of Economy, Trade and Industry.

Article 63 (1) Any person may file a request with regard to design registrations to the Commissioner of the Patent Office to issue a certificate, a certified copy of documents or an extract of documents, to allow the inspection or copying of documents, model or specimen, or to issue documents which contain matters recorded on the magnetic tapes that constitute the part of the Design Registry; provided, however, that if the Commissioner of the Patent Office considers it

necessary to keep such documents, model or specimen confidential, this provision shall not apply to the following documents, model or specimen:

- (i) an application or drawing, photograph, model or specimen attached to an application, or any document pertaining to the examination of an application for design registration for which the design has not been registered;
 - (ii) Documents, model or specimen related to a design for which the secrecy is requested under Article 14(1);
 - (iii) documents concerning an advisory opinion on the technical scope of a registered design, with respect to which a party in the case has given notice that a trade secret (meaning a trade secret as provided in Article 2(6) of the Unfair Competition Prevention Act (Act No. 47 of 1993); the same shall apply in item (v)) owned by the said party in the case has been described;
 - (iv) Documents concerning appeal against an examiner's decision of refusal or appeal against an examiner's ruling dismissing an amendment requested for an application for design registration for which the design has not been registered;
 - (v) Documents concerning invalidation trial of design registration or a retrial of the final and binding trial decision in such trial, with respect to which a party in the case or intervenor has given notice that a trade secret owned by the said party in the case or intervenor has been described;
 - (vi) Documents which are liable to cause damage to an individual's reputation or peaceful life; and
 - (vii) Documents which are liable to cause damage to public order or morality.
- (2) Where the Commissioner of the Patent Office approves of the request under the main clause of the preceding paragraph with regard to the documents, model or specimen as provided in items (i) to (vi) of the said paragraph, the Commissioner of the Patent Office shall notify the person who submitted the said documents, model or specimen thereof and reasons therefor.
- (3) Provisions of the Act on Access to Information Held by Administrative Organs (Act No. 42 of 1999) shall not apply to the documents concerning design registrations and the part of the Design Registry stored on magnetic tapes.
- (4) Provisions in Chapter IV of the Act on Protection of Personal Information Possessed by Administrative Organs (Act No. 58 of 2003) shall not apply to the possessed personal information (refers to the possessed personal information as provided in Article 2(5) of the said Act) recorded in the documents concerning design registrations and the part of the Design Registry stored on magnetic tapes.

(Mark of Design Registration)

Article 64 A holder of a design right, exclusive licensee or non-exclusive licensee shall make efforts to place a mark (hereinafter referred to as a "mark of design registration ") as provided by an Ordinance of the Ministry of Economy, Trade and Industry, on the article or package thereof , building, or graphic image or graphic image recording medium, etc., or package thereof to the registered design or a design similar thereto, indicating that the design for the article, building or graphic image has been registered.

(Prohibition of false marking)

Article 65 It shall be prohibited for a person to do the following acts:

- (i) putting a mark of design registration or a mark confusing therewith on an article or package thereof , building, or graphic image or graphic image recording medium, etc., or package thereof which is other than the article, building, or graphic image or graphic image recording medium, etc. to the registered design and to a design similar to the registered design;
- (ii) acts falling under any of the following that are conducted with regard to an article, building, or graphic image or graphic image recording medium, etc. which is other than the article, building, or graphic image or graphic image recording medium, etc. to the registered design and to a design similar to the registered design and which puts a mark of design registration or a mark confusing therewith on the article or package thereof, building, or graphic image or graphic image recording medium, etc., or package thereof;
 - (a) assigning, leasing, or displaying for the purpose of assignment or lease of the article, building, or graphic image recording medium, etc.;
 - (b) providing the graphic image through an electric telecommunication line or displaying for the provision;
- (iii) acts that falling under any of the following that are conducted with regard to an article, building, or graphic image or graphic image recording medium, etc. which is other than the article, building, or graphic image or graphic image recording medium, etc. to the registered design and to a design similar to the registered design;
 - (a) giving in an advertisement an indication to the effect that the article or graphic image recording medium, etc. is related to the registered design or a design similar thereto, or an indication confusing therewith for the purpose of having the article or graphic image recording medium, etc.

manufactured or used, or assigning or leasing the article or graphic image recording medium, etc.;

- (b) giving in an advertisement an indication to the effect that the building is related to the registered design or a design similar thereto, or an indication confusing therewith for the purpose of having the building build or used, or, assigning or leasing the building;
- (c) giving in an advertisement an indication to the effect that the graphic image is related to the registered design or a design similar thereto, or an indication confusing therewith for the purpose of having the graphic image created or used, or providing the graphic image through an electric telecommunication line.

(Design Bulletin)

Article 66 (1) The Patent Office shall publish the Design Bulletin (Isho Koho).

(2) In addition to the matters provided for in this Act, the Design Bulletin shall contain:

- (i) the extinguishment of design rights (excluding extinguishment upon expiration of the duration and under Article 44(4)) or the restoration thereof (limited to restoration under Article 44-2(4));
- (ii) filings for a request for trials or retrials, or withdrawals thereof, or final and binding trial decisions or retrial decisions (limited to cases where the establishment of a design right has been registered);
- (iii) requests for an award, the withdrawal thereof or a Commissioner's decision; and
- (iv) final and binding judgments in an action under Article 59(1) (limited to cases where the establishment of a design right has been registered)

(3) In addition to the matters provided for in the preceding paragraph, with regard to an application for design registration for which an examiner's decision or appeal and trial decision to the effect it is to be refused under the latter sentence of Article 9(2) have become final and binding, the following matters shall be published in the Design Bulletin. In this case, if secrecy was requested under Article 14(1) for any of those applications, with regard to all of those applications, the matters prescribed in item (3) below shall be published without delay after the lapse of the period designated under Article 14(1) (in the case where secrecy was requested for two or more applications, the period which is the longest among the periods of secrecy requested for such applications) from the date such examiner's decision or

appeal and trial decision became final and binding.

- (i) the name, and domicile or residence of the applicant for design registration;
- (ii) the number and the filing date of the application for design registration;
- (iii) the application and drawing(s), photograph(s), model(s) or specimen(s) attached to the application; and
- (iv) other necessary matters.

(Fees)

Article 67 (1) Fees shall be paid by the following persons in an amount to be provided by Cabinet Order in view of the actual costs:

- (i) persons requesting disclosure of a design under Article 14(4);
 - (ii) persons notifying of succession under Article 34(4) of the Patent Act as applied mutatis mutandis under Article 15(2)
 - (iii) persons filing a request for an extension of period under Article 4 or 5(1) of the Patent Act as applied mutatis mutandis under Article 17-4, 43(3) or 68(1), or a change of the date under Article 5(2) of the Patent Act as applied mutatis mutandis under Article 68(1);
 - (iv) persons who file applications for international registration;
 - (v) persons filing a request for the re-issuance of the certificate of design registration;
 - (vi) persons filing a request for the issuance of a certificate under Article 63(1);
 - (vii) persons filing a request for the issuance of a certified copy of documents or an extract of documents under Article 63(1):
 - (viii) persons filing a request to allow the inspection or copying of documents, model or specimen under Article 63(1); and
 - (ix) persons filing a request for the issuance of documents which contain matters recorded on the magnetic tapes that constitute the part of the Design Registry under Article 63(1).
- (2) The persons listed in the center column of the attached table shall pay fees in the amount as provided by Cabinet Order within the range of the amounts specified in the corresponding right-hand column of the table.
- (3) The two preceding paragraphs shall not apply where the person to pay the fee in accordance with these paragraphs is the State.
- (4) Where the State has joint ownership of a design right or a right to obtain a design registration with a person other than the State, and the portion of their respective shares of said right has been agreed, notwithstanding the provisions of paragraph

- (1) or (2), the fees payable thereunder (limited to those provided by Cabinet Order) shall be determined as the sum of the provided fees multiplied by the ratios of the shares of each person other than the State, and, the person(s) other than the State shall pay such amounts.
- (5) Where the amount of the fees calculated under the preceding paragraphs has a fractional figure of less than ten yen, said portion shall be discarded.
- (6) The payment of the fees under paragraphs (1) and (2) shall be made by patent revenue stamps as provided by an Ordinance of the Ministry of Economy, Trade and Industry; provided, however, that where so provided by an Ordinance of the Ministry of Economy, Trade and Industry, a cash payment thereof shall be accepted.
- (7) Fees paid in excess or in error shall be refunded upon the request of the person who made payment thereof.
- (8) No request for a refund of the fees under the preceding paragraph may be filed after one year from the date on which the payment thereof has been made.
- (9) Notwithstanding paragraph (7), where, due to reasons beyond the control of a person who files request for refund of fees under the said paragraph, the person is unable to file the request within the time limit as provided in the preceding paragraph, the person may file the request within 14 days (where overseas resident, 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.

(Application mutatis mutandis of provisions of the Patent Act)

- Article 68 (1) The provisions of Articles 3, 4 and 5(1),(2) (Time periods and dates) of the Patent Act shall apply mutatis mutandis to time periods and time limits provided in this Act. In this case, the term "Articles 46-2(1)(iii), 108(1), 121(1) or 173(1)" in Article 4 of the Patent Act shall be deemed to be replaced with "Articles 43(1), 46(1) or Article 47(1), or Article 173(1) applied mutatis mutandis in 58(1) of the Design Act."
- (2) Article 6 to 9, 11 to 16, 17(3) and 17(4), 18 to 24 and 194 (Procedures) of the Patent Act shall apply mutatis mutandis to an application for design registration, a request, or any other procedures relating to design registration. In this case, the term "hearing against an examiner's decision of refusal" in Article 9 of the Patent Act shall be deemed to be replaced with "request for an appeal against an examiner's decision of refusal and appeal against examiner's ruling dismissing an

amendment." and the term "hearing against an examiner's decision of refusal" in Article 14 of the Patent Act shall be deemed to be replaced with "request for appeal against an examiner's decision of refusal and appeal against examiner's ruling dismissing an amendment."

- (3) Article 25 (Enjoyment of rights by foreign nationals) of the Patent Act shall apply mutatis mutandis to design rights and other rights relating to the design registration.
- (4) Article 26 (Effect of treaties) of the Patent Act shall apply mutatis mutandis to the design registration.
- (5) Articles 189 to 192 (Service) of the Patent Act shall apply mutatis mutandis to services provided for under this Act.
- (6) Article 195-3 of the Patent Act shall apply mutatis mutandis to dispositions imposed by this Act or an order thereunder.
- (7) Article 195-4 (Restriction on request for review under provisions of Administrative Complaint Review Act) of the Patent Act shall apply mutatis mutandis to a ruling to dismiss an amendment, an examiner's decision, an appeal and trial decision, or a ruling to dismiss a written request for appeal and trial or retrial, or dispositions against which no appeal lies in accordance with this Act, or inaction thereof.

Chapter VIII Penal Provisions (Article 69 to Article 77)

(Crime of infringement)

Article 69 An infringer of a design right or exclusive license (excluding one who has committed any acts which are deemed to constitute infringement of a design right or an exclusive license under Article 38) shall be punished by imprisonment with work for a term not exceeding 10 years or a fine not exceeding 10,000,000 yen or combination thereof.

Article 69-2 A person who has committed any acts which are be deemed to constitute infringement of a design right or an exclusive license under Article 38 shall be punished by imprisonment with work for a term not exceeding 5 years or a fine not exceeding 5,000,000 yen or combination thereof.

(Crime of fraud)

Article 70 Any person who has obtained a design registration or appeal and trial

decision by means of a fraudulent act shall be punished by imprisonment with work for a term not exceeding one year or a fine not exceeding 1,000,000 yen.

(Crime of false marking)

Article 71 A person who fails to comply with Article 65 shall be punished by imprisonment with work for a term not exceeding one year or a fine not exceeding 1,000,000 yen.

(Crime of perjury, etc.)

Article 72 (1) A witness, an expert witness or an interpreter who has sworn under this Act and made a false statement or given a false expert opinion or interpretation to the Patent Office or the court commissioned thereby shall be punished by imprisonment with work for a term between three months and ten years.

(2) Where a person who has committed the crime in the preceding paragraph has made a voluntary confession before a certified copy of the advisory opinion on the case has been served or an examiner's decision or appeal and trial decision has become final and binding, the punishment may be reduced or exculpated.

(Crime of divulging secrets)

Article 73 A present or former official of the Patent Office who has divulged any secret relating to a design in a pending application for design registration that has become known to him/her in the course of performing his/her duties, or misappropriated the said design shall be punished by imprisonment with work for a term not exceeding one year or a fine not exceeding 500,000 yen.

(Crime of breach of protective order)

Article 73-2 (1) A person who fails to comply with an order given under Article 105-4(1) of the Patent Act (including its mutatis mutandis application in Article 65(6) of the said Act to be applied mutatis mutandis in Article 60-12(2)) as applied mutatis mutandis under Article 41 shall be punished by imprisonment with work for a term not exceeding five years or a fine not exceeding 5,000,000 yen or combination thereof.

(2) The prosecution of the crime under the preceding paragraph may not be initiated unless a complaint is filed.

(3) The crime under paragraph (1) shall apply to a person who commits the crime

outside Japan.

(Dual liability)

Article 74 (1) Where a representative of a juridical person or an agent, employee or other worker of a juridical person or an individual has committed in the course of performing his/her duties for the juridical person or individual, any act in violation prescribed in the following items, in addition to the offender, the juridical person shall be punished by a fine as provided in the corresponding item and the individual shall be punished by a fine as provided in the Article prescribed in the corresponding item:

(i) Article 69, 69-2 or 73-2(1), a fine not exceeding 300 million yen; and

(ii) Article 70 or 71, a fine not exceeding 30 million yen.

(2) In the case of the preceding paragraph, the complaint filed under Article 73-2(1) against the offender shall have effect on the juridical person or individual and the complaint filed against the juridical person or individual shall have effect on the offender.

(3) Where a fine is imposed on a juridical person or individual under paragraph (1) with regard to a violation of Article 69, 69-2 or 73-2(1), the period of prescription shall be governed by the same rules as for crimes in the provisions thereof.

(Civil fine)

Article 75 Where a person who has sworn under Article 207(1) of the Code of Civil Procedure as applied *mutatis mutandis* under Article 151 of the Patent Act as applied *mutatis mutandis* under Article 71(3) of the Patent Act as applied *mutatis mutandis* under Article 25(3) of this Act, Article 52, 58(2) or (3) of this Act, or Article 174(3) of the Patent Act as applied *mutatis mutandis* under Article 58(4) of this Act has made a false statement before the Patent Office or a court commissioned thereby, the said person shall be punished by a civil fine not exceeding 100,000 yen.

Article 76 A person who has been summoned by the Patent Office or a court commissioned thereby in accordance with this Act, and fails to appear or refuses to swear, make a statement, testify, give an expert opinion or interpret without a justifiable reason shall be punished by a civil fine not exceeding 100,000 yen.

Article 77 A person who has been ordered by the Patent Office or a court

commissioned thereby to submit or present documents or other materials for the purpose of examination or preservation of evidence in accordance with this Act and fails to comply with the order without a justifiable reason shall be punished by a civil fine not exceeding 100,000 yen.

Supplementary provisions (Extract)

Appended Table (In relation to Article 67)

	The person (s) who shall pay fees	Amounts
1	A person filing an application for design registration	16,000 yen per case
2	A person filing a request for secrecy of the design under Article 14(1)	5,100 yen per case
3	A person requesting an advisory opinion under Article	40,000 yen per case
		25(1)
4	A person requesting an award	55,000 yen per case
5	A person requesting canceling of an award	27,500 yen per case
6	A person filing a request for appeal and trial or retrial	55,000 yen per case
7	A person applying for intervention in appeal and trial or retrial	55,000 yen per case