

# ENFORCEMENT DECREE OF THE DESIGN PROTECTION ACT

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Wholly Amended by Presidential Decree No. 13080, Aug. 28, 1990  
Amended by Presidential Decree No. 13746, Oct. 27, 1992  
Presidential Decree No. 13870, Mar. 6, 1993  
Presidential Decree No. 14060, Dec. 31, 1993  
Presidential Decree No. 15011, Jun. 3, 1996  
Presidential Decree No. 15577, Dec. 31, 1997  
Presidential Decree No. 17248, Jun. 27, 2001  
Presidential Decree No. 18312, Mar. 17, 2004  
Presidential Decree No. 18903, Jun. 30, 2005  
Presidential Decree No. 20126, Jun. 28, 2007  
Presidential Decree No. 20729, Feb. 29, 2008

## **Article 1 (Purpose)**

The purpose of this Decree is to provide matters delegated by the Design Protection Act and other matters to implement such delegated matters. *<Amended by Presidential Decree No. 18903, Jun. 30, 2005>*

*[This Article Newly Inserted by Presidential Decree No. 17248, Jun. 27, 2001]*

## **Article 1-2 (Design Gazette)**

(1) The Design Gazette as prescribed by Article 78 (4) of the Design Protection Act (hereinafter referred to as the "Act") shall be classified into a Gazette for Examined Design Registration, a Gazette for Non-Examined Design Registration, and a Gazette for Public Design. *<Amended by Presidential Decree No. 15577, Dec. 31, 1997; Presidential Decree No. 18903, Jun. 30, 2005>*

(2) The Gazette for Examined Design Registration shall include the following matters: *Provided*, That for the secret design under Article 13 of the Act, matters referred to in subparagraphs 7 through 9 shall be inserted at the expiration of the secret period requested by an applicant for the design registration: *<Amended by Presidential Decree No. 15577, Dec. 31, 1997; Presidential Decree No. 17248, Jun. 27, 2001; Presidential Decree No. 18903, Jun. 30, 2005>*

1. Name and address of the owner of the design right (in case of a corporation, referring to its title and the location of business place);
- 1-2. Purport (limited to the case of a partial design) that it is a registra-

tion of the design concerning part of the articles (hereinafter referred to as the “partial design”);

2. Goods which are the object of design, and the classification code thereof;
3. Name and address of the creator;
4. Number and date of the application;
5. Date of application on the basis of which the right of priority is claimed (limited to design registration applied pursuant to Article 23 (1) of the Act);
6. Number and date of the registration;
7. Drawings or photographs (including photographs of models or samples);
8. Summary of the creative contents;
9. Description of the design;
10. Publication and publication date of application (limited to design registration whose application is published);
11. Matters other than those listed in subparagraphs 1 through 10, which are to be inserted pursuant to the Act and this Decree; and
12. Matters, other than those listed in subparagraphs 1 through 11, as the Commissioner of the Korean Intellectual Property Office deems necessary to be inserted therein.

(3) The Gazette for Non-Examined Design Registration shall include the following matters: *Provided*, That for the secret design under Article 13 of the Act, matters listed in subparagraphs 7 through 9 shall be inserted at the expiration of a secret period requested by an applicant for the design registration: *<Newly Inserted by Presidential Decree No. 15577, Dec. 31, 1997; Presidential Decree No. 17248, Jun. 27, 2001; Presidential Decree No. 18903, Jun. 30, 2005; Presidential Decree No. 20126, Jun. 28, 2007>*

1. Name and address of the owner of the design right (in case of a corporation, referring to its title and the location of business place);
- 1-2. Purport that it is a registration of partial design (limited to the case of partial design);
2. Goods which are the object of design, and the classification code thereof;
3. Name and address of the creator;
4. Number and date of the application;

5. Date of application on the basis of which the right of priority is claimed (limited to a case of claiming the right of priority pursuant to Article 23 (1) of the Act, and where an application is published before evidential documents for priority are submitted under Article 23 (4) of the Act, the purport thereof shall be inserted);
  6. Number and date of the registration;
  7. Drawings or photographs (including photographs of models or samples);
  8. Summary of the creative contents;
  9. Description of the design;
  10. Serial numbers of designs (limited to an application for multiple design registration referred to in Article 11-2 of the Act);
  - 10-2. Publication and publication date of application (limited to the design registration whose application is published);
  11. Matters that shall be inserted thereinto pursuant to the Act and this Decree, in addition to the matters listed in subparagraphs 1 through 10 and 10-2.; and
  12. Matters concerning the designs the Commissioner of the Korean Intellectual Property Office deems necessary to be inserted therein, in addition to the matters listed in subparagraphs 1 through 11.
- (4) With respect to applications for design registration accompanied by a request for laying open pursuant to Article 23-2 (2) of the Act and applications for design registration for which a decision to refuse or a trial decision with a purport of refusal has become final and conclusive pursuant to the main text of Article 23-6 of the Act, the following matters shall be inserted into the Gazette for Public Designs: *<Amended by Presidential Decree No. 15577, Dec. 31, 1997; Presidential Decree No. 17248, Jun. 27, 2001; Presidential Decree No. 18903, Jun. 30, 2005; Presidential Decree No. 20126, Jun. 28, 2007>*
1. Name and address of the applicant for design registration (in case of a corporation, referring to its title and the location of business place);
  - 1-2. Purport that it is an application for registration of partial design (limited to the case of partial design);
  2. Goods which are the object of the design and the classification code thereof, and the purport that it is an application for examined design registration or for non-examined design registration;
  - 2-2. Fact that a decision to refuse all applications for design registration

at issue has been made or a trial decision with a purport of refusing such applications has become final and conclusive on the ground that 2 or more applicants, each of whom filed an application for registration of an identical or similar design on the same date, failed, or were unable, to reach an agreement (applicable only where inserted pursuant to Article 23-6 of the Act);

3. Name and address of the creator;
4. Number and date of the application;
5. Date of application on the basis of which the right of priority is claimed (limited to a case of claiming the right of priority pursuant to Article 23 (1) of the Act, and where an application is published before evidential documents for priority are submitted under Article 23 (4) of the Act, the purport thereof shall be inserted);
6. Indication of the basic design;
7. Number and date of the laying open of application;
8. Drawings or photographs (including the photographs of models or samples);
9. Summary of the creative contents;
10. Description of the design; and
11. Matters other than those listed in subparagraphs 1 through 10, which are related to the laying open of the application for design registration, and which the Commissioner of the Korean Intellectual Property Office deems necessary to be inserted.

*[This Article Wholly Amended by Presidential Decree No. 15011, Jun. 3, 1996]*

**Article 1-3 (Notification in Case of Non-Publication of Application)**

Where the Commissioner of the Korean Intellectual Property Office does not lay open any application under the proviso of Article 23-2 (2) of the Act, he shall notify an applicant for the design registration of the gist and reason. *<Amended by Presidential Decree No. 18903, Jun. 30, 2005>*

*[This Article Newly Inserted by Presidential Decree No. 15011, Jun. 3, 1996]*

**Article 2 (Imposition of Fine for Negligence)**

(1) Where the Commissioner of the Korean Intellectual Property Office imposes a fine for negligence under Article 88 (2) of the Act, he shall investigate and confirm the offense, and notify in writing a person who is subject to the disposition of the fine for negligence, with the fact of offense and the amount of fine for negligence, etc. specified.

(2) Where the Commissioner of the Korean Intellectual Property Office

desires to impose a fine for negligence under paragraph (1), he shall give a person who is subject to the disposition of the fine for negligence an opportunity to state his opinion orally or in writing (including electronic documents) within a fixed period of ten or more days. In this case, if the said person fails to state his opinion by the designated time without any justifiable reason, he shall be considered to have no opinion. *⟨Amended by Presidential Decree No. 18312, Mar. 17, 2004⟩*

(3) In determining the amount of a fine for negligence, the Commissioner of the Korean Intellectual Property Office shall take into consideration the motive and consequence, etc. of the relevant offense.

(4) The collection procedure of a fine for negligence shall be determined by the Ordinance of the Ministry of Knowledge Economy. *⟨Amended by Presidential Decree No. 13870, Mar. 6, 1993; Presidential Decree No. 15011, Jun. 3, 1996; Presidential Decree No. 17248, Jun. 27, 2001; Presidential Decree No. 20729, Feb. 29, 2008⟩* [This Article Newly Inserted by Presidential Decree No. 13746, Oct. 27, 1992]

### **Article 3 (Application *Mutatis Mutandis*)**

(1) The provisions of Articles 8-2, 8-3, 9 through 16, and 18 of the Enforcement Decree of the Patent Act shall apply *mutatis mutandis* to the application, requests and other procedures relating to the design registration. In this case, the term “trial” in Article 18 (3) of said Decree shall be read as “objection against the registration of non-examined design and trial”. *⟨Amended by Presidential Decree No. 20126, Jun. 28, 2007⟩*

(2) The provisions of Article 8 of the Enforcement Decree of the Patent Act shall apply *mutatis mutandis* to the examiner, the trial examiner, the presiding trial examiner and the President of the Korean Intellectual Property Tribunal. *⟨Amended by Presidential Decree No. 15577, Dec. 31, 1997; Presidential Decree No. 18903, Jun. 30, 2005⟩*

### **ADDENDUM**

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

### **ADDENDUM** *⟨Presidential Decree No. 13746, Oct. 27, 1992⟩*

This Decree shall enter into force on November 1, 1992.

### **ADDENDA** *⟨Presidential Decree No. 13870, Mar. 6, 1993⟩*

#### **Article 1 (Enforcement Date)**

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

**Articles 2 through 4 Omitted.**

ADDENDUM *⟨Presidential Decree No. 14060, Dec. 31, 1993⟩*

This Decree shall enter into force on January 1, 1994.

ADDENDUM *⟨Presidential Decree No. 15011, Jun. 3, 1996⟩*

This Decree shall enter into force on July 1, 1996.

ADDENDUM *⟨Presidential Decree No. 15577, Dec. 31, 1997⟩*

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

ADDENDUM *⟨Presidential Decree No. 17248, Jun. 27, 2001⟩*

This Decree shall enter into force on July 1, 2001.

ADDENDUM *⟨Presidential Decree No. 18312, Mar. 17, 2004⟩*

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

ADDENDA *⟨Presidential Decree No. 18903, Jun. 30, 2005⟩*

**Article 1 (Enforcement Date)**

This Decree shall enter into force on July 1, 2005.

**Article 2** Omitted.

ADDENDA *⟨Presidential Decree No. 20126, Jun. 28, 2007⟩*

**Article 1 (Enforcement Date)**

This Decree shall enter into force on July 1, 2007.

**Article 2 (Applicability to Insertion into Design Gazette)**

The provision of Article 1-2 (4) 2-2 as amended shall be applicable to the applications for design registration in which a decision to refuse or a trial decision with a purport of refusal becomes final and conclusive pursuant to the latter sentence of Article 16 (2) of the Act on or after the date when this Decree enters into force.

ADDENDA *⟨Presidential Decree No. 20729, Feb. 29, 2008⟩*

**Article 1 (Enforcement Date)**

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

**Articles 2 and 3** Omitted.