

# ENFORCEMENT DECREE OF THE PATENT ACT

Wholly Amended by Presidential Decree No. 13078, Aug. 28, 1990  
Amended by Presidential Decree No. 13744, Oct. 27, 1992  
Presidential Decree No. 13870, Mar. 6, 1993  
Presidential Decree No. 14059, Dec. 31, 1993  
Presidential Decree No. 15009, jun. 3, 1996  
Presidential Decree No. 15408, jun. 26, 1997  
Presidential Decree No. 16417, jun. 30, 1999  
Presidential Decree No. 16725, Feb. 28, 2000  
Presidential Decree No. 16852, jun. 23, 2000  
Presidential Decree No. 17246, jun. 27, 2001  
Presidential Decree No. 17995, jun. 13, 2003  
Presidential Decree No. 18312, Mar. 17, 2004  
Presidential Decree No. 18694, Jan. 31, 2005  
Presidential Decree No. 19513, jun. 12, 2006  
Presidential Decree No. 19697, Sep. 28, 2006  
Presidential Decree No. 20127, jun. 28, 2007  
Presidential Decree No. 20137, jun. 29, 2007  
Presidential Decree No. 20729, Feb. 29, 2008  
Presidential Decree No. 21053, Sep. 30, 2008  
Presidential Decree No. 21567, jun. 26, 2009  
Presidential Decree No. 21917, Dec. 30, 2009  
Presidential Decree No. 23341, Dec. 2, 2011  
Presidential Decree No. 24439, Mar. 23, 2013  
Presidential Decree No. 24491, Apr. 3, 2013  
Presidential Decree No. 24645, jun. 28, 2013  
Presidential Decree No. 24852, Nov. 20, 2013  
Presidential Decree No. 25924, Dec. 30, 2014  
Presidential Decree No. 26494, Aug. 19, 2015  
Presidential Decree No. 28066, May 29, 2017  
Presidential Decree No. 28819, Apr. 24, 2018  
Presidential Decree No. 29050, Jul. 17, 2018

Presidential Decree No. 29955, Jul. 9, 2019  
Presidential Decree No. 30844, Jul. 14, 2020  
Presidential Decree No. 31813, Jun. 22, 2021  
Presidential Decree No. 32590, Apr. 19, 2022  
Presidential Decree No. 32973, Nov. 1, 2022

## CHAPTER I GENERAL PROVISIONS AND PATENT APPLICATION

### Article 1 (Purpose)

The purpose of this Decree is to provide for matters mandated by the Patent Act and those necessary for its enforcement. *<Amended on Jan. 31, 2005>*

### Article 1-2 Deleted. *<Jun. 28, 2013>*

### Article 2 (Deposit of Micro-Organisms)

(1) A person who intends to file a patent application for an invention related to a micro-organism shall deposit the micro-organism with either of the following authorities, prior to filing the patent application, in the manner prescribed and publicly notified by the Commissioner of the Korean Intellectual Property Office: Provided, That a micro-organism needs not be deposited, if any person who has ordinary skill in the relevant technical field to which the invention belongs can easily obtain such micro-organism: *<Amended on Dec. 30, 2014; May 29, 2017; Jul. 14, 2020>*

1. An authority registered under Article 58 (2) of the Patent Act (hereinafter referred to as the "Act") as an agency specializing in the storage and distribution of deposited micro-organisms (hereinafter referred to as "domestic depository authority");
2. An authority that has acquired the status as an international depository authority under Article 7 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (hereinafter referred to as "international depository authority");
3. An authority designated as an institution specializing in the deposit and distribution of micro-organisms in a country that meets all the following requirements (hereinafter referred to as "designated depository authority"):
  - (a) It shall not be a party to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure;
  - (b) The Commissioner of the Intellectual Property Office of the relevant country shall have agreed with the Commissioner of the Korean Intellectual Property Office to recognize the procedures on the

same terms and conditions as those of the Republic of Korea regarding the deposit of micro-organisms for the purposes of patent procedure to a national of the Republic of Korea.

(2) A person who has deposited a micro-organism in accordance with paragraph (1) shall state the fact in the patent application in the manner prescribed by Ordinance of the Ministry of Trade, Industry and Energy and shall attach the document evidencing the deposit of the micro-organism (referring to a copy of the latest receipt issued under Rule 7 of the Regulations under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, if the micro-organism has been deposited in an international depository authority); Provided, That where the relevant micro-organism is deposited in a domestic depository authority or an international depository authority which is located in the Republic of Korea, the document evidencing the deposit of the micro-organism need not be attached. <Newly Inserted on Dec. 30, 2014; Apr. 19, 2022>

(3) When a new deposit number is given with respect to a micro-organism deposited under paragraph (1) after a patent application is filed, the patent applicant or patentee shall report the fact to the Commissioner of the Korean Intellectual Property Office without delay. <Amended on Dec. 31, 1993; Dec. 30, 2014>

### **Article 3 (Matters to Be Entered in Patent Specifications of Invention Related to Micro-Organisms)**

A person who intends to file a patent application for an invention related to a micro-organism shall enter the deposit number given by a domestic, international, or designated depository authority in the specification defined in Article 42 (2) of the Act (referring to the specification initially attached to the patent application), if the person has deposited the micro-organism in accordance with the main clause of Article 2 (1), or the method by which the person has acquired the micro-organism, if he or she has not deposited such micro-organism in accordance with the proviso of Article 2 (1). <Amended on Jun. 28, 2013; Dec. 30, 2014; Jul. 14, 2020>

### **Article 4 (Distribution of Micro-Organisms)**

(1) In any of the following cases, a person who intends to practice an invention related to a micro-organism deposited under Article 2 for the purpose of testing or research may have such micro-organism distributed by a domestic, international, or designated depository authority, as prescribed by Ordinance of the Ministry of Trade, Industry and Energy: <Amended on Jun. 26, 1997; Jun. 13, 2003; Jun. 28, 2007; Jun. 26, 2009; Dec. 30, 2014; Jul. 14, 2020>

1. Where a patent application for the invention related to the micro-organism has been published or the grant of a patent for such invention has been registered;
2. Where the micro-organism is necessary for establishing a written opinion under Article 63 (1) of the Act (including cases to which the provisions shall apply mutatis mutandis pursuant to Article 170 (2) of the Act).

(2) A person who requested a domestic, international, or designated depository authority to distribute a micro-organism and has been authorized by the person who deposited the micro-organism under Article 2

to have the micro-organism distributed may receive the distributed micro-organism. <Newly Inserted on Dec. 30, 2014; Jul. 14, 2020>

(3) A person who receives a micro-organism distributed under paragraphs (1) and (2) shall not allow another person to use the micro-organism. <Amended on Dec. 30, 2014>

#### **Article 5 (Methods of Describing Patent Claims)**

(1) When the scope of claims under Article 42 (8) of the Act (hereinafter referred to as "claims") are stated, such claims shall be stated in the form of independent claims (hereinafter referred to as "independent claims"), but dependent claims may be added to limit or additionally specify such independent claims (hereinafter referred to as "dependent claims"). If it is necessary in such cases, other dependent claims may be added to limit or additionally specify such dependent claims. <Amended on Sep. 28, 2006; Jun. 28, 2007; Dec. 30, 2014>

(2) The number of claims shall be reasonable to the nature of the relevant invention. <Amended on Jun. 13, 2003>

(3) Deleted. <Jun. 30, 1999>

(4) A claim that refers to another claim shall state the number of the claims being referred to. <Amended on Jun. 28, 2013>

(5) A claim that refers to not less than two claims shall mention alternatively the numbers of the claims being referred to. <Amended on Jun. 13, 2003>

(6) A claim which refers to two or more claims should not refer to any other multiple dependent claims. The same shall apply where in a claim that quotes two or more claims, the quoted claim quotes one claim, resulting in re-quoting two or more claims after quoting one claim. <Amended on Sep. 28, 2006>

(7) The quoted claim shall be entered ahead of the claim quoting the claim. <Amended on Jun. 13, 2003>

(8) Each claim shall be entered on a new line, and serial numbers in the Arabic figure shall be given in the order of the entries.

#### **Article 6 (Requirements for Single Patent Application for Group of Inventions)**

A single patent application for a group of inventions as prescribed in the proviso of Article 45 (1) of the Act shall meet the following requirements:

1. The inventions described in the application shall be technologically correlated;
2. The inventions described in the application shall have the same or corresponding technological features. In such case, the technological features shall be those improved than the prior art in light of the invention at large.

#### **Article 7 (Invention Subject to Application for Registration of Extension of Term of Patent Right by Permission)**

(1) "Invention prescribed by Presidential Decree" in Article 89 (1) of the Act means any of the following inventions: <Amended on Jun. 3, 1996; Jun. 23, 2000; Jan. 31, 2005; Jun. 28, 2007; Sep. 30, 2008; Dec. 2, 2011; Apr. 3, 2013; Jul. 14, 2020>

1. Invention of a medicine for which permission by item has been granted pursuant to Article 31 (2) and (3) or 42 (1) of the Pharmaceutical Affairs Act to practice a patented invention [*limited to a medicine for which permission by item has been granted first, among medicines manufactured with a new substance (referring to a substance whose chemical structure in the activated part having medicinal effects is new; the same shall apply hereafter in this Article) as an effective ingredient*] or narcotic drugs or psychotropic substances for which permission by item has been granted pursuant to Article 18 (2) or 21 (2) of the Narcotics Control Act (*limited to narcotic drugs or psychotropic substances for which permission by item has been granted first among those manufactured with a new substance as an effective ingredient*);

2. Invention of an agricultural chemical or raw material registered pursuant to Article 8 (1), 16 (1), or 17 (1) of the Pesticide Control Act to practice a patented invention (limited to an agricultural chemical or raw material registered first, among agricultural chemicals and raw materials manufactured with a new substance as an effective ingredient).

(2) With respect to an invention referred to in the subparagraphs of paragraph (1), the calculation of the period during which the patented invention cannot be practiced under Article 89 (1) of the Act and other detailed matters concerning the examination of applications for registration of the extension of the term of a patent right shall be determined and publicly notified by the Commissioner of the Korean Intellectual Property Office. <Newly Inserted on Jul. 14, 2020>

#### **Article 7-2 (Period Delayed Due to Applicants)**

(1) "Period delayed due to an applicant" in Article 92-2 (3) of the Act means any of the following periods: <Amended on Mar. 23, 2013; Dec. 30, 2014; Aug. 19, 2015; Jul. 14, 2020; Apr. 19, 2022>

1. Any of the following periods in relation to ongoing procedures concerning a patent in the Korean Intellectual Property Office or the Korean Intellectual Property Trial and Appeal Board:

(a) Where the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge orders an agent to follow procedures concerning a patent or orders the replacement of an agent under Article 10 of the Act, the period from the date when such order is given until the date when an agent is appointed or replaced;

(b) Where the period of request for trial or a period for a patent-related procedures, upon request from applicants, is extended pursuant to Article 15 (1) or (2) of the Act, the extended period (when the period for a patent-related procedures is reduced, upon request from applicants under Article 15 (2) of the Act, after such period is extended, the period reduced shall be excluded);

(c) Where a date for initiating patent-related procedures under Article 15 (3) of the Act is fixed and then such date is delayed, upon request from applicants, the period from the day after the fixed date until the changed one;

- (d) Where procedures concerning a patent are supplemented later after a cause not imputable to a person who initiated a patent-related procedure ceases to exist under the main clause of Article 17 of the Act, the period from the date when such cause ceases to exist until the date when such procedures are supplemented;
- (e) Where procedures concerning a patent are suspended or stopped pursuant to Articles 20, 23 (2), 78 (1) or 164 (1) of the Act, the period during which such procedures concerning a patent are suspended or stopped;
- (f) Where the Commissioner of the Korean Intellectual Property Office orders applicants to report the results of the consultation within a designated period pursuant to Article 36 (6) of the Act, such period (when a period is reduced, upon request from applicants, pursuant to Article 15 (2) of the Act, the reduced period shall be excluded);
- (g) Where a specification is amended so as to state the claims within the period specified in the proviso of Article 42-2 (2) of the Act, the period from the date when the intent to request the examination of the relevant application is notified until the date when such specification is amended;
- (h) Where a document correcting any error in the final Korean translation under Article 42-3 (6) of the Act (hereafter in this item referred to as "document correcting mistranslation") is submitted later than the date eight months have passed from the date of filing a request for the examination of the application, the period from the date following the eight-month period to the date the document correcting mistranslation is finally submitted;
- (i) Where the Commissioner of the Korean Intellectual Property Office, the President of the Korean Intellectual Property Trial and Appeal Board or the presiding administrative patent judge orders amendment, fixing a period, pursuant to Articles 46, 141 (1) or 203 (3) of the Act, such period (when a period is reduced, upon request from applicants, pursuant to Article 15 (2) of the Act, the reduced period shall be excluded);
- (j) Where a claim for a priority right is withdrawn or deemed withdrawn pursuant to Article 56 of the Act, with respect to an earlier application which has become the basis of a claim for a priority right under Article 55 (1) of the Act, the period from the date when a claim for a priority right concerning the relevant earlier application is made until the date when such claim for priority right is withdrawn or deemed withdrawn;
- (k) Where the determination of an expedited examination pursuant to Article 10 of the Act is delayed due to an applicant, with respect to an expedited examination under Article 61 of the Act, the delayed period;
- (l) Where an examiner (referring to an examiner under Article 143 of the Act, when the provisions of Article 63 of the Act are applied mutatis mutandis pursuant to Article 170 of the Act; hereinafter the same shall apply in this item) notifies an applicant of the grounds for rejection of a patent application and provides the applicant an opportunity to present his or her written opinions within a fixed period pursuant to the main clause of Article 63 (1) of the Act, such period [*Provided, That this shall not apply*

*to cases where an examiner notifies an applicant of grounds for rejection and renders a decision to grant a patent (including cases where the provisions of Article 66 of the Act are applied mutatis mutandis under Article 170 of the Act and a decision is made to grant a patent) pursuant to Article 66 of the Act without making amendment to drawings or specifications concerning notification of grounds for rejection, the period (when the period for submission of written opinions is reduced, upon request from applicants pursuant to Article 15 (2) of the Act, the reduced period shall be excluded)];*

(m) Where an applicant pays patent fees (including cases where he or she pays additional patent fees under Article 81 (1) of the Act, the remaining portion of the patent fees under Article 81-2 (2) of the Act, or the patent fees or the remaining portion thereof under Article 81-3 (1) of the Act) pursuant to Article 79 (1) of the Act or is exempt from patent fees by submitting documents prescribed by Ordinance of the Ministry of Trade, Industry and Energy to the Commissioner of the Korean Intellectual Property Office pursuant to Article 83 (3) of the Act after he or she receives a certified copy of a decision on a patent application under Article 67 (2) of the Act, the period from the date when he or she receives such copy until the date when the establishment of a patent right is registered pursuant to Article 87 of the Act;

(n) Where a re-examination is requested under the main clause of Article 67-2 (1) of the Act, the period from the date when a certified copy of a decision to reject a patent application under Article 67 (2) of the Act is delivered until the date when a re-examination is requested;

(o) Where an examination or a re-examination of the relevant application is requested after any good cause ceases to exist pursuant to Article 67-3 (1) of the Act, the period from the date when such cause ceases to exist until the date when the examination or re-examination is requested;

(p) Where a request for exclusion or challenge under Article 149 or 150 of the Act is not accepted in accordance with a decision made pursuant to Article 152 (1) of the Act, the period during which trial proceedings are suspended under the main clause of Article 153 of the Act;

(q) Where it is deemed that the examination or preservation of evidence is unnecessary, upon request from applicants for such examination or preservation pursuant to Article 157 of the Act, the period from the date when such request is made until the date when it is deemed that such examination or preservation is unnecessary;

(r) Where an examination is resumed, upon request from applicants, after notification of the closure of the trial examination pursuant to Article 162 (4) of the Act, the period from the date when such examination is resumed until the date when the closure of the trial examination is notified again pursuant to Article 162 (3) of the Act;

(s) Where any one requests a retrial under Article 178 of the Act after he or she becomes aware of grounds for retrial, the period from the date when he or she becomes aware of such grounds until the date when a retrial is requested;

(t) Where the presiding administrative patent judge determines an additional period pursuant to Article 186 (5) of the Act, the relevant period;

(u) Where service of documents or service by public announcement under Article 218 or 219 of the Act is delayed due to an applicant (including cases where such service is delayed because a person to be served changes his or her place to be served under Article 18 (10) and fails to report it to the Commissioner of the Korean Intellectual Property Office), the period during which such service is delayed;

(v) Where any of the following documents or writings is not submitted by the date eight months have passed from the date of filing a request for the examination of the application, the period from the date following the eight-month period to the date when such document, etc. are submitted:

2. Any of the following periods in litigation procedures concerning a trial decision, ruling or judgment under Article 186 (1) or (8) of the Act:

(a) Where litigation procedures are suspended pursuant to Article 78 (2) or 164 (2) of the Act, the period during which the procedures are suspended;

(b) Where a request for exclusion or challenge concerning a judge (including a technical examiner applied mutatis mutandis under Article 188-2 (1) of the Act and a court clerical official of Grade V applied mutatis mutandis under Article 50 of the Civil Procedure Act) under Articles 41 through 43 of the Civil Procedure Act is not accepted in accordance with a decision under Article 45 or 46 of the Civil Procedure Act, the period from the date when such request for exclusion or challenge is made until the date when a decision to reject such request is made or the period during which litigation procedures are suspended under the main clause of Article 48 of the Civil Procedure Act;

(c) Where the court or the presiding judge orders correction, fixing a period, pursuant to Article 59 or 254 (1) of the Civil Procedure Act, the relevant period;

(d) Where a special representative is appointed pursuant to Article 62 of the Civil Procedure Act, the period from the date when such appointment is requested until the date when a special representative is appointed;

(e) Where a pleading is resumed under Article 142 of the Civil Procedure Act due to an applicant, the period from the date when the resumption of a pleading is ordered until the date when the relevant pleading is completed;

(f) Where the court prohibits an applicant or agent from making a statement and sets a new date for continuing pleadings under Article 144 (1) of the Civil Procedure Act, the period from the date when such applicant, etc. is prohibited from making a statement until the new date;

(g) Where the court orders the appointment of a lawyer pursuant to Article 144 (2) of the Civil Procedure Act, the period from the date when such order is given until the date when a lawyer is appointed;

(h) Where a date designated by the presiding judge pursuant to Article 165 (1) of the Civil Procedure Act is delayed due to remarkable grounds, such as the request of an applicant, the period from the day after a designated date until the changed date;



- (i) Where the court extends a statutory period or a period fixed by the court, upon request from an applicant, under Article 172 of the Civil Procedure Act or fixes an additional period, with regard to the invariable period, such extended period or additional period;
- (j) Where any cause not attributable to a party is extinguished and procedural acts are subsequently completed under Article 173 of the Civil Procedure Act, the period from the date when such cause is extinguished until the date when procedural acts are subsequently completed;
- (k) Where the delivery of documents or service by public notice under Article 178, 186 through 188, or 194 of the Civil Procedure Act is delayed due to an applicant, the period during which such delivery is delayed;
- (l) Where litigation procedures are suspended pursuant to Articles 233 through 237, 239, 240, or 246 of the Civil Procedure Act, the period during which litigation procedures are suspended;
- (m) Where an applicant has failed to appear on the date for pleading, or failed to plead even if he or she has appeared and the presiding judge fixes another date for pleading pursuant to Article 268 (1) of the Civil Procedure Act, the period from the day after the date for pleading until the newly fixed date;
- (n) Where evidence is deemed unnecessary, with respect to an application for the examination of evidence pursuant to Article 289 of the Civil Procedure Act, the period from the date when such application is filed until the date when evidence is deemed unnecessary;
- (o) Where a petition for a retrial under Article 451 of the Civil Procedure Act is filed after the relevant party becomes aware of grounds for a retrial, the period from the date when he or she becomes aware of such grounds until a petition for a retrial is filed;

3. Any of the following periods in procedures for administrative appeal or administrative litigation concerning objection to a ruling under Article 224-2 (2) of the Act:

- (a) Where a request for exclusion or challenge under Article 10 of the Administrative Appeals Act is rejected or dismissed in accordance with a decision under Article 12 of the Enforcement Decree of the same Act, the period during which administrative procedures are suspended pursuant to Article 13 of the same Decree;
- (b) Where an administrative appeal is filed after force majeure, such as natural disasters, wars or incidents, is extinguished under Article 27 (2) of the Administrative Appeals Act, the period from the date when such grounds are extinguished until the date when an administrative appeal is filed;
- (c) Where the Central Administrative Appeals Commission (hereinafter referred to as the "Commission") requests correction by fixing a period under the main clause of Article 32 (1) of the Administrative Appeals Act, the relevant period;
- (d) Where the Commission fixes a deadline for written supplement pursuant to Article 33 (2) of the Administrative Appeals Act, the period from the date when such deadline is fixed until the date when a written supplement is submitted;

- (e) Where a date for deliberation designated by the Commission under Article 38 of the Administrative Appeals Act is delayed, upon request from applicants, the period from the day following the designated date for deliberation until the changed date for deliberation;
  - (f) Where the provisions of the Civil Procedure Act concerning delivery are applied mutatis mutandis under Article 57 of the Administrative Appeals Act, the period falling under subparagraph 2 (k);
  - (g) Where the provisions of the Civil Procedure Act are applied mutatis mutandis under Article 8 (2) of the Administrative Appeals Act, the period falling under any of the items of subparagraph 2;
4. The period prescribed by Ordinance of the Ministry of Trade, Industry and Energy, which is delayed due to an applicant in relation to the procedures concerning a patent pending before the Korean Intellectual Property Office or the Korean Intellectual Property Trial and Appeal Board, litigation procedures concerning a trial decision, ruling or judgment under Article 186 (1) or (8) of the Act or procedures for administrative appeal or administrative litigation concerning objection to a ruling under Article 224-2 (2) of the Act.
- (2) Where there exists an objective ground which is not attributable to an applicant, among grounds for delaying registration of establishment of a patent right under Article 92-2 (1) of the Act, the relevant period shall be excluded from a period under paragraph (1), notwithstanding the provisions of paragraph (1).

## CHAPTER II EXAMINATION AND TRIAL

### **Article 8 (Qualification for Examiners)**

(1) To be qualified for an examiner, a person shall be any of the following public officials who work for the Korean Intellectual Property Office or any of its affiliated agencies and have completed the specified training course conducted for examiners by the International Intellectual Property Training Institute: Provided, That a person eligible to be appointed as an examiner, which is designated as an open position pursuant to Article 28-4 (1) of the State Public Officials Act, shall meet the requirements for performing duties specified in paragraph (2) of the same Article, while a person eligible to be appointed as an examiner, which is designated as a position publicly offered pursuant to Article 28-5 (1) of the same Act, shall meet the requirements for performing duties specified in paragraph (2) of the same Article: *<Amended on Dec. 30, 2009; Apr. 3, 2013; Nov. 20, 2013; Dec. 30, 2014; Aug. 19, 2015>*

1. A public official in general service as a member of the Senior Executive Service;
2. A Grade V or higher-ranking state public official in general service;
3. A specialized fixed-term public official who satisfies the qualification criteria for Grade A or B specified in attached Table 4-2 of the Decree on the Appointment of Public Officials;
4. A Grade VI state public official in general service (limited to the persons who satisfy the qualification criteria for specialized fixed-term Grade A or B public officials specified in attached Table 4-2 of the Decree on the Appointment of Public Officials).

(2) A person eligible to become an administrative patent judge shall be a person falling under any of the following subparagraphs from among Grade-IV or higher-ranking state public officials in general service or public officials in general service as members of the Senior Executive Service, who work for the Korean Intellectual Property Office or any of its affiliated agencies and who have completed the specified education and training course for administrative patent judges provided by the International Intellectual Property Training Institute: Provided, That a person eligible to be appointed as an administrative patent judge, which is designated as a position open to the private sector pursuant to Article 28-4 (1) of the State Public Officials Act, shall meet the requirements for performing duties specified in paragraph (2) of the same Article, while a person eligible to be appointed as an administrative patent judge, which is designated as a position publicly offered pursuant to Article 28-5 (1) of the same Act, shall meet the requirements for performing duties specified in paragraph (2) of the same Article: <Amended on Jun. 30, 1999; Jan. 31, 2005; Jun. 12, 2006; Sep. 28, 2006; Apr. 3, 2013>

1. A person who has served as an examiner at the Korean Intellectual Property Office for two or more years;

2. Deleted; <Sep. 28, 2006>

3. A person who has served for two or more years in total as an examiner at the Korean Intellectual Property Office, as a Grade V or higher-ranking state public official in general service or a public official in general service as a member of the Senior Executive Service, while being engaged directly in trials at the Korean Intellectual Property Trial and Appeal Board, and as a technical examiner in the Patent Court.

(3) A person eligible to become a presiding administrative patent judge shall be a person falling under any of the following subparagraphs from among Grade IV or higher-ranking state public officials in general service or public officials in general service as members of the Senior Executive Service, who work for the Korean Intellectual Property Office or any of its affiliated agencies: Provided, That a person eligible to be appointed as a presiding administrative patent judge, which is designated as a position open to the private sector pursuant to Article 28-4 (1) of the State Public Officials Act, shall meet the requirements for performing duties specified in paragraph (2) of the same Article, while a person eligible to be appointed as a presiding administrative patent judge, which is designated as a position publicly offered to the private sector pursuant to Article 28-5 (1) of the same Act, shall meet the requirements for performing duties specified in paragraph (2) of the same Article: <Amended on Feb. 28, 2000; Jan. 31, 2005; Jun. 12, 2006; Sep. 28, 2006; Apr. 3, 2013; Jul. 14, 2020>

1. A person who has served as an administrative patent judge at the Korean Intellectual Property Trial and Appeal Board for two or more years;

2. A person who is qualified as an administrative patent judge under paragraph (2) and has worked for the Korean Intellectual Property Office or any of its affiliated agencies for three or more years while being engaged in examinations or trials.

(4) A person eligible to become the President of the Korean Intellectual Property Trial and Appeal Board shall be qualified as an administrative patent judge. <Amended on Apr. 3, 2013>

(5) Notwithstanding paragraphs (1) through (4), a public official who falls under a class that qualifies him or her as an examiner, administrative patent judge, presiding administrative patent judge, or President of the Korean Intellectual Property Trial and Appeal Board under paragraphs (1) through (4) (including a public official in general service in the Senior Executive Service and a specialized fixed-term public official referred to in paragraph (1) 3) and who is qualified as a patent attorney may be appointed as an examiner, administrative patent judge, presiding administrative patent judge, or President of the Korean Intellectual Property Trial and Appeal Board, respectively: Provided, That a specialized fixed-term public official referred to in paragraph (1) 3 and a Grade VI state public official in general service referred to in paragraph (1) 4 shall be eligible to become an examiner only. <Amended on Dec. 30, 2009; Apr. 3, 2013; Nov. 20, 2013; Dec. 30, 2014>

(6) Matters necessary for training of examiners and administrative patent judges under paragraphs (1) and (2) shall be determined by the Commissioner of the Korean Intellectual Property Office.

#### **Article 8-2 (Criteria for Registering Agencies Specializing in Search for Prior Art)**

(1) Pursuant to Article 58 (2) of the Act, the Commissioner of the Korean Intellectual Property Office shall register a corporation that meets all the following requirements as a specialized agency in charge of search for prior art and issuance of patent classification codes under Article 58 (1) of the Act (hereinafter referred to as "specialized agency for search and classification"): Provided, That the foregoing shall not apply to a corporation, if its registration as a specialized agency for search and classification was revoked under Article 58-2 (1) 1 of the Act or any executive officer of the corporation worked for any other corporation whose registration as a specialized agency for search and classification was revoked and if two years have not passed since the registration was revoked: <Amended on Sep. 28, 2006; Feb. 22, 2011; Dec. 30, 2014; Jan. 10, 2017; May 29, 2017>

1. The corporation shall secure the literature and equipment necessary to provide the services specified in Article 8-3 (1);
2. The corporation shall secure human resources and organizations exclusively dedicated to the services specified in Article 8-3 (1);
3. Any executive officer or employee of the corporation shall not be a person who concurrently works as an executive officer or employee of any other firm that is engaged in the business specified in Article 2 of the Patent Attorney Act or a patent attorney registered under Article 5 of the same Act (excluding patent attorneys who suspend their business operations after reporting the suspension of business operations under Article 6-2 (2) of the same Act);
4. The corporation shall have a security system for the executive officers, employees, facilities, and equipment involved in the services specified in Article 8-3 (1).

(2) If a specialized agency for search and classification performs any service other than the services specified in Article 8-3 (1), it shall ensure that performing such service does not make the services specified in the said provisions biased. *<Amended on Dec. 30, 2014>*

(3) A person who intends to be registered as a specialized agency for search and classification shall file an application for the registration of a specialized agency for search and classification with the Commissioner of the Korean Intellectual Property Office in the form prescribed by Ordinance of the Ministry of Trade, Industry and Energy. *<Amended on May 29, 2017>*

(4) Detailed standards for securing the literature, equipment, human resources, and organizations, specific standards for the security system, and other matters necessary for the registration and operation of specialized agencies for search and classification under paragraph (1) shall be prescribed and publicly notified by the Commissioner of the Korean Intellectual Property Office. *<Newly Inserted on Jan. 31, 2005; Sep. 28, 2006; Dec. 30, 2014; May 29, 2017>*

#### **Article 8-3 (Commissioning of Search for Prior Art)**

(1) Pursuant to Article 58 (1) of the Act, the Commissioner of the Korean Intellectual Property Office may commission a specialized agency for search and classification to provide the following services: *<Amended on Dec. 30, 2014>*

1. Search for prior art;
2. Issuance of patent classification codes;
3. Other services that the Commissioner of the Korean Intellectual Property Office deems necessary for the examination of patent applications.

(2) The head of the specialized agency for search and classification commissioned by the Commissioner of the Korean Intellectual Property Office to provide any of the services under paragraph (1) shall promptly notify the Commissioner of the Korean Intellectual Property Office of the results of the service performed by it. *<Amended on Sep. 28, 2006; Dec. 30, 2014>*

(3) If the Commissioner of the Korean Intellectual Property Office finds it necessary to perform additional search or any other service with regard to the results of services notified under paragraph (2), he or she may re-commission the head of the relevant specialized agency for search and classification to perform relevant services by specifying the scope of search, etc. *<Amended on Dec. 30, 2014>*

(4) Paragraph (2) shall apply mutatis mutandis to the re-commissioning under paragraph (3). *<Amended on Jun. 26, 2009>*

#### **Article 8-4 (Criteria for Registration of Agencies Specializing in Storage and Distribution of Deposited Micro-Organisms)**

(1) Pursuant to Article 58 (2) of the Act, the Commissioner of the Korean Intellectual Property Office shall register an institution or organization (hereinafter referred to as "institution, etc.") that meets all the following requirements as a specialized agency for the storage and distribution of deposited micro-

organisms: Provided, That the foregoing shall not apply to an institution, etc., if its registration as a specialized agency for the storage and distribution of deposited micro-organisms was revoked under Article 58-2 (1) 1 of the Act or any executive officer of the institution, etc. worked for any other institution whose registration as a specialized agency for the storage and distribution of deposited micro-organisms was revoked and if two years have not passed since the registration was revoked: *<Amended on May 29, 2017>*

1. The institution, etc. shall be equipped with human resources and facilities necessary for preserving and safekeeping micro-organisms;
  2. The institution, etc. shall establish plans to perform services related to the storage and distribution of deposited micro-organisms;
  3. The institution, etc. shall have a security system for maintaining confidential information about micro-organisms.
- (2) A person who intends to be registered as a specialized agency for the storage and distribution of deposited micro-organisms shall file an application for the registration of a specialized agency for the storage and distribution of deposited micro-organisms with the Commissioner of the Korean Intellectual Property Office in the form prescribed by Ordinance of the Ministry of Trade, Industry and Energy. *<Amended on May 29, 2017>*
- (3) Specific standards for human resources, facilities, business performance plans, and security systems and other matters necessary for the registration and operation of specialized agencies for the storage and distribution of deposited micro-organisms under paragraph (1) shall be prescribed and publicly notified by the Commissioner of the Korean Intellectual Property Office. *<Amended on May 29, 2017>*

#### **Article 8-5 (Management and Evaluation of Affairs of Specialized Agencies)**

- (1) "Dedicated agency prescribed by Presidential Decree" in Article 58 (3) of the Act means an agency or organization recognized by the Commissioner of the Korean Intellectual Property Office as being equipped with specialized personnel, dedicated organization, and security system necessary for managing and evaluating the affairs of a specialized agency under paragraph (2) of the same Article.
- (2) Details necessary for operating a dedicated agency, such as the specific standards for the specialized personnel, dedicated organization, and security system prescribed in paragraph (1) and the scope of affairs performed by the dedicated agency, shall be determined and publicly notified by the Commissioner of the Korean Intellectual Property Office.

#### **Article 9 (Cases Eligible for Expedited Examination)**

- (1) "Patent application prescribed by Presidential Decree" in subparagraph 2 of Article 61 of the Act means a patent application designated by the Commissioner of the Korean Intellectual Property Office, among the following patent applications: *<Amended on Jun. 23, 2000; Jun. 27, 2001; Jan. 31, 2005; Sep. 28, 2006; Jun. 28, 2007; Sep. 30, 2008; Jun. 26, 2009; Jun. 28, 2013; Dec. 30, 2014; Aug. 19, 2015; Jan. 10, 2017; Apr.*

24, 2018; Jul. 9, 2019; Jun. 22, 2021; Apr. 19, 2022; Nov. 1, 2022>

1. A patent application in the area of the defense industry;
2. A patent application directly related to green technology under the Framework Act on Carbon Neutrality and Green Growth For Coping with Climate Crisis;
- 2-2. A patent application utilizing technologies related to the fourth industrial revolution such as artificial intelligence (AI) and the Internet of Things (IoT);
- 2-3. A patent application related to advanced technology that is important to the national economy and the enhancement of national competitiveness, such as semiconductors (limited to a patent application for which the Commissioner of the Korean Intellectual Property Office determines and publicly announces specific cases eligible for an expedited examination and the period for application therefor);
3. A patent application directly related to export promotion;
4. A patent application concerning the official duties of the State or local governments (including any patent application concerning the duties of the national and public schools provided for in the Higher Education Act, which is filed by the organization in charge of the technology transfer and industrialization established within the national and public schools pursuant to Article 11 (1) of the Technology Transfer and Commercialization Promotion Act);
5. A patent application filed by an enterprise confirmed as a venture business under Article 25 of the Act on Special Measures for the Promotion of Venture Businesses;
- 5-2. A patent application filed by an enterprise selected as a technology-innovative small and medium enterprise under Article 15 of the Act on the Promotion of Technology Innovation of Small and Medium Enterprises;
- 5-3. A patent application filed by an enterprise selected as an exemplary company in terms of the employee invention compensation system under Article 11-2 of the Invention Promotion Act;
- 5-4. A patent application filed by a small or medium enterprise with the certification for management of intellectual property under Article 24-2 of the Invention Promotion Act;
6. A patent application concerning the results of national research and development programs under subparagraph 1 of Article 2 of the National Research and Development Innovation Act;
7. A patent application which serves as a basis of a priority claim under treaties (limited to cases where a patent is being processed by a foreign patent office, upon a priority claim based on the relevant patent application);
- 7-2. An international patent application on which the Korean Intellectual Property Office conducts international search, as an international search agency under the Patent Cooperation Treaty pursuant to Article 198-2 of the Act;
8. A patent application under which an invention is being practiced or being prepared to be practiced by the patent applicant;
9. Deleted; <Jul. 9, 2019>

10. A patent application on which the Commissioner of the Korean Intellectual Property Office has agreed with the commissioner of any foreign patent office to preferentially examine;
  11. A patent application regarding which a person who intends to file an application for an expedited examination requested a specialized agency designated and publicly notified as a specialized agency for search and classification to conduct a search for prior art with respect to the invention pending in patent application and has requested the specialized agency to notify the Commissioner of the Korean Intellectual Property Office of the search results;
  12. A patent application filed by any of the following persons:
    - (a) A person aged 65 years or older;
    - (b) A person whose health problem is likely to incapacitate him or her from following the procedure relating to a patent until a decision is rendered as to whether to grant a patent or to reject a patent application unless he or she undergoes an expedited examination.
- (2) "Patent application prescribed by Presidential Decree" in subparagraph 3 of Article 61 of the Act means any of the following patent applications: *<Newly Inserted on Jun. 22, 2021>*
1. Any of the following patent applications determined and publicly notified by the Commissioner of the Korean Intellectual Property Office:
    - (a) A patent application directly related to goods for medical treatment and disease control under subparagraph 21 of Article 2 of the Infectious Disease Control and Prevention Act;
    - (b) A patent application directly related to disaster safety products certified under Article 73-4 of the Framework Act on the Management of Disasters and Safety;
  2. A patent application subject to public notice given by the Commissioner of the Korean Intellectual Property Office for a specified period of applying for an expedited examination to respond to an emergency situation caused by a disaster.

#### **Article 10 (Decision on Expedited Examination)**

- (1) Any person who applies for an expedited examination shall file with the Commissioner of the Korean Intellectual Property Office an application for an expedited examination prescribed by Ordinance of the Ministry of Trade, Industry and Energy. *<Amended on Mar. 6, 1993; Jun. 3, 1996; Jun. 30, 1999; Feb. 29, 2008; Mar. 23, 2013>*
- (2) The Commissioner of the Korean Intellectual Property Office shall, upon receipt of an application for an expedited examination under paragraph (1), decide whether to conduct the expedited examination.
- (3) Matters necessary for the decision on an expedited examination referred to in paragraph (2) shall be determined by the Commissioner of the Korean Intellectual Property Office.

### **CHAPTER III CONFIDENTIAL TREATMENT OF PATENT APPLICATION RELATED TO NATIONAL DEFENSE**



### **Article 11 (Classification Criteria of Patent Application Related to National Defense)**

The Commissioner of the Korean Intellectual Property Office shall determine the classification criteria necessary for selection of inventions to be treated as confidential under Article 41 (1) of the Act (hereinafter referred to as "classification criteria") after consulting with the Commissioner of the Defense Acquisition Program Administration. <Amended on Sep. 28, 2006>

### **Article 12 (Procedure for Confidential Treatment)**

(1) If a patent application filed by a person having a domicile or business place in the Republic of Korea is conformed to the classification criteria as prescribed in Article 11, the Commissioner of the Korean Intellectual Property Office shall refer the Commissioner of the Defense Acquisition Program Administration to whether it is required to classify and treat such application as confidential. <Amended on Sep. 28, 2006>

(2) Where the Commissioner of the Korean Intellectual Property Office has made a reference to the Commissioner of the Defense Acquisition Program Administration under paragraph (1), he or she shall notify an inventor, applicant and agent of the patent application, and a person who is deemed aware of the invention (hereinafter referred to as "inventor, etc.") of such fact, and request them to maintain the confidentiality thereof. <Amended on Sep. 28, 2006>

(3) The Commissioner of the Defense Acquisition Program Administration shall, upon receipt of a reference under paragraph (1), make a reply within two months, and if it is deemed necessary to treat the patent application as confidential, he or she shall request the Commissioner of the Korean Intellectual Property Office to classify and treat such patent application as confidential. <Amended on Sep. 28, 2006>

(4) Upon receipt of a request to classify and treat any patent application as confidential under paragraph (3), the Commissioner of the Korean Intellectual Property Office shall take necessary measures in conformity with the confidential service rules, and order the inventor, etc. of the patent application to classify and treat it as confidential, and if he or she is not requested so, he or she shall notify the inventor, etc. of the patent application of a cancellation of the request for maintenance of confidentiality as referred to in paragraph (2). <Amended on Jan. 31, 2005>

(5) Upon receipt of a reply of the Commissioner of the Defense Acquisition Program Administration under paragraph (3), the Commissioner of the Korean Intellectual Property Office shall issue an order to classify and treat the patent application as confidential, or notify a cancellation of the request for maintenance of confidentiality under paragraph (4) without delay. <Amended on Sep. 28, 2006>

### **Article 13 (Cancellation of Confidential Treatment)**

(1) With respect to a patent application which is ordered to be classified and treated as confidential under Article 12 (4), the Commissioner of the Korean Intellectual Property Office shall take necessary measures after consulting twice or more each year with the Commissioner of the Defense Acquisition Program

Administration on the cancellation of confidentiality, extension of confidential maintenance period or whether to change the confidential level. <Amended on Sep. 28, 2006>

(2) An inventor, etc. who is ordered to classify and treat a patent application as confidential under Article 12 (4), may request the Commissioner of the Korean Intellectual Property Office to release it from confidential treatment, to change the confidential level or to publish or license the invention to which a patent is applied, in a specified limit.

#### **Article 14 (Compensation)**

(1) A patent applicant may request to the Commissioner of the Defense Acquisition Program Administration for a compensation for losses arising from the prohibition of a patent application from being filed in a foreign country or by being treated as confidential (hereinafter referred to as "compensation") under Article 41 (3) of the Act. <Amended on Jun. 27, 2001; Sep. 28, 2006>

(2) If a patent applicant requests a compensation under paragraph (1), he or she shall submit a written request for compensation and documentary evidence proving the losses.

(3) Upon receipt of a request for compensation under paragraph (1) from a patent applicant, the Commissioner of the Defense Acquisition Program Administration shall determine and pay the amount of compensation, and if necessary, he or she may consult with the Commissioner of the Korean Intellectual Property Office. <Amended on Sep. 28, 2006>

#### **Article 15 (Prohibition of Patent Application from Being Filed in Foreign Country and Permission Thereof)**

(1) If an invention for which a patent application is filed by a person having the domicile or business office in the Republic of Korea, is demanded by the Commissioner of the Korean Intellectual Property Office to be maintained as confidential under Article 12 (2), or is ordered to be classified and treated as confidential under paragraph (4) of the same Article, such person may file a patent application in any foreign country only when it is permitted by the Commissioner of the Korean Intellectual Property Office.

(2) A person who intends to apply for permission to file a patent application in a foreign country shall submit to the Commissioner of the Korean Intellectual Property Office a written application prescribed by Ordinance of the Ministry of Trade, Industry and Energy. <Amended on Mar. 6, 1993; Jun. 3, 1996; Jun. 30, 1999; Feb. 29, 2008; Mar. 23, 2013>

#### **Article 16 (Consultations with Commissioner of Defense Acquisition Program Administration)**

If the Commissioner of the Korean Intellectual Property Office intends to grant permission under any of the following subparagraphs, he or she shall first consult with the Commissioner of the Defense Acquisition Program Administration: <Amended on Sep. 28, 2006>

1. Permission on a publication or license of an invention classified and treated as confidential under Article 13 (2) in a specified limit;

2. Permission on a patent application in a foreign country under Article 15 (2).

## CHAPTER IV SUPPLEMENTARY PROVISIONS

**Article 17 Deleted.** <Jun. 28, 2007>

### **Article 18 (Service of Documents)**

(1) Except in cases where the documents to be served under the Act are directly received by the party or his or her agent at the Korean Intellectual Property Office or the Korean Intellectual Property Trial and Appeal Board or received by utilizing the information and communication networks, such documents shall be sent by registered mail. <Amended on Dec. 31, 1993; Jun. 26, 1997; Jun. 27, 2001; Jun. 28, 2007>

(2) Where the Commissioner of the Korean Intellectual Property Office or the President of the Korean Intellectual Property Trial and Appeal Board has served the documents pursuant to paragraph (1), he or she shall keep a receipt or its details according to any of the following: <Amended on Jun. 27, 2001>

1. Where a party or his or her agent receives the documents directly at the Korean Intellectual Property Office or the Korean Intellectual Property Trial and Appeal Board, the receipt specifying the date of receipt and the name of recipient;
2. Where a party or his or her agent receives the documents by utilizing the information and communication networks, the details written in a file for receipt saved on a computer system operated by the Korean Intellectual Property Office or the Korean Intellectual Property Trial and Appeal Board;
3. Where the documents are sent by registered mail, the receipt of the registered mail.

(3) If the certified copies of an adjudication or decision of trial, review, ruling on the establishment of non-exclusive license and revocation of patent right are served, it shall be made by a special service method as prescribed by the Postal Service Act and its Enforcement: Provided, That when such copies are delivered to persons who have reported on the use of electronic documents under Article 28-4 (1) of the Act, the information and communications network may be used. <Amended on Dec. 31, 1993; Jun. 26, 1997; Jun. 30, 1999; Sep. 28, 2006; Feb. 22, 2011>

(4) Except as otherwise provided in the Act or this Decree, a certified copy of the document concerned shall be delivered to the person to whom it is to be served, and if a protocol is prepared in lieu of presentation of the document to be served, a certified copy or abstract of such protocol shall be delivered.

(5) Any service to a person falling under the main clause of Article 3 (1) of the Act shall be made to his or her legal representative.

(6) If several persons jointly exercise the agency authority, it shall be sufficient to serve it to one of them. <Amended on Dec. 31, 1993; Feb. 22, 2011>

(7) Any service to a person in a prison or detention house shall be made to the head of such prison or detention house. <Amended on Dec. 31, 1993>

(8) Where there exist two or more parties or their agents and a report is made on a representative selected to receive documents to the Commissioner of the Korean Intellectual Property Office or the President of the Korean Intellectual Property Trial and Appeal Board, documents shall be delivered to such representative. *<Newly Inserted on Feb. 22, 2011>*

(9) The place to be served shall be the domicile or business office of the person to be served: Provided, That where a person intending to be served a document has made a report on the place where he or she want to receive it (limited to a place in the Republic of Korea) in advance to the Commissioner of the Korean Intellectual Property Office or the President of the Korean Intellectual Property Trial and Appeal Board, it shall be such place. *<Amended on Dec. 31, 1993; Jan. 31, 2005; Feb. 22, 2011>*

(10) If a person to be served changes his or her place to be served, he or she shall report it without delay to the Commissioner of the Korean Intellectual Property Office. *<Newly Inserted on Dec. 31, 1993; Feb. 22, 2011>*

(11) If a person to be served refuses to receive the service without justifiable grounds and it is thereby impossible to serve, the service shall be deemed to have been made on the day of sending. *<Amended on Feb. 22, 2011>*

(12) Sending, etc. of documents, other than those to be served under the Act shall be made as prescribed by the Commissioner of the Korean Intellectual Property Office. *<Newly Inserted on Dec. 31, 1993; Jun. 28, 2007; Feb. 22, 2011>*

#### **Article 19 (Patent Gazette)**

(1) The Patent Gazette under Article 221 (1) of the Act shall be divided into the patent gazette for registration and the patent gazette for publication. *<Amended on Dec. 30, 2014>*

(2) "Matters specified by Presidential Decree" in Article 87 (3) 8 of the Act means the following matters: *<Amended on Jan. 10, 2017>*

1. Classification code;
2. Matters concerning an invention deemed not publicly known under Article 30 of the Act;
3. The specification and drawings attached to a patent application (referring to the specification and drawings attached at the time of the registration of the grant of the patent under Article 87 (2) of the Act);
4. Matters concerning divisional patent applications or converted patent applications;
5. Matters concerning a priority claim;
6. The laying-open number of patent application and its date of laying-open;
7. Matters concerning ex officio amendments under Article 66-2 of the Act;
8. The details of correction made pursuant to Article 132-3, 133-2, 136, or 137 of the Act;
9. Other matters that the Commissioner of the Korean Intellectual Property Office deems necessary.

(3) The patent gazette for publication shall contain the following matters: Provided, That matters that are considered likely to disrupt public order or morality or harm public hygiene shall not be published:

<Amended on Jun. 30, 1999; Jun. 27, 2001; Jun. 13, 2003; Sep. 28, 2006; Jun. 28, 2013; Dec. 30, 2014>

1. Matters set forth in accordance with the following classifications:
    - (a) Where a patentee is a natural person: The name and domicile of a patentee;
    - (b) Where a patentee is a juristic person: The name of a juristic person and the location of its business office;
  2. An application number, classification code, and date of application;
  3. The name and domicile of an inventor;
  4. The laying-open number of patent application and its date of laying-open;
  5. The specification and drawings attached initially to a patent application: Provided, That the following specification (referring to the description of the invention and claims in cases of an international patent application written in a foreign language; hereafter the same shall apply in this subparagraph) and drawings shall be published, if the specification and drawings are attached to a patent application written in any language other than Korean under Article 42-3 (1) of the Act (hereinafter referred to as "patent application in a foreign language") or to an international patent application written in any language other than Korean under Article 199 (1) of the Act (hereinafter referred to as "international patent application in a foreign language"):
    - (a) In cases of a patent application in a foreign language: The specification and drawings deemed to have been amended under Article 42-3 (5) of the Act;
    - (b) In cases of an international patent application in a foreign language: The specification and drawings deemed to have been amended under Article 201 (5) of the Act;
  - 5-2. The abstract attached to a patent application;
  - 5-3. Matters concerning the amendment of a specification under Article 42-2 (2) of the Act;
  6. Matters concerning a priority claim;
  7. Matters concerning converted applications or divisional applications;
  8. The fact that a request for the examination of a patent application has been filed under Article 60 (2) of the Act: Provided, That the publication number, classification code, and the application number of the relevant patent application, along with the fact that a request for the examination of a patent application has been filed, shall be published in the subsequently issued patent gazette for publication;
  9. The intent to the effect that anyone may claim to the Commissioner of the Korean Intellectual Property Office against any patent application concerned with information and proof substantiating his or her claim under Article 63-2 of the Act;
  10. Other matters concerning the publication of patent application.
- (4) Where the Commissioner of the Korean Intellectual Property Office intends to publish the address of a patentee who is a natural person, an applicant who is a natural person or an inventor under Article 87 (3) of the Act and paragraph (3) of this Article, only part of such address can be published upon the request of the patentee, applicant, or inventor. <Newly Inserted on Jun. 28, 2013; Jan. 10, 2017>

(5) The Commissioner of the Korean Intellectual Property Office shall determine and publicly notify the methods and procedures for filing an application and the scope of address to be published under paragraph (4). <Newly Inserted on Jun. 28, 2013>

#### **Article 19-2 (Processing of Personally Identifiable Information)**

If the Commissioner of the Korean Intellectual Property Office or the President of the Korean Intellectual Property Trial and Appeal Board deems it unavoidable to carry out the following administrative affairs, he or she may process data containing a resident registration number or a foreigner registration number under subparagraph 1 or 4 of Article 19 of the Enforcement Decree of the Personal Information Protection Act:

1. Administrative affairs for giving an identification number under Article 28-2 of the Act;
2. Administrative affairs relating to patent application under Article 42 of the Act;
3. Administrative affairs relating to the examination and preservation of evidence under Article 157 of the Act;
4. Administrative affairs relating to the submission, etc. of documents under Article 222 of the Act;
5. Other administrative affairs relating to the filing, reporting, or submission in connection with application, examination, trial, and registration under the Act and this Decree.

#### **Article 20 (Imposition of Administrative Fines)**

The criteria for the imposition of administrative fines under Article 232 (1) of the Act are as specified in the attached Table. <Amended on Dec. 2, 2011>

ADDENDUM <Presidential Decree No. 13078, Aug. 28, 1990>

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

ADDENDUM <Presidential Decree No. 13744, 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.**

ADDENDA <Presidential Decree No. 14059, Dec. 31, 1993>

- (1) (Enforcement Date) This Decree shall enter into force on January 1, 1994.
- (2) (Transitional Measures concerning Cases of Expedited Examination) With respect to another person's patent application for which the Government or local government and its contributed research institute requested the examination, before this Decree enters into force, the previous provisions shall apply.
- (3) (Special Cases concerning Request for Compensation) The amended provisions of Article 14 (1) shall also apply to any patent application classified into and treated as confidential, before this Decree enters into force.
- (4) Omitted.

ADDENDA <Presidential Decree No. 15009, Jun. 3, 1996>

**Article 1 (Enforcement Date)**

This Decree shall enter into force on July 1, 1996: Provided, That the amended provisions of subparagraph 2 of Article 7 shall enter into force on December 7, 1996.

**Article 2 Omitted.**

ADDENDA <Presidential Decree No. 15408, Jun. 26, 1997>

**Article 1 (Enforcement Date)**

This Decree shall enter into force on July 1, 1997: Provided, That the amended provisions of Article 19 (3) 2 (e) through (j) shall enter into force on February 1, 1998 and the amended provisions of Articles 4 (1) 2, 8, and 18 (1) and (2) shall enter into force on March 1, 1998.

**Article 2 (Transitional Measures concerning Calculation of Period for Qualification of Administrative Patent Judges)**

(1) The term of office which any person has served as a state public official of Grade IV or V in general service in the affairs of appellate trial at the appellate trial tribunal and the term of completion which he/she has completed the training courses for a technical examiner and administrative patent judge as a state public official of Grade IV in general service at the International Patent Training Center before the amended provisions of Article 8 (2) enter into force shall be deemed the term of office which he/she has served as an examiner as referred to in subparagraph 1 of the same paragraph.

(2) The term of office which any person has served as an administrative patent judge at the Korean Intellectual Property Office before the amended provisions of Article 8 (3) enter into force shall be deemed the term of office which he/she has served as an administrative patent judge as referred to in subparagraph 1 of the same paragraph.

(3) Any person qualified as an administrative patent judge or appellate examiner pursuant to the previous provisions as at the time the amended provisions of Article 8 (2) and (3) enter into force shall be deemed a person qualified as an administrative patent judge or a presiding administrative patent

judge under this Decree.

**Article 3 (Special Cases concerning Special Service of Adjudication)**

In applying the amended provisions of Article 18 (3), "trial" in the same paragraph of the same Article shall be construed as "trial, appellate trial and immediate appeal" until February 28, 1998.

ADDENDA <Presidential Decree No. 16417, Jun. 30, 1999>

(1) (Enforcement Date) This Decree shall enter into force on July 1, 1999.

(2) (Applicability) The amended provisions of Article 9 shall apply from the first patent application with a request for an expedited examination made after this Decree enters into force.

ADDENDA <Presidential Decree No. 16725, Feb. 28, 2000>

**Article 1 (Enforcement Date)**

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

**Articles 2 and 3 Omitted.**

ADDENDA <Presidential Decree No. 16852, Jun. 23, 2000>

(1) (Enforcement Date) This Decree shall enter into force on July 1, 2000.

(2) (Applicability to Request for Expedited Examination) The amended provisions of subparagraph 9 of Article 9 shall apply from the first patent application with a request for an expedited examination filed after this Decree enters into force.

ADDENDUM <Presidential Decree No. 17246, Jun. 27, 2001>

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

ADDENDUM <Presidential Decree No. 17995, Jun. 13, 2003>

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

ADDENDUM <Presidential Decree No. 18312, Mar. 17, 2004>

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



ADDENDUM <Presidential Decree No. 18694, Jan. 31, 2005>

This Decree shall enter into force on February 11, 2005.

ADDENDA <Presidential Decree No. 19513, Jun. 12, 2006>

**Article 1 (Enforcement Date)**

This Decree shall enter into force on July 1, 2006.

**Articles 2 through 4 Omitted.**

ADDENDA <Presidential Decree No. 19697, Sep. 28, 2006>

(1) (Enforcement Date) This Decree shall enter into force on October 1, 2006: Provided, That the amended provisions of Articles 8 (2) and (3) 2, 18 (3) and 19 (2) 10 shall enter into force on July 1, 2007.

(2) (Applicability to Expedited Examination) The amended provisions of Article 9 shall apply from the first patent application with a request for an expedited examination filed after this Decree enters into force.

(3) (Transitional Measures concerning Qualification Requirements for Administrative Patent Judges) Any person qualified as an administrative patent judge or a presiding administrative patent judge pursuant to the previous provisions as at the time the amended provisions of Article 8 (2) and (3) enter into force shall be deemed a person qualified as an administrative patent judge or a presiding administrative patent judge, respectively, pursuant to this Decree.

(4) (Transitional Measures concerning Publication of Patent Gazette) The publication of the patent gazette concerning the patent application filed pursuant to the previous provisions as at the time the amended provisions of Article 19 (2) 7 and (3) 7 and 9 enter into force shall be governed by the previous provisions.

ADDENDUM <Presidential Decree No. 20127, Jun. 28, 2007>

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

ADDENDA <Presidential Decree No. 20137, Jun. 29, 2007>

**Article 1 (Enforcement Date)**

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

**Articles 2 through 5 Omitted.**

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.**

ADDENDA <Presidential Decree No. 21053, Sep. 30, 2008>

**Article 1 (Enforcement Date)**

This Decree shall enter into force on October 1, 2008.

**Article 2 (Applicability to Cases Eligible for Expedited Examination)**

The amended provisions of Article 9 shall begin to apply to the first patent application with a request for an expedited examination filed after this Decree enters into force.

ADDENDA <Presidential Decree No. 21567, Jun. 26, 2009>

**Article 1 (Enforcement Date)**

This Decree shall enter into force on July 1, 2009: Provided, That the amended provisions of Article 8-3 shall enter into force on the date of its promulgation, those of subparagraph 2 of Article 9 on October 1, 2009, and those of Article 3 on January 1, 2010.

**Article 2 (Applicability to Matters Entered in Patent Specifications of Invention Related to Micro-Organisms)**

The amended provisions of Article 3 shall apply from the first patent application, divisional application, converted application, and application made by a lawful holder of the right after an application made by an unentitled person after the date the amended provisions of Article 3 under the proviso to Article 1 of the Addenda enter into force.

**Article 3 (Transitional Measures)**

Notwithstanding the amended provisions of Article 4 (1) 2, the previous provisions shall apply to any patent application made before this Decree enters into force.

ADDENDUM <Presidential Decree No. 21917, Dec. 30, 2009>

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

ADDENDA <Presidential Decree No. 22674, Feb. 22, 2011>

**Article 1 (Enforcement Date)**

This Decree shall enter into force on April 1, 2011.

## **Article 2 (Applicability to Delivery of Copies of Adjudication or Decision)**

The amended provisions of Article 18 (3) shall apply from the first adjudication or decision field after the enforcement of this Decree.

ADDENDA <Presidential Decree No. 23341, Dec. 2, 2011>

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

This Decree shall enter into force on the date when the Free Trade Agreement between the Republic of Korea and the United States of America comes into effect in the Republic of Korea: Provided, That the amended provisions of Article 20 and the attached table shall enter into force on January 1, 2012.

### **Article 2 (Applicability to Period Delayed Due to Applicants)**

The amended provisions of Article 7-2 shall apply from the first patent application field after this Decree enters into force.

### **Article 3 (Transitional Measures concerning Administrative Fines)**

(1) The application of standards for imposition of administrative fines against violations before this Decree enters into force shall be governed by the previous provisions, notwithstanding the amended provisions of the attached table.

(2) The imposition of administrative fines against violations before this Decree enters into force shall not be included in calculating the number of violations under the amended provisions of the attached table.

ADDENDA <Presidential Decree No. 23488, Jan. 6, 2012>

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

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

### **Article 2 Omitted.**

ADDENDA <Presidential Decree No. 24439, Mar. 23, 2013>

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

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

### **Articles 2 and 3 Omitted.**

ADDENDA <Presidential Decree No. 24491, Mar. 23, 2013>

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

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

**Article 2 (Applicability to Inventions Subject to Application for Registration of Extension of Term of Patent Right by Permission)**

The amended provisions of Article 7 shall apply to the inventions for which an application for registration of the extension of the term of a patent right by permission, etc. is filed on or after the date this Decree enters into force.

ADDENDA <Presidential Decree No. 24645, Jun. 28, 2013>

**Article 1 (Enforcement Date)**

This Decree shall enter into force on July 1, 2013: Provided, That the amended provisions of subparagraph 5-3 of Article 9 shall enter into force on September 23, 2013, and the amended provisions of paragraphs (2) through (4) of Article 19 shall enter into force on July 1, 2014.

**Article 2 (Applicability to Entering Method of Scope of Patent Claims)**

The amended provisions of Article 5 (4) shall also apply to the following patent applications:

1. Patent applications pending as at the time this Decree enters into force;
2. The following patent applications filed after this Decree enters into force (item 3 refers to an application for a utility model registration) in connection with patent applications filed before this Decree enters into force:
  - (a) Patent applications filed by a lawful holder of the right under the main sentence of Articles 34 and 35 of the Act;
  - (b) Divisional application under Article 52 of the Act;
  - (c) Converted application under Article 53 of the Act.

**Article 3 (Applicability to Cases Subject to Expedited Examination)**

The amended provisions of subparagraph 5-3 of Article 9 shall apply from the first expedited examination of a patent application filed by a company selected as an exemplary company in terms of the employee invention compensation system under Article 11-2 of the Invention Promotion Act after the enforcement date under proviso to Article 1 of the Addenda.

**Article 4 (Applicability to Patent Gazette)**

The amended provisions of Article 19 (4) shall apply from the first application for publication of only part of the address in the patent gazette for public announcement of registration and the patent gazette for disclosure of patent application after the enforcement date under proviso to Article 1 of the Addenda.

ADDENDA <Presidential Decree No. 24852, Nov. 20, 2013>

**Article 1 (Enforcement Date)**

This Act shall enter into force on December 12, 2013.

**Articles 2 through 9 Omitted.**

ADDENDA <Presidential Decree No. 25924, Dec. 30, 2014>

**Article 1 (Enforcement Date)**

This Decree shall enter into force on January 1, 2015.

**Article 2 (Applicability to Publication in Patent Gazette for Registration)**

The amended provisions of Article 19 (2) 6-2 shall also apply to patents registered before this Decree enters into force but published in the patent gazette for registration after this Decree enters into force.

**Article 3 (Transitional Measures concerning Specialized Agencies for Search for Prior Art)**

The specialized agencies designated under the previous provisions of Article 8-2 before this Decree enters into force shall be deemed specialized agencies for search and classification designated under the amended provisions of Article 8-2.

**Article 4 (Transitional Measures concerning Depository Authorities Designated by Commissioner of the Korean Intellectual Property Office for Micro-Organisms)**

The depository authorities designated by the Commissioner of the Korean Intellectual Property Office for micro-organisms under the previous provisions of Article 2 (1) before this Decree enters into force shall be deemed specialized agencies designated under the amended provisions of Article 8-4 for the storage and distribution of deposited micro-organisms.

ADDENDUM <Presidential Decree No. 26494, Aug. 19, 2015>

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

ADDENDUM <Presidential Decree No. 27778, Jan. 10, 2017>

This Decree shall enter into force on the date of its promulgation: Provided, That the amended provisions of Article 19 (2) shall enter into force on March 1, 2017.

ADDENDUM <Presidential Decree No. 28066, May 29, 2017>

This Decree shall enter into force on June 3, 2017.

ADDENDUM <Presidential Decree No. 28819, Apr. 24, 2018>

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

ADDENDUM <Presidential Decree No. 29050, Jul. 17, 2018>

This Decree shall enter into force on July 18, 2018.

ADDENDA <Presidential Decree No. 29955, Jul. 9, 2019>

**Article 1 (Enforcement Date)**

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

**Article 2 (Applicability to Patent Applications Subject to Accelerated Examinations)**

The amended provisions of subparagraph 7-2 of Article 9 shall begin to apply to applications for accelerated examinations filed after this Decree enters into force.

**Article 3 (Transitional Measures concerning Patent Applications Subject to Accelerated Examinations)**

The previous provisions shall apply to patent applications for which an application for accelerated examination has been filed before this Decree enters into force, notwithstanding the amended provisions of subparagraphs 6 and 9 of Article 9.

ADDENDA <Presidential Decree No. 30844, Jul. 14, 2020>

**Article 1 (Enforcement Date)**

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

**Article 2 (Applicability to Periods of Delay Attributable to Applicants)**

(1) The amended provisions of Article 7-2 (1) 1 (h) and (v) shall begin to apply to cases where the term of a patent right for which a patent application is filed is extended pursuant to Article 92-2 of the Act after this Decree enters into force.

(2) The amended provisions of Article 7-2 (1) 1 (n) shall begin to apply to cases where the term of a patent for which a request for re-examination is filed is extended pursuant to Article 92-2 of the Act after this Decree enters into force.

ADDENDUM <Presidential Decree No. 31813, Jun. 22, 2021>

This Decree shall enter into force on June 23, 2021.

ADDENDUM <Presidential Decree No. 32590, Apr. 19, 2022>

This Decree shall enter into force on April 20, 2022.

ADDENDUM <Presidential Decree No. 32973, Nov. 1, 2022>

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

Last updated : 2023-10-12

