

# Patent Attorney Act

(Act No. 49 of April 26, 2000)

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## Chapter I General Provisions

### (Mission of Patent Attorneys)

Article 1 The mission of patent attorneys is, as professionals on intellectual property (meaning intellectual property as provided for in Article 2, paragraph (1) of the Intellectual Property Basic Act (Act No. 122 of 2002); hereinafter the same applies in this article), to contribute to the proper operation of systems for intellectual property such as proper protection for and promotion of the use of intellectual property rights (meaning intellectual property rights as provided for in paragraph (2) of that article) and thereby to contribute to the development of economy and industry.

### (Definitions)

- Article 2 (1) The term "international application" as used in this Act means an international application as provided for in Article 2 of the Act on the International Applications under the Patent Cooperation Treaty (Act No. 30 of 1978).
- (2) The term "application for international registration of designs" as used in this Act means an application for international registration as provided for in Article 60-3, paragraph (2) of the Design Act (Act No. 125 of 1959).
- (3) The term "application for international registration of trademarks" as used in this Act means an application for international registration as provided for in Article 68-2, paragraph (1) of the Trademark Act (Act No. 127 of 1959).

- (4) The term "circuit layout" as used in this Act means the circuit layout as provided for in Article 2, paragraph (2) of the Act Concerning the Circuit Layouts of a Semiconductor Integrated Circuit (Act No. 43 of 1985).
- (5) The term "specific unfair competitions" as used in this Act means acts of unfair competition as provided for in Article 2, paragraph (1) of the Unfair Competition Prevention Act (Act No. 47 of 1993) which are listed in items (i) through (x) and items (xiii) through (xvi) of that paragraph (if listed in items (iv) through (ix) of the same paragraph, limited to acts relating to a technological secret (meaning information valuable to business activities such as a production method treated as confidential, etc. and which is not publicly known; the same applies hereinafter); if listed in item (xiv) of the same paragraph, limited to acts relating to a trademark; and if listed in item (xv) of the same paragraph, limited to acts relating to a false allegation concerning a technological secret or right regarding a patent, utility model, design, trademark or circuit layout).
- (6) The term "specific infringement lawsuit" as used in this Act means a lawsuit related to infringement of a right concerning a patent, utility model, design, trademark or circuit layout, or infringement of a business interest by specific unfair competitions.
- (7) The term "patent attorneys offices" as used in this Act means a corporation jointly established by patent attorneys, pursuant to the provision of this Act, for the purpose of organizationally conducting the business under Article 4, paragraph (1).

(Duties)

Article 3 A patent attorney must at all times maintain the integrity, be knowledgeable about laws, regulations and practices concerning the business, and conduct business in a fair and sincere manner.

(Business)

Article 4 (1) A patent attorney is to, upon the request of others, engage in the business of representing others regarding procedures with the Japan Patent Office relating to patents, utility models, designs or trademarks, or international applications or applications for international registration of designs or applications for international registration of trademarks, and procedures with the Minister of Economy, Trade and Industry for a request for review under the provisions of the Administrative Complaint Review Act (Act No. 68 of 2014) or for an award relating to patents, utility models, designs or trademarks, giving expert opinions and handling other operations pertaining to matters related to the procedures.

(2) Beyond the business provided for in the preceding paragraph, a patent

attorney may, upon the request of others, also engage in the business of handling the conducting the following operations:

- (i) representing others with regard to procedures with the Director-General of Custom-Houses related to the accreditation procedure under Article 69-3, paragraph (1) and Article 69-12, paragraph (1) of the Customs Act (Act No. 61 of 1954), petitions under Article 69-4, paragraph (1) and Article 69-13, paragraph (1) of the same Act, and procedures with the Director-General of Custom-Houses or the Minister of Finance with regard to petitions to be submitted by persons making the petitions and by persons that intend to export or import goods pertaining to the relevant petitions;
  - (ii) representing others with regard to alternative dispute resolution procedures (meaning alternative dispute resolution procedures referred to in Article 1 of the Act on Promotion of Use of Alternative Dispute Resolution (Act No. 151 of 2004); hereinafter the same applies in this item) pertaining to a case related to patents, utility models, designs, trademarks, circuit layouts or specific unfair competition, or a case related to a right concerning works (meaning works as provided in Article 2, paragraph (1), item (i) of the Copyright Act (Act No. 48 of 1970); the same applies hereinafter) to the extent that the relevant procedures are performed by a body designated by the Minister of Economy, Trade and Industry as a body recognized to be capable of conducting alternative dispute resolution procedures for said cases in a fair and proper manner; and
  - (iii) consulting about the operations set forth in the preceding two items.
- (3) Beyond the operations provided for in the preceding two paragraphs, a patent attorney may, using the name of a patent attorney and upon the request of others, also engage in the business of conducting the following operations; provided, however, that this does not apply to cases in which the conduction of the operations is restricted by other laws:
- (i) acting as an agent or brokerage with regard to concluding contracts for selling rights or technological secrets, or non-exclusive licensing or other contracts relating to patents, utility models, designs, trademarks, circuit layouts or works or providing a consulting service with regard to concluding such contracts;
  - (ii) conducting the preparation of materials relating to procedures relating to rights related to patents, utility models, designs or trademarks with a foreign administrative authorities or equivalent organizations (provided, however, that these procedures are limited to those to be performed by a party having a domicile or residence (or business office in case of a corporation) in Japan); and
  - (iii) providing a consulting service in connection with protection for inventions, devices, designs or trademarks (except if the procedures relating to rights

related to these are already pending at the Japan Patent Office), circuit layouts (except if the application for registering the creation of the right to use the circuit layouts has already been submitted to the Minister of Economy, Trade and Industry) or technical information useful for business activities (except if it is already being treated as a secret).

- Article 5 (1) A patent attorney may appear in court together with the party concerned or that party's counsel as an assistant in court and make a statement or examination concerning matters related to patents, utility models, designs or trademarks, or international applications or applications for international registration of designs or applications for international registration of trademarks, circuit layouts or specific unfair competitions.
- (2) The statement and examination referred to in the preceding paragraph are deemed to be made by the party concerned or the relevant party's counsel; provided, however, that this does not apply if the party concerned or the party's counsel has immediately revoked or corrected the statement referred to in the same paragraph.

Article 6 A patent attorney may act as counsel with regard to a lawsuit as provided for in Article 178, paragraph (1) of the Patent Act (Act No. 121 of 1959), Article 47, paragraph (1) of the Utility Model Act (Act No. 123 of 1959), Article 59, paragraph (1) of the Design Act, or Article 63, paragraph (1) of the Trademark Act.

- Article 6-2 (1) When a patent attorney passes the specific infringement lawsuit counsel examination as provided in Article 15-2, paragraph (1) and has a supplementary note of that fact registered pursuant to Article 27-3, paragraph (1), the relevant patent attorney may act as counsel for cases of specific infringement lawsuits only if the case has been entrusted to an attorney by the same client.
- (2) If a patent attorney acting as counsel pursuant to the provision of the preceding paragraph appears in court, the patent attorney must be accompanied by an attorney.
- (3) Notwithstanding the provisions of the preceding paragraph, if the court finds it appropriate, a patent attorney may appear in court unaccompanied.

(Qualification)

Article 7 A person who falls under any of the following items and has completed the practical training referred to in Article 16-2; paragraph (1) is qualified to be a patent attorney:

- (i) a person who has passed the patent attorney examination;

- (ii) a person who is qualified to be an attorney at law; or
- (iii) a person who has engaged in a trial or appeal, or examination as an administrative judge or examiner at the Japan Patent Office for a total of seven or more years.

(Grounds for Disqualification)

Article 8 Notwithstanding the provisions of the preceding Article, a person who falls under any of the following items is not qualified to be a patent attorney:

- (i) a person who has been sentenced to imprisonment without work or severer punishment;
- (ii) excluding a person who falls under the preceding item, a person who has committed any of the offenses prescribed in Articles 78 through 81 or 81-3 of this Act, Articles 196 through 198 or 200 of the Patent Act, Articles 56 through 58 or 60 of the Utility Model Act, Articles 69 through 71 or 73 of the Design Act, Articles 78 through 80 of the Trademark Act or Article 28 of the supplementary provisions of that act, and has been sentenced to a fine, if five years have not yet passed from the date of completion of the execution of the punishment or the date on which the person ceased to be subject to the execution of the punishment;
- (iii) Beyond the persons falling under any of the preceding two items, a person who has committed any of the offenses as prescribed in Article 108-4, paragraph (2) of the Customs Act (limited to the part pertaining to Article 69-2, paragraph (1), items (iii) and (iv) of the same Act; hereinafter the same applies in this item), paragraph (3) (limited to the part pertaining to Article 108-4, paragraph (2) of the same Act) or paragraph (5) (limited to the part pertaining to Article 69-2, paragraph (1), items (iii) and (iv) of the same Act), Article 109, paragraph (2) (limited to the part pertaining to Article 69-11, paragraph (1), items (ix) and (x) of the same Act; hereinafter the same applies in this item), paragraph (3) (limited to the part pertaining to Article 109, paragraph (2) of the same Act) or paragraph (5) (limited to the part pertaining to Article 69-11, paragraph (1), items (ix) and (x) of the same Act), or Article 112, paragraph (1) of the Customs Act (limited to the part pertaining to Article 108-4, paragraph (2) and Article 109, paragraph (2) of the same Act), the offenses as prescribed in Articles 119 through 122 of the Copyright Act, the offenses as prescribed in Article 51, paragraph (1) or Article 52 of the Act Concerning the Circuit Layouts of a Semiconductor Integrated Circuit, or the offenses as prescribed in Article 21, paragraph (1), Article 21, paragraph (2), items (i) through (v) or item (vii) (except for the part pertaining to Article 18, paragraph (1) of the Unfair Competition Prevention Act) or Article 21, paragraph (3) or (4) of the Unfair Competition Prevention Act, and has been sentenced to a fine, if three years have not yet

- passed from the date of completion of the execution of the punishment or the date on which the person ceased to be subject to the execution of the punishment;
- (iv) a government employee who has been subjected to dismissal by disciplinary action, if three years have not yet passed from the date of the disposition;
  - (v) a person who has been subjected to rescission of registration pursuant to the provisions of Article 23, paragraph (1), if three years have not yet passed from the date of the disposition;
  - (vi) a person who has been subjected to prohibition of business pursuant to the provisions of Article 32, if three years have not yet passed from the date of the disposition;
  - (vii) a person who has been subjected to exclusion from membership in a bar association, deletion of registration as a certified public accountant, or prohibition of business as a tax accountant by disciplinary action pursuant to the provisions of the Attorney Act (Act No. 205 of 1949) or the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers (Act No. 66 of 1986), the Certified Public Accountancy Act (Act No. 103 of 1948) or the Tax Accountant Act (Act No. 237 of 1951), if three years have not yet passed from the date of the disposition;
  - (viii) a person who has been subjected to a suspension of business pursuant to the provisions of Article 32, and who had the registration deleted during the term of suspension of business, if this term has not yet passed;
  - (ix) a minor, adult ward or person under curatorship; or
  - (x) a bankrupt whose rights have not been restored.

## **Chapter II Patent Attorney Examination**

### **(Purpose and Method of Examination)**

Article 9 The purpose of the patent attorney examination is to assess whether or not a person has the knowledge and the practical skills necessary for a person who intends to become a patent attorney, and the examination is conducted by means of a written examination comprising a short answer examination (including multiple-choice examination; the same applies hereinafter) and an essay examination, and oral examination, pursuant to the provisions of the following Article.

### **(Examination Content)**

Article 10 (1) The short answer examination is conducted on the following subjects:

- (i) laws and regulations relating to patents, utility models, designs, and trademarks (hereinafter referred to as "industrial property rights" in this

- Article and items (iv) and (v) of the following Article);
- (ii) treaties on the industrial property rights; and
  - (iii) beyond what is provided for in the preceding two items, laws and regulations that are necessary for performing the business of patent attorney and specified by Order of the Ministry of Economy, Trade, and Industry.
- (2) The essay examination is conducted on the following subjects, for persons who have passed the short answer examination:
- (i) laws and regulations relating to industrial property rights; and
  - (ii) a subject that the examinee selects in advance from among subjects on technology or law specified by Order of the Ministry of Economy, Trade and Industry.
- (3) The oral examination is conducted on laws and regulations relating to industrial property rights, for persons who have passed the written examinations.

(Examination Exemption)

Article 11 A person who falls under any of the following items is exempted from the examination on the subjects indicated in each item, upon application:

- (i) a person who has passed the short answer examination: a short answer examination conducted before the day on which two years have passed from the date of announcement of the examination result pertaining to the passed short answer examination.
- (ii) a person who has attained a grade in the essay examination on the subject listed in paragraph (2), item (i) of the preceding Article that the council, etc. (meaning the organs provided for in Article 8 of National Government Organization Act (Act No. 120 of 1948)) specified by Cabinet Order (hereinafter referred to as "council") finds to be appropriate: an essay examination on the same subject conducted before the date on which two years have passed from the date of announcement of the examination result pertaining to the passed essay examination.
- (iii) a person who has attained a grade in the essay examination on the subject listed in paragraph (2), item (ii) of the preceding Article that the council finds to be appropriate: an essay examination on the same subject conducted thereafter.
- (iv) a person who has completed the course of a graduate school under the School Education Act (Act No. 26 of 1947) and has obtained the credits of subjects relating to industrial property rights that are specified by Order of the Ministry of Economy, Trade and Industry: the short answer examination on the subjects listed in paragraph (1), items (i) and (ii) of the preceding Article conducted before the date on which two years have elapsed from the date of completion of the course.

(v) a person who has engaged in the trial or examination at the Japan Patent Office for a total of five or more years: examination conducted on laws, regulations and treaties relating to industrial property rights.

(vi) a person who is specified by Order of the Ministry of Economy, Trade and Industry as a person having knowledge equivalent to or higher than that of a person who has passed the written examination on the subject elected by an examinee mentioned in paragraph (2), item (ii) of the preceding Article: the essay examination conducted on the same subject.

(Execution of Examination)

Article 12 (1) The patent attorney examination is conducted by the council.

(2) The patent attorney examination is conducted one or more times per year.

(Certificate of Passing)

Article 13 A person who has passed the patent attorney examination is given a certificate of passing in the examination.

(Cancellation of Results)

Article 14 (1) The council may cancel the results of or prohibit a person that has taken or attempted to take the patent attorney examination by wrongful means from taking the examination.

(2) The council may prohibit a person who has been subjected to a disposition referred to in the preceding paragraph from taking the patent attorney examination specifying a period of time according to the circumstances that does not exceed three years.

(Examination Fee)

Article 15 (1) A person who intends to take the patent attorney examinations must pay an examination fee in an amount specified by Cabinet Order by taking the actual cost into consideration.

(2) The examination fee paid pursuant to the provisions of the preceding paragraph is not refunded even if the payer does not take the patent attorney examination.

(Specific Infringement Lawsuits Counsel Examination)

Article 15-2 (1) The specific infringement lawsuit counsel examination is conducted for patent attorneys who have completed a training course on the necessary knowledge and practical skills to become a counsel for specific infringement lawsuits, which is provided for by Order of the Ministry of Economy, Trade and Industry, in order to assess whether or not they have the necessary knowledge and practical skills by the means of an essay examination.

- (2) The provisions of Articles 12 through 15 apply mutatis mutandis to the specific infringement lawsuit counsel examination.

(Details of Examination)

Article 16 Beyond what is provided for in this Act, any necessary matters for the patent attorney examination and the specific infringement lawsuit counsel examination are specified by Order of the Ministry of Economy, Trade and Industry.

## **Chapter II-2 Practical Training**

(Practical Training)

Article 16-2 (1) The practical training is conducted by the Minister of Economy, Trade and Industry in order to teach the persons as listed in the items of Article 7 the skills and advanced expertise that are necessary to become a patent attorney.

- (2) The practical training is to be conducted pursuant to the following items:

- (i) it is to be conducted one or more times per year;
- (ii) it is to be conducted on laws, regulations and practices relating to the business of patent attorneys; and
- (iii) a teacher or instructor of the practical training is to be a patent attorney who has a total of seven years or more of experience in practice.

(Designation of Designated Training Agency)

Article 16-3 (1) The Minister of Economy, Trade and Industry may have the designated agency (hereinafter referred to as "designated training agency") conduct the lectures and seminars and perform other operations related to the implementation of the practical training (excluding those specified by Order of the Ministry of Economy, Trade and Industry; hereinafter referred to as "practical training operations").

- (2) Designation of the designated training agency, pursuant to the provisions of Order of the Ministry of Economy, Trade and Industry, is made upon the application by a person that intends to perform the practical training operations.
- (3) When the Minister of Economy, Trade and Industry designates a designated training agency, the Minister is not to perform the practical training operations.
- (4) The Minister of Economy, Trade and Industry must not designate a designated training agency unless the Minister finds that the application under paragraph (2) is in conformity with all of the following items:
- (i) the plan for implementation of the practical training operations with respect

- to employees, equipment, method of implementation of the practical training operations and other matters is appropriate for a proper and full implementation of the practical training operations;
- (ii) the applicant is a corporation having the accounting and technical foundations necessary for a proper and full implementation of the plan for implementation of the practical training operations under the preceding item;
  - (iii) if the applicant is engaged in any other business than the practical training, there is no risk that the conduction of the business will make the implementation of the practical training operations unfair; and
  - (iv) the designation does not result in the impairment of proper and full implementation of the practical training operations.
- (5) The Minister of Economy, Trade and Industry must not designate a designated training agency if the person who has made the application under paragraph (2) falls under any of the following items:
- (i) the applicant has had the designation rescinded pursuant to the provisions of Article 16-12, paragraph (1) or (2), if two years have not yet passed from the date of rescission; or
  - (ii) if the applicant has an officer that has committed any of the offenses prescribed in this Act and that has been sentenced to punishment, and two years have not yet passed from the date of completion of the execution of the punishment or the date on which the officer ceased to be subject to the execution of the punishment.

(Public Notice of Designation)

- Article 16-4 (1) When the Minister of Economy, Trade and Industry has designated a designated training agency, the Minister must publicly notify the name, address, location of the office of the designated training agency where the practical training operations are to be conducted and the date of commencement of the practical training operations.
- (2) If the designated training agency intends to change its name, address or the location of the office where the practical training operations are conducted, it must notify the Minister of Economy, Trade and Industry to that effect no later than two weeks prior to the date on which it intends to make the change.
- (3) The Minister of Economy, Trade and Industry must, upon receipt of a notification made pursuant to the provisions of the preceding paragraph, publicly notify that fact.

(Duty of Confidentiality)

- Article 16-5 (1) It is prohibited for the officer or employee of the designated training agency (including the teachers and instructors of the practical

training; the same applies in the next paragraph) or a person that has held one of these positions, to divulge any secret learned in the course of the practical training operations.

- (2) The officer and employee that engages in the practical training operations of the designated training agency are deemed to be officials engaging in public service pursuant to laws and regulations with respect to the application of the Penal Code (Act No. 45 of 1907) and other penal provisions.

(Rules of Administration of Practical Training Operations)

Article 16-6 (1) The designated training agency must provide for the rules regarding the implementation of the practical training operations (hereinafter referred to as "rules for training operations") and obtain the approval of the Minister of Economy, Trade and Industry prior to commencing the practical training operations. The same applies if the designated training agency intends to make a change thereto.

- (2) The particulars to be provided in the rules for training operations are specified by Order of the Ministry of Economy, Trade and Industry.
- (3) If the Minister of Economy, Trade and Industry finds that the approved rules of training operations under paragraph (1) have become inappropriate for a proper and full implementation of the practical training operations, the Minister may order the designated training agency to change the rules of training operations.
- (4) The standard for the approval under paragraph (1) is specified by Order of the Ministry of Economy, Trade and Industry.

(Business Plan)

Article 16-7 (1) The designated training agency must prepare every fiscal year a business plan and a budget for income and expenditure, and must obtain the approval of the Minister of Economy, Trade and Industry prior to the commencement of the relevant business year (for the business year to which the date of designation belong, without delay after having been designated). The same applies if the designated training agency intends to make a change thereto.

- (2) The designated training agency must prepare every fiscal year a business report and settlement of income and expenditure, and must submit them to the Minister of Economy, Trade and Industry within three months of the end of the relevant business year.

(Keeping Books)

Article 16-8 The designated training agency must keep and preserve, pursuant to Order of the Ministry of Economy, Trade and Industry, books recording the

information with respect to the practical training operations which is specified by Order of the Ministry of Economy, Trade and Industry.

(Supervision Orders)

Article 16-9 If the Minister of Economy, Trade and Industry finds it necessary for securing the a proper and full implementation of the practical training operations, the Minister may give the designated training agency an order necessary for the supervision of the practical training operations.

(Report and On-site Inspection)

Article 16-10 (1) If the Minister of Economy, Trade and Industry finds it necessary for securing a proper and full implementation of the practical training operations, the Minister may have the designated training agency report or submit materials on the situation of the practical training operations, or have an official enter into the office of the designated training agency and inspect the situation or books and other materials of the designated training agency.

- (2) The official that intends to conduct an on-site inspection pursuant to the provisions of the preceding paragraph must carry an identification card and present it at the request of any person concerned.
- (3) The authority to conduct the inspection under paragraph (1) must not be construed as being granted for criminal investigation purposes.

(Suspension or Discontinuation of Practical Training Operations)

Article 16-11 (1) A designated training agency must not suspend or discontinue the whole or part of its practical training operations without the permission of the Minister of Economy, Trade and Industry.

- (2) If Minister of Economy, Trade and Industry has given the permission under the preceding paragraph, the Minister must publicly notify that fact.

(Rescission of Designation)

Article 16-12 (1) The Minister of Economy, Trade and Industry must rescind the designation of the designated training agency if the designated training agency has fallen under the provisions of Article 16-3, paragraph (5), item (ii).

- (2) The Minister of Economy, Trade and Industry may rescind the designation of the designated training agency or order to suspend the whole or a part of the practical training operations for a specified period of time if the designated training agency has fallen under any of the following items:
  - (i) if it is found that the designated training agency is no longer in compliance with any of the items (i) through (iii) of Article 16-3, paragraph (4);
  - (ii) if the designated training agency has violated any of the provisions of

- Articles 16-4, paragraph (2), 16-6, paragraph (1), 16-7, 16-8, or paragraph (1) of the preceding Article;
- (iii) if the designated training agency has conducted the practical training operations without complying with the rules of training operations approved pursuant to Article 16-6, paragraph (1);
  - (iv) if the designated training agency has violated the order under Article 16-6, paragraph (3) or Article 16-9; or
  - (v) if the designated training agency was designated by deception or other wrongful means.
- (3) If the Minister of Economy, Trade and Industry rescinds the designation pursuant to the provisions of paragraph (1) or the preceding paragraph or orders to suspend the whole or part of the practical training operations pursuant to the provisions of the same paragraphs, the Minister must publicly notify that fact.

(Implementation of Practical Training by Minister of Economy, Trade and Industry)

- Article 16-13 (1) The Minister of Economy, Trade and Industry personally conducts the whole or part of the practical training operations, if the designated practical training agency suspends the whole or part of the practical training operations pursuant to the provisions of Article 16-11, paragraph (1) or if the Minister orders the designated practical training agency to suspend the whole or part of the practical training operations pursuant to the provisions of paragraph (2) of the preceding Article, or if the Ministers finds it necessary to personally conduct the whole or part of the practical training operations in case the designated practical training agency faces difficulties to conduct the whole or part of the practical training operations due to a natural disaster or other reasons notwithstanding the provisions of Article 16-3, paragraph (3).
- (2) If the Minister of Economy, Trade and Industry intends to personally conduct the practical training operations pursuant to the provisions of the preceding paragraph or decides to no longer conduct the practical training operations being handled pursuant to the provisions of the same paragraph, the Minister must publicly notify it in advance.
  - (3) In case the Minister of Economy, Trade and Industry intends to personally conduct the practical training operations pursuant to the provisions of paragraph (1), has permitted to discontinue the practical training operations pursuant to the provisions of Article 16-11, paragraph (1) or has rescinded the designation pursuant to the provisions of paragraph (1) or (2) of the preceding Article, the necessary particulars, such as the succession of the practical training operations, are specified by Order of the Ministry of Economy, Trade

and Industry.

(Fee)

Article 16-14 (1) A person that intends to participate in the practical training must pay a fee to the State in an amount specified by Cabinet Order taking into consideration the actual cost.

(2) If a designated training agency conducts the practical training operations, a person that intends to participate in the practical training must pay a fee to the designated training agency in an amount specified by the designated training agency with the authorization of the Minister of Economy, Trade and Industry pursuant to Cabinet Order.

(3) The fee paid to the designated training agency pursuant to the provisions of the preceding paragraph is an income to the relevant designated training agency.

(Details of Practical Training)

Article 16-15 Beyond what is provided for in this Act, necessary particulars relating to the practical training are provided for by Order of the Ministry of Economy, Trade and Industry.

### **Chapter III Registration**

(Registration)

Article 17 (1) If a person qualified to become a patent attorney intends to become a patent attorney, this person must have the name, date of birth, address of office and other particulars specified by Order of the Ministry of Economy, Trade and Industry registered into the patent attorney's register kept in the Japan Patent Attorneys Association.

(2) Registration in the patent attorney's register is conducted by the Japan Patent Attorneys Association.

(Application for Registration)

Article 18 (1) A person who intends to be registered pursuant to paragraph (1) of the preceding Article must submit a written application for registration to the Japan Patent Attorneys Association.

(2) The written application for registration referred to in the preceding paragraph must contain the name, date of birth, address of office, and other particulars specified by Order of the Ministry of Economy, Trade, and Industry, and have a document certifying that the applicant is qualified to become a patent attorney annexed thereto.

(Refusal of Registration)

Article 19 (1) If the Japan Patent Attorneys Association finds that a person applying for registration pursuant to the provisions of paragraph (1) of the preceding Article is not qualified to become a patent attorney or falls under any of the following items, it must refuse the registration of the applicant. In this case, if the Japan Patent Attorney Association intends to refuse registration on the grounds that the applicant falls under any of the following items, it must do so based on the resolution of the Registration Screening Board under Article 70:

- (i) if it is likely to be inappropriate to permit the performance of the professional duties of a patent attorney due to mental or physical disorder.
  - (ii) if it is likely to damage the reputation of the patent attorney profession.
- (2) If the Japan Patent Attorneys Association intends to refuse registration of an applicant on the grounds that the applicant falls under any of the items of the preceding paragraph, it must notify the applicant to that effect in advance and provide an opportunity for the applicant to present an explanation personally or through an agent within a reasonable period of time.

(Notice Relating to Registration)

Article 20 If the Japan Patent Attorneys Associations has received an application for registration pursuant to the provisions of Article 18, paragraph (1) and accepted or refused the registration, it must notify the applicant thereof in writing.

(Request for Review under Provisions of Administrative Complaint Review Act in case of Refusal of Registration)

- Article 21 (1) If a person whose registration has been refused pursuant to the provisions of Article 19, paragraph (1) is dissatisfied with the disposition, the person may file a request for review under the provisions of the Administrative Complaint Review Act to the Minister of Economy, Trade and Industry.
- (2) A person who has applied for registration pursuant to the provisions of Article 18, paragraph (1) may, if no disposition has been made on this application after three months have passed since the date of application, apply to the Minister of Economy, Trade and Industry for the examination referred to in the preceding paragraph as if the person had the registration refused.
- (3) In the case referred to in the preceding two paragraphs, with regard to the application of the provisions of Article 25, paragraphs (2) and (3) and Article 46, paragraph (2) of the Administrative Complaint Review Act, the Minister of Economy, Trade and Industry is deemed to be a higher administrative authority to the Japan Patent Attorneys Association.

(Notification of Change to Registered Information)

Article 22 A patent attorney must notify the Japan Patent Attorneys Associations of any change to the particulars registered in the patent attorney's register without delay.

(Rescission of Registration)

- Article 23 (1) If the Japan Patent Attorneys Associations has found that a person registered as a patent attorney has been registered by deception or other wrongful means, it must rescind this registration.
- (2) If the Japan Patent Attorneys Association has rescinded a registration pursuant to the preceding paragraph, it must notify the person subjected to that disposition thereof in writing.
- (3) The provisions of the second sentence of Article 19, paragraph (1) and Article 21, paragraphs (1) and (3) apply mutatis mutandis to the rescission of registration under paragraph (1). In this case, the term "Article 46, paragraph (2)" in Article 21, paragraph (3) is deemed to be replaced with "Article 46, paragraph (1)."

(Cancellation of Registration)

- Article 24 (1) If a patent attorney falls under any of the following items, the Japan Patent Attorneys Association must cancel the registration:
- (i) if the patent attorney has closed the business;
  - (ii) if the patent attorney has died;
  - (iii) if the patent attorney falls under any of the items of Article 8 (except for item (v));
  - (iv) if the patent attorney has been subject to the disposition of rescission of registration under paragraph (1) of the preceding Article; or
  - (v) if the patent attorney has been subject to the disposition of removal from the Japan Patent Attorneys Association under Article 61.
- (2) If a patent attorney has fallen under any of the items (i) through (iii) of the preceding paragraph, that patent attorney, the statutory agent or heir of the patent attorney must notify the Japan Patent Attorneys Association thereof without delay.
- (3) If the Japan Patent Attorneys Association has cancelled the registration of a patent attorney pursuant to the provisions of item (i), (iii) or (v) of paragraph (1), it must notify that patent attorney thereof in writing.

Article 25 (1) The Japan Patent Attorneys Association may cancel the registration of a patent attorney if it is likely to be inappropriate to permit the patent attorney to perform the professional duties of a patent attorney due to mental or physical disorder.

(2) The provisions of the second sentence of Article 19, paragraph (1) and paragraph (3) of the preceding Article apply mutatis mutandis to the cancellation of registration under the preceding paragraph.

(Application Mutatis Mutandis of Provisions Regarding Refusal of Registration)

Article 26 The provisions of Article 21, paragraphs (1) and (3) apply mutatis mutandis to the cancellation of registration under the provisions of Article 24, paragraph (1), item (i), (iii) or (v), or paragraph (1) of the preceding Article. In this case, the term "Article 46, paragraph (2)" in Article 21, paragraph (3) is deemed to be replaced with "Article 46, paragraph (1)."

(Public Notice of Registration and Cancellation of Registration)

Article 27 When the Japan Patent Attorneys Association has registered a patent attorney or canceled the registration of a patent attorney, it must make a public notice thereof in the Official Gazette without delay.

(Application for Supplementary Note of Specific Infringement Lawsuit Counsel)

Article 27-2 (1) If a patent attorney intends to have a supplementary note that the patent attorney has passed the specific infringement lawsuit counsel examination under Article 15-2, paragraph (1) (hereinafter referred to as "supplementary note of specific infringement lawsuit counsel") added to the registration, the patent attorney must submit a written application for supplementary note to the Japan Patent Attorneys Association.

(2) The written application for the supplementary note referred to in the preceding paragraph must contain the applicant's name and other particulars specified by Order of the Ministry of Economy, Trade, and Industry, and have a certificate that the applicant passed the specific infringement lawsuit counsel examination annexed to it.

(Addition of Supplementary Note of Specific Infringement Lawsuit Counsel)

Article 27-3 (1) If the Japan Patent Attorneys Association has received an application under the preceding paragraph, it must promptly add the supplementary note of specific infringement lawsuit counsel to the registration of the patent attorney.

(2) The provisions of Article 20 apply mutatis mutandis to cases where the supplementary note has been added pursuant to the provisions of the preceding paragraph.

(Deletion of Supplementary Note of Specific Infringement Lawsuit Counsel)

Article 27-4 (1) If the Japan Patent Attorneys Association has found that a person who has been granted the supplementary note of specific infringement lawsuit counsel had such supplementary note granted by deception or other wrongful means, it must delete the supplementary note.

(2) The provisions of Article 23, paragraph (2) apply mutatis mutandis to the deletion of supplementary note under the preceding paragraph.

(Public Notice of Supplementary Note of Specific Infringement Lawsuit Counsel)

Article 27-5 The provisions of Article 27 apply mutatis mutandis to the addition or deletion of a supplementary note of specific infringement lawsuit counsel.

(Details of Registration)

Article 28 Beyond what is provided for in this Act, necessary particulars concerning the registration of patent attorney are specified by Order of the Ministry of Economy, Trade and Industry.

#### **Chapter IV Duty of Patent Attorney**

(Prohibition of Act that Damage Credibility)

Article 29 A patent attorney must not engage in an act that would harm the reputation or the integrity of patent attorneys.

(Duty of Confidentiality)

Article 30 It is prohibited for the patent attorney or a person that has held this position, to divulge or misappropriate any secret learned in the course of conducting business without legitimate grounds.

(Cases not to be Undertaken)

Article 31 A patent attorney must not conduct business with regard to a case falling under any of the following items; provided, however, that this does not apply to a case falling under item (iii) if the client of the undertaken case consents to it:

(i) cases in which the patent attorney has provided support to the adverse party in response to the adverse party's consultation or accepted the adverse party's entrustment;

(ii) a case about which the adverse party has consulted the patent attorney and the degree and method of the consultation are found to be based on a relationship of mutual trust;

(iii) another case which is entrusted to the patent attorney by the adverse party to a case that the patent attorney has undertaken;

- (iv) a case which the patent attorney has handled as a government employee in the course of duty;
- (v) a case which the patent attorney has handled as an arbitrator in an arbitration procedure;
- (vi) a case in which, during the period in which the patent attorney has been engaged in the services of a patent attorneys office as its member or employed patent attorney, the patent attorneys office has provided support to the adverse party in response to the adverse party's consultation or accepted the adverse party's entrustment and in which the patent attorney has participated; or
- (vii) a case about which, during the period in which the patent attorney has been engaged in the services of a patent attorneys office as its member or employed patent attorney, the adverse party has consulted that patent attorneys office, the degree and method of the consultation are found to be based on a relationship of mutual trust, and in which the patent attorney has participated.

(Training)

Article 31-2 A patent attorney must participate in the training conducted by the Japan Patent Attorneys Association to improve qualification and quality pursuant to Order of the Ministry of Economy, Trade and Industry.

(Prohibition of Lending Name to Non-Patent Attorney)

Article 31-3 A patent attorney must not allow a person in violation of the provisions of Article 75 or 76 to use the name of the patent attorney.

## **Chapter V Responsibilities of a Patent Attorney**

(Types of Disciplinary Action)

Article 32 If a patent attorney violates this Act or an order based thereon, or commits a misconduct that is materially inappropriate for a patent attorney, the Minister of Economy, Trade, and Industry may make one of the dispositions listed below:

- (i) admonition;
- (ii) suspension of the whole or part of the business for not more than two years;  
or
- (iii) prohibition of business.

(Procedure of Disciplinary Action)

Article 33 (1) A person who finds that a patent attorney falls under the preceding paragraph may report this fact to the Minister of Economy, Trade

- and Industry and request that appropriate measures be taken.
- (2) If a report under the preceding paragraph is made, the Minister of Economy, Trade and Industry must conduct the necessary investigation of the case.
  - (3) If the Minister of Economy, Trade and Industry finds that a patent attorney falls under the preceding Article, the Minister may conduct the necessary investigation by the Minister's own authority.
  - (4) If the Minister of Economy, Trade and Industry intends to make a disposition of admonition or suspension of business for not more than two years pursuant to the provisions of the preceding Article, the Minister must conduct a hearing irrespective of the class of procedures for the submission of opinions under Article 13, paragraph (1) of the Administrative Procedure Act (Act No. 88 of 1993).
  - (5) The disciplinary disposition referred to in the preceding Article is made by hearing the opinions of the council in cases in which the Minister has found, after having conducted a hearing, that a patent attorney falls under the same Article based on reasonable evidence.

(Authority to Investigate)

Article 34 In order to conduct the necessary investigation regarding a case pursuant to the provisions of paragraph (2) of the preceding Article (including if applied *mutatis mutandis* pursuant to Article 69, paragraph (2)) or paragraph (3), the Minister of Economy, Trade and Industry may order the relevant patent attorney to make the necessary report or submit books and documents relating to the business.

(Restriction of Cancellation of Registration)

Article 35 If a patent attorney has become subject to a disciplinary procedure, the Japan Patent Attorneys Association may not cancel the registration of the relevant patent attorney under the provisions of Article 24, paragraph (1), item (i) or (v), or Article 25, paragraph (1) until the disciplinary procedure is completed.

(Public Notice of Disciplinary Disposition)

Article 36 If the Minister of Economy, Trade and Industry makes a disciplinary disposition pursuant to the provisions of Article 32, the Minister must make a public notice thereof in the Official Gazette.

## **Chapter VI Patent Attorneys Offices**

(Incorporation)

Article 37 (1) Patent attorneys may incorporate a patent attorneys office

pursuant to the provisions of this Chapter.

(2) The provisions of Articles 1 and 3 apply mutatis mutandis to patent attorneys offices.

(Name)

Article 38 A patent attorneys office must use the term "特許業務法人" (with a pronunciation of "Tokkyo-Gyomu-Hojin" and with a literal meaning of "patent attorneys office") in its name.

(Qualifications of members)

Article 39 (1) Members of a patent attorneys office must be patent attorneys.

(2) The following persons may not act as members:

(i) a person who has been subjected to suspension of business pursuant to the provisions of Article 32 and the period of suspension of business has not passed yet; or

(ii) in case a patent attorneys office has been ordered to dissolve or suspend its business pursuant to the provisions of Article 54, a person who was its member within 30 days prior to the date of the disposition, if three years have not yet passed from the date of the disposition (or the period of suspension of business in case of an order to suspend business).

(Scope of Business)

Article 40 Beyond the business under Article 4, paragraph (1), a patent attorneys office may engage in the whole or part of the business under paragraphs (2) and (3) of the same Article pursuant to the provisions of the articles of incorporation.

Article 41 Beyond what is provided for in the preceding Article, a patent attorneys office may be entrusted to undertake the operations that a patent attorney may conduct pursuant to the provisions of Articles 5 through 6-2, and that the patent attorneys office has its members or employed patent attorneys conduct (regarding operations provided for in Article 6, paragraph (2), limited to patent attorneys that have been granted the supplementary note of specific infringement lawsuit counsel; hereinafter referred to as "members, etc."). In this case, the relevant patent attorneys office must let the entrusting party select its assistant in court or counsel from among the members, etc. of the patent attorneys office.

(Registration)

Article 42 (1) A patent attorneys office must register itself pursuant to Cabinet Order.

(2) The particulars that must be registered pursuant to the provisions of the preceding paragraph may not be asserted against a third party, unless registered.

(Procedures of Incorporation)

Article 43 (1) In order to incorporate a patent attorneys office, the patent attorneys that intend to be members of the corporation must jointly establish the articles of incorporation.

(2) The articles of incorporation must contain at least the following information:

(i) purpose;

(ii) name;

(iii) location of the office;

(iv) names and addresses of members;

(v) particulars related to contribution by the members; and

(vi) particulars related to the execution of business

(3) The provisions of Article 30, paragraph (1) of the Companies Act (Act No. 86 of 2005) apply mutatis mutandis to the articles of incorporation of patent attorneys offices.

(Time of Incorporation)

Article 44 A patent attorneys office is incorporated by registering its incorporation at the location of its principal office.

(Notification of Incorporation)

Article 45 If a patent attorneys office is incorporated, the corporation must notify the Minister of Economy, Trade and Industry thereof together with a certificate of registered information and the articles of incorporation within two weeks from the date of incorporation.

(Authority to Execute Business)

Article 46 All members of a patent attorneys office have the right and obligation to execute its business.

(Change to Articles of Incorporation)

Article 47 (1) Unless otherwise provided by the articles of incorporation, a patent attorneys office may make changes to its articles of incorporation with the consent of all its members.

(2) If a patent attorneys office makes a change to its articles of incorporation, it must notify the Minister of Economy, Trade, and Industry of the particulars pertaining to the change within two weeks from the date of the change.

(Corporation Representatives)

Article 47-2 (1) Every member of a patent attorneys office is a representative of the patent attorneys office.

(2) The provisions of the preceding paragraph do not preclude appointing, by the articles of incorporation or with the consent of all the members, any of the members as a member or members who are to specifically represent the patent attorneys office.

(3) Members that represent a patent attorneys office have the authority to do any and all act in or out of court in connection with the business of the patent attorneys office.

(4) No limitation on the authority under the preceding paragraph may be duly asserted against a third party in good faith.

(5) Members that represent a patent attorneys office may delegate their authority to represent with regard to specific acts, unless prohibited by the articles of incorporation.

(Designated Members)

Article 47-3 (1) A patent attorneys office may designate one or more members to take charge of the business regarding a specific case.

(2) In a case for which the designation under the preceding paragraph is made (hereinafter referred to as "designated case"), only the members that are designated (hereinafter referred to as "designated members") have the right and obligation to execute the relevant business.

(3) In a designated case, only designated members represent the patent attorneys office, notwithstanding the provisions of the preceding Article.

(4) When a patent attorneys office makes the designation under paragraph (1), it must notify the client of the designated case thereof in writing.

(5) The client may require the patent attorneys office, by fixing a reasonable period of time, to clarify whether the patent attorneys office intends to make the designation under paragraph (1) within the period of time. In this case, if the patent attorneys office fails to notify within the period of time pursuant to the provisions of the preceding paragraph, the patent attorneys office may not make the designation after the period of time; provided, however, that this does not preclude a designation after obtaining the consent of the client.

(6) In a designated case, if the office of a designated member becomes vacant before the completion of the business pertaining to the case, the patent attorneys office must make a new designation. If the designation is not made, all members of the patent attorneys office are deemed to have been designated.

(Liability of Members)

Article 47-4 (1) If the obligations of a patent attorneys office may not be fully

performed with its assets, all members of the patent attorneys office are jointly and severally liable for the performance of the obligations thereof.

- (2) The provisions of the preceding paragraph also apply if a compulsory execution against the assets of a patent attorneys office is not successful.
- (3) The provisions of the preceding paragraph do not apply if members of the patent attorneys office prove that the patent attorneys office has financial resources to pay and that the execution can be easily effected.
- (4) If the designation pursuant to the provisions of paragraph (1) of the preceding Article is made, the notice under the provisions of paragraph (4) of the same Article is made (including if the designation is deemed to have been made pursuant to the provisions of paragraph (6) of the same Article; the same applies in the following paragraph and paragraph (6)), and the obligations that a patent attorneys office has borne to its client in connection with a designated case may not be fully performed with the assets of the patent attorneys office, the designated members (including former designated members; hereinafter the same applies in this Article) are jointly and severally liable for the performance of the obligations, notwithstanding the provisions of paragraph (1); provided, however, that this does not apply if a member that has withdrawn proves that the obligations have incurred due to circumstances that have arisen after the withdrawal.
- (5) If the designation under the provisions of paragraph (1) of the preceding Article is made, the notice under the provisions of paragraph (4) of the same Article is made, and a compulsory execution against the assets of a patent attorneys office based on claims that have arisen to the benefit of the client in connection with the designated case is not successful, the same provisions of the preceding paragraph apply, unless a designated member proves that the patent attorneys office has the financial resources to pay and that the execution can be easily effected.
- (6) If the designation under the provisions of paragraph (1) of the preceding Article is made, the notice under the provisions of paragraph (4) of the same Article is made, and a member that has not been designated participates either before or after the designation in the business pertaining to the designated case, this member assumes the same liability as that assumed by designated members pursuant to the provisions of the preceding two paragraphs, unless this member proves that this member did not fail to exercise due care in participating in the business. The same applies after the member has withdrawn from the patent attorneys office.
- (7) The provisions of Article 612 of the Companies Act apply mutatis mutandis to the withdrawal of members of a patent attorneys office; provided, however, that this does not apply to the obligations that a patent attorneys office has borne to its client in the case referred to in paragraph (4).

(Responsibility for Acts Mistaken as Acts of Members)

Article 47-5 If a person who is not a member engages in an act that causes the person to be mistaken as a member, that person assumes the same liability as that assumed by members in relation to persons that transact with the patent attorneys office based on the mistake.

(Restriction of Business Concerning Specific Cases)

Article 48 (1) A patent attorneys office must not engage in cases falling under any of the following items; provided, however, that this does not apply to a case under item (iii), if the client of the undertaken case consents to it:

- (i) a case in which the patent attorneys office has provided support to the adverse party in response to the adverse party's consultation or accepted the adverse party's entrustment;
  - (ii) a case about which the adverse party has consulted the patent attorneys office and the degree and method of the consultation are found to be based on a relationship of mutual trust;
  - (iii) a case which is entrusted to the patent attorneys office by the adverse party to a case that it has undertaken; or
  - (iv) a case in which a half or more of the members of a patent attorneys office must not participate that is listed in the items of paragraph (3).
- (2) A member, etc. of a patent attorneys office must not engage in the business of the cases listed in the items of the preceding paragraph for personal benefit or to benefit a third party.
- (3) A member, etc. of a patent attorneys office must not participate in a business pertaining to cases falling under any of the following items that is conducted by the patent attorneys office:
- (i) a case in which the member, etc. has provided support to the adverse party in response to the adverse party's consultation or accepted the adverse party's entrustment before the member, etc. joins the relevant patent attorneys office;
  - (ii) a case about which the adverse party has consulted the member, etc. before the member, etc. becomes a member, etc. of the relevant patent attorneys office and the degree and method of the consultation are found to be based on a relationship of mutual trust;
  - (iii) a case which the member, etc. has handled as a government employee in the course of duty;
  - (iv) a case which the member, etc. has handled as an arbitrator in an arbitration procedure;
  - (v) a case in which, during the period in which the member, etc. has been engaged in the services of other patent attorneys office as its member, etc.

before becoming a member, etc. of the relevant patent attorneys office, the other patent attorneys office has provided support to the adverse party or accepted the adverse party's entrustment, in response to the adverse party's consultation, and in which the member, etc. has participated; or  
(vi) a case about which, during the period in which the member, etc. has been engaged in the services of other patent attorneys office as its member, etc. before becoming a member, etc. of the relevant patent attorneys office, the adverse party has consulted the other patent attorneys office, the degree and method of the consultation are found to be based on a relationship of mutual trust, and in which the member, etc. has been participated.

(Method of Executing Business)

Article 49 A patent attorneys office must not let a person who is not a patent attorney engage in its business.

(Application Mutatis Mutandis of Provisions Regarding Duty of Patent Attorney)

Article 50 The provisions of Articles 29 and 31-3 apply mutatis mutandis to patent attorneys offices.

(Statutory Withdrawal)

Article 51 Members of a patent attorneys office withdraw for the following reasons:

- (i) cancellation of registration as a patent attorney;
- (ii) a reason provided for in the articles of incorporation;
- (iii) consent of all members; or
- (iv) expulsion.

(Dissolution)

Article 52 (1) A patent attorneys office is dissolved for the following reasons:

- (i) a reason provided for in the articles of incorporation;
- (ii) consent of all members;
- (iii) merger with another patent attorneys office ;
- (iv) decision to commence bankruptcy procedures;
- (v) judicial decision to order dissolution; or
- (vi) order of dissolution under the provisions of Article 54.

(2) Beyond the cases provided for in the preceding paragraph, if a patent attorneys office only has one member and does not increase to two or more members for six consecutive months from the date on which it came to have only one member, the patent attorneys office is dissolved when the six months have passed.

- (3) If a patent attorneys office is dissolved for a reason other than those set forth in paragraph (1), items (iii) and (vi), it must notify the Minister of Economy, Trade and Industry thereof within two weeks from the date of its dissolution.

(Court Supervision)

Article 52-2 (1) The dissolution and liquidation of a patent attorneys office is subject to the supervision of the court.

- (2) The court may conduct the necessary inspections for the supervision under the preceding paragraph at any time by the court's own authority.
- (3) A court supervising the dissolution and liquidation of a patent attorneys office may ask for the opinion of, or commission an investigation to the Minister of Economy, Trade and Industry.
- (4) The Minister of Economy, Trade and Industry may express opinions to the court referred to in the preceding paragraph.

(Notification of Completion of Liquidation)

Article 52-3 Upon the completion of liquidation of a patent attorneys office, the liquidator must notify the Minister of Economy, Trade and Industry thereof.

(Jurisdiction of Case Relating to Supervision of Dissolution and Liquidation)

Article 52-4 A case relating to the supervision of the dissolution and liquidation of a patent attorneys office is subject to the jurisdiction of the district court that has jurisdiction over the location of the principal office of the patent attorneys office.

(Appointment of Inspector)

Article 52-5 (1) The court may appoint an inspector to conduct the necessary investigations for the supervision of the dissolution and liquidation of a patent attorneys office.

- (2) No appeal may be entered against the judicial decision to appoint the inspector referred to in the preceding paragraph.
- (3) If the court appoints the inspector referred to in paragraph (1), it may decide the amount of compensation to be paid by the patent attorneys office to the inspector. In this case, the court must hear the statements of the patent attorneys office and the inspector.

(Merger)

Article 53 (1) A patent attorneys office may, with the consent of all its members, merge with another patent attorneys office .

- (2) The merger becomes effective upon the registration thereof made by the patent attorneys office that is to survive the merger or the patent attorneys

office to be established by the merger at the location of its principal office.

- (3) If a patent attorneys office merges, it must notify the Minister of Economy, Trade and Industry thereof within two weeks from the date of the merger, together with a certificate of registered information (as well as the articles of incorporation in the case of a patent attorneys office to be established by the merger).
- (4) The patent attorneys office that survives the merger or the patent attorneys office established by the merger succeeds the rights and obligations of the patent attorneys offices extinguished by the merger.

(Objection by Creditors)

Article 53-2 (1) A creditor of a merging patent attorneys office may raise objections about the merger against the patent attorneys office

- (2) A merging patent attorneys office must give public notice of the information set forth below in Official Gazette and give notice thereof separately to each known creditor; provided, however, that the period of time under item (iii) may not be shorter than one month:

(i) the fact that the patent attorneys office intends to merge;

(ii) names and addresses of principal offices of the patent attorneys office to be extinguished by the merger, and the patent attorneys office that is to survive the merger or to be established by the merger; and

(iii) the fact that creditors may raise objections within a certain period of time.

- (3) Notwithstanding the provisions of the preceding paragraph, if the merging patent attorneys office intends to give the public notice under the same paragraph by, beyond Official Gazette, the method under Article 939, paragraph (1), item (ii) or (iii) of the Companies Act in accordance with the provisions of the articles of incorporation under Article 939, paragraph (1) of the same act, as applied mutatis mutandis pursuant to paragraph (6), the corporation is not required to give the separate notice referred to in the preceding paragraph.
- (4) If a creditor does not raise any objections within the period of time set forth in paragraph (2), item (iii), the creditor is deemed to have approved the merger.
- (5) If a creditor raises an objection within the period of time set forth in paragraph (2), item (iii), the merging patent attorneys office must make the payment or provide reasonable security to the creditor, or entrust a reasonable quantity of assets to a trust company, etc. (meaning trust companies and financial institutions that engage in trust business (referring to financial institutions approved under Article 1, paragraph (1) of the Act on the Concurrent Undertaking of Trust Business by Financial Institutions (Act No. 43 of 1943))) for the purpose of having the creditor receive the payment; provided, however, that this does not apply if the merger is not likely to harm

the creditor.

- (6) The provisions of paragraphs (1) (limited to the part pertaining to items (ii) and (iii)) and (3) of Article 939, paragraphs (1) (limited to the part pertaining to item (iii)) and (3) of Article 940, Articles 941, 946, 947, 951, paragraph (2), 953 and 955 of the Companies Act apply mutatis mutandis to cases where a patent attorneys office give a public notice under the provisions of paragraph (2). In this case, the term "method of public notice" in Article 939, paragraphs (1) and (3) of the same Act is deemed to be replaced with "method of public notice of the merger", and the term "trade name" in Article 946, paragraph (3) of the same Act is deemed to be replaced with "name".

(Action Seeking Invalidation of Merger)

Article 53-3 The provisions of Article 828, paragraph (1) (limited to the part pertaining to items (vii) and (viii)) and paragraph (2) (limited to the part pertaining to items (vii) and (viii)), Article 834 (limited to the part pertaining to items (vii) and (viii)), Article 835, paragraph (1), Article 836, paragraphs (2) and (3), Articles 837 to 839, Article 843 (except for paragraph (1), items (iii) and (iv) and proviso in paragraph (2)), and Article 846 of the Companies Act apply mutatis mutandis to an action seeking the invalidation of the merger of a patent attorneys office, and the provisions of Article 868, paragraph (6), Article 870, paragraph (2) (limited to the part pertaining to item (vi)), Article 870-2, main text of Article 871, Article 872 (limited to the part pertaining to item (v)), Article 872-2, main text of Article 873, Articles 875 and 876 of the same Act apply mutatis mutandis to a petition under Article 843, paragraph (4) of the same Act, as applied mutatis mutandis pursuant to this Article.

(Disposition on Illegal Acts)

- Article 54 (1) If a patent attorneys office violates this Act or an order based thereon, or if its operations are found to be extremely unjust, the Ministry of Economy, Trade and Industry may admonish or order the patent attorneys office to suspend all or part of its business specifying period of time not longer than two years, or order it to dissolve.
- (2) The provisions of Articles 33, 34 and 36 apply mutatis mutandis to the disposition under the preceding paragraph.
- (3) In making a disposition of a patent attorneys office pursuant to the provisions of paragraph (1), if there is a fact falling under Article 32 with regard to the members, etc. of that patent attorneys office, the provisions of the same paragraph must not be construed to preclude taking disciplinary action also against the patent attorneys that are members, etc. of the patent attorneys office.

(Application Mutatis Mutandis of the Act on General Incorporated Association and General Incorporated Foundation and the Companies Act)

- Article 55 (1) The provisions of Article 4 of the Act on General Incorporated Association and General Incorporated Foundation (Act No. 48 of 2006) and Articles 600, 614 through 619, 621, and 622 of the Companies Act apply mutatis mutandis to patent attorneys offices; the provisions of Articles 581, 582, 585, paragraphs (1) and (4), 586, 593 through 596, 601, 605, 606, 609, paragraphs (1) and (2), 611 (except for the proviso of paragraph (1)) and 613 of the Companies Act apply mutatis mutandis to members of patent attorneys offices; and the provisions of Articles 859 through 862 of the Companies Act apply mutatis mutandis to the expulsion and action seeking extinguishment of right to execute business and the authority of representation of members of patent attorneys offices. In this case, the term "trade name" in Article 613 of the Companies Act is deemed to be replaced with "name", the term "Ministry of Justice Order" in Articles 615, paragraph (1), 617, paragraphs (1) and (2), and 618, paragraph (1), item (ii) of the Companies Act is deemed to be replaced with "Order of the Ministry of Economy, Trade and Industry", and the term "electronic or magnetic record" in Article 617, paragraph (3) of the Companies Act is deemed to be replaced with "electronic or magnetic record (meaning the electronic or magnetic record under Article 75 of the Patent Attorney Act; the same applies in paragraph (1), item (ii) of the following Article)."
- (2) The provisions of Articles 644 (except for item (iii)), 645 through 649, 650, paragraphs (1) and (2), 651, paragraphs (1) and (2) (except for the part pertaining to mutatis mutandis application of Article 594 of the Companies Act), 652, 653, 655 through 659, 662 through 664, 666 through 673, 675, 863, 864, 868, paragraph (1), 869, 870, paragraph (1) (limited to the part pertaining to items (i) and (ii)), 871, 872 (limited to the part pertaining to item (iv)), 874 (limited to the part pertaining to items (i) and (iv)), 875 and 876 of the Companies Act apply mutatis mutandis to the dissolution and liquidation of patent attorneys offices. In this case, the term "Article 641, item (v)" in Article 644, item (i) of the Companies Act is deemed to be replaced with "Article 52, paragraph (1), item (iii) of the Patent Attorney Act"; the term "Article 641, item (iv) or (vii)" in Article 647, paragraph (3) of the Companies Act is deemed to be replaced with "paragraph (1), item (v) or (vi) or paragraph (2) of Article 52 of the Patent Attorney Act"; the term "Ministry of Justice Order" in Articles 658, paragraph (1) and 669 of the Companies Act is deemed to be replaced with "Order of the Ministry of Economy, Trade and Industry"; the term "items (i) through (iii) of Article 641" in Article 668, paragraph (1) and Article 669 of the Companies Act is deemed to be replaced with "Article 52, paragraph (1), item (i) or (ii) of the Patent Attorney Act"; the term "Article 939, paragraph (1)" in Article 670, paragraph (3) of the Companies Act is deemed to be replaced with

"Article 939, paragraph (1), as applied mutatis mutandis pursuant to Article 53-2, paragraph (6) of the Patent Attorney Act"; and the term "Article 580" in Article 673, paragraph (1) of the Companies Act is deemed to be replaced with "Article 47-4 of the Patent Attorney Act".

- (3) The provisions of Articles 824, 826, 868, paragraph (1), 870, paragraph (1) (limited to the part pertaining to item (x)), main text of Article 871, Article 872 (limited to the part pertaining to item (iv)), main text of Article 873, Articles 875, 876, 904 and 937, paragraph (1) (limited to the part pertaining to item (iii), (b)) of the Companies Act apply mutatis mutandis to an order to dissolve patent attorneys offices; and the provisions of Articles 825, 868, paragraph (1), 870, paragraph (1) (limited to the part pertaining to item (i)), 871, 872 (limited to the part pertaining to items (i) and (iv)), 873, 874 (limited to part pertaining to items (ii) and (iii)), 875, 876, 905 and 906 of the same Act apply mutatis mutandis to the preservation of assets of patent attorneys offices if a petition set forth in Article 824, paragraph (1) of the same Act, as applied mutatis mutandis pursuant to this paragraph, has been filed.
- (4) The provisions of Article 828, paragraph (1) (limited to the part pertaining to item (i)) and (2) (limited to the part pertaining to item (i)), Articles 834 (limited to the part pertaining to item (i)), 835, paragraph (1), 837 through 839 and 846 of the Companies Act apply mutatis mutandis to an action seeking the invalidation of the incorporation of a patent attorneys office .
- (5) The provisions of Articles 833, paragraph (2), 834 (limited to the part pertaining to item (xxi)), 835, paragraph (1), 837, 838, 846, and 937, paragraph (1) (limited to the part pertaining to item (i), (ii)) of the Companies Act apply mutatis mutandis to an action seeking the dissolution of a patent attorneys office .
- (6) With regard to the application of the provisions of Article 16 of the Bankruptcy Act (Act No. 75 of 2004), a patent attorneys office is deemed a general partnership company.

## **Chapter VII Japan Patent Attorneys Association**

(Establishment, Purpose and Legal Personality)

- Article 56 (1) Patent attorneys must establish a single Japan Patent Attorneys Association for the whole country (hereinafter referred to as the "Patent Attorneys Association" in this Chapter) pursuant to the provisions of this Act.
- (2) The purpose of the Patent Attorneys Association is to, in light of the mission and duty of patent attorneys and patent attorneys offices, conduct operations related to the instruction, communication, and supervision of its members in order to maintain the integrity of the patent attorney profession, advance and improve the business of patent attorneys and patent attorneys offices, as well

as to conduct operations related to the registration of patent attorneys.

(3) The Patent Attorneys Association is a corporation.

(Regulations)

Article 57 (1) The Patent Attorneys Association must establish its regulations specifying the particulars listed below:

- (i) name and location of its offices;
- (ii) provisions relating to admission to and withdrawal from the Association;
- (iii) provisions relating to the types of members, and their rights and duties;
- (iv) provisions relating to officers;
- (v) provisions relating to meetings;
- (vi) provisions relating to branches;
- (vii) provisions relating to the registration of patent attorneys;
- (viii) provisions relating to the registration screening board;
- (ix) provisions relating to maintaining the integrity of members;
- (x) provisions relating to the training of members;
- (xi) provisions relating to practical training;
- (xii) provisions relating to the mediation of disputes related to members' business;
- (xiii) provisions relating to the provision of information concerning the Patent Attorneys Association and its members;
- (xiv) provisions relating to the membership fee;
- (xv) provisions relating to accounting and assets;
- (xvi) provisions relating to the secretariat; and
- (xvii) provisions relating to other matters necessary to achieve the purpose of the Patent Attorneys Association.

(2) Establishment of or changes (limited to changes pertaining to important matters prescribed by Cabinet Order) to the regulations do not become effective without the approval of the Minister of Economy, Trade and Industry.

(Branches)

Article 58 The Patent Attorneys Association may establish branches if necessary for achieving its purposes.

(Registration)

Article 59 (1) The Patent Attorneys Association must register itself pursuant to provisions of Cabinet Order.

(2) The information that must be registered pursuant to the provisions of the preceding paragraph may not be asserted against a third party unless it has been registered.

(Admission and withdrawal)

Article 60 A patent attorney or patent attorneys office is automatically admitted to the Patent Attorneys Association, and a patent attorney and a patent attorneys office automatically withdraws from the Association if the patent attorney has the registration cancelled or if a patent attorneys office is dissolved, respectively.

(Disposition of Withdrawal by Patent Attorneys Association)

Article 61 The Patent Attorneys Association may, by obtaining approval of the Minister of Economy, Trade and Industry, remove any member from its membership who presents a risk of disrupting the order or damaging the reputation of the Patent Attorneys Association.

(Duty to Observe Regulations)

Article 62 The member must observe the regulations of the Patent Attorneys Association.

(Officers)

Article 63 (1) The Patent Attorneys Association has a president, vice president and other officers specified by the regulations.

(2) The president represents and presides over the Patent Attorneys Association.

(3) The vice president assists the president in a way decided by the president, represent the president in the event of an accident involving the president, and perform the duties of the president if the office of president is vacant.

(4) Officers may delegate others to represent them in taking certain acts unless it is prohibited by the regulations or a resolution of a general meeting.

(General Meeting)

Article 64 (1) The Patent Attorneys Association must hold a periodic general meeting every year.

(2) If the Patent Attorneys Association finds it necessary, it may hold extraordinary general meetings.

(Matters Requiring Resolution of General Meeting)

Article 65 Any changes to the regulations, budgets and settlements of accounts must be decided by a resolution of a general meeting.

(Report of Resolutions of General Meeting)

Article 66 The Patent Attorneys Association must report to the Commissioner of the Japan Patent Office the resolutions of its general meetings, and its officers' assumption of and retirement from office.

(Mediation of Disputes)

Article 67 The Patent Attorneys Association may mediate disputes regarding the business of its members upon a request from a member, a party to a dispute, or other persons concerned.

(Proposals and Consultation Reports)

Article 68 The Patent Attorneys Association may make proposals to the Minister of Economy, Trade and Industry or the Commissioner of the Japan Patent Office, or submit reports in response to their consultations, with regard to the business or systems pertaining to patent attorneys.

(Report of Facts Falling Under Grounds for Disciplinary Action)

Article 69 (1) If the Patent Attorneys Association finds that a member falls under the provisions of Article 32 or 54, the Association is to report that fact to the Minister of Economy, Trade and Industry.

(2) The provisions of Article 33, paragraph (2) apply mutatis mutandis to cases where a report under in the preceding paragraph has been made.

(Registration Screening Board)

Article 70 (1) The Patent Attorneys Association has a Registration Screening Board.

(2) The registration screening board is to, upon the request of the Patent Attorneys Association, conduct the necessary screening regarding the refusal of registration pursuant to the provisions of Article 19, paragraph (1), rescission of registration pursuant to the provisions of Article 23, paragraph (1), and cancellation of registration pursuant to the provisions of Article 25, paragraph (1).

(3) The Registration Screening Board is composed of a chairperson and four board members.

(4) The president of the Patent Attorneys Association serves as the chairperson.

(5) The chairperson is to, by obtaining authorization of the Minister of Economy, Trade and Industry, appoint board members from among patent attorneys, officials of the Ministry of Economy, Trade and Industry engaged in administrative affairs pertaining to patent attorneys, and persons with relevant expertise.

(6) The term of office of board members is two years; provided, however, that the term of office of a board member appointed to fill a vacancy is the remaining term of office of the predecessor.

(7) Beyond what is provided for in each of the preceding paragraphs, the necessary particulars relating to the organization and operation of the

Registration Screening Board are provided for by Cabinet Order.

(Report and Inspection)

Article 71 (1) If the Minister of Economy, Trade and Industry finds it necessary for securing the proper and certain operation of the Patent Attorneys Association, the Minister may have the Association submit a report or materials, or have officials enter into the office of the Patent Attorneys Association and inspect its books and other materials.

(2) An official that intends conduct an on-site inspection pursuant to the provisions of the preceding paragraph must carry an identification card and present it at the request of any person concerned.

(3) The authority to conduct the on-site inspection under paragraph (1) must not be construed as being granted for criminal investigation purposes.

(Rescission of Resolutions of General Meetings)

Article 72 The Minister of Economy, Trade and Industry may order the rescission of a resolution of a general meeting if the resolution violates any of laws and regulations or the regulations of the Patent Attorneys Association or if it is contrary to public interest.

(Application Mutatis Mutandis of the Act on General Incorporated Association and General Incorporated Foundation)

Article 73 The provisions of Articles 4 and 78 of the Act on General Incorporated Association and General Incorporated Foundation apply mutatis mutandis to the Patent Attorneys Association.

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

Article 74 Beyond what is provided for in this Act, any necessary matters concerning the Patent Attorneys Association are prescribed by Order of the Ministry of Economy, Trade and Industry.

## **Chapter VIII Miscellaneous Provisions**

(Restriction of Business by Person other than Patent Attorney or Patent Attorneys Office)

Article 75 A person that is not a patent attorney or a patent attorneys office may not, at the request of others and by receiving compensation, engage in the business of representing others regarding procedures with the Japan Patent Office relating to patents, utility models, designs or trademarks, or international applications or applications for international registration of designs or applications for international registration of trademarks, or

procedures with the Minister of Economy, Trade and Industry for filing a request for review under the provisions of the Administrative Complaint Review Act or to an award relating to patents, utility models, designs or trademarks (except for representing others regarding procedures of paying patent fees and applying for registration in the patent registry and other acts specified by Cabinet Order) or giving expert opinions on matters relating to these procedures or making documents or electronic or magnetic records (meaning a record used in computerized information processing which is created in electronic form, magnetic form, or any other form that cannot be perceived by the human senses) specified by Cabinet Order.

(Restriction on Use of Name)

- Article 76 (1) A person that is not a patent attorney or patent attorneys office must not use the name "弁理士" (with a pronunciation of "Benri-Shi" and with a literal meaning of "patent attorney"), "特許事務所" (with a pronunciation of "Tokkyo-Jimusho" and with a literal meaning of "patent office") or a similar name.
- (2) A person that is not a patent attorneys office must not use the name "特許業務法人" (with a pronunciation of "Tokkyo-Gyomu-Hojin" and with a literal meaning of "patent attorneys office ") or a similar name.
- (3) A body other than the Japan Attorneys Association must not use the name "日本弁理士会" (with a pronunciation of "Nihon Benri-Shi-Kai" and with a literal meaning of "Japan Patent Attorneys Association") or a similar name.

(Duty of Confidentiality of Employees of Patent Attorneys)

Article 77 It is prohibited for the employee or other worker of the patent attorney or the patent attorneys office or a person that has held one of these positions, to divulge or misappropriate any secret learned in the course of providing assistance for the business under Articles 4 to 6-2 without legitimate grounds.

(Publication of Information Relating to Patent Attorneys)

- Article 77-2 (1) The Minister of Economy, Trade and Industry and the Japan Patent Attorneys Association is to publicize, from among the information retained by each of them, the information specified by Order of the Ministry of Economy, Trade and Industry as particularly necessary for persons intending to hire a patent attorney to make an appropriate choice while taking into consideration the necessity of protecting the personal information of patent attorneys.
- (2) The method and procedure of the publication referred to in the preceding paragraph is specified by Order of the Ministry of Economy, Trade and

Industry.

- (3) The patent attorney must endeavor to provide persons intending to hire a patent attorney with information that contributes to an appropriate choice.

## **Chapter IX Penal Provisions**

Article 78 If a person who is not qualified to be a patent attorney registers with the Japan Patent Attorney Association into the patent attorney's register by making a false application as to the qualification is punished by imprisonment for not more than one year or by a fine of not more than 1,000,000 yen.

Article 79 A person who falls under any of following items is punished by imprisonment for not more than one year or by a fine of not more than 1,000,000 yen:

- (i) a person who has violated the provisions of Article 31-3 (including if applied mutatis mutandis pursuant to Article 50);
- (ii) a person who has violated the disposition of suspension of business under the provisions of Article 32 or 54, paragraph (1); or
- (iii) a person who has violated the provisions of Article 75.

Article 80 (1) A person who has violated the provisions of Article 16-5, paragraph (1), 30 or 77 is punished by imprisonment for not more than 6 months or by a fine of not more than 500,000 yen.

- (2) The offense referred to in the preceding paragraph may not be prosecuted without a criminal complaint.

Article 80-2 An officer or official of a designated training agency who has violated an order of suspension of its practical training operations pursuant to the provisions of Article 16-12, paragraph (2) is punished by imprisonment for not more than 6 months or by a fine of not more than 500,000 yen.

Article 81 A person who falls under any of following items is punished by a fine of not more than 1,000,000 yen:

- (i) a person who has not reported or submitted materials pursuant to the provisions of Article 71, paragraph (1), or has made a false report or submitted false materials, or has refused, obstructed or recused the on-site inspection under the provisions of that paragraph; or
- (ii) a person who has violated the provisions of Article 76.

Article 81-2 A person who, in violation of the provisions of Article 955, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to

Article 53-2, paragraph (6), has failed to make a statement or record, or has made a false statement or record of what is provided by Ministry of Justice Order with regard to the electronic public notice under Article 955, paragraph (1) of the same Act in the investigation register under that paragraph, or has failed to preserve the register, is punished by a fine of not more than 300,000 yen.

Article 81-3 If a designated training agency falls under any of the following items, the officer or employee of the designated training agency that has committed the relevant violation is punished by a fine of not more than 300,000 yen:

- (i) if the designated training agency failed to keep the books or make a statement in the books, has made a false statement in the books, or failed to preserve the books, in violation of Article 16-8;
- (ii) if the designated training agency failed to report or submit materials pursuant to the provisions of Article 16-10, paragraph (1), made a false report or submitted a false material, or has refused, obstructed or evaded the on-site inspection under the provisions of that paragraph; or
- (iii) if the designated training agency has discontinued all of its practical training operations, without obtaining the permission referred to in Article 16-11, paragraph (1).

Article 82 If a representative of a corporation or an agent, worker or employee of a corporation, or an individual has committed a violation of Article 79, item (i) (limited to the part pertaining to Article 31-3, as applied mutatis mutandis pursuant to Article 50), item (ii) (limited to the part pertaining to Article 54, paragraph (1)), or item (iii) or Articles 81 or 81-2 with regard to the business of the corporation or individual, not only the offender is punished but also the corporation or individual is punished by the fine prescribed in the respective Articles.

Article 83 A person who failed to report or made a false report, or failed to submit books and documents in violation of an order pursuant to the provisions of Article 34 (including if applied mutatis mutandis pursuant to Article 54, paragraph (2)), is punished by a civil fine of not more than 300,000 yen.

Article 84 A person who falls under any of the following items is punished by a civil fine of not more than 1,000,000 yen:

- (i) a person who has failed to report or made a false report in violation of the provisions of Article 946, paragraph (3) of the Companies Act, as applied mutatis mutandis pursuant to Article 53-2, paragraph (6); or

- (ii) a person who has refused the requests listed in each item of Article 951, paragraph (2) or each item of Article 955, paragraph (2) of the Companies Act, as applied mutatis mutandis pursuant to Article 53-2, paragraph (6), without legitimate grounds.

Article 85 A member or liquidator of a patent attorneys office, or an officer of the Japan Patent Attorneys Association who falls under any of the following items is punished by a civil fine of not more than 300,000 yen:

- (i) if the person has failed to register in violation of the provisions of Cabinet Order under this Act;
- (ii) if the person has merged in violation of Article 53-2, paragraph (2) or (5);
- (iii) if the person has failed to request the investigation referred to in Article 941 of the Companies Act as applied mutatis mutandis pursuant to Article 53-2, paragraph (6) in violation of the provisions of Article 941 of the same Act;
- (iv) if the person has failed to make a statement or record, or has made a false statement or record of what is to be stated or recorded in the accounting books referred to in the articles of incorporation or Article 615, paragraph (1) of the Companies Act, as applied mutatis mutandis pursuant to Article 55, paragraph (1), or in the balance sheet referred to in Article 617, paragraph (1) or (2) of the same Act, as applied mutatis mutandis in Article 55, paragraph (1);
- (v) if the person has failed to file the petition for the commencement of bankruptcy proceeding in violation of the provisions of Article 656, paragraph (1) of the Companies Act, as applied mutatis mutandis pursuant to Article 55, paragraph (2);
- (vi) if the person has distributed assets in violation of the provisions of Article 664 of the Companies Act, as applied mutatis mutandis pursuant to Article 55, paragraph (2); or
- (vii) if when the person has disposed of assets in violation of the provisions of Article 670, paragraph (2) or (5) of the Companies Act, as applied mutatis mutandis pursuant to Article 55, paragraph (2).