

# 実用新案法

## Utility Model Act

(昭和三十四年四月十三日法律第百二十三号)  
(Act No. 123 of April 13, 1959)

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第一章 総則

Chapter I General Provisions

(目的)

(Purpose)

第一条 この法律は、物品の形状、構造又は組合せに係る考案の保護及び利用を図ることにより、その考案を奨励し、もつて産業の発達に寄与することを目的とする。

Article 1 The purpose of this Act is to encourage to create devices by promoting the protection and the utilization of device in respect to the shape or structure of an article or to the combination of articles, and thereby to contribute to the development of industries.

(定義)

(Definitions)

第二条 この法律で「考案」とは、自然法則を利用した技術的思想の創作をいう。

Article 2 (1) The term "device" as used in this Act refers to the creation of technical ideas utilizing the laws of nature.

2 この法律で「登録実用新案」とは、実用新案登録を受けている考案をいう。

(2) The term "registered utility model" as used in this Act means a device for which a utility model registration has been granted.

3 この法律で考案について「実施」とは、考案に係る物品を製造し、使用し、譲渡し、貸し渡し、輸出し、若しくは輸入し、又はその譲渡若しくは貸渡しの申出（譲渡又は貸渡しのための展示を含む。以下同じ。）をする行為をいう。

(3) The term "work" of a device in this Act means an act of manufacturing, using, assigning, leasing, exporting or importing, or offering for assignment or lease (including an act of displaying an article for the purpose of assignment or lease, the same applies hereinafter) an article relating to the device.

(手続の補正)

(Amendment of Procedures)

第二条の二 実用新案登録出願、請求その他実用新案登録に関する手続（以下単に「手続」という。）をした者は、事件が特許庁に係属している場合に限り、その補正をすることができる。ただし、経済産業省令で定める期間を経過した後は、願書に添付した明細書、実用新案登録請求の範囲、図面若しくは要約書又は第八条第四項若しくは第十一条第一項において準用する特許法（昭和三十四年法律第百二十一号）第四十三条第一項（第十一条第一項において準用する同法第四十三条の二第二項（第十一条第一項において準用する同法第四十三条の三第三項において準用する場合を含む。）及び第四十三条の三第三項において準用する場合を含む。）に規定する書面について補正をすることができない。

Article 2-2 (1) A person undertaking procedures connected with the registration of a utility model, such as the filing of an application for utility model registration or a request of utility model registration (hereinafter simply referred to as "procedures") may make an amendment thereto only while the

case is pending before the Japan Patent Office; provided, however, that the person may not make an amendment to the description, the scope of claims for a utility model registration, drawings or abstract accompanying the application or a document provided in Article 43, paragraph (1) of the Patent Act (Act No.121 of 1959) as applied mutatis mutandis pursuant to Article 8, paragraph (4) or Article 11, paragraph (1) (including the case where it is applied mutatis mutandis pursuant to Article 43-2, paragraph (2) as applied mutatis mutandis pursuant to Article 11, paragraph (1) (including the case where it is applied mutatis mutandis pursuant to Article 43-3, paragraph (3) of the relevant Act as applied mutatis mutandis pursuant to Article 11, paragraph (1)) and Article 43-3, paragraph 3 of the relevant Act) after a period specified by an Order of the Ministry of Economy, Trade and Industry has lapsed.

2 前項本文の規定により明細書、実用新案登録請求の範囲又は図面について補正をするときは、願書に最初に添付した明細書、実用新案登録請求の範囲又は図面に記載した事項の範囲内においてしなければならない。

(2) Any amendment to the description, scope of claims for a utility model registration or drawings pursuant to the provisions of the main clause of paragraph (1) must be made within the scope of matters stated in the description, scope of claims for a utility model registration or drawings originally accompanying the application.

3 第一項の規定にかかわらず、第十四条の二第一項の訂正に係る訂正書に添付した訂正した明細書、実用新案登録請求の範囲又は図面については、その補正をすることができない。

(3) Notwithstanding the provisions of paragraph (1), a corrected description, scope of claims for a utility model registration or drawings accompanying a correction form with respect to a correction referred to in Article 14-2, paragraph (1) may not be amended.

4 特許庁長官は、次に掲げる場合は、相当の期間を指定して、手続の補正をすべきことを命ずることができる。

(4) In the following cases, the Commissioner of the Patent Office may order that a procedural amendment be made within a reasonable, specified period of time:  
一 手続が第二条の五第二項において準用する特許法第七条第一項から第三項まで又は第九条の規定に違反しているとき。

(i) if the procedure violates the provisions of Articles 7, paragraphs (1) through (3) or Article 9 of the Patent Act as applied mutatis mutandis pursuant to Article 2-5, paragraph (2) of this Act;

二 手続がこの法律又はこの法律に基づく命令で定める方式に違反しているとき。

(ii) if the procedure violates the requirements specified by this Act or an order based thereon;

三 手続について第三十二条第一項の規定により納付すべき登録料を納付しないとき。

(iii) if registration fees payable for the procedures under the provisions of

Article 32, paragraph (1) have not been paid;

四 手続について第五十四条第一項又は第二項の規定により納付すべき手数料を納付しないとき。

(iv) if fees payable for the procedures under the provisions of Article 54, paragraph (1) or (2) have not been paid;

5 手続の補正（登録料及び手数料の納付を除く。）をするには、手続補正書を提出しなければならない。

(5) A written amendment (except in the case of a payment of registration fees or other fees), must be submitted for any procedures to be amended.

(手続の却下)

(Dismissal of a Procedure)

第二条の三 特許庁長官は、前条第四項、第六条の二又は第十四条の三の規定により手続の補正をすべきことを命じた者がこれらの規定により指定した期間内にその補正をしないときは、その手続を却下することができる。

Article 2-3 The Commissioner of the Patent Office may dismiss the procedures if the person ordered to make an amendment thereto under the provisions of Article 2-2, paragraph (4), Article 6-2 or Article 14-3 fails to make the amendment within a period designated under the relevant provisions.

(法人でない社団等の手続をする能力)

(Capacity of Associations Which Are Not Legal entity to Undertake Procedures)

第二条の四 法人でない社団又は財団であつて、代表者又は管理人の定めがあるものは、その名において次に掲げる手続をすることができる。

Article 2-4 (1) An association or foundation that is not a legal entity but for which a representative or an administrator has been appointed may, in its own name, undertake any of the following procedures:

一 第十二条第一項に規定する実用新案技術評価の請求をすること。

(i) file a request for the technical opinion about a utility model provided in Article 12, paragraph (1);

二 審判を請求すること。

(ii) demand a trial or appeal:

三 審判の確定審決に対する再審を請求すること。

(iii) demand a retrial against the final and binding trial decision.

2 法人でない社団又は財団であつて、代表者又は管理人の定めがあるものは、その名において審判の確定審決に対する再審を請求されることができる。

(2) An association or foundation that is not a legal entity but for which a representative or an administrator has been appointed may, in its name, receive a request for retrial against the final and binding trial decision.

(特許法の準用)

(Application Mutatis Mutandis of the Patent Act)

第二条の五 特許法第三条及び第五条の規定は、この法律に規定する期間及び期日に準用する。

Article 2-5 (1) The provisions of Articles 3 and 5 of the Patent Act apply mutatis mutandis to the periods and dates provided in this Act.

2 特許法第七条から第九条まで、第十一条から第十六条まで及び第十八条の二から第二十四条までの規定は、手続に準用する。

(2) The provisions of Articles 7 through 9, 11 through 16 and 18-2 through 24 of the Patent Act apply mutatis mutandis to procedures.

3 特許法第二十五条の規定は、実用新案権その他実用新案登録に関する権利に準用する。

(3) The provisions of Article 25 of the Patent Act apply mutatis mutandis to utility model rights and other rights relating to utility model registrations.

4 特許法第二十六条の規定は、実用新案登録に準用する。

(4) The provisions of Article 26 of the Patent Act apply mutatis mutandis to utility model registrations.

## 第二章 実用新案登録及び実用新案登録出願

### Chapter II Utility Model Registration and Applications for Utility Model Registration

(実用新案登録の要件)

(Requirements for Utility Model Registration)

第三条 産業上利用することができる考案であつて物品の形状、構造又は組合せに係るものをした者は、次に掲げる考案を除き、その考案について実用新案登録を受けることができる。

Article 3 (1) A person who created a device that relates to the shape or structure of an article or a combination of articles and is industrially applicable may be entitled to obtain a utility model registration for the relevant device, except the following devices:

一 実用新案登録出願前に日本国内又は外国において公然知られた考案

(i) a device that is public knowledge in Japan or in a foreign country, prior to the filing of the application for the utility model registration;

二 実用新案登録出願前に日本国内又は外国において公然実施をされた考案

(ii) a device that is public knowledge worked in Japan or a foreign country, prior to the filing of the application for the utility model registration; or

三 実用新案登録出願前に日本国内又は外国において、頒布された刊行物に記載された考案又は電気通信回線を通じて公衆に利用可能となつた考案

(iii) a device that is described in a distributed publication, or is made publicly available through electric telecommunication lines in Japan or a foreign country, prior to the filing of the application for the utility model registration.

2 实用新案登録出願前にその考案の属する技術の分野における通常の知識を有する者が前項各号に掲げる考案に基いてきわめて容易に考案をすることができたときは、その考案については、同項の規定にかかわらず、实用新案登録を受けることができない。

(2) Notwithstanding the preceding paragraph, a person may not obtain a utility model registration , if a person of ordinary skill in the art of the device would have easily created the device prior to the filing of the application for a utility model registration, based on any device listed in any of the items of the preceding paragraph.

第三条の二 实用新案登録出願に係る考案が当該实用新案登録出願の日前の他の实用新案登録出願又は特許出願であつて当該实用新案登録出願後に第十四条第三項の規定により同項各号に掲げる事項を掲載した实用新案公報（以下「实用新案掲載公報」という。）の発行又は特許法第六十六条第三項の規定により同項各号に掲げる事項を掲載した特許公報の発行若しくは出願公開がされたものの願書に最初に添付した明細書、实用新案登録請求の範囲若しくは特許請求の範囲又は図面（同法第三十六条の二第二項の外国語書面出願にあつては、同条第一項の外国語書面）に記載された考案又は発明（その考案又は発明をした者が当該实用新案登録出願に係る考案の考案者と同一の者である場合におけるその考案又は発明を除く。）と同一であるときは、その考案については、前条第一項の規定にかかわらず、实用新案登録を受けることができない。ただし、当該实用新案登録出願の時にその出願人と当該他の实用新案登録出願又は特許出願の出願人とが同一の者であるときは、この限りでない。

Article 3-2 If a device claimed in an application for utility model registration is identical with a device or invention (in the case if a person who created the device or invention is identical with the creator of the device claimed in the relevant application for utility model registration, excluding the device or invention) stated in the description, scope of claims for a utility model registration or scope of claims for a patent or drawings (in the case of the written application in foreign language referred to in Article 36-2, paragraph (2) of the Patent Act, the document in foreign language referred to in Article 36-2, paragraph (1)) originally accompanying the application of another application for utility model registration or for patent which has been filed prior to the filing date of the relevant application for utility model registration and published after the filing of the relevant application for utility model registration in the utility model gazette under the provisions of Article 14, paragraph (3) (hereinafter the "utility model gazette") or in the patent gazette under the provisions of Article 66, paragraph (3) of the Patent Act stating matters listed in each of the items of the respective paragraph or for which the publication of the patent application has been effected, a utility model registration is not be granted for such device notwithstanding the provisions of paragraph (1) of the preceding Article; provided, however, this does not apply if, at the time of the filing of the relevant application for utility model

registration, the applicant of the relevant application and the applicant of the other application for utility model registration or for patent are the same person.

(実用新案登録を受けることができない考案)

(Unregisterable Devices)

第四条 公の秩序、善良の風俗又は公衆の衛生を害するおそれがある考案については、第三条第一項の規定にかかわらず、実用新案登録を受けることができない。

Article 4 Notwithstanding the provisions of Article 3, paragraph (1), any device that has a risk to be dangerous to public order, morals or public health may not be registered as a utility model.

(仮通常実施権)

(Provisional Non-Exclusive Licenses)

第四条の二 実用新案登録を受ける権利を有する者は、その実用新案登録を受ける権利に基づいて取得すべき実用新案権について、その実用新案登録出願の願書に最初に添付した明細書、実用新案登録請求の範囲又は図面に記載した事項の範囲内において、他人に仮通常実施権を許諾することができる。

Article 4-2 (1) Any person who holds the right to obtain a utility model registration may grant a provisional non-exclusive license for the utility model right to be obtained based on the right to obtain a utility model registration to any third party within the scope of the matters indicated in the description, scope of claims for a utility model registration or drawings originally accompanying the application of the application for the utility model registration.

2 前項の規定による仮通常実施権に係る実用新案登録出願について実用新案権の設定の登録があつたときは、当該仮通常実施権を有する者に対し、その実用新案権について、当該仮通常実施権の設定行為で定めた範囲内において、通常実施権が許諾されたものとみなす。

(2) When the establishment a utility model right has been registered for an application for utility model registration with respect to a provisional non-exclusive license under the provisions of the preceding paragraph, a non-exclusive license is deemed to have been granted for the utility model right to a person who holds the relevant provisional non-exclusive license within the scope specified by the contract granting the relevant provisional non-exclusive license.

3 特許法第三十三条第二項及び第三項、第三十四条の三第四項から第六項まで及び第八項から第十項まで並びに第三十四条の五の規定は、仮通常実施権に準用する。この場合において、同法第三十四条の三第八項中「実用新案法第四条の二第一項の規定による仮通常実施権に係る実用新案登録出願について、第四十六条第一項」とあるのは「第一項又は前条第四項の規定による仮通常実施権に係る特許出願について、実用新

案法第十条第一項」と、同条第九項中「第四十六条第二項」とあるのは「実用新案法第十条第二項」と読み替えるものとする。

- (3) The provisions of Article 33, paragraphs (2) and (3), Article 34-3, paragraphs (4) through (6) and (8) through (10) and Article 34-5 of the Patent Act apply mutatis mutandis to provisional non-exclusive licenses. In this case, the phrases "Article 46, paragraph (1) with regard to an application for utility model registration pertaining to a provisional non-exclusive license under the provisions of Article 4-2, paragraph (1) of the Utility Model Act" in Article 34-3, paragraph (8) of the relevant act and "Article 46, paragraph (2)" in paragraph (9) of the relevant article are deemed to be replaced with "Article 10, paragraph (1) of the Utility Model Act with regard to a patent application pertaining to a provisional non-exclusive license under the provisions of Article 34-3, paragraph (1) or Article 34-2, paragraph (4)" and "Article 10, paragraph (2) of the Utility Model Act", respectively.

(実用新案登録出願)

(Applications for a Utility Model Registration)

第五条 実用新案登録を受けようとする者は、次に掲げる事項を記載した願書を特許庁長官に提出しなければならない。

Article 5 (1) Any person who intends to obtain a utility model registration must submit an application to the Commissioner of the Patent Office stating the following particulars:

一 実用新案登録出願人の氏名又は名称及び住所又は居所

(i) the name and address or residence of the applicants of a utility model registration; and

二 考案者の氏名及び住所又は居所

(ii) the name and address or residence of the creator or creators of the device.

2 願書には、明細書、実用新案登録請求の範囲、図面及び要約書を添付しなければならない。

(2) A description, scope of claims for a utility model registration, drawings and an abstract are to be accompanying the application.

3 前項の明細書には、次に掲げる事項を記載しなければならない。

(3) A description referred to in the preceding paragraph must state the following particulars:

一 考案の名称

(i) the title of the device;

二 図面の簡単な説明

(ii) a brief description of the drawings; and

三 考案の詳細な説明

(iii) a detailed description of the device.

4 前項第三号の考案の詳細な説明は、経済産業省令で定めるところにより、その考案

の属する技術の分野における通常の知識を有する者がその実施をすることができる程度に明確かつ十分に、記載しなければならない。

(4) The detailed description of the device referred to in item (iii) of the preceding paragraph must be clear and sufficient so as to enable a person of ordinary skill in the art of the device to work the device as provided by Order of the Ministry of Economy, Trade and Industry.

5 第二項の実用新案登録請求の範囲には、請求項に区分して、各請求項ごとに実用新案登録出願人が実用新案登録を受けようとする考案を特定するために必要と認める事項のすべてを記載しなければならない。この場合において、一の請求項に係る考案と他の請求項に係る考案とが同一である記載となることを妨げない。

(5) The scope of claims for a utility model registration referred to in paragraph (2) the applicant must state all particulars that the applicant finds to be necessary for identifying the device for which the applicant intends to obtain a utility model registration, separately for each claim. This does not preclude the device under one claim from being the same as the device under another claim.

6 第二項の実用新案登録請求の範囲の記載は、次の各号に適合するものでなければならない。

(6) The description of the scope of claims for a utility model registration referred to in paragraph (2) must comply with each of the following items:

一 実用新案登録を受けようとする考案が考案の詳細な説明に記載したものであること。

(i) the device for which a utility model registration is sought is stated in the detailed explanation of the device;

二 実用新案登録を受けようとする考案が明確であること。

(ii) the device for which the utility model registration is sought is clear;

三 請求項ごとの記載が簡潔であること。

(iii) the statement for each claim is concise; and

四 その他経済産業省令で定めるところにより記載されていること。

(iv) other matters stated pursuant to the provisions of the Order of the Ministry of Economy, Trade and Industry.

7 第二項の要約書には、明細書、実用新案登録請求の範囲又は図面に記載した考案の概要その他経済産業省令で定める事項を記載しなければならない。

(7) The abstract referred to in paragraph (2) must summarize the device in the description, scope of claims for a utility model registration or drawings, and any other matters specified by Order of the Ministry of Economy, Trade and Industry.

第六条 二以上の考案については、経済産業省令で定める技術的關係を有することにより考案の単一性の要件を満たす一群の考案に該当するときは、一の願書で実用新案登録出願をすることができる。

Article 6 A single application for utility model registration may be filed for two

or more devices provided that these devices fall under a group of devices recognized as fulfilling the requirements of the unity of devices based on their technical relationship specified by Order of the Ministry of Economy, Trade and Industry.

(補正命令)

(Order to Amend)

第六条の二 特許庁長官は、実用新案登録出願が次の各号の一に該当するときは、相当の期間を指定して、願書に添付した明細書、実用新案登録請求の範囲又は図面について補正をすべきことを命ずることができる。

Article 6-2 The Commissioner of the Patent Office may order the applicant to make an amendment to the description, scope of claims for a utility model or drawings accompanying an application, specifying a reasonable period of time, if the application for utility model request falls under any of the following items:

一 その実用新案登録出願に係る考案が物品の形状、構造又は組合せに係るものでないとき。

(i) if the device claimed in the application for a utility model registration is not in the shape or structure of an article or a combination of articles;

二 その実用新案登録出願に係る考案が第四条の規定により実用新案登録をすることができないものであるとき。

(ii) if the device claimed in the application for a utility model registration is not registrable under the provisions of Article 4;

三 その実用新案登録出願が第五条第六項第四号又は前条に規定する要件を満たしていないとき。

(iii) when the application for utility model registration does not satisfy the requirement provided in Article 5, paragraph (6), item (iv) or in the preceding Article; or

四 その実用新案登録出願の願書に添付した明細書、実用新案登録請求の範囲若しくは図面に必要な事項が記載されておらず、又はその記載が著しく不明確であるとき。

(iv) if the description, scope of claims for a utility model registration or drawings accompanying the application does not state all of the necessary matters or is extremely unclear.

(先願)

(Prior Application)

第七条 同一の考案について異なった日に二以上の実用新案登録出願があつたときは、最先の実用新案登録出願人のみがその考案について実用新案登録を受けることができる。

Article 7 (1) If two or more applications for a utility model registration have been filed with regard to the same device on different dates, only the applicant

that filed the application on the earliest date may be entitled to obtain a utility model registration for the claimed device.

- 2 同一の考案について同日に二以上の実用新案登録出願があつたときは、いずれも、その考案について実用新案登録を受けることができない。
- (2) If two or more applications for utility model registration have been filed with regard to the same device on the same date, none of the applicants is not entitled to obtain a utility model registration for the claimed device.
- 3 実用新案登録出願に係る考案と特許出願に係る発明とが同一である場合において、その実用新案登録出願及び特許出願が異なつた日にされたものであるときは、実用新案登録出願人は、特許出願人より先に出願をした場合にのみその考案について実用新案登録を受けることができる。
- (3) If a device claimed in an application for utility model registration and the invention claimed in a patent application are identical and the applications for the utility model registration and the patent application are filed on different dates, the applicant for the utility model registration may be entitled to obtain a utility model registration for the claimed device, only if the application for the utility model registration is filed before the patent applicant files a patent application.
- 4 実用新案登録出願又は特許出願が放棄され、取り下げられ、又は却下されたときは、その実用新案登録出願又は特許出願は、前三項の規定の適用については、初めからなかつたものとみなす。
- (4) If an application for utility model registration or a patent application has been waived, withdrawn or dismissed, in applying the provisions of the preceding three paragraphs, the application for utility model registration or a patent application is deemed never to have been filed.
- 5 特許出願について拒絶をすべき旨の査定又は審決が確定したときは、その特許出願は、第三項の規定の適用については、初めからなかつたものとみなす。ただし、その特許出願について特許法第三十九条第二項後段の規定に該当することにより拒絶をすべき旨の査定又は審決が確定したときは、この限りでない。
- (5) If the examiner's decision or trial decision to reject a patent application has become final and binding, the patent application is to, for the purpose of paragraph (3), be deemed never to have been filed from the beginning; provided, however, that this does not apply to cases where the examiner's decision or trial decision to the effect that the patent application is to be rejected has become final and binding on the ground that the latter sentence of Article 39, paragraph (2) of the Patent Act is applicable to the relevant patent application.
- 6 特許法第三十九条第四項の協議が成立せず、又は協議をすることができないときは、実用新案登録出願人は、その考案について実用新案登録を受けることができない。
- (6) If no agreement is reached by consultations made under Article 39, paragraph (4) of the Patent Act or the consultations are unable to be held, the applicant for a utility model registration is not entitled to obtain a utility model

registration for the device claimed.

(実用新案登録出願等に基づく優先権主張)

(Claim of Priority Based on an Application for Utility Registration)

第八条 実用新案登録を受けようとする者は、次に掲げる場合を除き、その実用新案登録出願に係る考案について、その者が実用新案登録又は特許を受ける権利を有する実用新案登録出願又は特許出願であつて先にされたもの（以下「先の出願」という。）の願書に最初に添付した明細書、実用新案登録請求の範囲若しくは特許請求の範囲又は図面（先の出願が特許法第三十六条の二第二項の外国語書面出願である場合にあっては、同条第一項の外国語書面）に記載された考案に基づいて優先権を主張することができる。ただし、先の出願について仮専用実施権を有する者があるときは、その実用新案登録出願の際に、その承諾を得ている場合に限る。

Article 8 (1) Except in the following cases, a person who intends to obtain a utility model registration may claim priority for a device claimed in the application for a utility model registration, based on a device stated in the description or scope of claims for a utility model registration or patent claim, or drawings (in the case if the earlier application was a written application in a foreign language referred to in Article 36-2, paragraph (2) of the Patent Act, the document in a foreign language referred to in paragraph (1) of the relevant Article) originally accompanying the application of an earlier application filed for a utility model registration or patent over which the relevant person holds the right to obtain (hereinafter referred to as "earlier application"): provided however, that if there is any person who holds a provisional exclusive license with regard to the earlier application, priority may be claimed only if the consent of the person is obtained at the time of filing the relevant application for the utility model registration:

一 その実用新案登録出願が先の出願の日から一年以内にされたものでない場合（その実用新案登録出願を先の出願の日から一年以内にすることができなかつたことについて正当な理由がある場合であつて、かつ、その実用新案登録出願が経済産業省令で定める期間内にされたものである場合を除く。）

(i) if the relevant application for utility model registration is not filed within one year from the date of filing of the earlier application (excluding cases where there are justifiable grounds for the failure to file the application for utility model registration within one year from the date of filing, and it was filed within a period specified by Order of the Ministry of Economy, Trade and Industry);

二 先の出願が第十一条第一項において準用する特許法第四十四条第一項の規定による実用新案登録出願の分割に係る新たな実用新案登録出願若しくは第十条第一項若しくは第二項の規定による出願の変更に係る実用新案登録出願又は同法第四十四条第一項の規定による特許出願の分割に係る新たな特許出願、同法第四十六条第一項若しくは第二項の規定による出願の変更に係る特許出願若しくは同法第四十六条の

二第一項の規定による実用新案登録に基づく特許出願である場合

(ii) if the earlier application is a new divisional application for utility model registration extracted from an application for utility model registration under the provisions of Article 44, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1), of an application for utility model registration with respect to an application for utility model registration under Article 10, paragraph (1) or (2), or a new divisional patent application with respect to a patent application under Article 44, paragraph (1) of the Patent Act, a patent application with respect to a patent application under Article 46, paragraph (1) or (2) of the Patent Act or a patent application based on a utility model registration under the provisions of Article 46-2, paragraph (1) of the Patent Act;

三 先の出願が、その実用新案登録出願の際に、放棄され、取り下げられ、又は却下されている場合

(iii) at the time the relevant application for the utility model registration is filed, the earlier application had been abandoned, withdrawn or dismissed;

四 先の出願について、その実用新案登録出願の際に、査定又は審決が確定している場合

(iv) at the time the relevant application for the utility model registration is filed, an examiner's decision or the trial decision on the earlier application has become final and binding; and

五 先の出願について、その実用新案登録出願の際に、第十四条第二項に規定する設定の登録がされている場合

(v) at the time the relevant application for utility model registration is filed, the establishing a utility model right provided in Article 14, paragraph (2) has been registered with respect to the earlier application.

2 前項の規定による優先権の主張を伴う実用新案登録出願に係る考案のうち、当該優先権の主張の基礎とされた先の出願の願書に最初に添付した明細書、実用新案登録請求の範囲若しくは特許請求の範囲又は図面（当該先の出願が特許法第三十六条の二第二項の外国語書面出願である場合にあつては、同条第一項の外国語書面）に記載された考案（当該先の出願が前項若しくは同法第四十一条第一項の規定による優先権の主張又は同法第四十三条第一項、第四十三条の二第一項（同法第四十三条の三第三項において準用する場合を含む。）若しくは第四十三条の三第一項若しくは第二項（これらの規定を第十一条第一項において準用する場合を含む。）の規定による優先権の主張を伴う出願である場合には、当該先の出願についての優先権の主張の基礎とされた出願に係る出願の際の書類（明細書、実用新案登録請求の範囲若しくは特許請求の範囲又は図面に相当するものに限る。）に記載された考案を除く。）についての第三条、第三条の二本文、前条第一項から第三項まで、第十一条第一項において準用する同法第三十条第一項及び第二項、第十七条、第二十六条において準用する同法第六十九条第二項第二号、同法第七十九条、同法第八十一条及び同法第八十二条第一項並びに同法第三十九条第三項及び第四項並びに第七十二条、意匠法（昭和三十四年法律第二百

十五号) 第二十六条、第三十一条第二項及び第三十二条第二項並びに商標法(昭和三十四年法律第百二十七号) 第二十九条並びに第三十三条の二第三項及び第三十三条の三第三項(これらの規定を同法第六十八条第三項において準用する場合を含む。)の規定の適用については、当該実用新案登録出願は、当該先の出願の時にされたものとみなす。

- (2) Among devices claimed in an application for utility model registration containing a priority claim under the provisions of paragraph (1), for those that are stated in the description, scope of claims for a utility model registration or patent or drawings (in the case where the earlier application was an application written in foreign language referred to in Article 36-2, paragraph (2) of the Patent Act, the document in foreign language referred to in paragraph (1) of the relevant Article) originally accompanying the application of the earlier application on which the priority claim is based (in the case where the earlier application contains a priority claim under the provisions of the preceding paragraph or Article 41, paragraph (1) of the Patent Act (including the case where it is applied mutatis mutandis pursuant to Article 43-3, paragraph (3) of the relevant Act), or Article 43, paragraph (1) or 43-2, paragraph (1) or (2) of the Patent Act (including the case when these provisions apply mutatis mutandis pursuant to Article 11, paragraph (1) of the relevant Act), excluding any device stated in any documents (limited to those equivalent to the description, scope of claims for a utility model registration or patent or drawings) submitted at the time of the filing of the application on which the priority claim in the earlier application is based), the relevant application for utility model registration is deemed to have been filed at the time when the earlier application was filed with respect to the application of the provisions of Article 3, the main clause of Article 3-2, Article 7, paragraphs (1) through (3), Article 30, paragraphs (1) and (2) of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1), Article 17, Articles 69, paragraph (2), item (ii) as applied mutatis mutandis pursuant to Article 26, Articles 79 and 81, Article 82, paragraph (1), and Articles 39, paragraphs (3) and (4) and Article 72 of the Patent Act, Article 26, Article 31, paragraph (2) and Article 32, paragraph (2) of the Design Act (Act No. 125 of 1959), Article 29, Article 33-2, paragraph (3) and Article 33-3, paragraph (3) of the Trademark Act (Act No. 127 of 1959) (including if these provisions apply mutatis mutandis pursuant to Article 68, paragraph (3) of the Trademark Act) of the Trademark Act.
- 3 第一項の規定による優先権の主張を伴う実用新案登録出願の願書に最初に添付した明細書、実用新案登録請求の範囲又は図面に記載された考案のうち、当該優先権の主張の基礎とされた先の出願の願書に最初に添付した明細書、実用新案登録請求の範囲若しくは特許請求の範囲又は図面(当該先の出願が特許法第三十六条の二第二項の外国語書面出願である場合にあつては、同条第一項の外国語書面)に記載された考案

(当該先の出願が第一項若しくは同法第四十一条第一項の規定による優先権の主張又は同法第四十三条第一項、第四十三条の二第一項(同法第四十三条の三第三項において準用する場合を含む。))若しくは第四十三条の三第一項若しくは第二項(これらの規定を第十一条第一項において準用する場合を含む。))の規定による優先権の主張を伴う出願である場合には、当該先の出願についての優先権の主張の基礎とされた出願に係る出願の際の書類(明細書、実用新案登録請求の範囲若しくは特許請求の範囲又は図面に相当するものに限る。)に記載された考案を除く。)については、当該実用新案登録出願について実用新案掲載公報の発行がされた時に当該先の出願について実用新案掲載公報の発行又は出願公開がされたものとみなして、第三条の二本文又は同法第二十九条の二本文の規定を適用する。

(3) Among devices stated in the description, scope of claims for a utility model registration or drawings originally accompanying the application in an application for utility model registration containing a priority claim under the provisions of paragraph (1), for those that are stated in the description, scope of claims for a utility model registration or claims or drawings (in the case when the earlier application was an application written in foreign language referred to in Article 36-2, paragraph (2) of the Patent Act, the document in foreign language referred to in paragraph (1) of the relevant Article) originally accompanying the application of the earlier application on which the priority claim is based (in the case where the relevant earlier application contains a priority claim under the provisions of the preceding paragraph or Article 41, paragraph (1) of the Patent Act, Article 43-2, paragraph 1 (including the case where it is applied mutatis mutandis pursuant to Article 43-3, paragraph (3) of the relevant Act) or Article 43-3, paragraph (1) or (2) of the Patent Act (including the case where these provisions apply mutatis mutandis under Article 11, paragraph (1) of this Act), excluding any device stated in any documents (limited to those equivalent to the description, scope of claims for a utility model registration or patent or drawings) submitted at the time of the filing of the application on which the priority claim in the earlier application is based), the utility model gazette with regard to the earlier application or the publication of the earlier application is deemed to have been issued or effected at the time when the utility model gazette with regard to the relevant application for utility model registration was issued so as to apply the provisions of the main clause of Article 3-2 of the Utility Model Act or Article 29-2 of the Patent Act.

4 第一項の規定による優先権を主張しようとする者は、その旨及び先の出願の表示を記載した書面を経済産業省令で定める期間内に特許庁長官に提出しなければならない。

(4) A person seeking a priority claim under the provisions of paragraph (1) must submit to the Commissioner of the Patent Office a document stating the effect thereof and the indication of the earlier application within a priority claim specified by Order of the Ministry of Economy, Trade and Industry.

(先の出願の取下げ等)

**(Withdrawal of an Earlier Application)**

第九条 前条第一項の規定による優先権の主張の基礎とされた先の出願は、その出願の日から経済産業省令で定める期間を経過した時に取り下げたものとみなす。ただし、当該先の出願が放棄され、取り下げられ、若しくは却下されている場合、当該先の出願について査定若しくは審決が確定している場合、当該先の出願について第十四条第二項に規定する設定の登録がされている場合又は当該先の出願に基づく全ての優先権の主張が取り下げられている場合には、この限りでない。

Article 9 (1) An earlier application on which a priority claim is based under the provisions of Article 8, paragraph (1) is deemed to have been withdrawn when a period specified by Order of the Ministry of Economy, Trade and Industry has lapsed from the filing date of the relevant earlier application; provided, however, that this does not apply to the case where an earlier application has been abandoned, withdrawn or dismissed, if the examiner's decision or trial decision on the relevant earlier application has become final and binding with regard to the relevant application, where the establishment of the relevant earlier application provided in Article 14, paragraph (2) has been registered or where all of the claims of priority based on the relevant earlier application have been withdrawn.

2 前条第一項の規定による優先権の主張を伴う実用新案登録出願の出願人は、先の出願の日から経済産業省令で定める期間を経過した後は、その主張を取り下げることができない。

(2) An applicant filing for an application for a utility model registration containing a priority claim under the provisions of Article 8, paragraph (1) may not withdraw the priority claim after a period specified by Order of the Ministry of Economy, Trade and Industry has lapsed from the filing date of the earlier application.

3 前条第一項の規定による優先権の主張を伴う実用新案登録出願が先の出願の日から経済産業省令で定める期間内に取り下げられたときは、同時に当該優先権の主張が取り下げられたものとみなす。

(3) If an application for a utility model registration containing a priority claim under the provisions of Article 8, paragraph (1) is withdrawn within a period specified by Order of the Ministry of Economy, Trade and Industry from the filing date of the earlier application, the relevant priority claim is deemed to be withdrawn simultaneously.

(出願の変更)

**(Conversion of Application)**

第十条 特許出願人は、その特許出願（特許法第四十六条の二第一項の規定による実用新案登録に基づく特許出願（同法第四十四条第二項（同法第四十六条第六項において

準用する場合を含む。)の規定により当該特許出願の時にしたものとみなされるものを含む。)を除く。)を实用新案登録出願に変更することができる。ただし、その特許出願について拒絶をすべき旨の最初の査定の謄本の送達があつた日から三月を経過した後又はその特許出願の日から九年六月を経過した後は、この限りでない。

Article 10 (1) A patent applicant may convert that patent application (other than one that has been filed based on a utility model registration under the provisions of Article 46-2, paragraph (1) of the Patent Act (this includes patent applications deemed to have been filed at the time of the filing of the original patent application under the provisions of Article 44, paragraph (2) of the relevant Act (including the case where it is applied mutatis mutandis pursuant to Article 46, paragraph (6) of the relevant Act))) into an application for a utility model registration; provided, however, that this does not apply after three months from the date on which the certified copy of the examiner's initial decision to the effect that the patent application to be rejected was served or once nine years and six months have passed since the filing date of the patent application.

2 意匠登録出願人は、その意匠登録出願（意匠法第十三条第六項において準用する同法第十条の二第二項の規定により特許法第四十六条の二第一項の規定による实用新案登録に基づく特許出願の時にしたものとみなされる意匠登録出願（意匠法第十条の二第二項の規定により当該意匠登録出願の時にしたものとみなされるものを含む。）を除く。）を实用新案登録出願に変更することができる。ただし、その意匠登録出願について拒絶をすべき旨の最初の査定の謄本の送達があつた日から三月を経過した後又はその意匠登録出願の日から九年六月を経過した後は、この限りでない。

(2) An applicant for design registration may convert that application for design registration (other than a design registration deemed, pursuant to the provisions of Article 10-2, paragraph (2) of the Design Act as applied mutatis mutandis pursuant to Article 13, paragraph (6) of the Design Act, to have been filed at the time of the original patent application which was filed based on an application for utility model registration under the provisions of Article 46-2, paragraph (1) of the Patent Act (including applications for a design registration deemed to have been filed at the time of the filing of the original application for design registration under the provisions of Article 10-2, paragraph (2) of the Design Act)) into an application for a utility model registration; provided, however, that this does not apply after three months from the date the certified copy of the examiner's initial decision to the effect that the application for a design registration to be rejected, has been served or nine years and six months from the filing date of the application for design registration have lapsed.

3 前二項の規定による出願の変更があつたときは、その实用新案登録出願は、その特許出願又は意匠登録出願の時にしたものとみなす。ただし、その实用新案登録出願が第三条の二に規定する他の实用新案登録出願又は特許法第二十九条の二に規定する実

用新案登録出願に該当する場合におけるこれらの規定の適用及び次条第一項において準用する同法第三十条第三項の規定の適用については、この限りでない。

(3) If an application is converted under the provisions of the preceding two paragraphs, the application for utility model registration is deemed to have been filed at the time that the patent application or the application for design registration was filed; provided, however, that this does not apply if the purpose of the application of the provisions of Article 3-2 of this Act or Article 29-2 of the Patent Act is an application for a utility model registration that falls under another application for a utility model registration provided in Article 3-2 of this Act or an application for a utility model registration provided in Article 29-2 of the Patent Act, and the application of the provisions of Article 30, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1).

4 第一項又は第二項の規定による出願の変更をする場合における次条第一項において準用する特許法第四十三条第二項（次条第一項において準用する同法第四十三条の二第二項（次条第一項において準用する同法第四十三条の三第三項において準用する場合を含む。）及び第四十三条の三第三項において準用する場合を含む。）の規定の適用については、同法第四十三条第二項中「最先の日から一年四月以内」とあるのは、「最先の日から一年四月又は実用新案法第十条第一項若しくは第二項の規定による出願の変更に係る実用新案登録出願の日から三月のいずれか遅い日まで」とする。

(4) If an application is converted under the provisions of paragraph (1) or (2), for the purpose of the application of the provisions of Article 43, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1) (including cases when it is applied mutatis mutandis under Article 43-2, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1) (including cases when it is applied mutatis mutandis pursuant to Article 43-3, paragraph (3) of the relevant Act as applied mutatis mutandis pursuant to Article 11, paragraph (1)) and Article 43-3, paragraph (3)), the term "within one year and four months from the earliest of the following dates" in Article 43, paragraph (2) is replaced with "within one year and four months from the earliest of the following dates or three months from the filing date of the application for utility model registration with respect to the conversion of an application under the provisions of Article 10, paragraph (1) or (2) of the Utility Model Act, whichever comes later."

5 第一項又は第二項の規定による出願の変更があつたときは、その特許出願又は意匠登録出願は、取り下げたものとみなす。

(5) If an application is converted as under the provisions of paragraph (1) or (2), the patent application or the application for design registration is deemed to have been withdrawn.

6 第一項ただし書に規定する三月の期間は、特許法第四条の規定により同法第二百一十一条第一項に規定する期間が延長されたときは、その延長された期間を限り、延長さ

れたものとみなす。

(6) If the period prescribed in Article 121, paragraph (1) of the Patent Act is extended pursuant to the provisions of Article 4 of the relevant Act, the three-month period provided in the proviso to paragraph (1) is deemed to have been extended only for that extended period.

7 第二項ただし書に規定する三月の期間は、意匠法第六十八条第一項において準用する特許法第四条の規定により意匠法第四十六条第一項に規定する期間が延長されたときは、その延長された期間を限り、延長されたものとみなす。

(7) If the period prescribed in Article 46, paragraph (1) of the Design Act is extended pursuant to the provisions of Article 4 of the Patent Act as applied mutatis mutandis pursuant to Article 68, paragraph (1) of the Design Act, the three-month period provided in the proviso to paragraph (2) is deemed to have been extended, but only for the length of time that the period prescribed in Article 46, paragraph (1) of the Design Act is extended.

8 第一項に規定する出願の変更をする場合には、もとの特許出願について提出された書面又は書類であつて、新たな実用新案登録出願について第八条第四項又は次条第一項において準用する特許法第三十条第三項若しくは第四十三条第一項及び第二項（これらの規定を次条第一項において準用する同法第四十三条の二第二項（次条第一項において準用する同法第四十三条の三第三項において準用する場合を含む。）及び第四十三条の三第三項において準用する場合を含む。）の規定により提出しなければならないものは、当該新たな実用新案登録出願と同時に特許庁長官に提出されたものとみなす。

(8) If an application is converted as provided in paragraph (1), any papers or documents that have been submitted in connection with the original patent application and that are required to be submitted in connection with a new application for utility model registration under the provisions of Article 8, paragraph (4) of this Act or Article 30, paragraph (3) or Article 43, paragraphs (1) and (2) of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1) (including cases where these provisions apply mutatis mutandis pursuant to Article 43-2, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1) (including cases where it is applied mutatis mutandis pursuant to Article 43-3, paragraph 3 of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph 1) and Article 43-3, paragraph 3) is deemed to have been submitted to the Commissioner of the Patent Office simultaneously along with the new application for a utility model application.

9 特許出願人は、その特許出願について仮専用実施権を有する者があるときは、その承諾を得た場合に限り、第一項の規定による出願の変更をすることができる。

(9) If a person who holds a provisional exclusive license in connection with a patent application, the patent applicant may only convert that application as under paragraph (1) with the consent of that person.

10 第八項の規定は、第二項の規定による出願の変更の場合に準用する。

(10) The provisions of paragraph (8) apply mutatis mutandis to the conversion of an application as under the provisions of paragraph (2).

(特許法の準用)

(Application Mutatis Mutandis of the Patent Act)

第十一条 特許法第三十条（発明の新規性の喪失の例外）、第三十八条（共同出願）、第四十三条から第四十四条まで（パリ条約による優先権主張の手續等及び特許出願の分割）の規定は、実用新案登録出願に準用する。

Article 11 (1) The provisions of Article 30 (Exception to the Lack of Novelty of Invention), Article 38 (Joint Applications) and Articles 43 and 44 (Procedure for a Priority Claim under the Paris Convention and Division of Patent Applications) of the Patent Act apply mutatis mutandis to applications for utility model registration.

2 特許法第三十三条並びに第三十四条第一項、第二項及び第四項から第七項まで（特許を受ける権利）の規定は、実用新案登録を受ける権利に準用する。

(2) The provisions of Article 33 and Article 34, paragraphs (1), (2), and (4) through (7) (Right to Obtain a Patent) of the Patent Act apply mutatis mutandis to the right to obtain a utility model registration.

3 特許法第三十五条（仮専用実施権に係る部分を除く。）（職務発明）の規定は、従業者、法人の役員又は国家公務員若しくは地方公務員がした考案に準用する。

(3) The provisions of Article 35 (excluding the part with respect to provisional exclusive licenses) (Inventions by Employees) of the Patent Act apply mutatis mutandis to devices created by employees, corporate officers of corporations, or national or local public officers.

### 第三章 実用新案技術評価

#### Chapter III Technical Opinion About a Utility Model

(実用新案技術評価の請求)

(Request for a Technical Opinion About a Utility Model)

第十二条 実用新案登録出願又は実用新案登録については、何人も、特許庁長官に、その実用新案登録出願に係る考案又は登録実用新案に関する技術的な評価であつて、第三条第一項第三号及び第二項（同号に掲げる考案に係るものに限る。）、第三条の二並びに第七条第一項から第三項まで及び第六項の規定に係るもの（以下「実用新案技術評価」という。）を請求することができる。この場合において、二以上の請求項に係る実用新案登録出願又は実用新案登録については、請求項ごとに請求することができる。

Article 12 (1) Any person may file a request with the Commissioner of the Patent Office with respect to an application for utility model registration or a utility model registration, for a technical opinion about the device claimed in

that application or about the registered utility model, as concerns what is provided in the provisions of Article 3, paragraph (1), item (iii) and Article 3, paragraph (2) (limited to its application based on the device as set forth in Article 3, paragraph (1), item (iii)), Article 3-2, and Article 7, paragraphs (1) through (3) and (6) (hereinafter referred to as "technical opinion about a utility model"). Similarly, in respect of applications or registered utility models that contain two or more claims, such a request may be filed for each individual claim.

2 前項の規定による請求は、実用新案権の消滅後においても、することができる。ただし、実用新案登録無効審判により無効にされた後は、この限りでない。

(2) A request as under the provisions of the preceding paragraph may be filed even after the lapse of the utility model; provided, however, that this does not apply if the utility model is invalidated in a trial for invalidation of the registration of a utility model.

3 前二項の規定にかかわらず、第一項の規定による請求は、その実用新案登録に基づいて特許法第四十六条の二第一項の規定による特許出願がされた後は、することができない。

(3) Notwithstanding the preceding two paragraphs, a request as under the provisions of paragraph (1) may not be filed subsequent to the filing of a patent application under Article 46-2, paragraph (1) of the Patent Act which is based on that utility model registration.

4 特許庁長官は、第一項の規定による請求があつたときは、審査官にその請求に係る実用新案技術評価の報告書（以下「実用新案技術評価書」という。）を作成させなければならない。

(4) When a request as under the provisions of paragraph (1) is filed, the Commissioner of the Patent Office must have an examiner to prepare a written report giving a technical opinion about a utility model (hereinafter referred to as a "written technical opinion about a utility model").

5 特許法第四十七条第二項の規定は、実用新案技術評価書の作成に準用する。

(5) The provisions of Article 47, paragraph (2) of the Patent Act apply mutatis mutandis to the preparation of a written technical opinion about a utility model.

6 第一項の規定による請求は、取り下げることができない。

(6) A request as under the provisions of paragraph (1) may not be withdrawn.

7 実用新案登録出願人又は実用新案権者でない者から第一項の規定による請求があつた後に、その請求に係る実用新案登録（実用新案登録出願について同項の規定による請求があつた場合におけるその実用新案登録出願に係る実用新案登録を含む。）に基づいて特許法第四十六条の二第一項の規定による特許出願がされたときは、その請求は、されなかつたものとみなす。この場合において、特許庁長官は、その旨を請求人に通知しなければならない。

(7) If after the filing of a request as under the provisions of paragraph (1) was

filed by a person that is neither the applicant for the utility model registration nor the utility model holder, a patent application as under the provisions of Article 46-2, paragraph (1) of the Patent Act is filed based on the utility model registration to which the request pertains (this includes a utility model registration linked to an application for utility model registration to which a request as under the provisions of paragraph (1) pertains), the request is deemed not to have been filed. In such a case, the Commissioner of the Patent Office must notify the person filing the request of this.

第十三条 特許庁長官は、実用新案掲載公報の発行前に実用新案技術評価の請求があつたときは当該実用新案掲載公報の発行の際又はその後遅滞なく、実用新案掲載公報の発行後に実用新案技術評価の請求があつたときはその後遅滞なく、その旨を実用新案公報に掲載しなければならない。

Article 13 (1) If a request for technical opinion about a utility model is filed prior to publication of the utility model gazette, the Commissioner of the Patent Office must publish the indication of this in the utility model gazette either at the time of publication of the relevant utility model gazette or thereafter without delay, and when such a request is filed after the publication of the utility model gazette, without delay after the publication of the utility model gazette.

2 特許庁長官は、実用新案登録出願人又は実用新案権者でない者から実用新案技術評価の請求があつたときは、その旨を実用新案登録出願人又は実用新案権者に通知しなければならない。

(2) If a request for a technical opinion about a utility model is filed by a person that is neither the person applying for a utility model registration nor the utility model holder, the Commissioner of the Patent Office must notify the person applying for the utility model registration or the utility model holder of this.

3 特許庁長官は、実用新案技術評価書の作成がされたときは、その謄本を、請求人が実用新案登録出願人又は実用新案権者であるときは請求人に、請求人が実用新案登録出願人又は実用新案権者でないときは請求人及び実用新案登録出願人又は実用新案権者に送達しなければならない。

(3) Once a written technical opinion about a utility model is prepared, the Commissioner of the Patent Office must serve a certified copy on the requester if the requester is either the person applying for the utility model registration or the utility model holder and must serve a copy of the written technical opinion about a utility model on the person applying for the utility model registration or the utility model holder, if the requester is neither the person applying for the utility model registration nor the utility model holder.

#### 第四章 実用新案権

## Chapter IV Utility Model

### 第一節 実用新案権

#### Section 1 Utility Model

(実用新案権の設定の登録)

(Registration of Establishment a Utility Model)

第十四条 実用新案権は、設定の登録により発生する。

Article 14 (1) A utility model comes into effect by virtue of the registration that establishes it.

2 実用新案登録出願があつたときは、その実用新案登録出願が放棄され、取り下げられ、又は却下された場合を除き、実用新案権の設定の登録をする。

(2) Once an application for the registration of a utility model has been filed, a registration that establishes that utility model is effected unless the application is abandoned, withdrawn or dismissed.

3 前項の登録があつたときは、次に掲げる事項を実用新案公報に掲載しなければならない。

(3) Once a registration as referred to in the preceding paragraph is effected, the following information must be stated in the utility model gazette.

一 実用新案権者の氏名又は名称及び住所又は居所

(i) the name and the address or residence of the utility model holder;

二 実用新案登録出願の番号及び年月日

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

三 考案者の氏名及び住所又は居所

(iii) the name and the address or residence of the creator of the device;

四 願書に添付した明細書及び実用新案登録請求の範囲に記載した事項並びに図面の内容

(iv) the matters indicated in the description and scope of claims for the utility model registration accompanying the request and the contents of the drawings accompanying that request;

五 願書に添付した要約書に記載した事項

(v) the matters indicated in the abstract accompanying the request;

六 登録番号及び設定の登録の年月日

(vi) the registration number and the date of the registration establishing the utility model; and

七 前各号に掲げるもののほか、必要な事項

(vii) other necessary particulars beyond what is listed in the preceding items.

4 特許法第六十四条第三項の規定は、前項の規定により同項第五号の要約書に記載した事項を実用新案公報に掲載する場合に準用する。

(4) The provisions of Article 64, paragraph (3) of the Patent Act apply mutatis mutandis if the particulars stated in the abstract referred to in item (v) of the

preceding paragraph are published in the utility model gazette under the provisions of the preceding paragraph.

(明細書、実用新案登録請求の範囲又は図面の訂正)

(Correction of the Description, Scope of Utility Model Registration Claims, and Drawings)

第十四条の二 実用新案権者は、次に掲げる場合を除き、願書に添付した明細書、実用新案登録請求の範囲又は図面の訂正を一回に限りすることができる。

Article 14-2 (1) Except in the following cases, the utility model holder may correct the description, utility model registration claims or drawings accompanying the application, but only once.

一 第十三条第三項の規定による最初の実用新案技術評価書の謄本の送達があつた日から二月を経過したとき。

(i) if two months have passed since the date on which the first Written Technical Opinion About a Utility Model was served under the provisions of Article 13, paragraph (3); and

二 実用新案登録無効審判について、第三十九条第一項の規定により最初に指定された期間を経過したとき。

(ii) the period initially designated under the provisions of Article 39, paragraph (1) for a trial for invalidation of the registration of a utility model has expired.

2 前項の訂正は、次に掲げる事項を目的とするものに限る。

(2) Any correction made under the preceding paragraph is limited to those for the following purposes:

一 実用新案登録請求の範囲の減縮

(i) restriction of the scope of utility model registration claims;

二 誤記の訂正

(ii) correction of errors;

三 明瞭でない記載の釈明

(iii) clarification of an ambiguous statement; and

四 他の請求項の記載を引用する請求項の記載を当該他の請求項の記載を引用しないものとする。

(iv) rewriting a claim that cites another claim into a claim that does not cite that other claim.

3 第一項の訂正は、願書に添付した明細書、実用新案登録請求の範囲又は図面（前項第二号に掲げる事項を目的とする訂正の場合にあつては、願書に最初に添付した明細書、実用新案登録請求の範囲又は図面）に記載した事項の範囲内においてしなければならない。

(3) Any correction as referred to in paragraph (1) must remain within the confines of the matters indicated in the description, scope of utility model registration claims and drawings accompanying the request (or, in the case of a

correction for the purpose set forth in item (ii) of the preceding paragraph, the description, utility model registration claims, and drawings originally accompanying the request).

4 第一項の訂正は、実質上実用新案登録請求の範囲を拡張し、又は変更するものであつてはならない。

(4) A correction as referred to in paragraph (1) must not substantially enlarge or alter the scope of utility model registration claims.

5 特許法第四条の規定は、第一項第一号に規定する期間に準用する。

(5) The provisions of Article 4 of the Patent Act apply mutatis mutandis to the period provided in paragraph (1), item (i).

6 第一項の訂正をする者がその責めに帰することができない理由により同項第一号に規定する期間を経過するまでにその訂正をすることができないときは、同号の規定にかかわらず、その理由がなくなつた日から十四日（在外者にあつては、二月）以内でその期間の経過後六月以内にその訂正をすることができる。

(6) Notwithstanding the provisions of item (i) of paragraph (1), if a person making a correction as referred to in paragraph (1), is unable to make that correction within the period provided for in item (i) due to reasons beyond that person's control, the person in the relevant item, the person may make the correction within 14 days (or within two month if the applicant is an overseas resident) after the date on which the reasons cease to exist, but no later than six months after the relevant period

7 実用新案権者は、第一項の訂正をする場合のほか、請求項の削除を目的とするものに限り、願書に添付した明細書、実用新案登録請求の範囲又は図面の訂正をすることができる。ただし、実用新案登録無効審判が特許庁に係属している場合において第四十一条において準用する特許法第一百五十六条第一項の規定による通知があつた後（同条第三項の規定による審理の再開がされた場合にあつては、その後更に同条第一項の規定による通知があつた後）は、願書に添付した明細書、実用新案登録請求の範囲又は図面の訂正をすることができない。

(7) Beyond the corrections referred to in paragraph (1) a utility model holder may correct the description, scope of claims for a utility model registration or drawings accompanying the application so long as this correction is made for the purpose of deleting a claim or claims; provided, however, that if a trial for invalidation of the registration of a utility model is pending before the Japan Patent Office, the description, scope of claims for a utility model registration or drawings accompanying the application may not be corrected after a notice is given under the provisions of Article 156, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 41 (or if the proceedings have been resumed under the provisions of Article 156, paragraph (3) of the Patent Act, after further notice is given under the provisions of Article 156, paragraph (1) of the Patent Act).

8 第一項及び前項の訂正は、実用新案権の消滅後においても、することができる。た

だし、実用新案登録無効審判により無効にされた後は、この限りでない。

(8) A correction as referred to in paragraph (1) or (7) may be made even after a lapse of the utility model right; provided, however, that this does not apply after if the utility model registration has been invalidated in a trial for invalidation of the registration of a utility model.

9 第一項又は第七項の訂正をするには、訂正書を提出しなければならない。

(9) A correction form must be submitted in order for a correction as referred to in paragraph (1) or (7) is to be made

10 第一項の訂正をするときは、訂正書に訂正した明細書、実用新案登録請求の範囲又は図面を添付しなければならない。

(10) The corrected description, the scope of utility model registration claims or drawings must accompany the correction form if a correction as referred to in paragraph (1) is being made.

11 第一項又は第七項の訂正があつたときは、その訂正後における明細書、実用新案登録請求の範囲又は図面により実用新案登録出願及び実用新案権の設定の登録がされたものとみなす。

(11) If a correction as referred to in under paragraph (1) or (7) is made, the filing of the application for utility model registration and the registration is deemed to be made, and the registration that establishes the utility model is deemed to be effected based on the corrected description, scope of claims for the utility model registration or drawings.

12 第一項又は第七項の訂正があつたときは、第一項の訂正にあつては訂正した明細書及び実用新案登録請求の範囲に記載した事項並びに図面の内容を、第七項の訂正にあつてはその旨を、実用新案公報に掲載しなければならない。

(12) If a correction as referred to in paragraph (1) or (7) is made, the matters indicated in the corrected description, for the scope of utility model registration claims and the contents of the corrected drawings must be published in the utility model gazette and if a correction as referred to in paragraph (7), is made an indication of this must be published in the utility model gazette..

13 特許法第二百二十七条及び第三百三十二条第三項の規定は、第一項及び第七項の場合に準用する。

(13) The provisions of Article 127 and Article 132, paragraph (3) of the Patent Act apply mutatis mutandis to the cases of paragraphs (1) and (7).

(訂正に係る補正命令)

(Order to Amend With Respect to Correction)

第十四条の三 特許庁長官は、訂正書（前条第一項の訂正に係るものに限る。）の提出があつた場合において、その訂正書に添付した訂正した明細書、実用新案登録請求の範囲又は図面の記載が次の各号のいずれかに該当するときは、相当の期間を指定して、その訂正書に添付した訂正した明細書、実用新案登録請求の範囲又は図面について補正をすべきことを命ずることができる。

Article 14-3 If a correction form (limited to a correction referred to paragraph (1) of the preceding Article) has been submitted and any particulars stated in the corrected description, scope of a utility model registration claim or drawings accompanying the correction form falls under any of the following items, the Commissioner of the Patent Office may order to make an amendment of the corrected description, scope of a utility model registration claim or drawings accompanying the correction form, designating a reasonable period:

一 その訂正書に添付した訂正した実用新案登録請求の範囲に記載されている事項により特定される考案が物品の形状、構造又は組合せに係るものでないとき。

(i) if the device identified by the matters indicated in the corrected utility model registration claims accompanying the correction form is not an device in the shape or structure of an article or combination of articles;

二 その訂正書に添付した訂正した実用新案登録請求の範囲に記載されている事項により特定される考案が第四条の規定により実用新案登録をすることができないものであるとき。

(ii) if the device identified by the matters indicated in the corrected scope of utility model registration claims accompanying to the correction form is not registrable as pursuant to the provisions of Article 4;

三 その訂正書に添付した訂正した明細書、実用新案登録請求の範囲又は図面の記載が第五条第六項第四号又は第六条に規定する要件を満たしていないとき。

(iii) if the statement of the corrected description, scope of the utility model registration claims or drawings accompanying the correction form does not satisfy the requirement provided in Article 5, paragraph (6), item (iv) or Article 6; or

四 その訂正書に添付した訂正した明細書、実用新案登録請求の範囲若しくは図面に必要な事項が記載されておらず、又はその記載が著しく不明確であるとき。

(iv) if the corrected description, scope of utility model registration claims or drawings accompanying the correction form does not indicate all the necessary matters or are extremely unclear.

(存続期間)

(Duration of a Utility Model)

第十五条 実用新案権の存続期間は、実用新案登録出願の日から十年をもつて終了する。

Article 15 The term of protection for a utility model right expires after ten years after the filing date of the application for the utility model registration.

(実用新案権の効力)

(Effect of Utility Model)

第十六条 実用新案権者は、業として登録実用新案の実施をする権利を専有する。ただし、その実用新案権について専用実施権を設定したときは、専用実施権者がその登録実用新案の実施をする権利を専有する範囲については、この限りでない。

Article 16 The utility model holder has the exclusive right to work the registered utility model in the course of trade; provided, however, that, if the holder grants an exclusive license to the utility model this does not apply inasmuch as the exclusive licensee is licensed to exclusively work the registered utility model.

(他人の登録実用新案等との関係)

(Relationship to the Registered Utility Model of Another Party)

第十七条 実用新案権者、専用実施権者又は通常実施権者は、その登録実用新案がその実用新案登録出願の日前の出願に係る他人の登録実用新案、特許発明若しくは登録意匠若しくはこれに類似する意匠を利用するものであるとき、又はその実用新案権がその実用新案登録出願の日前の出願に係る他人の意匠権若しくは商標権と抵触するときは、業としてその登録実用新案の実施をすることができない。

Article 17 It is not permissible for the utility model holder exclusive licensee, or non-exclusive licensees to work the registered utility model in the course of trade if the registered utility model uses a registered utility model, patented invention, or registered design that another person has filed an application for prior to the filing date of the application for the utility model registration in question, or uses a registered design similar thereto; or if the utility model is in conflict with design rights or rights under a trademark that another person has filed an application prior to the filing date of the application for the utility model registration in question

(実用新案権の移転の特例)

(Special Provisions on the Transfer of a Utility Model)

第十七条の二 実用新案登録が第三十七条第一項第二号に規定する要件に該当するとき（その実用新案登録が第十一条第一項において準用する特許法第三十八条の規定に違反してされたときに限る。）又は第三十七条第一項第五号に規定する要件に該当するときは、当該実用新案登録に係る考案について実用新案登録を受ける権利を有する者は、経済産業省令で定めるところにより、その実用新案権者に対し、当該実用新案権の移転を請求することができる。

Article 17-2 (1) If a utility model registration falls under the requirements prescribed in Article 37, paragraph (1), item (ii) (but only if the utility model registration has been obtained in violation of the provisions of Article 38 of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1)) or the requirements prescribed in Article 37, paragraph (1), item (v), the person with the right to obtain a utility model registration for the device under that utility model registration may demand that the utility model holder, transfer that utility model in accordance with Order of the Ministry of Economy, Trade and Industry.

2 前項の規定による請求に基づく実用新案権の移転の登録があつたときは、その実用

新案権は、初めから当該登録を受けた者に帰属していたものとみなす。

(2) If the transfer of a utility model is registered based on a demand as under the provisions of the preceding paragraph, the utility model is deemed to have belonged from the beginning to the person that has had this registered.

3 共有に係る実用新案権について第一項の規定による請求に基づきその持分を移転する場合においては、第二十六条において準用する特許法第七十三条第一項の規定は、適用しない。

(3) The provisions of Article 73, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 26 does not apply if a share of a jointly owned utility model is transferred based on a demand as under the provisions of paragraph (1).

(専用実施権)

(Exclusive Licenses)

第十八条 実用新案権者は、その実用新案権について専用実施権を設定することができる。

Article 18 (1) The utility model holder may grant an exclusive license to the utility model

2 専用実施権者は、設定行為で定めた範囲内において、業としてその登録実用新案の実施をする権利を専有する。

(2) The exclusive licensee has the exclusive right to work the registered utility model in the course of trade, within the scope specified in the contract granting the license.

3 特許法第七十七条第三項から第五項まで（移転等）、第九十七条第二項（放棄）並びに第九十八条第一項第二号及び第二項（登録の効果）の規定は、専用実施権に準用する。

(3) The provisions of Articles 77, paragraphs (3) through (5) (Transfer), Article 97, paragraph (2) (Abandonment) and Article 98, paragraph (1), item (ii) and paragraph (2) (Effect of Registration) of the Patent Act apply mutatis mutandis to exclusive licenses.

(通常実施権)

(Non-Exclusive License)

第十九条 実用新案権者は、その実用新案権について他人に通常実施権を許諾することができる。

Article 19 (1) A utility model holder may grant a non-exclusive license to the utility model to any third party.

2 通常実施権者は、この法律の規定により又は設定行為で定めた範囲内において、業としてその登録実用新案の実施をする権利を有する。

(2) A non-exclusive licensee has the right to work the registered utility model in the course of trade, pursuant to the provisions of this Act or within the scope

specified in the contract granting the license.

3 特許法第七十三条第一項（共有）、第九十七条第三項（放棄）及び第九十九条（通常実施権の対抗力）の規定は、通常実施権に準用する。

(3) The provisions of Articles 73, paragraph (1) (Joint Ownership), Article 97, paragraph (3) (Abandonment) and Article 99 (Perfection of Non-exclusive License) of the Patent Act apply mutatis mutandis to non-exclusive licenses.

（無効審判の請求登録前の実施による通常実施権）

(Non-Exclusive Licenses based on the Working of the Utility Model Prior to the Registration of the Demand for a Trial for Patent Invalidation)

第二十条 次の各号のいずれかに該当する者であつて、特許法第二百二十三条第一項の特許無効審判（以下この項において単に「特許無効審判」という。）の請求の登録前に、特許が同条第一項各号のいずれかに規定する要件に該当することを知らないで、日本国内において当該発明の実施である事業をしているもの又はその事業の準備をしているものは、その実施又は準備をしている発明及び事業の目的の範囲内において、その特許を無効にした場合における実用新案権又はその際現に存する専用実施権について通常実施権を有する。

Article 20 (1) Before a demand for a trial for patent invalidation as referred to in Article 123, paragraph (1) of the Patent Act (simply referred to in this paragraph as "trial for patent invalidation"), is registered, if a person falling under the following items has been engaging or preparing to engage in business that involves the working of an invention in Japan without knowing that the patent falls under one of the items of Article 123, paragraph (1) of the Patent Act, that person has a non-exclusive license to the utility model right or under any exclusive license existing at the time of the invalidation of the patent, but only within the scope of the invention that the person has been working or preparing to work and within the purview of that business purpose:

一 実用新案登録に係る考案と特許に係る発明とが同一である場合において、特許を無効にした場合における原特許権者

(i) the original patentee, if the device under the utility model registration and the patented invention are identical and the patent is invalidated;

二 特許を無効にしてその発明と同一の考案について正当権利者に実用新案登録をした場合における原特許権者

(ii) the original patentee, if after the patent has been invalidated, a utility model registration is granted to the person that is entitled to obtain a utility model for an device which is identical to that invention; and

三 前二号に掲げる場合において、特許無効審判の請求の登録の際現にその無効にした特許に係る特許権についての専用実施権又はその特許権若しくは専用実施権についての通常実施権を有する者

(iii) a person that, at the time the demand for the trial for patent invalidation is registered, has an exclusive license under the patent with this invalidates,

or a non-exclusive license under such a patent or exclusive license, in a case as set forth in item (i) or (ii)

2 当該実用新案権者又は専用実施権者は、前項の規定により通常実施権を有する者から相当の対価を受ける権利を有する。

(2) A utility model holder or an exclusive licensee is entitled to receive reasonable compensation from a person that holds a non-exclusive licensee pursuant to the provisions of the preceding paragraph.

(不実施の場合の通常実施権の設定の裁定)

(Award of a Non-Exclusive License if a Registered Utility Model is not Worked)

第二十一条 登録実用新案の実施が継続して三年以上日本国内において適当にされていないときは、その登録実用新案の実施をしようとする者は、実用新案権者又は専用実施権者に対し通常実施権の許諾について協議を求めることができる。ただし、その登録実用新案に係る実用新案登録出願の日から四年を経過していないときは、この限りでない。

Article 21 (1) If a registered utility model has not been sufficiently and continuously worked for three years or longer in Japan, a person seeking to work the registered utility model may request the utility model holder or exclusive licensee to hold discussions toward an agreement to grant of a non-exclusive license; provided, however, that this does not apply unless four years have passed since the filing date of the application based on which the utility model registration was granted.

2 前項の協議が成立せず、又は協議をすることができないときは、その登録実用新案の実施をしようとする者は、特許庁長官の裁定を請求することができる。

(2) If the agreement referred to in the preceding paragraph is not reached or if discussions toward such an agreement cannot be held, the person seeking to work the registered utility model may file a request to be awarded a non-exclusive license by the Commissioner of the Patent Office.

3 特許法第八十四条から第九十一条の二まで（裁定の手續等）の規定は、前項の裁定に準用する。

(3) The provisions of Articles 84 through 91-2 (Procedures in Connection with an Award) of the Patent Act apply mutatis mutandis to the award referred to in the preceding paragraph.

(自己の登録実用新案の実施をするための通常実施権の設定の裁定)

(Award Granting a Person a Non-Exclusive License to Work the Person's Own Registered Utility Model)

第二十二条 実用新案権者又は専用実施権者は、その登録実用新案が第十七条に規定する場合に該当するときは、同条の他人に対しその登録実用新案の実施をするための通常実施権又は特許権若しくは意匠権についての通常実施権の許諾について協議を求めることができる。

Article 22 (1) If a registered utility model falls under any of the cases provided for in Article 17, the utility model holder or exclusive licensee may request the other person referred to in that Article to hold discussions towards an agreement to grant the holder or exclusive licensee a non-exclusive license under the person's patent or design right.

2 前項の協議を求められた第十七条の他人は、その協議を求めた実用新案権者又は専用実施権者に対し、これらの者がその協議により通常実施権又は特許権若しくは意匠権についての通常実施権の許諾を受けて実施をしようとする登録実用新案の範囲内において、通常実施権の許諾について協議を求めることができる。

(2) If requested to hold discussions towards an agreement as referred to in the preceding paragraph, the other person that is referred to in Article 17 may request the utility model holder or the exclusive licensee that is requesting that person's agreement to hold discussions toward an agreement to grant the person a non-exclusive license within the scope of the registered utility model that the holder or exclusive licensee seeks to work as a result of the person's agreement to grant a non-exclusive license to the relevant utility model or under the relevant patent or design rights.

3 第一項の協議が成立せず、又は協議をすることができないときは、実用新案権者又は専用実施権者は、特許庁長官の裁定を請求することができる。

(3) If the agreement is referred to in paragraph (1), is not reached or if discussions toward such an agreement cannot be held, the utility model holder or the exclusive licensee may file a request to be awarded a non-exclusive license by the Commissioner of the Patent Office for a ruling.

4 第二項の協議が成立せず、又は協議をすることができない場合において、前項の裁定の請求があつたときは、第十七条の他人は、第七項において準用する特許法第八十四条の規定によりその者が答弁書を提出すべき期間として特許庁長官が指定した期間内に限り、特許庁長官の裁定を請求することができる。

(4) If the agreement referred to in paragraph (2) is not reached or discussions toward such an agreement cannot be held and a request for an award as referred to in the preceding paragraph is filed, the other person that is referred to in Article 17 may file a request to be awarded a non-exclusive license by the Commissioner of the Patent Office, but only within the period that the commissioner has designated for the person to submit a written answer, pursuant to Article 84 of the Patent Act as applied mutatis mutandis pursuant to paragraph (7).

5 特許庁長官は、第三項又は前項の場合において、当該通常実施権を設定することが第十七条の他人又は実用新案権者若しくは専用実施権者の利益を不当に害することとなるときは、当該通常実施権を設定すべき旨の裁定をすることができない。

(5) In a case as referred to in paragraph (3) or (4), the Commissioner of the Patent Office may not render an award granting a non-exclusive license if granting the non-exclusive license would be unreasonably prejudicial to the

interests of the other person that is referred to in Article 17, the utility model holder, or the exclusive licensee.

6 特許庁長官は、前項に規定する場合のほか、第四項の場合において、第三項の裁定の請求について通常実施権を設定すべき旨の裁定をしないときは、当該通常実施権を設定すべき旨の裁定をすることができない。

(6) In the case of paragraph (4), beyond the case provided in the preceding paragraph, the Commissioner of the Patent Office may not render a ruling ordering a non-exclusive license to be established if the ruling ordering the non-exclusive license to be established is not rendered with respect to the request for ruling referred to in paragraph (3).

7 特許法第八十四条、第八十四条の二、第八十五条第一項及び第八十六条から第九十一条の二まで（裁定の手續等）の規定は、第三項又は第四項の裁定に準用する。

(7) The provisions of Articles 84, 84-2, Article 85, paragraph (1) and Articles 86 through 91-2 (Procedures in Connection with an Award) of the Patent Act apply mutatis mutandis to an award as referred to in paragraph (3) or (4).

（公共の利益のための通常実施権の設定の裁定）

(Granting a Non-Executive License Award in the Public Interest)

第二十三条 登録実用新案の実施が公共の利益のため特に必要であるときは、その登録実用新案の実施をしようとする者は、実用新案権者又は専用実施権者に対し通常実施権の許諾について協議を求めることができる。

Article 23 (1) If the working of a registered utility model is particularly necessary to the public interest, a person seeking to work the registered utility model may request the utility model holder or exclusive licensee to hold discussions toward an agreement to grant the person a non-exclusive license.

2 前項の協議が成立せず、又は協議をすることができないときは、その登録実用新案の実施をしようとする者は、経済産業大臣の裁定を請求することができる。

(2) If the agreement referred to in the preceding paragraph, is not reached or discussions towards such an agreement cannot held, the person seeking to work the registered utility model may file a request to be awarded a non-exclusive license by the Minister of Economy, Trade and Industry for a ruling.

3 特許法第八十四条、第八十四条の二、第八十五条第一項及び第八十六条から第九十一条の二まで（裁定の手續等）の規定は、前項の裁定に準用する。

(3) The provisions of Articles 84, 84-2, Article 85, paragraph (1) and Articles 86 through 91-2 (Procedures in Connection with an Award) of the Patent Act apply mutatis mutandis to an award as referred to in the preceding paragraph.

（通常実施権の移転等）

(Transfer of a Non-Exclusive License)

第二十四条 通常実施権は、第二十一条第二項、第二十二条第三項若しくは第四項若しくは前条第二項、特許法第九十二条第三項又は意匠法第三十三条第三項の裁定による

通常実施権を除き、実施の事業とともにする場合、実用新案権者（専用実施権についての通常実施権にあつては、実用新案権者及び専用実施権者）の承諾を得た場合及び相続その他の一般承継の場合に限り、移転することができる。

Article 24 (1) With the exception of a non-exclusive license under an award as referred to in Article 21, paragraph (2), Article 22, paragraph (3) or (4), or Article 23, paragraph (2), Article 92, paragraph (3) of the Patent Act or Article 33, paragraph (3) of the Design Act, a non-exclusive license may be transferred only if the business linked to the working of the relevant registered utility model is also transferred, with the consent of the holder of a utility model holder (or, if it is a non-exclusive license with regard to the exclusive license, the holder of utility model right and the exclusive licensee) is obtained or when the transfer occurs as a result of inheritance or another general succession.

2 通常実施権者は、第二十一条第二項、第二十二条第三項若しくは第四項若しくは前条第二項、特許法第九十二条第三項又は意匠法第三十三条第三項の裁定による通常実施権を除き、実用新案権者（専用実施権についての通常実施権にあつては、実用新案権者及び専用実施権者）の承諾を得た場合に限り、その通常実施権について質権を設定することができる。

(2) With the exception of a non-exclusive license under an award as referred to in Article 21, paragraph (2), Article 22, paragraph (3) or (4), or Article 23, paragraph (2), Article 92, paragraph (3) of the Patent Act or Article 33, paragraph (3) of the Design Act, a non-exclusive licensee may establish a right of pledge with regard on the non-exclusive license only with the consent of the utility model holder (or, if it is a non-exclusive license under an exclusive license, the consent of the utility model holder and the exclusive licensee).

3 第二十一条第二項又は前条第二項の裁定による通常実施権は、実施の事業とともにする場合に限り、移転することができる。

(3) A non-exclusive license under an award as referred to in Article 21, paragraph (2) or Article 23, paragraph (2) may be transferred only if the business linked to the working of the relevant registered utility model is also transferred.

4 第二十二条第三項、特許法第九十二条第三項又は意匠法第三十三条第三項の裁定による通常実施権は、その通常実施権者の当該実用新案権、特許権又は意匠権が実施の事業とともに移転したときはこれらに従つて移転し、その実用新案権、特許権又は意匠権が実施の事業と分離して移転したとき、又は消滅したときは消滅する。

(4) A non-exclusive license under an award as referred to in Article 22, paragraph (3) of this Act, Article 92, paragraph (3) of the Patent Act, or Article 33, paragraph (3) of the Design Act, is transferred if the utility model, patent, or design right under which the non-exclusive licensee licensed is transferred together with the business linked to the work; and is extinguished if that utility model, patent, or design right is transferred independently of the business linked to the work.

5 第二十二條第四項の裁定による通常実施権は、その通常実施権者の当該実用新案権、特許権又は意匠権に従つて移転し、その実用新案権、特許権又は意匠権が消滅したときは消滅する。

(5) A non-exclusive license under an award as referred to in Article 22, paragraph (4) is transferred together with the utility model, patent right or design right under which the non-exclusive licensee is licensed and is extinguished if the utility model, patent, or design right is extinguished.

(質権)

(Right of Pledge)

第二十五條 実用新案権、専用実施権又は通常実施権を目的として質権を設定したときは、質権者は、契約で別段の定をした場合を除き、当該登録実用新案の実施をすることができない。

Article 25 (1) Unless otherwise stipulated by contract, if a right of pledge is established on a utility model, exclusive license or non-exclusive license, the pledgee may not work the registered utility model.

2 特許法第九十六條（物上代位）の規定は、実用新案権、専用実施権又は通常実施権を目的とする質権に準用する。

(2) The provisions of Article 96 (Extension of a Right of Pledge to the Proceeds of the Patent Right) of the Patent Act apply mutatis mutandis to a right of pledge established on a utility model right, exclusive license or non-exclusive license.

3 特許法第九十八條第一項第三号及び第二項（登録の効果）の規定は、実用新案権又は専用実施権を目的とする質権に準用する。

(3) The provisions of Article 98, paragraph (1), item (iii) and paragraph (2) (Effect of Registration) of the Patent Act apply mutatis mutandis to a right of pledge established on a utility model or exclusive license.

(特許法の準用)

(Application Mutatis Mutandis of the Patent Act)

第二十六條 特許法第六十九條第一項及び第二項、第七十條から第七十一條の二まで（特許権の効力が及ばない範囲及び特許発明の技術的範囲）、第七十三條（共有）、第七十六條（相続人がない場合の特許権の消滅）、第七十九條（先使用による通常実施権）、第七十九條の二（特許権の移転の登録前の実施による通常実施権）、第八十一條、第八十二條（意匠権の存続期間満了後の通常実施権）、第九十七條第一項（放棄）並びに第九十八條第一項第一号及び第二項（登録の効果）の規定は、実用新案権に準用する。

Article 26 The provisions of Articles 69, paragraphs (1) and (2) and Articles 70 through 71-2 (Limitations of a Patent Right and Technical scope of a Patented Invention), Article 73 (Joint Ownership), Article 76 (Expiration of a Patent in Absence of an Heir), Article 79 (Non-exclusive License Based on Prior Use), Article 79-2 (Non-exclusive License Based on the Working of the Invention

Prior to the Registration of the Transfer of a Patent Right), Articles 81 and 82 (Non-exclusive Licenses after the Expiration of the Term of a Design Right), Article 97, paragraph (1) (Abandonment), and Article 98, paragraph (1), items (i) and (ii) (Effect of Registration) apply mutatis mutandis to utility models.

## 第二節 権利侵害

### Section 2 Infringement of Rights

(差止請求権)

(Right to an Injunction)

第二十七条 実用新案権者又は専用実施権者は、自己の実用新案権又は専用実施権を侵害する者又は侵害するおそれがある者（以下「侵害者等」という。）に対し、その侵害の停止又は予防を請求することができる。

Article 27 (1) A utility model holder or an exclusive licensee may file a claim against a person that infringes or is likely to infringe the utility model or exclusive license (hereinafter referred to as the "infringer") to cease or prevent the infringement.

2 実用新案権者又は専用実施権者は、前項の規定による請求をするに際し、侵害の行為を組成した物（プログラム等（特許法第二条第四項に規定するプログラム等をいう。次条において同じ。）を含む。以下同じ。）の廃棄、侵害の行為に供した設備の除却その他の侵害の予防に必要な行為を請求することができる。

(2) In filing the claim under the provisions of the preceding paragraph, the utility model holder or exclusive licensee may request measures necessary for the prevention of such an infringement including the disposal of articles constituting such an act of infringement (including a computer program, etc. (meaning a computer program, etc. provided in Article 2, paragraph (4) of the Patent Act, the same applies in the following Article), the same applies hereinafter), the removal of facilities used for the act of infringement and other necessary measures.

(侵害とみなす行為)

(Acts Deemed to Constitute Infringement)

第二十八条 次に掲げる行為は、当該実用新案権又は専用実施権を侵害するものとみなす。

Article 28 The following acts are deemed to constitute the infringement of a utility model or exclusive license:

一 業として、登録実用新案に係る物品の製造にのみ用いる物の生産、譲渡等（譲渡及び貸渡しをいい、その物がプログラム等である場合には、電気通信回線を通じた提供を含む。以下同じ。）若しくは輸入又は譲渡等の申出（譲渡等のための展示を含む。以下同じ。）をする行為

(i) producing an article whose only use is in the manufacture of the product

covered by the registered utility model, transferring ownership, etc. of such an article (meaning transferring ownership of it or lending it out; this includes providing it through a telecommunications line, if it is a computer program, etc., the same applies hereinafter), importing it, or offering to transfer ownership, etc. of it (including displaying it with the objective of transferring ownership, etc. of it; the same applies hereinafter) in the course of trade:

二 登録実用新案に係る物品の製造に用いる物（日本国内において広く一般に流通しているものを除く。）であつてその考案による課題の解決に不可欠なものにつき、その考案が登録実用新案であること及びその物がその考案の実施に用いられることを知りながら、業として、その生産、譲渡等若しくは輸入又は譲渡等の申出をする行為

(ii) producing, transferring ownership, etc. of importing, or offering to transfer ownership, etc. in the course of trade, of an article (other than one that is widely distributed within Japan) that is used in the manufacture of the product covered by the registered utility model, and that is essential in enabling the device to solve the problem it solves, knowing that the relevant device is a registered utility model and that the article is used in working of the device;

三 登録実用新案に係る物品を業としての譲渡、貸渡し又は輸出のために所持する行為

(iii) possessing the product covered by the registered utility model with the objective of transferring ownership of it, lending it out, or exporting it.

(損害の額の推定等)

(Estimation of Losses)

第二十九条 実用新案権者又は専用実施権者が故意又は過失により自己の実用新案権又は専用実施権を侵害した者に対しその侵害により自己が受けた損害の賠償を請求する場合において、その者がその侵害の行為を組成した物品を譲渡したときは、その譲渡した物品の数量（以下この項において「譲渡数量」という。）に、実用新案権者又は専用実施権者がその侵害の行為がなければ販売することができた物品の単位数量当たりの利益の額を乗じて得た額を、実用新案権者又は専用実施権者の実施の能力に応じた額を超えない限度において、実用新案権者又は専用実施権者が受けた損害の額とすることができる。ただし、譲渡数量の全部又は一部に相当する数量を実用新案権者又は専用実施権者が販売することができないとする事情があるときは、当該事情に相当する数量に応じた額を控除するものとする。

Article 29 (1) If a utility model holder or exclusive licensee claims compensation for damage that the utility model holder or exclusive licensee personally incurs due to infringement, against a person that, intentionally or due to negligence, infringes the utility model or exclusive license, and the infringer has transferred ownership of articles that infringe the amount calculated by,

multiplying the number of articles transferred (hereinafter referred to in this paragraph as the "number transferred") by the amount of profit per unit from the products that the holder or exclusive licensee could have sold if there had been no infringement, may be fixed as the value of the damage that the utility model holder or exclusive licensee has incurred, within the limits of an amount proportionate to the ability of the holder or the exclusive licensee to work the device; provided, however, that if there are circumstances due to which the holder or the exclusive licensee would have been unable to sell the assigned quantity in whole or in part, an amount proportionate to the number of products that could not have been sold due to such circumstances is to be deducted from the value of the domestic dispute.

2 実用新案権者又は専用実施権者が故意又は過失により自己の実用新案権又は専用実施権を侵害した者に対しその侵害により自己が受けた損害の賠償を請求する場合において、その者がその侵害の行為により利益を受けているときは、その利益の額は、実用新案権者又は専用実施権者が受けた損害の額と推定する。

(2) If a utility model holder or an exclusive licensee claims compensation for damage that the utility model holder or exclusive licensee personally incurs due to infringement, against a person that, intentionally or due to negligence, infringes the utility model or exclusive license, and the infringer has made a profit from infringement, the amount of profit is presumed to be the value of the damage incurred by the utility model holder or exclusive business.

3 実用新案権者又は専用実施権者は、故意又は過失により自己の実用新案権又は専用実施権を侵害した者に対し、その登録実用新案の実施に対し受けるべき金銭の額に相当する額の金銭を、自己が受けた損害の額としてその賠償を請求することができる。

(3) If a utility model right exclusive licensee claims compensation for damage that the utility model or exclusive licensee personally incurs due to infringement against a person that, intentionally or due to negligence, and the infringes the utility model or exclusive license, and the infringer has made a profit from the infringement, the amount of the profit is presumed to be the value of the damage incurred by the utility model holder or exclusive licensee.

4 前項の規定は、同項に規定する金額を超える損害の賠償の請求を妨げない。この場合において、実用新案権又は専用実施権を侵害した者に故意又は重大な過失がなかつたときは、裁判所は、損害の賠償の額を定めるについて、これを参酌することができる。

(4) The provisions of the preceding paragraph do not preclude a claim for compensation of damages exceeding the amount provided therein. In such a case, the court may consider the absence of intent or gross negligence by the person that has infringed the utility model or exclusive license, in determining the amount of compensation.

(実用新案技術評価書の提示)

(Presentation of a Written Technical Opinion About a Utility Model)

第二十九条の二 実用新案権者又は専用実施権者は、その登録実用新案に係る実用新案技術評価書を提示して警告をした後でなければ、自己の実用新案権又は専用実施権の侵害者等に対し、その権利を行使することができない。

Article 29-2 A utility model holder or exclusive licensee may not exercise the utility model or exclusive license against an infringer, etc. until after having warned the infringer, etc. by presenting the Written Technical Opinion About the Utility Model for that registered utility model.

(実用新案権者等の責任)

(Liability of the Utility Model Holder)

第二十九条の三 実用新案権者又は専用実施権者が侵害者等に対しその権利を行使し、又はその警告をした場合において、実用新案登録を無効にすべき旨の審決（第三十七条第一項第六号に掲げる理由によるものを除く。）が確定したときは、その者は、その権利の行使又はその警告により相手方に与えた損害を賠償する責めに任ずる。ただし、実用新案技術評価書の実用新案技術評価（当該実用新案登録出願に係る考案又は登録実用新案が第三条第一項第三号及び第二項（同号に掲げる考案に係るものに限る。）、第三条の二並びに第七条第一項から第三項まで及び第六項の規定により実用新案登録をすることができない旨の評価を受けたものを除く。）に基づきその権利を行使し、又はその警告をしたとき、その他相当の注意をもってその権利を行使し、又はその警告をしたときは、この限りでない。

Article 29-3 (1) If a trial decision invalidating a utility model registration (other than one rendered on the grounds set forth in Article 37, paragraph (1), item (vi)) becomes final and binding after the holder of a utility model holder or exclusive licensee exercises rights against an infringer, etc., or warns the infringer, etc. of the same, the holder or exclusive licensee is liable to compensate for damage incurred by the other party as a result of the exercise of those rights or as a result of the warning; provided, however, that this does not apply if the holder or exclusive licensee exercises those rights or gives warning of the same based on the technical opinion about a utility model that is given in the written technical opinion about the utility model (other than the opinion that the device claimed in the application for utility model registration or the registered utility model cannot be registered pursuant to the provisions of Article 3, paragraph (1), item (iii) and paragraph (2) (this is limited to an opinion about an device as set forth in Article 3-2, and Article 7, paragraphs (1) through (3) and (6)) or with other reasonable care in exercising those rights or in giving warning of the same.

2 前項の規定は、実用新案登録出願の願書に添付した明細書、実用新案登録請求の範囲又は図面についてした第十四条の二第一項又は第七項の訂正により実用新案権の設定の登録の際における実用新案登録請求の範囲に記載された考案の範囲に含まれないこととなつた考案についてその権利を行使し、又はその警告をした場合に準用する。

(2) The provisions of the preceding paragraph apply mutatis mutandis if the utility model holder or the exclusive licensee exercises rights, or gives warning of the same with respect to an device that has come to fall outside the confines of what is described in the utility model registration claims at the time of the registration that establishes the utility model, due to a correction as referred to in Article 14-2, paragraph (1) or (7) that is made to description, utility model claims, or drawings accompanying the request in the application for the utility model registration.

(特許法の準用)

(Application Mutatis Mutandis of the Patent Act)

第三十条 特許法第百四条の二から第百六条まで（具体的態様の明示義務、特許権者等の権利行使の制限、主張の制限、書類の提出等、損害計算のための鑑定、相当な損害額の認定、秘密保持命令、秘密保持命令の取消し、訴訟記録の閲覧等の請求の通知等、当事者尋問等の公開停止及び信用回復の措置）の規定は、実用新案権又は専用実施権の侵害に準用する。この場合において、同法第百四条の四中「次に掲げる決定又は審決が確定した」とあるのは「第一号に掲げる審決が確定した又は第三号に掲げる訂正があつた」と、「当該決定又は審決が確定した」とあるのは「当該審決が確定した又は訂正があつた」と、同条第三号中「訂正をすべき旨の決定又は審決」とあるのは「実用新案法第十四条の二第一項又は第七項の訂正」と読み替えるものとする。

Article 30 The provisions of Articles 104-2 through 106 (Duty to Clarify the Specific Circumstances; Restriction on Exercise of Rights by the Patentee; Restriction on Assertion; Submission of Documents; Expert Opinion for Calculation of Damage; Approval of a Reasonable Amount as the Value of Damages; Confidentiality Protective Orders; Notice of a Request for Inspection of Record; Ban on Open Examination of Parties; and Measures to Restore Credibility) of the Patent Act apply mutatis mutandis to infringement of utility model or exclusive license. In this case, the terms "the following decision or trial decision has become final and binding" and "the relevant decision or trial decisions becomes final and binding" in Article 104-4 of that Act is deemed to be replaced with "the trial decision set forth in item (i) becomes final and binding, or the correction set forth in item (iii) is made" and the phrase "the relevant trial decision has become final and binding, or that a correction has been made," respectively, and the phrase "a decision or a trial decision as provided by Cabinet Order correcting the description" in item (iii) of the relevant Article is deemed to be replaced with "a correction referred to in Article 14-2, paragraph (1) or (7) of the Utility Model Act and as provided by Cabinet Order, to the description."

### 第三節 登録料

### Section 3 Registration Fees

(登録料)

**(Registration Fees)**

第三十一条 実用新案権の設定の登録を受ける者又は実用新案権者は、登録料として、実用新案権の設定の登録の日から第十五条に規定する存続期間の満了の日までの各年について、一件ごとに、次の表の上欄に掲げる区分に従い同表の下欄に掲げる金額を納付しなければならない。

Article 31 (1) The person obtaining the registration that establishes a utility model or the utility model holder must pay the amount listed in the lower column of the following table in accordance with the term set forth in the upper column as a registration fee, for each registered utility model and in each year from the date of the registration that establishes the utility model to the expiration of the duration of protection prescribed in Article 15:

各年の区分 Period within term	金額 Amount
第一年から第三年まで First to third year	毎年二千百円に一請求項につき百円を加えた額 Annually 2,100 yen plus 100 yen per claim
第四年から第六年まで Fourth to sixth year	毎年六千百円に一請求項につき三百円を加えた額 Annually 6,100 yen plus 300 yen per claim
第七年から第十年まで Seventh to tenth year	毎年一万八千百円に一請求項につき九百円を加えた額 Annually 18,100 yen plus 900 yen per claim

2 前項の規定は、国に属する実用新案権には、適用しない。

(2) The provisions of the preceding paragraph do not apply to a utility model that belongs to the national government.

3 第一項の登録料は、実用新案権が国又は第三十二条の二の規定若しくは他の法令の規定による登録料の軽減若しくは免除（以下この項において「減免」という。）を受ける者を含む者の共有に係る場合であつて持分の定めがあるときは、第一項の規定にかかわらず、国以外の各共有者ごとに同項に規定する登録料の金額（減免を受ける者にあつては、その減免後の金額）にその持分の割合を乗じて得た額を合算して得た額とし、国以外の者がその額を納付しなければならない。

(3) Notwithstanding the provisions of paragraph (1), if a utility model is held under joint ownership with the national government or with a person or persons receiving a reduction in or exemption from the registration fees as under Article 32-2 or the provisions of any other laws and regulations (hereinafter referred to as a "Reduction or Exemption"), and the joint owners'

shares have been agreed upon the amount of the registration fee provided for in paragraph (1) is the sum total calculated by first multiplying, for each joint owner other than the national government, the applicable patent fee provided for in that paragraph (for a person receiving a reduction or exemption, this means the amount of the registration fee provided for in that paragraph after deducting the reduction or exemption) by the percentage that represents that person's share, and then adding together the amounts so arrived at and this sum total is the amount that the persons other than the national government must pay.

4 前項の規定により算定した登録料の金額に十円未満の端数があるときは、その端数は、切り捨てる。

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

5 第一項の登録料の納付は、経済産業省令で定めるところにより、特許印紙をもつてしなければならない。ただし、経済産業省令で定める場合には、経済産業省令で定めるところにより、現金をもつて納めることができる。

(5) Payment for a registration fee referred to in paragraph (1) must be made with patent revenue stamps, pursuant to Order of the Ministry of Economy, Trade and Industry; provided, however, that if so stipulated by Order of the Ministry of Economy, Trade and Industry, a payment in cash thereof may be made.

(登録料の納付期限)

(Due Date for the Payment of Registration Fees)

第三十二条 前条第一項の規定による第一年から第三年までの各年分の登録料は、実用新案登録出願と同時に（第十条第一項若しくは第二項の規定による出願の変更又は第十一条第一項において準用する特許法第四十四条第一項の規定による出願の分割があつた場合にあつては、その出願の変更又は出願の分割と同時に）一時に納付しなければならない。

Article 32 (1) The registration fees for all years from the first year to the third year as under the provisions of Article 31, paragraph (1) must be paid in a lump sum at the same time as the filing of the application for utility model registration (or, in cases when an application is converted as under Article 10, paragraph (1) or (2) or is divided under the provisions of Article 44, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1), at the same time of the conversion or division of the application).

2 前条第一項の規定による第四年以後の各年分の登録料は、前年以前に納付しなければならない。

(2) The registration fees for each of the fourth to subsequent years as under the provisions of Article 31, paragraph (1) must be paid by the end of the previous year.

3 特許庁長官は、登録料を納付すべき者の請求により、三十日以内を限り、第一項に

規定する期間を延長することができる。

(3) At the request from the person that is to pay the registration fee the Commissioner of the Patent Office may extend the due date provided for in paragraph (1) by up to 30 days.

4 登録料を納付する者がその責めに帰することができない理由により前項の規定により延長された期間内にその登録料を納付することができないときは、第一項及び前項の規定にかかわらず、その理由がなくなつた日から十四日（在外者にあつては、二月）以内でその期間の経過後六月以内にその登録料を納付することができる。

(4) Notwithstanding the provisions of paragraphs (1) and (3), due to reasons beyond the control of the person who is to pay the registration fee, if the person is unable to pay the registration fee within the extended period under the provisions of the preceding paragraph, the person may pay the registration fee within 14 days (within two months, if the applicant is an overseas resident) from the date on which the reasons ceased to exist, but not later than six months after the relevant period lapsed.

（登録料の減免又は猶予）

(Reduction, Exemption or Deferment of Registration Fees)

第三十二条の二 特許庁長官は、第三十一条第一項の規定による第一年から第三年までの各年分の登録料を納付すべき者がその実用新案登録出願に係る考案の考案者又はその相続人である場合において貧困により登録料を納付する資力がないと認めるときは、政令で定めるところにより、登録料を軽減し若しくは免除し、又はその納付を猶予することができる。

Article 32-2 If the person that is responsible for paying the registration fees for all years from the first year to the third year as under the provisions of Article 31, paragraph (1) is the creator of the device claimed in the application for a utility model registration or the creator's heir, and the Commissioner of the Patent Office finds that the person is having difficulty paying the registration fees due to f, the Commissioner of the Patent Office may reduce the registration fees,, exempt the person from paying those registration fees, or give the person a deferment for the payment of those registration fees as prescribed by Cabinet Order.

（登録料の追納）

(Late Payment of Registration Fees)

第三十三条 実用新案権者は、第三十二条第二項に規定する期間又は前条の規定による納付の猶予後の期間内に登録料を納付することができないときは、その期間が経過した後であつても、その期間の経過後六月以内にその登録料を追納することができる。

Article 33 (1) If the utility model holder is unable to pay a registration fee within the frame provided for in Article 32, paragraph (2) or the time frame for deferred payment as under the provisions of Article 32-2, the holder may make

a late payment for the registration fee even after the end of that time frame, if this is done within six months after the end of that time frame..

2 前項の規定により登録料を追納する実用新案権者は、第三十一条第一項の規定により納付すべき登録料のほか、その登録料と同額の割増登録料を納付しなければならない。

(2) A utility model holder making a late payment for a registration fee pursuant to the provisions of the preceding paragraph must pay, a registration surcharge in the same amount as the registration fee, beyond the registration fee to be paid pursuant to Article 31, paragraph (1).

3 前項の割増登録料の納付は、経済産業省令で定めるところにより、特許印紙をもつてしなければならない。ただし、経済産業省令で定める場合には、経済産業省令で定めるところにより、現金をもつて納めることができる。

(3) Payment for a registration surcharge referred to in the preceding paragraph must be made with patent revenue stamps, pursuant to Order of the Ministry of Economy, Trade and Industry; provided, however, if so specified by Order of the Ministry of Economy, Trade and Industry, a cash payment may be made.

4 実用新案権者が第一項の規定により登録料を追納することができる期間内に第三十一条第一項の規定による第四年以後の各年分の登録料及び第二項の割増登録料を納付しないときは、その実用新案権は、第三十二条第二項に規定する期間の経過の時にさかのぼって消滅したものとみなす。

(4) If a utility model holder fails to pay a registration fee in the fourth or subsequent year and the registration surcharge referred to paragraph (1), within the time frame during which the holder is permitted to make a late payment for a registration fee pursuant to the provisions of Article 31, paragraph (1) and the registration surcharge referred to in paragraph (2), the utility model right is deemed to have been extinguished retroactively upon the expiration of the period provided in Article 32, paragraph (2).

5 実用新案権者が第一項の規定により登録料を追納することができる期間内に前条の規定により納付が猶予された登録料及び第二項の割増登録料を納付しないときは、その実用新案権は、初めから存在しなかつたものとみなす。

(5) If the utility model holder fails to pay a registration fee whose payment has been deferred pursuant to Article 32-2 and the registration surcharge referred to in paragraph (2) within the time frame during which the holder is permitted to make a late payment for a registration fee pursuant to the provisions of paragraph (1), the utility model is deemed never to have existed.

(登録料の追納による実用新案権の回復)

(Restoration of A Utility Model By Late Payment of Registration Fees)

第三十三条の二 前条第四項の規定により消滅したものとみなされた実用新案権又は同条第五項の規定により初めから存在しなかつたものとみなされた実用新案権の原実用新案権者は、同条第一項の規定により登録料を追納することができる期間内に同条第

四項又は第五項に規定する登録料及び割増登録料を納付することができなかつたことについて正当な理由があるときは、その理由がなくなつた日から二月以内でその期間の経過後一年以内に限り、その登録料及び割増登録料を追納することができる。

Article 33-2 (1) If the original holder of the utility model that is deemed to have been forfeited pursuant to Article 33, paragraph (4), or that is deemed never to have existed pursuant to Article 33, paragraph (5) has a legitimate reason for not having been able to pay the relevant fee and the registration surcharge provided in Article 33, paragraph (4) or (5) within the time frame during which the holder is permitted to make a late payment for a registration fee pursuant to Article 33, paragraph (1), the original holder may make a late payment for the registration fee and the surcharge within two months after the date on which that reason ceases to exist, but not later than one year after the end of the relevant time frame;

2 前項の規定による登録料及び割増登録料の追納があつたときは、その実用新案権は、第三十二条第二項に規定する期間の経過の時にさかのぼつて存続していたもの又は初めから存在していたものとみなす。

(2) If the registration fees and the registration surcharge are paid under the preceding paragraph, the utility model is deemed to have continued retroactive from the time frame ended as provided in Article 32, paragraph (2) or to have existed from the beginning.

(回復した実用新案権の効力の制限)

(Restriction on the Effect of a Restored Utility Model)

第三十三条の三 前条第二項の規定により実用新案権が回復したときは、その実用新案権の効力は、第三十三条第一項の規定により登録料を追納することができる期間の経過後実用新案権の回復の登録前に輸入し、又は日本国内において製造し、若しくは取得した当該登録実用新案に係る物品には、及ばない。

Article 33-3 (1) If a utility model is restored pursuant to paragraph (2) of the preceding Article, the utility model is not effective against an article covered by the registered utility model which was imported into or manufactured or acquired within Japan after the end of the time frame during which the holder is permitted to make a late payment for registration fees pursuant to Article 33, paragraph (1) and before the restoration of the utility model is registered.

2 前条第二項の規定により回復した実用新案権の効力は、第三十三条第一項の規定により登録料を追納することができる期間の経過後実用新案権の回復の登録前における次に掲げる行為には、及ばない。

(2) A utility model restored pursuant to paragraph (2) of the preceding Article is not effective on the following actions as performed after the end of the time frame during which the holder is permitted to make a late payment for a registration fee pursuant to Article 33, paragraph (1) and before the restoration of the utility model is registered:

一 当該考案の実施

(i) working the device;

二 当該登録実用新案に係る物品の製造に用いる物の生産、譲渡等若しくは輸入又は譲渡等の申出をした行為

(ii) producing, transferring ownership, etc. of, importing, or offering to transfer ownership, etc. of an article used to make the product covered by the registered utility model; and

三 当該登録実用新案に係る物品を譲渡、貸渡し又は輸出のために所持した行為

(iii) possessing the product covered by the registered utility model with the objective of transferring ownership of it, lending it out or exporting it.

(既納の登録料の返還)

(Refunding of Registration Fees)

第三十四条 既納の登録料は、次に掲げるものに限り、納付した者の請求により返還する。

Article 34 (1) The following registration fees are from the person who paid them:

一 過誤納の登録料

(i) registration fees paid in error or in excess;

二 実用新案登録出願を却下すべき旨の処分が確定した場合の登録料

(ii) the registration fee in a case in which a disposition dismissing the application for utility model registration becomes final and binding;

三 実用新案登録を無効にすべき旨の審決が確定した年の翌年以後の各年分の登録料  
(iii) annual registration fees for each year following that in which a trial decision invalidating the utility model registration becomes final and binding; and

四 実用新案権の存続期間の満了の日の属する年の翌年以後の各年分の登録料

(iv) annual registration fees for each year following that in which the term of protection for the utility model expires.

2 前項の規定による登録料の返還は、同項第一号の登録料については納付した日から一年、同項第二号又は第三号の登録料についてはそれぞれ処分又は審決が確定した日から六月、同項第四号の登録料については実用新案権の設定の登録があつた日から一年を経過した後は、請求することができない。

(2) A request for a refund of a registration fee as under the provisions of the preceding paragraph may not be filed once one year has passed since the date that the registration fee referred to in item (i) above, of the preceding paragraph was paid; once six months have passed since the date on which the disposition or trial decision became final and binding in respect of a registration fee referred to in item (ii) or (iii) of that paragraph; or once one year has passed since the date on which the registration is made establishing the utility model in respect of a registration fee referred to in item (iv) of that paragraph.

3 第一項の規定による登録料の返還を請求する者がその責めに帰することができない理由により前項に規定する期間内にその請求をすることができないときは、同項の規定にかかわらず、その理由がなくなつた日から十四日（在外者にあつては、二月）以内でその期間の経過後六月以内にその請求をすることができる。

(3) When a person requesting the refund of the registration fee pursuant to the provisions of paragraph (1) cannot make a request within the time requested prescribed in the preceding paragraph for reasons beyond the control of the person, notwithstanding the provisions of paragraph (1), the person may file a request within 14 days (within two months for overseas residents) from the date in which the reason no longer applies, but no later than six months after the expiration of the relevant period.

### 第三十五条 削除

#### Article 35 Deleted

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第三十六条 特許法第百十条（特許料を納付すべき者以外の者による特許料の納付）の規定は、登録料について準用する。

Article 36 The provisions of Article 110 of the Patent Act (payment of patent fees by interested persons) apply mutatis mutandis to registration fees.

### 第五章 審判

#### Chapter V Trials and Appeals

(実用新案登録無効審判)

(Trial for Invalidation of the Registration of a Utility Model)

第三十七条 実用新案登録が次の各号のいずれかに該当するときは、その実用新案登録を無効にすることについて実用新案登録無効審判を請求することができる。この場合において、二以上の請求項に係るものについては、請求項ごとに請求することができる。

Article 37 (1) If a utility model registration falls under one of the following items, a demand may be filed for trial for invalidation of the registration of a utility model. In this case, if there are two or more claims, a request for trial for invalidation of the registration of a utility model may be filed for each claim.

一 その実用新案登録が第二条の二第二項に規定する要件を満たしていない補正をした実用新案登録出願に対してされたとき。

(i) the utility model registration has been granted on an application for utility model registration with an amendment that does not comply with the requirements stipulated in Article 2-2, paragraph (2);

二 その実用新案登録が第二条の五第三項において準用する特許法第二十五条、第三

条、第三条の二、第四条、第七条第一項から第三項まで若しくは第六項又は第十一条第一項において準用する同法第三十八条の規定に違反してされたとき（その実用新案登録が第十一条第一項において準用する同法第三十八条の規定に違反してされた場合にあつては、第十七条の二第一項の規定による請求に基づき、その実用新案登録に係る実用新案権の移転の登録があつたときを除く。）。

(ii) the utility model registration has been granted in violation of the provisions of Article 25 of the Patent Act as applied mutatis mutandis pursuant to Article 2-5, paragraph (3) of the Utility Model Act, Articles 3, 3-2, 4, Article 7, paragraphs (1) through (3) or Article 7, paragraph (6), or Article 38 of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1) of the Utility Model Act (if the utility model registration has been granted in violation of Article 38 of the provisions of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1) of this Act, this excludes a case in which the transfer of the utility model to which the utility model registration pertains has been registered based on a request made under the provisions of Article 17-2, paragraph (1) of this Act);

三 その実用新案登録が条約に違反してされたとき。

(iii) the utility model registration has been granted in violation of a treaty;

四 その実用新案登録が第五条第四項又は第六項（第四号を除く。）に規定する要件を満たしていない実用新案登録出願に対してされたとき。

(iv) the utility model registration has been granted with respect to an application for utility model registration that does not comply with the requirements stipulated in Article 5, paragraph (4) or (6) (excluding item (iv));

五 その実用新案登録がその考案について実用新案登録を受ける権利を有しない者の実用新案登録出願に対してされたとき（第十七条の二第一項の規定による請求に基づき、その実用新案登録に係る実用新案権の移転の登録があつたときを除く。）。

(v) the utility model registration has been granted on an application for utility model registration filed by a person with no right to obtain a utility model registration for the device (unless the transfer of the utility model to which the relevant utility model registration pertains has been registered based on a request made under the provisions of Article 17-2, paragraph (1));

六 実用新案登録がされた後において、その実用新案権者が第二条の五第三項において準用する特許法第二十五条の規定により実用新案権を享有することができない者になつたとき、又はその実用新案登録が条約に違反することとなつたとき。

(vi) after being granted the utility model registration, the utility model holder comes to fall under a category of person that is not permitted the enjoyment of a utility model pursuant to Article 25 of the Patent Act as applied mutatis mutandis pursuant to Article 2-5, paragraph (3), or the utility model registration comes to violate a treaty after being granted; and

七 その実用新案登録の願書に添付した明細書、実用新案登録請求の範囲又は図面の

訂正が第十四条の二第二項から第四項までの規定に違反してされたとき。

(vii) a correction to the description, utility model registration claims, or drawings accompanying the request to the application for the utility model registration has been made in violation of the provisions of Article 14-2, paragraphs (2) through (4).

2 実用新案登録無効審判は、何人も請求することができる。ただし、実用新案登録が前項第二号に該当すること（その実用新案登録が第十一条第一項において準用する特許法第三十八条の規定に違反してされたときに限る。）又は前項第五号に該当することを理由とするものは、当該実用新案登録に係る考案について実用新案登録を受ける権利を有する者に限り請求することができる。

(2) Any person may file a demand for a trial for invalidation of the registration of a utility model; provided, however, that if a demand is filed for a trial for invalidation of the registration of a utility model on the grounds that the utility model registration falls under item (ii) of the preceding paragraph (limited to a case in which the utility model registration has been obtained in violation of Article 38 of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1)) or item (v) of the preceding paragraph, only a person with the right to obtain a utility model registration for the device to which the utility model registration pertains may file

3 実用新案登録無効審判は、実用新案権の消滅後においても、請求することができる。

(3) A demand for a trial for invalidation of the registration of a utility model may be filed even after the forfeiture of the utility model.

4 審判長は、実用新案登録無効審判の請求があつたときは、その旨を当該実用新案権についての専用実施権者その他その実用新案登録に関し登録した権利を有する者に通知しなければならない。

(4) If a demand is filed for a trial for invalidation of the registration of a utility model, the chief administrative judge must notify the exclusive licensee under the utility model of this and notify other persons with registered rights under the utility model of the same.

(審判請求の方式)

(Formal Requirements for a Demand for Trials)

第三十八条 審判を請求する者は、次に掲げる事項を記載した請求書を特許庁長官に提出しなければならない。

Article 38 (1) A person demanding a trial must submit a written demand stating the following to the Commissioner of the Patent Office:

一 当事者及び代理人の氏名又は名称及び住所又は居所

(i) the full name and business name the addresses or residences of the party and the agent thereof;

二 審判事件の表示

(ii) an identification of the trial case; and

三 請求の趣旨及びその理由

(iii) the object of claim and grounds for the demand

2 前項第三号に掲げる請求の理由は、実用新案登録を無効にする根拠となる事実を具体的に特定し、かつ、立証を要する事実ごとに証拠との関係を記載したものでなければならない。

(2) In the grounds for the demand that are set forth in item (iii) of the preceding paragraph, the facts on that are the basis for invalidating the utility model registration must be concretely identified, and the relationship of each fact that needs to be proved to the evidence must be stated.

(審判請求書の補正)

(Amendment of a Written Demand for Trial)

第三十八条の二 前条第一項の規定により提出した請求書の補正は、その要旨を変更するものであつてはならない。ただし、次項の規定による審判長の許可があつたときは、この限りでない。

Article 38-2 (1) The amendment of a written demand submitted pursuant to paragraph (1) of the preceding Article must not change the outline thereof; provided, however, that this does not apply if allowed by the chief administrative judge as under the provisions of the following paragraph.

2 審判長は、前条第一項第三号に掲げる請求の理由の補正がその要旨を変更するものである場合において、当該補正が審理を不当に遅延させるおそれがないことが明らかなものであり、かつ、次の各号のいずれかに該当する事由があると認めるときは、決定をもつて、当該補正を許可することができる。

(2) If the amendment of the grounds for the demand set forth in Article 38, paragraph (1), item (iii) changes the outline thereof, the chief administrative judge may rule to allow the amendment will unreasonably delay of the proceedings and that the circumstances fall under one of the following items:  
一 第十四条の二第一項の訂正があり、その訂正により請求の理由を補正する必要が生じたこと。

(i) there has been a correction as referred to in Article 14-2, paragraph (1) and this has given rise to a need for an amendment of the grounds for the request; and

二 前号に掲げるもののほか当該補正に係る請求の理由を審判請求時の請求書に記載しなかつたことにつき合理的な理由があり、被請求人が当該補正に同意したこと。

(ii) there are reasonable grounds other than what is set forth in in the preceding item,for the the grounds for the demand as amended not having been included in the written demand.at the time the demand for the trial or appeal was filed, and the respondent agrees to the amendment.

3 前項の補正の許可は、その補正に係る手続補正書が次条第一項の規定による請求書の副本の送達の前に提出されたときは、これをするできない。

(3) Allowances for an amendment as referred to in the preceding paragraph may

not be made if the procedural amendment form for that amendment is submitted prior to the service of a copy of the written demand under the provisions of Article 39, paragraph (1).

- 4 第二項の決定又はその不作為に対しては、不服を申し立てることができない。  
(4) No appeal may be filed against the ruling referred to in paragraph (2) or inaction thereof.

(答弁書の提出等)

(Submission of a Written Answer)

第三十九条 審判長は、審判の請求があつたときは、請求書の副本を被請求人に送達し、相当の期間を指定して、答弁書を提出する機会を与えなければならない。

Article 39 (1) Once a demand for trial or appeal is filed, the chief administrative judge must serve a copy of the written demand on the respondent and give the respondent an opportunity to submit a written answer within a reasonable, specified period of time.

- 2 審判長は、前条第二項の規定により請求書の補正を許可するときは、その補正に係る手続補正書の副本を被請求人に送達し、相当の期間を指定して、答弁書を提出する機会を与えなければならない。ただし、被請求人に答弁書を提出する機会を与える必要がないと認められる特別の事情があるときは、この限りでない。

(2) If the chief administrative judge allows the amendment of a written demand pursuant to the provisions of Article 38-2, paragraph (2), the judge must serve a copy of the procedural form for that amendment on the respondent, and give the respondent an opportunity to submit a written answer within a reasonable, specified period of time; provided, however, that this does not apply if there are special circumstances due to which there is found to be no need to give the respondent an opportunity to submit a written answer.

- 3 審判長は、第一項若しくは前項本文の答弁書を受理したとき、又は実用新案登録無効審判が特許庁に係属している場合において第十四条の二第一項若しくは第七項の訂正があつたときは、その副本を請求人に送達しなければならない。

(3) Once the chief administrative judge accepts a written answer as provided in paragraph (1) or the main clause of the preceding paragraph, or once a correction as referred to in Article 14-2, paragraph (1) or (7) has been made while a trial for invalidation of the registration of a utility model is pending at the Japan Patent Office, the chief trial examiner must serve a copy thereof on the demandant.

- 4 審判長は、審判に関し、当事者及び参加人を審尋することができる。

(4) The chief administrative judge may question the parties and the intervenors in connection with the trial or appeal.

- 5 審判長は、実用新案登録無効審判の請求があつた場合において、その請求後にその実用新案登録に基づいて特許法第四十六条の二第一項の規定による特許出願がされたときは、その旨を請求人及び参加人に通知しなければならない。

(5) If a patent application under the provisions of Article 46-2, paragraph (1) of the Patent Act is filed based on the utility model registration after a demand is filed for a trial for invalidation of the registration of a utility model, the chief administrative judge must notify the demandant and the intervenors of this.

(審判の請求の取下げ)

(Withdrawal of Demand For Trial or Appeal)

第三十九条の二 審判の請求は、審決が確定するまでは、取り下げることができる。

Article 39-2 (1) A demand for trial or appeal may be withdrawn up until such time as the trial decision becomes final and binding.

2 審判の請求は、前条第一項の答弁書の提出があつた後は、相手方の承諾を得なければ、取り下げることができない。

(2) Once the written answer referred to in Article 39, paragraph (1) has been submitted, the demand for trial or appeal may not be withdrawn without the consent of the adverse party.

3 審判の請求人が前条第五項の規定による通知を受けたときは、前項の規定にかかわらず、その通知を受けた日から三十日以内に限り、その審判の請求を取り下げることができる。

(3) Notwithstanding the preceding paragraph, if the demandant receives a notice under the provisions of Article 39, paragraph (5), the demandant may withdraw the demand for trial or appeal but only within 30 days from the date on which the demandant received the notice.

4 特許法第四条の規定は、前項に規定する期間に準用する。この場合において、同条中「特許庁長官」とあるのは、「審判長」と読み替えるものとする。

(4) The provisions of Article 4 of the Patent Act apply mutatis mutandis to the period provided for in the preceding paragraph. In this case, the term "The Commissioner of the Patent Office" in that Article is deemed to be replaced with "the chief administrative judge".

5 審判の請求人がその責めに帰することができない理由により第三項に規定する期間内にその請求を取り下げることができないときは、同項の規定にかかわらず、その理由がなくなつた日から十四日（在外者にあつては、二月）以内でその期間の経過後六月以内にその請求を取り下げることができる。

(5) Notwithstanding the provisions provided in paragraph (3), if the demandant is unable to withdraw the demand for trial or appeal within the period provided for in that paragraph, due to reasons beyond the demandant's control, the demandant may, file the demand within 14 days (or within two months, if the demandant is an overseas resident) from the date on which those reasons fail to apply, but no later than six months after the end of the aforementioned period.

6 二以上の請求項に係る実用新案登録の二以上の請求項について実用新案登録無効審判を請求したときは、その請求は、請求項ごとに取り下げることができる。

(6) If a demand for a trial for invalidation of the registration of a utility model is filed in respect of two or more claims in a utility model registration that covers two or more claims, the demand may be withdrawn on a claim-by-claim basis.

(訴訟との関係)

(Connection with Litigation)

第四十条 審判において必要があると認めるときは、他の審判の審決が確定し、又は訴訟手続が完結するまでその手続を中止することができる。

Article 40 (1) If it is found to be necessary during a trial or appeal, the trial or appeal proceedings may be suspended until a trial decision from another trial or appeal before the Japan Patent Office becomes final and binding or until civil litigation proceedings conclude.

2 訴えの提起又は仮差押命令若しくは仮処分命令の申立てがあつた場合において、必要があると認めるときは、裁判所は、審決が確定するまでその訴訟手続を中止することができる。

(2) If a civil action has been instituted or a motion has been filed for an order of provisional seizure or an order of provisional disposition and the civil court finds it to be necessary, the court may suspend civil litigation proceedings until a trial decision by the Japan Patent Office becomes final and binding.

3 裁判所は、実用新案権又は専用実施権の侵害に関する訴えの提起があつたときは、その旨を特許庁長官に通知するものとする。その訴訟手続が完結したときも、また同様とする。

(3) The court is to notify the Commissioner of the Patent Office if a civil action is instituted with respect to the infringement of a utility model or an exclusive license. It must also do this once such litigation proceedings conclude.

4 特許庁長官は、前項に規定する通知を受けたときは、その実用新案権についての審判の請求の有無を裁判所に通知するものとする。その審判の請求書の却下の決定、審決又は請求の取下げがあつたときも、また同様とする。

(4) If the Commissioner of the Patent Office is notified as provided in the preceding paragraph, the commissioner is to notify the civil court of whether a demand for trial or appeal has been filed with the Japan Patent Office with regard to that utility model. The commissioner must also do this once the Japan Patent Office issues a ruling dismissing the written demand for such a trial or appeal, or renders the trial decision or if the demand for such a trial or appeal is withdrawn.

5 裁判所は、前項の規定によりその実用新案権についての審判の請求があつた旨の通知を受けた場合において、当該訴訟において第三十条において準用する特許法第四百条の三第一項の規定による攻撃又は防御の方法を記載した書面がその通知前に既に提出され、又はその通知後に最初に提出されたときは、その旨を特許庁長官に通知するものとする。

(5) If the civil court is notified pursuant to the preceding paragraph that a

demand for a trial or appeal has been filed with regard to the relevant utility model, it must notify the Commissioner of the Patent Office if a document containing an allegation or defense as under Article 104-3, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 30 has already been submitted in the litigation prior to that notice and must notify the commissioner if the document is submitted for the first time after that notice.

6 特許庁長官は、前項に規定する通知を受けたときは、裁判所に対し、当該訴訟の訴訟記録のうちその審判において審判官が必要と認める書面の写しの送付を求めることができる。

(6) If the Commissioner of the Patent Office is notified as provided in the preceding paragraph, the commissioner may request the court to deliver a copy of any documentary record of the court proceedings that the administrative judge finds to be necessary for the trial or appeal with the Japan Patent Office.

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第四十一条 特許法第百二十五条、第百三十二条から第百三十三条の二まで、第百三十五条から第百五十四条まで、第百五十六条第一項、第三項及び第四項、第百五十七条、第百六十七条、第百六十七条の二、第百六十九条第一項、第二項、第五項及び第六項並びに第百七十条の規定は、審判に準用する。この場合において、同法第百五十六条第一項中「特許無効審判以外の審判においては、事件が」とあるのは、「事件が」と読み替えるものとする。

Article 41 The provisions of Articles 125, 132 through 133-2, 135 through 154, Article 156, paragraphs (1), (3) and (4), Articles 157, 167 and 167-2, Article 169, paragraphs (1), (2), (5) and (6), and Article 170 of the Patent Act apply mutatis mutandis to trials and appeals. In this case, the term "In a trial other than a trial for patent invalidation, when the case" in Article 156, paragraph (1) of that Act is deemed to be replaced with "When a case".

## 第六章 再審及び訴訟

### Chapter VI Retrial and Litigation

(再審の請求)

(Demand for Retrial)

第四十二条 確定審決に対しては、当事者又は参加人は、再審を請求することができる。

Article 42 (1) A party or an intervenor may demand a retrial to overturn a final and binding trial decision.

2 民事訴訟法（平成八年法律第百九号）第三百三十八条第一項及び第二項並びに第三百三十九条（再審の事由）の規定は、前項の再審の請求に準用する。

(2) The provisions of Articles 338, paragraphs (1) and (2) and Article 339

(Grounds for retrial) of the Code of Civil Procedure (Act No109 of 1996) apply

mutatis mutandis to a demand for a retrial as referred to in the preceding paragraph.

第四十三条 審判の請求人及び被請求人が共謀して第三者の権利又は利益を害する目的をもって審決をさせたときは、その第三者は、その確定審決に対し再審を請求することができる。

Article 43 (1) Where a demandant and respondent in a trial or appeal before the Japan Patent Office have conspired to bring about a the trial decision with the aim of harming the rights or interests of any third party, the third party may demand a retrial to overturn the final and binding trial decision.

2 前項の再審は、その請求人及び被請求人を共同被請求人として請求しなければならない。

(2) A demand for a retrial referred to in the preceding paragraph must be filed with the demandant and the respondent from the trial or appeal as the joint respondents.

(再審により回復した実用新案権の効力の制限)

(Limitations on the Effect of a Utility Model Restored on Retrial)

第四十四条 無効にした実用新案登録に係る実用新案権が再審により回復したときは、実用新案権の効力は、当該審決が確定した後再審の請求の登録前に善意に輸入し、又は日本国内において製造し、若しくは取得した当該登録実用新案に係る物品には、及ばない。

Article 44 (1) If a utility model under an invalidated utility model registration is restored on retrial, the utility model has no effect against an article covered by the registered utility model that was imported into or manufactured or acquired within Japan in good faith, after the trial decision became final and binding and before the demand for a retrial was registered.

2 無効にした実用新案登録に係る実用新案権が再審により回復したときは、実用新案権の効力は、当該審決が確定した後再審の請求の登録前における次に掲げる行為には、及ばない。

(2) If the utility model to which an invalidated utility model registration pertains is restored on retrial, the utility model has no effect against the following actions as performed after the trial decision became final and binding and before the demand for a retrial was registered:

一 当該考案の善意の実施

(i) working the device in good faith;

二 善意に、当該登録実用新案に係る物品の製造に用いる物の生産、譲渡等若しくは輸入又は譲渡等の申出をした行為

(ii) producing, transferring ownership, etc., importing, or offering to transfer ownership, etc., of any article used to make the product covered by the registered utility model, in good faith; and

三 善意に、当該登録実用新案に係る物品を譲渡、貸渡し又は輸出のために所持した行為

(iii) possessing the product covered by the registered utility model, in good faith, with the objective of transferring ownership of it, lending it out, or exporting it.

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第四十五条 特許法第七十三条（再審の請求期間）、第七十四条第三項及び第五項（審判の規定等の準用）並びに第七十六条（再審の請求登録前の実施による通常実施権）の規定は、再審に準用する。この場合において、同法第七十四条第三項中「第三十一条第一項、第三十一条の二第一項本文」とあるのは「実用新案法第三十八条第一項、同法第三十八条の二第一項本文」と、「第三十四条第一項、第三項及び第四項」とあるのは「同法第三十九条第一項、第三項及び第四項」と、「から第一百六十八条まで」とあるのは「、第一百六十七条の二、同法第四十条」と読み替えるものとする。

Article 45 (1) Articles 173 (Period for Demanding a Retrial), 174, paragraphs (3) and (5) (Mutatis Mutandis Application of Provisions on Trials and Appeals), and 176 (Non-exclusive License based on the Working of the Invention Prior to the Registration of the Request for a Retrial) of the Patent Act apply mutatis mutandis to retrials. In this case, in Article 174, paragraph (3) of the relevant Act, the phrase "Article 131, paragraph (1), the main clause of Article 131-2, paragraph (1)," "Article 134, paragraphs (1), (3) and (4)" and "and Article 168" is deemed to be replaced with "Article 38, paragraph (1), the main clause of Article 38-2", "Article 39, paragraphs (1), (3) and (4) of the Utility Model Act," and "Article 167-2, Article 40 of the Utility Model Act," respectively.

2 特許法第四条の規定は、前項において準用する同法第七十三条第一項に規定する期間に準用する。

(2) The provisions of Article 4 of the Patent Act apply mutatis mutandis to the period provided for in Article 173, paragraph (1) of the relevant Act as applied mutatis mutandis pursuant to the preceding paragraph.

第四十六条 削除

Article 46 Deleted

(審決等に対する訴え)

(Action Seeking to Overturn Trial Decisions)

第四十七条 審決に対する訴え及び審判又は再審の請求書の却下の決定に対する訴えは、東京高等裁判所の専属管轄とする。

Article 47 (1) The Tokyo High Court has exclusive jurisdiction over any action seeking to overturn a trial decision or a ruling dismissing a written request for

a trial or appeal, or a retrial.

2 特許法第七十八条第二項から第六項まで（出訴期間等）及び第七十九条から第八十二条の二まで（被告適格、出訴の通知等、審決取消訴訟における特許庁長官の意見、審決又は決定の取消し、裁判の正本等の送付及び合議体の構成）の規定は、前項の訴えに準用する。

(2) The provisions of Article 178, paragraphs (2) through (6) (Statute of Limitations for Filing an Action), Articles 179 through 182-2 (The Proper Defendant; Notice of the Filing of an Action etc.; Opinion of the Commissioner of the Patent Office in Litigation Seeking to Overturn a Trial Decision; Overturning a Trial Decision or Ruling; Delivery of the Original Copy of the Judicial Decision; Composition of a Panel) of the Patent Act apply mutatis mutandis to an action as referred to in the preceding paragraph.

(対価の額についての訴え)

(Action Protesting the Amount of Consideration)

第四十八条 第二十一条第二項、第二十二条第三項若しくは第四項又は第二十三条第二項の裁定を受けた者は、その裁定で定める対価の額について不服があるときは、訴えを提起してその額の増減を求めることができる。

Article 48 (1) If a person receiving an award as referred to in Article 21, paragraph (2), Article 22, paragraph (3) or (4), or Article 23, paragraph (2) is dissatisfied with the amount of consideration determined in the award, that person may institute an action demanding an increase or decrease in that amount.

2 特許法第八十三条第二項（出訴期間）及び第八十四条（被告適格）の規定は、前項の訴えに準用する。

(2) The provisions of Articles 183, paragraph (2) (Statute of Limitations for Filing an Action) and Article 184 (The Proper Defendant) of the Patent Act apply mutatis mutandis to actions referred to in the preceding paragraph.

第四十八条の二 削除

Article 48-2 Deleted

## 第七章 特許協力条約に基づく国際出願に係る特例

### Chapter VII Special Provisions for International Applications under the Patent Cooperation Treaty

(国際出願による実用新案登録出願)

(The Filing of an Application for Utility Model Registration through an international application)

第四十八条の三 千九百七十年六月十九日にワシントンで作成された特許協力条約（以下この章において「条約」という。）第十一条（1）若しくは（2）（b）又は第十

四条（２）の規定に基づく国際出願日が認められた国際出願であつて、条約第四条（１）（i i）の指定国に日本国を含むもの（実用新案登録出願に係るものに限る。）は、その国際出願日にされた実用新案登録出願とみなす。

Article 48-3 (1) An international application (limited only to an application for utility model registration) to which an international filing date is accorded based on the provisions of Article 11 (1), Article 11 (2) (b) or Article 14 (2) of the Patent Cooperation Treaty signed in Washington on June 19, 1970 (hereinafter referred to as the "Treaty" in this Chapter) and which includes Japan as a designated State under Article 4 (1) (ii) of the Treaty is deemed to be an application for a utility model registration filed on the relevant international filing date.

2 特許法第百八十四条の三第二項（国際出願による特許出願）の規定は、前項の規定により実用新案登録出願とみなされた国際出願（以下「国際実用新案登録出願」という。）に準用する。

(2) The provisions of Article 184-3, paragraph (2) (The Filing of a Patent Application Through an International Application) of the Patent Act apply mutatis mutandis to the filing of an international application that has been deemed to be an application for utility model registration pursuant to the provisions of the preceding paragraph (hereinafter referred to as "international application for utility model registration").

（外国語でされた国際実用新案登録出願の翻訳文）

(Translations of International Applications for Utility Model Registration filed in a Foreign Language)

第四十八条の四 外国語でされた国際実用新案登録出願（以下「外国語実用新案登録出願」という。）の出願人は、条約第二条（x i）の優先日（以下「優先日」という。）から二年六月（以下「国内書面提出期間」という。）以内に、前条第一項に規定する国際出願日（以下「国際出願日」という。）における条約第三条（２）に規定する明細書、請求の範囲、図面（図面の中の説明に限る。以下この条において同じ。）及び要約の日本語による翻訳文を、特許庁長官に提出しなければならない。ただし、国内書面提出期間の満了前二月から満了の日までの間に次条第一項に規定する書面を提出した外国語実用新案登録出願（当該書面の提出の日以前に当該翻訳文を提出したものを除く。）にあつては、当該書面の提出の日から二月（以下「翻訳文提出特例期間」という。）以内に、当該翻訳文を提出することができる。

Article 48-4 (1) An applicant filing an international application for utility model registration in a foreign language (hereinafter referred to as "Foreign Language Application for Utility Model Registration") must submit Japanese translations of the description, claims, drawings (but only the descriptive text in the drawings, hereinafter the same applies in this Article), and the abstract, provided for in Article 3 (2) of the Treaty, as they stand on the international filing date provided for in paragraph (1) of the preceding Article (hereinafter

referred to as the "international filing date") to the Commissioner of the Patent Office, within two years and six months (hereinafter referred to as the "time limit for the submission of national documents") from the priority date referred to in Article 2 (xi) of the Treaty (hereinafter referred to as the "priority date") to two years and six months therefrom; provided, however, that the applicant filing a foreign language application for utility model registration that has submitted the document provided for in paragraph (1) of the following Article between two months before the end of the time limit for submitting national documents and the end of that time limit (unless the translations have been submitted prior to the submission of those documents) may submit the relevant translations within two months from the date of submission of those documents (hereinafter referred to as the "special time limit for the submission of translations").

2 前項の場合において、外国語実用新案登録出願の出願人が条約第十九条（1）の規定に基づく補正をしたときは、同項に規定する請求の範囲の翻訳文に代えて、当該補正後の請求の範囲の翻訳文を提出することができる。

(2) In a case as referred to in the preceding paragraph, if the applicant filing the foreign language application for utility model registration makes an amendment by virtue of Article 19 (1) of the Treaty, in lieu of submitting a translation of the claims as provided in the preceding paragraph, the applicant may submit a translation of the amended claims.

3 国内書面提出期間（第一項ただし書の外国語実用新案登録出願にあつては、翻訳文提出特例期間。以下この条において同じ。）内に第一項に規定する明細書の翻訳文及び前二項に規定する請求の範囲の翻訳文（以下「明細書等翻訳文」という。）の提出がなかつたときは、その国際実用新案登録出願は、取り下げられたものとみなす。

(3) If the translation of the description provided for in paragraph (1) and the translation of the claims provided for in the preceding two paragraphs (hereinafter referred to as the "translations of the description, etc.") are not been submitted within the time limit for submitting national documents (or, if the application is a foreign language application for utility model registration as referred to in the proviso to paragraph (1), within the special time limit for submitting translations; hereinafter the same applies in this Article), the international application for utility model registration is deemed to be withdrawn.

4 前項の規定により取り下げられたものとみなされた国際実用新案登録出願の出願人は、国内書面提出期間内に当該明細書等翻訳文を提出することができなかつたことについて正当な理由があるときは、その理由がなくなつた日から二月以内で国内書面提出期間の経過後一年以内に限り、明細書等翻訳文並びに第一項に規定する図面及び要約の翻訳文を特許庁長官に提出することができる。

(4) If an applicant filing an international application for utility model registration that is deemed to be withdrawn pursuant to the provisions of the

preceding paragraph, has a legitimate reason for having not been able to submit the translation of the description, etc., within the time limit for submitting national documents, the applicant may submit the translation of the description, etc. and the translations of the drawings and the abstract provided in paragraph (1) to the Commissioner of the Patent Office within two months after the date on which the reasons cease to exist, but not later than one year after the end of the time limit for submitting national documents.

5 前項の規定により提出された翻訳文は、国内書面提出期間が満了する時に特許庁長官に提出されたものとみなす。

(5) Translations submitted under the provisions of the preceding paragraph are deemed to have been submitted to the Commissioner of the Patent Office at the time just before the time limit for the submitting national documents expires.

6 第一項に規定する請求の範囲の翻訳文を提出した出願人は、条約第十九条（1）の規定に基づく補正をしたときは、国内書面提出期間が満了する時（国内書面提出期間内に申請人が条約第二十三条（2）又は第四十条（2）の規定による請求（以下「国内処理の請求」という。）をするときには、その国内処理の請求の時。以下「国内処理基準時」という。）の属する日までに限り、当該補正後の請求の範囲の日本語による翻訳文を更に提出することができる。

(6) If any amendment by virtue on the provisions of Article 19 (1) of the Treaty is made, the applicant submitting the translation of the claims provided for in paragraph (1) may further submit a Japanese translation of the amended claims no later than the date on which the time limit for submitting national documents expires (or, if the applicant makes a request under the provisions of Article 23 (2) or Article 40 (2) of the Treaty within the time limit for submitting national documents (hereinafter referred to as "request for national processing"), the time of filing the request for national processing, (hereinafter referred to as "standard time for national processing")).

7 特許法第百八十四条の七第三項本文の規定は、第二項又は前項に規定する翻訳文が提出されなかつた場合に準用する。

(7) The provisions of the main clause of Article 184-7, paragraph (3) of the Patent Act apply mutatis mutandis if a translation provided for in paragraph (2) or the preceding paragraph is not submitted.

（書面の提出及び補正命令等）

(Submission of Documents and Order to Amend Procedures)

第四十八条の五 国際実用新案登録出願の出願人は、国内書面提出期間内に、次に掲げる事項を記載した書面を特許庁長官に提出しなければならない。

Article 48-5 (1) An applicant filing an international application for utility model registration must submit a document to the Commissioner of the Patent Office within the time limit for submitting national documents, stating the following particulars:

- 一 出願人の氏名又は名称及び住所又は居所  
(i) the name, and the address or residence of the applicant;
  - 二 考案者の氏名及び住所又は居所  
(ii) the name, and the address or residence of the creator of the device; and
  - 三 国際出願番号その他の経済産業省令で定める事項  
(iii) the international application number and other particulars specified by Order of the Ministry of Economy, Trade and Industry.
- 2 特許庁長官は、次に掲げる場合は、相当の期間を指定して、手続の補正をすべきことを命ずることができる。
- (2) In the following cases, the Commissioner of the Patent Office may order that a procedural amendment be made within a reasonable, specified period of time:
- 一 前項の規定により提出すべき書面を、国内書面提出期間内に提出しないとき。  
(i) the document that must be submitted pursuant to the provisions of the preceding paragraph is not submitted within the time limit for submitting national documents;
  - 二 前項の規定による手続が第二条の五第二項において準用する特許法第七条第一項から第三項まで又は第九条の規定に違反しているとき。  
(ii) the procedure under the provisions of the preceding paragraph violate the provisions of Articles 7, paragraphs (1) through (3) or Article 9 of the Patent Act as applied mutatis mutandis pursuant to Article 2-5, paragraph (2);
  - 三 前項の規定による手続が経済産業省令で定める方式に違反しているとき。  
(iii) the procedure under the provisions of the preceding paragraph violates the formal requirements specified by an Order of the Ministry of Economy, Trade and Industry;
  - 四 前条第一項の規定により提出すべき要約の翻訳文を、国内書面提出期間（前条第一項ただし書の外国語実用新案登録出願にあつては、翻訳文提出特例期間）内に提出しないとき。  
(iv) the translation of the abstract that must be submitted pursuant to provisions of paragraph (1) of the preceding Article is not submitted within the time limit for submitting national documents (or, if the application is a foreign language application for utility model registration as referred to in the proviso to paragraph (1) of the preceding Article, the special time limit for submitting translations);
  - 五 第三十二条第一項の規定により納付すべき登録料を国内書面提出期間内に納付しないとき。  
(v) a fee that must be paid pursuant to Article 32, paragraph (1) not paid within the time limit for submitting national documents;
  - 六 第五十四条第二項の規定により納付すべき手数料を国内書面提出期間内に納付しないとき。  
(vi) a fee that must be paid pursuant to the provisions of Article 54, paragraph (2) are not paid within the time limit for submitting national documents.

3 特許法第百八十四条の五第三項の規定は、前項の規定による命令に基づく補正に準用する。

(3) The provisions of Article 184-5, paragraph (3) of the Patent Act apply mutatis mutandis to an amendment that is based on an order under the provisions of the preceding paragraph.

4 国際実用新案登録出願の出願人は、日本語でされた国際実用新案登録出願（以下「日本語実用新案登録出願」という。）にあつては第一項、外国語実用新案登録出願にあつては同項及び前条第一項の規定による手続をし、かつ、第三十二条第一項の規定により納付すべき登録料及び第五十四条第二項の規定により納付すべき手数料を納付した後でなければ、国内処理の請求をすることができない。

(4) An applicant filing an international application for utility model registration may not file a request for national processing, with respect to an international application for utility model registration filed in a Japanese language (hereinafter referred to as a "Japanese language application for utility model registration" until after undertaking the procedure under paragraph (1); may not file a request for national processing with respect to the relevant foreign language application for utility model registration until after undertaking procedures under the provisions of paragraph (1) and Article 48-4; and may not file a request for national processing with respect to either such application until after paying the registration fees that must be paid pursuant to Article 32, paragraph (1) and the fees that must be paid pursuant to Article 54, paragraph (2).

（国際出願に係る願書、明細書等の効力等）

(Effect of the Application or Description, in an International Application)

第四十八条の六 国際実用新案登録出願に係る国際出願日における願書は、第五条第一項の規定により提出した願書とみなす。

Article 48-6 (1) The request in an international application for utility model registration as of the international filing date is deemed to be a request submitted pursuant to Article 5, paragraph (1).

2 日本語実用新案登録出願に係る国際出願日における明細書及び外国語実用新案登録出願に係る国際出願日における明細書の翻訳文は、第五条第二項の規定により願書に添付して提出した明細書と、日本語実用新案登録出願に係る国際出願日における請求の範囲及び外国語実用新案登録出願に係る国際出願日における請求の範囲の翻訳文は同項の規定により願書に添付して提出した実用新案登録請求の範囲と、日本語実用新案登録出願に係る国際出願日における図面並びに外国語実用新案登録出願に係る国際出願日における図面（図面の中の説明を除く。）及び図面の中の説明の翻訳文は同項の規定により願書に添付して提出した図面と、日本語実用新案登録出願に係る要約及び外国語実用新案登録出願に係る要約の翻訳文は同項の規定により願書に添付して提出した要約書とみなす。

(2) The description, as of the international filing date, of a Japanese language

application for utility model registration, or the translation of the description, as of the international filing date of a foreign language application for utility model registration is deemed to be the description submitted with the request pursuant to Article 5, paragraph (2); the utility model registration claims as of the international filing date, of a Japanese language application for utility model registration or the translation of the claims, as of the international filing date, of a foreign language application for utility model registration are deemed to be the claims submitted with the request pursuant to that paragraph; the drawings, as of the international filing date, of a Japanese language application for utility model registration, or the drawings (other than the descriptive text in the drawings) and the translation of the descriptive text in the drawings as of the international filing date, of a foreign language application for utility model registration are deemed to be the drawings, submitted with the request pursuant to that paragraph; are deemed to be the drawings submitted with the request pursuant to that paragraph; and the abstract of the Japanese language application for utility model registration or the translation of the abstract of a foreign language application for utility model registration is deemed to be the abstract submitted with the request pursuant to that paragraph.

3 第四十八条の四第二項又は第六項の規定により条約第十九条（1）の規定に基づく補正後の請求の範囲の翻訳文が提出された場合は、前項の規定にかかわらず、当該補正後の請求の範囲の翻訳文を第五条第二項の規定により願書に添付して提出した実用新案登録請求の範囲とみなす。

(3) Notwithstanding the preceding paragraph, if a translation of the claims as amended by virtue of Article 19 (1) of the Treaty is submitted pursuant to Article 48-4, paragraph (2) or (6), the translation of the amended claims is deemed to be the utility model registration claims submitted with the request pursuant to Article 5, paragraph (2).

（図面の提出）

(Submission of Drawings)

第四十八条の七 国際実用新案登録出願の出願人は、国際出願が国際出願日において図面を含んでいないものであるときは、国内処理基準時の属する日までに、図面を特許庁長官に提出しなければならない。

Article 48-7 (1) If an international application for utility model registration does not include a drawing,, the applicant must submit one to the Commissioner of the Patent Office within the standard time for national processing.

2 特許庁長官は、国内処理基準時の属する日までに前項の規定による図面の提出がないときは、国際実用新案登録出願の出願人に対し、相当の期間を指定して、図面の提出をすべきことを命ずることができる。

(2) If a drawing as under the provisions of the preceding paragraph is not

submitted within the standard time for national processing, the Commissioner of the Patent Office may order the applicant filing the international application for utility model registration to submit one within a reasonable period of time.

3 特許庁長官は、前項の規定により図面の提出をすべきことを命じた者が同項の規定により指定した期間内にその提出をしないときは、当該国際実用新案登録出願を却下することができる。

(3) If a person ordered to submit a drawing pursuant to the provisions of the preceding paragraph does not submit one within the period of time that the Commissioner of the Patent Office specifies pursuant to that paragraph, the commissioner may dismiss the relevant international application for utility model registration.

4 第一項の規定により又は第二項の規定による命令に基づいてされた図面の提出（図面に添えて当該図面の簡単な説明を提出したときは、当該図面及び当該説明の提出）は、第二条の二第一項の規定による手続の補正とみなす。この場合において、同項ただし書の規定は、適用しない。

(4) The submission of a drawing pursuant to the provisions of paragraph (1) or based on the order under the provisions of paragraph (2) (if a brief description of the drawing is submitted with it, this means the submission of the drawing description) is deemed to be a procedural amendment under the provisions of Article 2-2, paragraph (1). The provisions of the proviso to Article 2-2, paragraph (1) does not apply in such a case.

（補正の特例）

(Special Provisions Concerning Amendment)

第四十八条の八 第四十八条の十五第一項において準用する特許法第百八十四条の七第二項及び第百八十四条の八第二項の規定により第二条の二第一項の規定によるものとみなされた補正については、同項ただし書の規定は、適用しない。

Article 48-8 (1) The provisions of the proviso to Article 2-2, paragraph (1) does not apply to an amendment that is, pursuant to the provisions of Article 184-7, paragraph (2) and Article 184-8, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 48-15, paragraph (1), to be an amendment under the provisions of Article 2-2, paragraph (1).

2 国際実用新案登録出願についてする条約第二十八条（1）又は第四十一条（1）の規定に基づく補正については、第二条の二第一項ただし書の規定は、適用しない。

(2) The provisions of the proviso to Article 2-2, paragraph (1) does not apply to the amendment of an international application for utility model registration by virtue of Article 28 (1) or Article 41 (1) of the Treaty.

3 外国語実用新案登録出願に係る明細書、実用新案登録請求の範囲又は図面について補正ができる範囲については、第二条の二第二項中「願書に最初に添付した明細書、実用新案登録請求の範囲又は図面」とあるのは、「第四十八条の四第一項の国際出願日における国際出願の明細書、請求の範囲又は図面」とする。

(3) With regard to the allowable scope of amendment to the description, utility model registration claims or drawings in a foreign language application for utility model registration, the phrase "the description, utility model registration claims, or drawings originally accompanying the request" in Article 2-2, paragraph (2) is deemed to be replaced with "the description, claims, or drawings in the international application as of the international filing date referred to in Article 48-4, paragraph (1)."

4 特許法第百八十四条の十二第一項の規定は、国際実用新案登録出願についてする第二条の二第一項本文又は条約第二十八条（1）若しくは第四十一条（1）の規定に基づく補正に準用する。この場合において、同法第百八十四条の十二第一項中「第百九十五条第二項」とあるのは「実用新案法第三十二条第一項の規定により納付すべき登録料及び同法第五十四条第二項」と、「納付した後であつて国内処理基準時を経過した後」とあるのは「納付した後」と読み替えるものとする。

(4) The provisions of Article 184-12, paragraph (1) of the Patent Act apply *mutatis mutandis* to the amendment of an international application for utility model registration based on the main clause of Article 2-2, paragraph (1) or by virtue of Article 28 (1) or Article 41 (1) of the Treaty. In this case, the term "Article 195, paragraph (2)" in Article 184-12, paragraph (1) of the Patent Act is deemed to be replaced with "registration fees that must be paid pursuant to the provisions of Article 32, paragraph (1) of the Utility Model Act and Article 54, paragraph (2) of the relevant Act," and the phrase "has been paid, and the standard time for national processing has passed" is deemed to be replaced with "has been paid."

（実用新案登録要件の特例）

（Special Provisions Concerning Requirements for Utility Model Registration）

第四十八条の九 第三条の二に規定する他の実用新案登録出願又は特許出願が国際実用新案登録出願又は特許法第百八十四条の三第二項の国際特許出願である場合における第三条の二の規定の適用については、同条中「他の実用新案登録出願又は特許出願であつて」とあるのは「他の実用新案登録出願又は特許出願（第四十八条の四第三項又は特許法第百八十四条の四第三項の規定により取り下げられたものとみなされた第四十八条の四第一項の外国語実用新案登録出願又は同法第百八十四条の四第一項の外国語特許出願を除く。）であつて」と、「発行又は」とあるのは「発行、」と、「若しくは出願公開」とあるのは「若しくは出願公開又は千九百七十年六月十九日にワシントンで作成された特許協力条約第二十一条に規定する国際公開」と、「願書に最初に添付した明細書、実用新案登録請求の範囲若しくは特許請求の範囲又は図面」とあるのは「第四十八条の四第一項又は同法第百八十四条の四第一項の国際出願日における国際出願の明細書、請求の範囲又は図面」とする。

Article 48-9 In applying the provisions of Article 3-2, to a case in which another application for utility model registration as provided in Article 3-2 or a patent application as provided in that Article is an international application for utility

model registration or an international patent application as referred to in Article 184-3, paragraph (2) of the Patent Act, the phrase "in another application for utility model registration or for patent" in Article 3-2 is deemed to be replaced with "in another application for utility model registration or in a patent application (other than one that is a foreign language application for utility model registration as referred to in Article 48-4, paragraph (1) of the Utility Model Act or a foreign language patent application as referred to in Article 184-4, paragraph (1) of the Patent Act, and which is deemed to have been withdrawn pursuant to Article 48-4, paragraph (3) of the Utility Model Act or Article 184-4, paragraph (3) of the Patent Act"; the phrase "the issuance or" is deemed to be replaced with "the issuance," the term "or the publication of the patent application" is deemed to be replaced with "or the publication of the patent application, or the international publication provided in Article 21 of the Patent Cooperation Treaty signed in Washington on June 19, 1970," and the term "the description, claims for a utility model registration or drawings originally accompanying the written application" is deemed to be replaced with "the description, claims, or drawings in an international application, as of the international filing date referred to in Article 48-4, paragraph (1) of this Act or Article 184-4, paragraph (1) of the Patent Act."

(実用新案登録出願等に基づく優先権主張の特例)

(Special Provisions on Priority Claims Based on Applications for Utility Model Registration)

第四十八条の十 国際実用新案登録出願については、第八条第一項ただし書及び第四項並びに第九条第二項の規定は、適用しない。

Article 48-10 (1) The provisions of the proviso to Article 8, paragraph (1), Article 8, paragraph (4) and Article 9, paragraph (2) do not apply to an international application for utility model registration.

2 日本語実用新案登録出願についての第八条第三項の規定の適用については、同項中「実用新案掲載公報の発行が」とあるのは、「実用新案掲載公報の発行又は千九百七十年六月十九日にワシントンで作成された特許協力条約第二十一条に規定する国際公開が」とする。

(2) In applying the provisions of Article 8, paragraph (3) to a Japanese language application for utility model registration, the phrase "at the time that the application for utility model registration is published in the gazette in which the utility model appears" in Article 8, paragraph (3) is deemed to be replaced with "at time that the application for the utility model registration is published in the gazette in which the utility model appears or at the time that the international publication prescribed in Article 21 of the Patent Cooperation Treaty done at Washington on June 19, 1970 is effected".

3 外国語実用新案登録出願についての第八条第三項の規定の適用については、同項中

「実用新案登録出願の願書に最初に添付した明細書、実用新案登録請求の範囲又は図面」とあるのは「第四十八条の四第一項の国際出願日における国際出願の明細書、請求の範囲又は図面」と、「実用新案掲載公報の発行が」とあるのは「実用新案掲載公報の発行又は千九百七十年六月十九日にワシントンで作成された特許協力条約第二十一条に規定する国際公開が」とする。

(3) In applying the provisions of Article 8, paragraph (3) to foreign language application for utility model registration, the phrase "in the description, utility model registration claims, or drawings originally accompanying the request in an application for utility model registration claiming priority as under Article 8, paragraph (3) is deemed to be replaced with "in the description, claims or drawings in an international application claiming priority as of the international filing date referred to in Article 48-4, paragraph (1)," and the phrase "at the time that the application for the utility model registration is published in the utility model gazette in which the utility model appears" is deemed to be replaced with "at the time that the application for the utility model registration is published in the utility model gazette or at the time that the international publication prescribed in Article 21 of the Patent Cooperation Treaty done at Washington on June 19, 1970 is effected".

4 第八条第一項の先の出願が国際実用新案登録出願又は特許法第百八十四条の三第二項の国際特許出願である場合における第八条第一項から第三項まで及び第九条第一項の規定の適用については、第八条第一項及び第二項中「願書に最初に添付した明細書、実用新案登録請求の範囲若しくは特許請求の範囲又は図面」とあるのは「第四十八条の四第一項又は特許法第百八十四条の四第一項の国際出願日における国際出願の明細書、請求の範囲又は図面」と、同条第三項中「先の出願の願書に最初に添付した明細書、実用新案登録請求の範囲若しくは特許請求の範囲又は図面」とあるのは「先の出願の第四十八条の四第一項又は特許法第百八十四条の四第一項の国際出願日における国際出願の明細書、請求の範囲又は図面」と、「出願公開」とあるのは「千九百七十年六月十九日にワシントンで作成された特許協力条約第二十一条に規定する国際公開」と、第九条第一項中「その出願の日から経済産業省令で定める期間を経過した時」とあるのは「第四十八条の四第六項若しくは特許法第百八十四条の四第六項の国内処理基準時又は第四十八条の四第一項若しくは同法第百八十四条の四第一項の国際出願日から経済産業省令で定める期間を経過した時のいずれか遅い時」とする。

(4) In applying the provisions of Articles 8, paragraphs (1) through (3) and Article 9, paragraph (1), if an earlier application referred to in Article 8, paragraph (1) of this Act is an international application for a utility model registration or an international patent application as referred to in Article 184-3, paragraph (2) of the Patent Act, the phrase "the description, utility model registration claims, patent claims, or drawings originally accompanying the request" in Articles 8, paragraphs (1) and (2) is deemed to be replaced with "the description, claims, or drawings in an international application, as of the international filing date referred to in Article 48-4, paragraph (1) of the Utility

Model Act or Article 184-4, paragraph (1) of the Patent Act," the phrase "the description, utility model registration claims, patent claims, or drawings originally accompanying the request in the earlier application" in Article 8, paragraph (3) is deemed to be replaced with "the description, claims, or drawings in an international application, as of the international filing date referred to in Article 48-4, paragraph (1) of this Act or Article 184-4, paragraph (1) of the Patent Act," the phrase "publication of unexamined application" in Article 8, paragraph (3) is deemed to be replaced with "the international publication provided in Article 21 of the Patent Cooperation Treaty done at Washington on June 19, 1970," and the phrase "when a period specified by Order of the Ministry of Economy, Trade and Industry has lapsed from the application date" in Article 9, paragraph (1) is deemed to be replaced with "at the standard time for national processing standard time referred to in Article 48-4, paragraph (6) of this Act or Article 184-4, paragraph (6) of the Patent Act or at the time when a period specified by Order of the Ministry of Economy, Trade and Industry has passed from the international filing date referred to in Article 48-4, paragraph (1) of this Act or Article 184-4, paragraph (1) of the Patent Act, whichever is later."

(出願の変更の特例)

(Special Provisions on the Conversion of Applications)

第四十八条の十一 特許法第百八十四条の三第一項又は第百八十四条の二十第四項の規定により特許出願とみなされた国際出願の実用新案登録出願への変更については、同法第百八十四条の六第二項の日本語特許出願にあつては同法第百八十四条の五第一項、同法第百八十四条の四第一項の外国語特許出願にあつては同項又は同条第四項及び同法第百八十四条の五第一項の規定による手続をし、かつ、同法第百九十五条第二項の規定により納付すべき手数料を納付した後（同法第百八十四条の二十第四項の規定により特許出願とみなされた国際出願については、同項に規定する決定の後）でなければすることができない。

Article 48-11 If an international application that is deemed to be a patent application pursuant to Article 184-3, paragraph (1) or Article 184-20, paragraph (4) of the Patent Act is a Japanese language patent application for utility model registration until after the procedure under Article 184-5, paragraph (1) of that Act has been undertaken; if such an international application is a foreign language application as referred to in Article 184-4, paragraph (1), it may not be converted until the procedures that paragraph, paragraph (4) of that Article, or Article 184-5, paragraph (1) of that Act has been undertaken; and in any case, it may not be converted into an application for utility model registration until after the fees that must be paid pursuant to Article 195,, paragraph (2) of that Act have been paid (or, if the international application is deemed to be a patent application pursuant to Article 184-20,

paragraph (4) of that Act, until after the ruling provided for in Articles 184-20, paragraph (4) of that Act, until after the ruling provided for in Article 184-20, paragraph (4)).

(登録料の納付期限の特例)

(Special Provisions on the Due Date for Payment of Registration Fees)

第四十八条の十二 国際実用新案登録出願の第一年から第三年までの各年分の登録料の納付については、第三十二条第一項中「実用新案登録出願と同時」とあるのは、「第四十八条の四第一項に規定する国内書面提出期間内（同条第六項に規定する国内処理の請求をした場合にあつては、その国内処理の請求の時まで）」とする。

Article 48-12 With respect to the payment of registration fees in connection with an international application for utility model registration for all years from the first to the third year, the phrase "at the same time of the filing of the application for the utility model registration" in Article 32, paragraph (1) is deemed to be replaced with "within the time limit for the submitting national documents provided as provided in Article 48-4, paragraph (1) (if a request for national processing as prescribed in Article 48-4, paragraph (6) is filed, this means by the time of the request for national processing)."

(実用新案技術評価の請求の時期の制限)

(Restriction on the Timing of Filing a Request for a Technical Opinion About a Utility Model)

第四十八条の十三 国際実用新案登録出願に係る実用新案技術評価の請求については、第十二条第一項中「何人も」とあるのは、「第四十八条の四第六項に規定する国内処理基準時を経過した後、何人も」とする。

Article 48-13 In respect of a request for a technical opinion about a utility model in connection with an international application for utility model registration, the term "Any person" in Article 12, paragraph (1) is deemed to be replaced with "after the standard time for national processing as prescribed in Article 48-4, paragraph (6) has passed, any person."

(訂正の特例)

(Special Provisions Concerning Correction)

第四十八条の十三の二 外国語実用新案登録出願に係る第十四条の二第一項の規定による訂正については、同条第三項中「願書に最初に添付した明細書、実用新案登録請求の範囲又は図面」とあるのは、「第四十八条の四第一項の国際出願日における国際出願の明細書、請求の範囲又は図面」とする。

Article 48-13-2 With respect to a correction under the provisions of Article 14-2, paragraph (1) to a foreign language application for utility model registration, the phrase "the description, utility model registration or drawings accompanying the request" in Article 14-2, paragraph (3) is deemed to be

replaced with "the description, claims or drawings in the international application, as of the international filing date referred to in Article 48-4, paragraph (1)."

(無効理由の特例)

(Special Provisions Concerning Grounds for Invalidation)

第四十八条の十四 外国語実用新案登録出願に係る実用新案登録無効審判については、第三十七条第一項第一号中「その実用新案登録が第二条の二第二項に規定する要件を満たしていない補正をした実用新案登録出願に対してされたとき」とあるのは、「第四十八条の四第一項の外国語実用新案登録出願に係る実用新案登録の願書に添付した明細書、実用新案登録請求の範囲又は図面に記載した事項が同項の国際出願日における国際出願の明細書、請求の範囲又は図面に記載した事項の範囲内がないとき」とする。

Article 48-14 In respect of a trial for invalidation of the registration of a utility model in connection with a foreign language application for utility model registration, the phrase "the utility model registration has been granted on an application for utility model registration with an amendment that does not comply with the requirements as stipulated in Article 2-2, paragraph (2)" in Article 37, paragraph (1), item (i) is deemed to be replaced with "the matter indicated in the description, utility model registration claims or drawings accompanying the request for a utility model registration in a foreign model registration as referred to in Article 48-4, paragraph (1), is not within the scope of the matter indicated in the description, claims, or drawings in the international application, as of the international filing date referred to in Article 48-4, paragraph (1)".

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第四十八条の十五 特許法第百八十四条の七（日本語特許出願に係る条約第十九条に基づく補正）及び第百八十四条の八第一項から第三項まで（条約第三十四条に基づく補正）の規定は、国際実用新案登録出願の条約に基づく補正に準用する。この場合において、同法第百八十四条の七第二項及び第百八十四条の八第二項中「第十七条の二第一項」とあるのは、「実用新案法第二条の二第一項」と読み替えるものとする。

Article 48-15 (1) Provisions of Articles 184-7 (Amendments based on Article 19 of the Treaty Japanese Language Patent Application) and Article 184-8, paragraphs (1) through (3) (Amendment under Article 34 of the Treaty) of the Patent Act apply mutatis mutandis to the amendment of an international application for utility model registration based on the Treaty. In this case, the term "Article 17-2, paragraph (1)" in Articles 184-7, paragraph (2) and 184-8, paragraph (2) is deemed to be replaced with "Article 2-2, paragraph (1) of the Utility Model Act."

2 特許法第百八十四条の十一（在外者の特許管理人の特例）の規定は、国際実用新案登録出願に関する手続に準用する。

(2) The provisions of Article 184-11 (Special Provisions on Patent Administrators for Overseas Residents) of the Patent Act apply mutatis mutandis to procedures connected with international applications for utility model registration.

3 特許法第百八十四条の九第六項及び第百八十四条の十四の規定は、国際実用新案登録出願に準用する。

(3) The provisions of Articles 184-9, paragraph (6) and 184-14 of the Patent Act apply mutatis mutandis to international applications for utility model registration.

（決定により実用新案登録出願とみなされる国際出願）

**(International Application Deemed to be an Application for Utility Model Registration by Decision)**

第四十八条の十六 条約第二条（v i i）の国際出願の出願人は、条約第四条（1）

（i i）の指定国に日本国を含む国際出願（実用新案登録出願に係るものに限る。）につき条約第二条（x v）の受理官庁により条約第二十五条（1）（a）に規定する拒否若しくは同条（1）（a）若しくは（b）に規定する宣言がされ、又は条約第二条（x i x）の国際事務局により条約第二十五条（1）（a）に規定する認定がされたときは、経済産業省令で定める期間内に、経済産業省令で定めるところにより、特許庁長官に同条（2）（a）に規定する決定をすべき旨の申出をすることができる。

Article 48-16 (1) If a refusal as provided in Article 25 (1)(a) of the Treaty or a declaration as provided in Article 25 (1) (a) or (b) of the Treaty has been issued by a receiving Office referred to in Article 2 (xv) of the Treaty, or if a finding as provided in Article 25 (1) (a) of the Treaty has been made by the International Bureau referred to in Article 2 (xix) of the Treaty in relation to an international application referred to in Article 2 (vii) of the Treaty (meaning an application for utility model registration only) that lists Japan as a designated State as referred to in Article 4 (1)(ii) of the Treaty, an applicant filing an international application as referred to in Article 2 (vii) of the Treaty may petition the Commissioner of the Patent Office, pursuant to Order of the Ministry of Economy, Trade and Industry, to make the decision provided for in Article 25 (2)(a) of the Treaty within the time frame specified by Order of the Ministry of Economy, Trade and Industry.

2 外国語でされた国際出願につき前項の申出をする者は、申出に際し、明細書、請求の範囲、図面（図面の中の説明に限る。）、要約その他の経済産業省令で定める国際出願に関する書類の日本語による翻訳文を特許庁長官に提出しなければならない。

(2) A person filing a petition as referred to in the preceding paragraph in connection with an international application that has been filed in a foreign language must submit Japanese translations of the description, claims,

drawings (but only the descriptive text in the drawings), and abstract and of other documents linked with the international application that are specified by Order of the Ministry of Economy, Trade and Industry to the Commissioner of the Patent Office at the time of the petition.

3 特許庁長官は、第一項の申出があつたときは、その申出に係る拒否、宣言又は認定が条約及び特許協力条約に基づく規則の規定に照らして正当であるか否かの決定をしなければならない。

(3) Upon the filing of a petition as referred to in paragraph (1), the Commissioner of the Patent Office must decide whether the refusal, declaration or finding to which the petition pertains is justified in the light of the provisions of the Treaty and based on the Regulations on the Patent Cooperation Treaty.

4 前項の規定により特許庁長官が同項の拒否、宣言又は認定が条約及び特許協力条約に基づく規則の規定に照らして正当でない旨の決定をしたときは、その決定に係る国際出願は、その国際出願につきその拒否、宣言又は認定がなかつたものとした場合において国際出願日となつたものと認められる日にされた実用新案登録出願とみなす。

(4) If the Commissioner of the Patent Office, pursuant to the preceding paragraph, decides that the refusal, declaration or finding, referred to in that paragraph was not justified in the light of the provisions of the Treaty and Regulations based on the Patent Cooperation Treaty, the international application subject to that decision is deemed to be an application for a utility model registration filed on the day that it is found would have been the international filing date if no such refusal, declaration, or finding had been made with respect to the international application.

5 第四十八条の六第一項及び第二項、第四十八条の七、第四十八条の八第三項、第四十八条の九、第四十八条の十第一項、第三項及び第四項、第四十八条の十二から第四十八条の十四まで並びに特許法第百八十四条の三第二項、第百八十四条の九第六項、第百八十四条の十二第一項及び第百八十四条の十四の規定は、前項の規定により実用新案登録出願とみなされた国際出願に準用する。この場合において、これらの規定の準用に関し必要な技術的読替えは、政令で定める。

(5) The provisions of Article 48-6, paragraphs (1) and (2), Article 48-7, Article 48-8, paragraph (3), Article 48-9, Article 48-10, paragraphs (1), (3) and (4), and Articles 48-12 through 48-14 of the Utility Model Act and Article 184-3, paragraph (2), Article 184-9, paragraph (6), Article 184-12, paragraph (1) and Article 184-14 of the Patent Act apply mutatis mutandis to international applications that are deemed to be an application for utility model registration under the provisions of the preceding paragraph. In this case, the technical replacement of the necessary terms for the mutatis mutandis application of the relevant provisions is specified by Cabinet Order.

## 第八章 雑則

### Chapter VIII Miscellaneous Provisions

(実用新案原簿への登録)

(Registration in the Utility Model Register)

第四十九条 次に掲げる事項は、特許庁に備える実用新案原簿に登録する。

Article 49 (1) The following particulars are registered in the utility model register maintained at the Japan Patent Office:

一 実用新案権の設定、移転、信託による変更、消滅、回復又は処分の制限

(i) the establishment of a utility model, its transfer, modification under a trust, expiration, restoration, and restrictions on its disposal;

二 専用実施権の設定、保存、移転、変更、消滅又は処分の制限

(ii) the establishment of an exclusive licence, its preservation, transfer, modification under a trust, expiration, restriction, and its disposal;

三 実用新案権又は専用実施権を目的とする質権の設定、移転、変更、消滅又は処分の制限

(iii) the establishment of a pledge on a utility model or exclusive license, the transfer of such a pledge, its modification, extinguishment, and restrictions on its disposal.

2 実用新案原簿は、その全部又は一部を磁気テープ（これに準ずる方法により一定の事項を確実に記録して置くことができる物を含む。以下同じ。）をもつて調製することができる。

(2) The utility model register may be prepared, in whole or in part, on magnetic tape. (this includes any other medium onto which a fixed set of information can be securely recorded using a means equivalent to that used for recording onto magnetic tape; the same applies hereinafter).

3 この法律に規定するもののほか、登録に関して必要な事項は、政令で定める。

(3) The particulars of registration that need to be stipulated beyond what is prescribed in this Act are provided for by Cabinet Order.

(実用新案登録証の交付)

(Issuance of a Certificate of Utility Model Registration)

第五十条 特許庁長官は、実用新案権の設定の登録、第十四条の二第一項の訂正又は第十七条の二第一項の規定による請求に基づく実用新案権の移転の登録があつたときは、実用新案権者に対し、実用新案登録証を交付する。

Article 50 (1) The Commissioner of the Patent Office issues a certificate of utility model registration to the holder of the utility model when the registration is establishing the utility model and if a correction as referred to in Article 14-2, paragraph (1) is made, or if the transfer of the utility model right has been registered based on a request made under the provisions of Article 17-2, paragraph (1).

2 実用新案登録証の再交付については、経済産業省令で定める。

(2) The re-issuance of a certificate of utility model registration is provided by

Order of the Ministry of Economy, Trade and Industry.

(二以上の請求項に係る実用新案登録又は実用新案権についての特則)

(Special Provisions on Utility Model Registration or Utility Model Covering Two or more Claims)

第五十条の二 二以上の請求項に係る実用新案登録又は実用新案権についての第十二条第二項、第十四条の二第八項、第二十六条において準用する特許法第九十七条第一項若しくは第九十八条第一項第一号、第三十四条第一項第三号、第三十七条第三項、第四十一条において準用する同法第二百二十五条、第四十一条において、若しくは第四十五条第一項において準用する同法第七十四条第三項において、それぞれ準用する同法第一百三十二条第一項、第四十四条、第四十五条第一項において準用する同法第七十六条、第四十九条第一項第一号又は第五十三条第二項において準用する同法第九十三条第二項第五号の規定の適用については、請求項ごとに実用新案登録がされ、又は実用新案権があるものとみなす。

Article 50-2 In applying the provisions of Article 12, paragraph (2), Article 14-2, paragraph (8) of the Utility Model Act, Article 97, paragraph (1) or Article 98, paragraph (1), item (i) of the Patent Act as applied mutatis mutandis pursuant to Article 26 of this Act, Article 34, paragraph (1), item (iii), Article 37, paragraph (3), Article 125 of the Patent Act as applied mutatis mutandis pursuant to Article 41 of this Act, Article 132, paragraph (1) of the Patent Act as applied mutatis mutandis in Article 174, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 41 or Article 45, paragraph (1) of this Act, Article 44 of this Act, Article 176 of the Patent Act as applied mutatis mutandis pursuant to Article 45, paragraph (1) of this Act, Article 49, paragraph (1), item (i) of this Act, or Article 193, paragraph (2), item (v) of the Patent Act as applied mutatis mutandis pursuant to Article 53, paragraph (2) of this Act to a utility model registration or a utility model with two or more claims, the utility model registration is deemed to have been granted, or the utility model is deemed to exist, on a claim-by-claim basis.

(実用新案登録表示)

(Utility Model Registration Mark)

第五十一条 実用新案権者、専用実施権者又は通常実施権者は、経済産業省令で定めるところにより、登録実用新案に係る物品又はその物品の包装にその物品が登録実用新案に係る旨の表示（以下「実用新案登録表示」という。）を附するよう努めなければならない。

Article 51 The utility model holder, exclusive licensee or non-exclusive licensee must endeavor to mark, pursuant to Order of the Ministry of Economy, Trade and Industry, products covered by the registered utility model or the packaging of the same with a mark (hereinafter referred to as an "utility model registration mark") indicating the product to be covered by a registered utility

model.

(虚偽表示の禁止)

(Prohibition of a False Marking)

第五十二条 何人も、次に掲げる行為をしてはならない。

Article 52 It is prohibited for any person to take the following actions.

一 登録実用新案に係る物品以外の物品又はその物品の包装に実用新案登録表示又はこれと紛らわしい表示を附する行為

(i) placing a utility model registration mark or a mark that is liable to cause confusion with the same on a product other than one that is covered by a registered utility model or on the packaging of such a product;

二 登録実用新案に係る物品以外の物品であつて、その物品又はその物品の包装に実用新案登録表示又はこれと紛らわしい表示を附したものを譲渡し、貸し渡し、又は譲渡若しくは貸渡のために展示する行為

(ii) transferring ownership of, renting out, or displaying for the purpose of transferring ownership of or renting out an article other than a product covered by a registered utility model, or the packaging of such an article, which bears a utility model registration mark or a mark that could be confused with the same; or

三 登録実用新案に係る物品以外の物品を製造させ若しくは使用させるため、又は譲渡し若しくは貸し渡すため、広告にその物品が登録実用新案に係る旨を表示し、又はこれと紛らわしい表示をする行為

(iii) representing an article other than a product covered by a registered utility model to be covered by a registered utility model in an advertisement, or making a representation in an advertisement that could be confused with meaning this, in order to cause that article to be manufactured or used, or for the purpose of transferring ownership of or renting out that article.

(実用新案公報)

(Utility Model Gazette)

第五十三条 特許庁は、実用新案公報を発行する。

Article 53 (1) The Japan Patent Office publishes the utility model gazette.

2 特許法第百九十三条第二項（第五号から第七号まで、第九号及び第十号に係る部分に限る。）の規定は、実用新案公報に準用する。

(2) The provisions of Article 193, paragraph (2) (limited to the parts to which items (iv) through (vi), (viii) and (ix) pertain) apply mutatis mutandis to the utility model gazette.

(手数料)

(Fees)

第五十四条 次に掲げる者は、実費を勘案して政令で定める額の手数料を納付しなけれ

ばならない。

Article 54 (1) The following persons must pay the amount of fees that Cabinet Order specifies in view of the actual costs:

一 第二条の五第一項において準用する特許法第五条第一項の規定、第三十二条第三項の規定若しくは第十四条の二第五項、第三十九条の二第四項、第四十五条第二項若しくは次条第五項において準用する同法第四条の規定による期間の延長又は第二条の五第一項において準用する同法第五条第二項の規定による期日の変更を請求する者

(i) a person filing a request for the extension of a time limit under the provisions of Article 5, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 2-5, paragraph (1) of this Act, Article 32, paragraph (3) of this Act, or Article 4 of the Patent Act as applied mutatis mutandis pursuant to Article 14-2, paragraph (5), Article 39-2, paragraph (4), Article 45, paragraph (2) or Article 54-2, paragraph (5) of this Act, or for a change of the date under the provisions of Article 5, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 2-5, paragraph (1) of this Act;

二 第十一条第二項において準用する特許法第三十四条第四項の規定により承継の届出をする者

(ii) a person filing notification of succession pursuant to the provisions of Article 34, paragraph (4) of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (2) of this Act;

三 実用新案登録証の再交付を請求する者

(iii) a person filing a request to be reissued a certificate of utility model registration;

四 第五十五条第一項において準用する特許法第百八十六条第一項の規定により証明を請求する者

(iv) a person filing a request to be reissued a certificate pursuant to Article 186, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 55, paragraph (1) of this Act;

五 第五十五条第一項において準用する特許法第百八十六条第一項の規定により書類の謄本又は抄本の交付を請求する者

(v) a person filing a request to be issued a certified copy of a document or an extract of a document pursuant to Article 186, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 55, paragraph (1) of this Act;

六 第五十五条第一項において準用する特許法第百八十六条第一項の規定により書類の閲覧又は謄写を請求する者

(vi) a person filing a request to inspect or copy a document pursuant to Article 186, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 55, paragraph (1);

七 第五十五条第一項において準用する特許法第百八十六条第一項の規定により実用新案原簿のうち磁気テープをもつて調製した部分に記録されている事項を記載した書類の交付を請求する者

(vii) a person filing a request pursuant to Article 186, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 55, paragraph (1) of this Act, to be issued a document showing the information stored in a part of the utility model register that has been created on magnetic tape.

2 別表の中欄に掲げる者は、それぞれ同表の下欄に掲げる金額の範囲内において政令で定める額の手数料を納付しなければならない。

(2) A person set forth in the center column of the appended table must pay the amount of fees that Cabinet Order specifies within the scope of the amount of money set forth in the lower column of the table.

3 前二項の規定は、これらの規定により手数料を納付すべき者が国であるときは、適用しない。

(3) The two preceding paragraphs do not apply if the person that would be required to pay the fee pursuant to those paragraphs is the national government.

4 実用新案権又は実用新案登録を受ける権利が国と国以外の者との共有に係る場合であつて持分の定めがあるときは、国と国以外の者が自己の実用新案権又は実用新案登録を受ける権利について第一項又は第二項の規定により納付すべき手数料（実用新案技術評価の請求の手数料以外の政令で定める手数料に限る。）は、これらの規定にかかわらず、これらの規定に規定する手数料の金額に国以外の者の持分の割合を乗じて得た額とし、国以外の者がその額を納付しなければならない。

(4) Notwithstanding the provisions of paragraph (1) or (2), if a utility model or a right to obtain a utility model registration is held under the joint ownership of the national government and a person or persons other than the national government and their shares have been agreed upon, the fee that is payable by the national government pursuant to paragraph (1) or (2) in respect of their own utility model or right to obtain a utility model registration (but only a fee specified by Cabinet Order; excluding the fee for filing for a technical opinion about a utility model) is the amount arrived at by multiplying the fee provided for in those provisions by the percentage that represents the share of each person other than the national government, and, this is the amount that the person or persons other than the national government must pay.

5 実用新案権又は実用新案登録を受ける権利が国又は第八項の規定若しくは他の法令の規定による実用新案技術評価の請求の手数料の軽減若しくは免除（以下この項において「減免」という。）を受ける者を含む者の共有に係る場合であつて持分の定めがあるときは、これらの者が自己の実用新案権又は実用新案登録を受ける権利について第二項の規定により納付すべき実用新案技術評価の請求の手数料は、同項の規定にかかわらず、国以外の各共有者ごとに同項に規定する実用新案技術評価の請求の手数料の金額（減免を受ける者にあつては、その減免後の金額）にその持分の割合を乗じて

得た額を合算して得た額とし、国以外の者がその額を納付しなければならない。

(5) Notwithstanding the provisions of paragraph (2), if a utility model or a right to obtain a utility model registration is held under joint ownership with the national government or a person or persons receiving a reduction or exemption under paragraph (8) or the provisions of any other laws and regulations from the fee for filing for a technical opinion about a utility model (hereinafter referred to in this paragraph as a "reduction or exemption") and their shares have been agreed upon, the amount of the fee for filing for the technical opinion about the utility model which is payable by such persons pursuant to paragraph (2) in respect of their utility model or right to obtain a utility model registration is the sum total arrived at by first multiplying, for each joint owner other than the national government, the applicable fee for filing for the technical opinion about a utility model provided for in paragraph (2) (for a person receiving a reduction or exemption, this means the fee provided for in that paragraph less that reduction or exemption) by the percentage that represents that person's share, and then adding together the amounts so arrived at, and this sum total is the amount that the person or persons other than the national government must pay.

6 前二項の規定により算定した手数料の金額に十円未満の端数があるときは、その端数は、切り捨てる。

(6) If the amount of a fee calculated pursuant to one of the two preceding paragraphs is not a multiple of ten yen, that fee is rounded down to the nearest multiple of ten yen..

7 第一項及び第二項の手数料の納付は、経済産業省令で定めるところにより、特許印紙をもつてしなければならない。ただし、経済産業省令で定める場合には、経済産業省令で定めるところにより、現金をもつて納めることができる。

(7) Payment of a fee referred to in paragraph (1) or (2) must be made with patent revenue stamps, pursuant to Order of the Ministry of Economy, Trade and Industry; provided, however, that if so stipulated by an Order of the Ministry of Economy, Trade and Industry, a cash payment may be made.

8 特許庁長官は、自己の実用新案登録出願に係る考案又は登録実用新案について実用新案技術評価の請求をする者がその実用新案登録出願に係る考案若しくは登録実用新案の考案者又はその相続人である場合において、貧困により第二項の規定により納付すべき実用新案技術評価の請求の手数料を納付する資力がないと認めるときは、政令で定めるところにより、その手数料を軽減し、又は免除することができる。

(8) If the person requesting a technical opinion about a utility model in connection with an device claimed in the application for utility model registration or in connection with a registered utility model is the creator of that device claimed in that application for a utility model registration, the creator of that registered utility model, or the heir of the same, and the Commissioner of the Patent Office finds that, due to financial hardship, it

would be difficult for the person to pay the fee that pursuant to paragraph (2), must be paid for filing the request for the technical opinion about a utility model the commissioner pursuant to the provisions specified by Cabinet Order, may reduce that fee or exempt the person from paying it.

(手数料の返還)

(Return of Fees)

第五十四条の二 実用新案技術評価の請求があつた後に第十二条第七項の規定によりその請求がされなかつたものとみなされたときは、その請求人が前条第二項の規定により納付した実用新案技術評価の請求の手数料は、その者に返還する。

Article 54-2 (1) If after a request for a technical opinion about a utility model is filed, it is deemed pursuant to Article 12, paragraph (7), not to have been filed, the fee the requester has paid pursuant to Article 54, paragraph (2) for filing that request is refunded to that person.

2 第三十九条の二第三項又は第五項に規定する期間（同条第三項に規定する期間が同条第四項において準用する特許法第四条の規定により延長されたときは、その延長後の期間）内に実用新案登録無効審判の請求が取り下げられたときは、その請求人が前条第二項の規定により納付した審判の請求の手数料は、その者の請求により返還する。

(2) If a demand for a trial for invalidation of the registration of a utility model is withdrawn within the time frame provided in Article 39-2, paragraph (3) or (5) (or, if the time frame period provided in Article 39-2, paragraph (3) has been extended under the provisions of Article 4 of the Patent Act as applied mutatis mutandis pursuant to Article 39-2, paragraph (4), within the extended time frame), the fee for filing the demand for trial or appeal which the person demanding the trial or appeal has paid pursuant to Article 54, paragraph (2) is refunded to that person upon request.

3 前項の規定による手数料の返還は、実用新案登録無効審判の請求が取り下げられた日から六月を経過した後は、請求することができない。

(3) A request for a refund of the fees under the provisions of the preceding paragraph may be filed once six months have passed since the date on which the demand for the trial for invalidation of the registration of a utility model is withdrawn.

4 実用新案登録無効審判の参加人が第三十九条第五項の規定による通知を受けた日から三十日以内にその参加の申請を取り下げたときは、その参加人が前条第二項の規定により納付した参加の申請の手数料は、その者の請求により返還する。

(4) If the intervenor in a trial for invalidation of the registration of a utility model withdraws the application for intervention within 30 days from the receipt of notice under Article 39, paragraph (5), the fee that the intervenor has paid pursuant to Article 54, paragraph (2) for applying to intervene is refunded to the intervenor upon request.

5 特許法第四条の規定は、前項に規定する期間に準用する。この場合において、同条

中「特許庁長官」とあるのは、「審判長」と読み替えるものとする。

(5) The provisions of Article 4 of the Patent Act apply mutatis mutandis to the time frame provided in the preceding paragraph (4). In this case, the phrase "The Commissioner of the Patent Office" in that Article is deemed to be replaced with "The chief administrative judge."

6 実用新案登録無効審判の参加人がその責めに帰することができない理由により第四項に規定する期間内にその参加の申請を取り下げることができない場合において、その理由がなくなった日から十四日（在外者にあつては、二月）以内でその期間の経過後六月以内にその申請を取り下げたときは、同項の規定にかかわらず、その参加人が前条第二項の規定により納付した参加の申請の手数料は、その者の請求により返還する。

(6) Notwithstanding the provisions of paragraph (4), if the intervenor in a trial for invalidation of the registration of a utility model is unable to withdraw the application for invention with the period provided for in that paragraph due to reasons beyond the intervenor's control, but withdraws the application within 14 days (or within two months, if the intervenor is an overseas resident) after the date on which those reasons cease to exist and no later than six months after the end of the aforementioned period, the fees that the intervenor has paid pursuant to Article 54, paragraph (2) for applying to intervene are refunded to the intervenor upon request.

7 第四項及び前項の規定による手数料の返還は、参加の申請が取り下げられた日から六月を経過した後は、請求することができない。

(7) A request for refund of the fees under the provisions of paragraphs (4) and (6) may not be filed once six months have passed since the date on which the application for intervention was withdrawn.

8 実用新案登録無効審判の参加人がその参加の申請を取り上げていない場合において、第四項又は第六項に規定する期間（第四項に規定する期間が第五項において準用する特許法第四条の規定により延長されたときは、その延長後の期間）内に実用新案登録無効審判の請求が取り下げられたときは、その参加人が前条第二項の規定により納付した参加の申請の手数料は、その者の請求により返還する。ただし、第四十一条において準用する同法第四百四十八条第二項の規定により審判手続を続行したときは、この限りでない。

(8) If the intervenor in a trial for invalidation of the registration of a utility model does not withdraw the application for intervention, but the demand for the trial is withdrawn within the time frame provided in paragraph (4) or (6) (or, if the frame provided in paragraph (4) has been extended pursuant to Article 4 of the Patent Act as applied mutatis mutandis pursuant to paragraph (5), within the extended time frame), the fees that the intervenor has paid pursuant to Article 54, paragraph (2) for filing the application to intervene are refunded to the intervenor upon request; provided, however, that this does not apply if the trial procedure have been continued pursuant to Article 148,

paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 41.

9 前項の規定による手数料の返還は、実用新案登録無効審判の請求が取り下げられた日から一年を経過した後は、請求することができない。

(9) A request for refund of the fees under the preceding paragraph may not be filed once one year has passed since the date on which the demand for the trial for invalidation of the registration of a utility model was withdrawn.

10 過誤納の手数料は、納付した者の請求により返還する。

(10) Fees paid in excess or in error are refunded at the request of the person that paid them.

11 前項の規定による手数料の返還は、納付した日から一年を経過した後は、請求することができない。

(11) A request for a refund of fees under paragraph (11) may not be filed once one year has passed since the date on which they were paid.

12 第二項、第四項若しくは第六項、第八項又は第十項の規定による手数料の返還を請求する者がその責めに帰することができない理由により、第三項、第七項、第九項又は前項に規定する期間内にその請求をすることができないときは、これらの規定にかかわらず、その理由がなくなった日から十四日（在外者にあつては、二月）以内でこれらの規定に規定する期間の経過後六月以内にその請求をすることができる。

(12) If the person making a request for the refund of a fee prescribed in paragraph (2), (4), (6), (8) or (10), is unable to make the request prescribed in within the period provided in paragraphs (3), (7), (9), (11) or prescribed in the previous paragraph, due to reasons beyond their control, the person may make the request within 14 days (or within two months, if the demandant is an overseas resident) from the date on which those reasons cease to exist, but not later than six months after the aforementioned period..

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第五十五条 特許法第百八十六条（証明等の請求）の規定は、実用新案登録に準用する。

Article 55 (1) The provisions of Article 186 (Request for a Certificate) of the Patent Act apply mutatis mutandis to a utility model registration.

2 特許法第百八十九条から第百九十二条まで（送達）の規定は、この法律の規定による送達に準用する。

(2) The provisions of Articles 189 through 192 (Service) of the Patent Act apply mutatis mutandis to services under the provisions of this Act.

3 特許法第百九十四条の規定は、手続に準用する。この場合において、同条第二項中「審査」とあるのは、「実用新案法第十二条第一項に規定する実用新案技術評価」と読み替えるものとする。

(3) The provisions of Article 194 of the Patent Act apply mutatis mutandis to procedures. In this case, the term "the examination" in paragraph (2) of the

relevant Article is deemed to be replaced with "the preparation of a technical opinion about a utility model provided for Article 12, paragraph (1) of the Utility Model Act."

4 特許法第九十五条の三の規定は、この法律又はこの法律に基づく命令の規定による処分に準用する。

(4) The provisions of Article 195-3 of the Patent Act apply mutatis mutandis to a disposition under the provisions of this Act or under an order issued based on this Act.

5 特許法第九十五条の四（行政不服審査法の規定による審査請求の制限）の規定は、この法律の規定による審決及び審判若しくは再審の請求書の却下の決定並びにこの法律の規定により不服を申し立てることができないこととされている処分又はこれらの不作為に準用する。

(5) The provisions of Article 195-4 (Restriction on Appeals under the Provisions of the Administrative Appeals Act) of the Patent Act apply mutatis mutandis to a trial decision, a ruling dismissing a written request for a trial or appeal, or retrial, and to a disposition with regard to which it is decided that an appeal may not be filed pursuant to this Act.

## 第九章 罰則

### Chapter IX Penal Provisions

(侵害の罪)

(The Crime of Infringement)

第五十六条 実用新案権又は専用実施権を侵害した者は、五年以下の懲役若しくは五百万円以下の罰金に処し、又はこれを併科する。

Article 56 A person who infringes a utility model right or exclusive license is subject to imprisonment with required labor for a term not exceeding five years, a fine not exceeding 5,000,000 yen, or both.

(詐欺の行為の罪)

(The Crime of Fraud)

第五十七条 詐欺の行為により実用新案登録又は審決を受けた者は、一年以下の懲役又は百万円以下の罰金に処する。

Article 57 A person who has obtained a utility model registration or a trial decision by means of a fraudulent act is punished by imprisonment with work for a term not exceeding one year or a fine not exceeding 1,000,000 yen.

(虚偽表示の罪)

(The Crime of False Marking)

第五十八条 第五十二条の規定に違反した者は、一年以下の懲役又は百万円以下の罰金に処する。

Article 58 A person that fails to comply with Article 52 is subject to imprisonment with required labor for a term not exceeding one year or a fine not exceeding 1,000,000 yen.

(偽証等の罪)

(The Crime of Perjury)

第五十九条 この法律の規定により宣誓した証人、鑑定人又は通訳人が特許庁又はその囑託を受けた裁判所に対し虚偽の陳述、鑑定又は通訳をしたときは、三月以上十年以下の懲役に処する。

Article 59 (1) A witness, expert or interpreter who has sworn under oath pursuant to this Act and then offered a false statement, false expert opinion, or false interpretation to the Japan Patent Office or the court commissioned thereby is subject to imprisonment with required labor for a term of between three months and ten years.

2 前項の罪を犯した者が事件の判定の謄本が送達され、又は審決が確定する前に自白したときは、その刑を減輕し、又は免除することができる。

(2) If a person who has committed the crime referred to in the preceding paragraph makes a voluntary confession before the certified copy of the judgment in the case is served or before the trial decision becomes final and binding, the sentence may be reduced or remitted.

(秘密を漏らした罪)

(The Crime of Disclosing Confidential Information)

第六十条 特許庁の職員又はその職にあつた者がその職務に関して知得した実用新案登録出願中の考案に関する秘密を漏らし、又は盗用したときは、一年以下の懲役又は五十万円以下の罰金に処する。

Article 60 Any present or former official of the Japan Patent Office who discloses or misappropriates confidential information about an Device claimed in a pending application for utility model registration that the official has learned in connection with official duties is subject to imprisonment with required labor for a term not exceeding one year or a fine not exceeding 500,000 yen.

(秘密保持命令違反の罪)

(The Crime of Violating a Protective Order)

第六十条の二 第三十条において準用する特許法第百五条の四第一項の規定による命令に違反した者は、五年以下の懲役若しくは五百万円以下の罰金に処し、又はこれを併科する。

Article 60-2 (1) A person that violates an protective order under the provisions of Article 105-4, paragraph 1 of the Patent Act as applied mutatis mutandis pursuant to Article 30 of this Act is subject to imprisonment with required labor for a term not exceeding five years, a fine not exceeding 5,000,000 yen, or

both.

2 前項の罪は、告訴がなければ公訴を提起することができない。

(2) The crime referred to in the preceding paragraph may not be prosecuted unless a complaint is filed.

3 第一項の罪は、日本国外において同項の罪を犯した者にも適用する。

(3) The crime referred to in paragraph (1) also applies to a person who commits that crime outside Japan.

(両罰規定)

(Dual Liability)

第六十一条 法人の代表者又は法人若しくは人の代理人、使用人その他の従業者が、その法人又は人の業務に関し、次の各号に掲げる規定の違反行為をしたときは、行為者を罰するほか、その法人に対して当該各号で定める罰金刑を、その人に対して各本条の罰金刑を科する。

Article 61 (1) If the representative of a corporation, or the agent, employee or other worker of a corporation or individual commits a, violation of the provisions set forth in one of the following items in connection with the business of that corporation or individual, beyond the offender being subject to punishment, the corporation is subject to the fine prescribed in the relevant item and the individual is subject to the fine prescribed in the Article referred to in that item:

一 第五十六条又は前条第一項 三億円以下の罰金刑

(i) Article 56 or 60-2, paragraph (1), a fine not exceeding 300 million yen; and

二 第五十七条又は第五十八条 三千万円以下の罰金刑

(ii) Article 57 or 58, a fine not exceeding 30 million yen.

2 前項の場合において、当該行為者に対してした前条第二項の告訴は、その法人又は人に対しても効力を生じ、その法人又は人に対してした告訴は、当該行為者に対しても効力を生ずるものとする。

(2) In a case referred to in the preceding paragraph, a complaint as referred to in Article 60-2, paragraph (2) which is filed against the offender also has effect against the corporation or individual, and a complaint that is filed against the corporation or individual also has effect against the offender.

3 第一項の規定により第五十六条又は前条第一項の違反行為につき法人又は人に罰金刑を科する場合における時効の期間は、これらの規定の罪についての時効の期間による。

(3) If a fine is imposed on a corporation or individual pursuant to paragraph (1) in connection with a violation referred to in Article 56 or 60-2, paragraph (1), the period of prescription is governed by the same rules as for the crimes referred to in those provisions.

(過料)

(Non-Criminal Fines)

第六十二条 第二十六条において準用する特許法第七十一条第三項において、第四十一条において、又は第四十五条第一項において準用する同法第一百七十四条第三項において、それぞれ準用する同法第一百五十一条において準用する民事訴訟法第二百七条第一項の規定により宣誓した者が特許庁又はその囑託を受けた裁判所に対し虚偽の陳述をしたときは、十万円以下の過料に処する。

Article 62 If a person who has sworn under oath pursuant to the provisions of Article 207, paragraph (1) of the Code of Civil Procedure, as applied mutatis mutandis pursuant to Article 151 of the Patent Act which is respectively applied upon mutatis mutandis application pursuant to Articles 71, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 26 of the Patent Act, or pursuant to Article 41 of the Patent Act, or upon mutatis mutandis application pursuant to Article 174, paragraph (3) of the Patent Act as it applies mutatis mutandis pursuant to Article 45 of this Act, , offers a false statement to the Japan Patent Office or the court commissioned thereby, the relevant person is subject to a non-criminal fine not exceeding 100,000 yen.

第六十三条 この法律の規定により特許庁又はその囑託を受けた裁判所から呼出しを受けた者が、正当な理由がないのに出頭せず、又は宣誓、陳述、証言、鑑定若しくは通訳を拒んだときは、十万円以下の過料に処する。

Article 63 A person that, pursuant to this Act, has been summoned by the Japan Patent Office or the court commissioned thereby but that, without a legitimate reason for doing so, fails to appear or refuses to swear, under oath, offer a statement, testify, give an expert opinion, or provide interpretation is subject to a non-criminal fine not exceeding 100,000 yen.

第六十四条 証拠調又は証拠保全に関し、この法律の規定により特許庁又はその囑託を受けた裁判所から書類その他の物件の提出又は提示を命じられた者が正当な理由がないのにその命令に従わなかつたときは、十万円以下の過料に処する。

Article 64 A person that, pursuant to this Act is, ordered by the Japan Patent Office or the court commissioned thereby to submit or present documents or other materials for examination or for the preservation of evidence, but that, without a legitimate reason for doing so, fails to comply with that order, is subject to a non-criminal fine not exceeding 100,000 yen.

**附 則**

**Supplementary Provisions**

この法律の施行期日は、別に法律で定める。

The effective date of this Act is prescribed separately by an Act.

附 則 〔昭和三十七年五月十六日法律第百四十号〕 〔抄〕

Supplementary Provisions [Act No. 140 of May 16, 1962 Extract] [Extract]

- 1 この法律は、昭和三十七年十月一日から施行する。  
(1) This Act comes into effect as of October 1, 1962.
- 2 この法律による改正後の規定は、この附則に特別の定めがある場合を除き、この法律の施行前に生じた事項にも適用する。ただし、この法律による改正前の規定によつて生じた効力を妨げない。  
(2) Unless otherwise provided for in the Supplementary Provisions, the provisions revised by this Act also apply to any matters that have arisen prior to the enforcement of this Act; provided, however, that this does not preclude the effect that has arisen under the provisions prior to revision by this Act.
- 3 この法律の施行の際現に係属している訴訟については、当該訴訟を提起することができない旨を定めるこの法律による改正後の規定にかかわらず、なお従前の例による。  
(3) Prior laws continue to govern a lawsuit which is pending when this Act comes into effect, notwithstanding the provisions as amended by this Act to the effect that the lawsuit may not be filed.
- 4 この法律の施行の際現に係属している訴訟の管轄については、当該管轄を専属管轄とする旨のこの法律による改正後の規定にかかわらず、なお従前の例による。  
(4) Prior laws continue to govern the jurisdiction over a lawsuit which is pending when this Act comes into effect, notwithstanding the provisions as amended by this Act to the effect that the jurisdiction is the exclusive jurisdiction.
- 5 この法律の施行の際現にこの法律による改正前の規定による出訴期間が進行している処分又は裁決に関する訴訟の出訴期間については、なお従前の例による。ただし、この法律による改正後の規定による出訴期間がこの法律による改正前の規定による出訴期間より短い場合に限る。  
(5) Prior laws continue to govern the statute of limitations for filing a lawsuit concerning a disposition or determinations, of which the statute of limitations for filing a lawsuit pursuant to the provisions before the revision of this Act was actually in progress at the time of the enforcement of this Act, provided, however, that this is limited to cases where the statute of limitations for filing a lawsuit pursuant to the provisions revised by this Act is shorter than that pursuant to the provisions prior to the revision by this Act.
- 6 この法律の施行前にされた処分又は裁決に関する当事者訴訟で、この法律による改正により出訴期間が定められることとなつたものについての出訴期間は、この法律の施行の日から起算する。  
(6) The statute of limitations for filing a party suit concerning a disposition imposed or a determination made prior to the enforcement of this Act, for which the statute of limitations has come to be set due to the revision by this Act, is counted from the date of enforcement by this Act.
- 7 この法律の施行の際現に係属している処分又は裁決の取消しの訴えについては、当

該法律関係の当事者の一方を被告とする旨のこの法律による改正後の規定にかかわらず、なお従前の例による。ただし、裁判所は、原告の申立てにより、決定をもって、当該訴訟を当事者訴訟に変更することを許すことができる。

- (7) Prior laws continue to govern an action for rescission of a disposition or determination which is actually pending at the time of enforcement of this Act, notwithstanding the provisions amended by this Act stipulating that either of the parties in the relevant legal relationship is to be the defendant; provided, however, that the court may, by its decision, permit to change the action to the party suit based on a motion by the plaintiff.
- 8 前項ただし書の場合には、行政事件訴訟法第十八条後段及び第二十一条第二項から第五項までの規定を準用する。
- (8) The provisions of the second sentence of Article 18, and Article 21, paragraphs (2) through (5) inclusive of the Administrative Case Litigation Act apply mutatis mutandis to the case referred to in the proviso to the preceding paragraph.

**附 則** 〔昭和三十七年九月十五日法律第百六十一号〕 〔抄〕

**Supplementary Provisions [Act No. 161 of September 15, 1962 Extract]**  
**[Extract]**

- 1 この法律は、昭和三十七年十月一日から施行する。
- (1) This Act comes into effect as of October 1, 1962.
- 2 この法律による改正後の規定は、この附則に特別の定めがある場合を除き、この法律の施行前にされた行政庁の処分、この法律の施行前にされた申請に係る行政庁の不作為その他この法律の施行前に生じた事項についても適用する。ただし、この法律による改正前の規定によつて生じた効力を妨げない。
- (2) The provisions revised by this Act also apply to the dispositions by an administrative agency taken prior to the enforcement of this Act, the inaction by an administrative agency pertaining to an application filed prior to the enforcement of this Act or any other matters that have occurred prior to the enforcement of this Act, except as otherwise provided for in these Supplementary Provisions; provided, however, that those provisions are not to preclude the effect that has arisen pursuant to the provisions prior to their revision by this Act.
- 3 この法律の施行前に提起された訴願、審査の請求、異議の申立てその他の不服申立て（以下「訴願等」という。）については、この法律の施行後も、なお従前の例による。この法律の施行前にされた訴願等の裁決、決定その他の処分（以下「裁決等」という。）又はこの法律の施行前に提起された訴願等につきこの法律の施行後にされる裁決等にさらに不服がある場合の訴願等についても、同様とする。
- (3) Even after this Act comes into effect, the provisions previously in force continue to govern with respect to petition, request for review, objection, or

other appeals (hereinafter referred to as "petitions, etc.") filed before this Act comes into effect. The same applies to a petition, etc. that is filed if a party remains dissatisfied with a determination, ruling or other disposition (hereinafter referred to as "determinations, etc.") that is reached before this Act comes into effect with respect to a petition, etc., or with a determination, etc. reached after this Act comes into effect.

4 前項に規定する訴願等で、この法律の施行後は行政不服審査法による不服申立てをすることができることとなる処分に係るものは、同法以外の法律の適用については、行政不服審査法による不服申立てとみなす。

(4) The Petitions, etc. prescribed in the preceding paragraph which pertains to a disposition on which an appeal under the Administrative Appeal Act may be filed after the enforcement of this Act is deemed to be an appeal under the Administrative Appeal Act with regard to the application of the Acts other than the relevant Act.

5 第三項の規定によりこの法律の施行後にされる審査の請求、異議の申立てその他の不服申立ての裁決等については、行政不服審査法による不服申立てをすることができない。

(5) Appeals under the Administrative Appeal Act may not be filed against Determinations, etc. applications for examination, the filing of objection or any other appeals filed after the enforcement of this Act pursuant to the provision of paragraph (3).

6 この法律の施行前にされた行政庁の処分で、この法律による改正前の規定により訴願等を行うことができるものとされ、かつ、その提起期間が定められていなかったものについて、行政不服審査法による不服申立てを行うことができる期間は、この法律の施行の日から起算する。

(6) With regard to a disposition imposed by an administrative agency prior to the enforcement of this Act, for which the Petitions, etc. may be filed pursuant to the provisions prior to revision by this Act and for which the statute of limitations has not been set, the statute of limitations for filing an appeal pursuant to the Administrative Appeal Act is counted from the date of enforcement of this Act.

8 この法律の施行前にした行為に対する罰則の適用については、なお従前の例による。

(8) Prior laws continue to govern the applicability of penal provisions to acts committed prior to the enforcement of this Act.

9 前八項に定めるもののほか、この法律の施行に関して必要な経過措置は、政令で定める。

(9) Beyond what is provided for in the preceding eight paragraphs, the necessary transitional measures for the enforcement of this Act are specified by Cabinet Order.

附 則 〔昭和三十九年七月四日法律第四百四十八号〕

## **Supplementary Provisions [Act No. 148 of July 4, 1964]**

この法律は、公布の日から起算して九月をこえない範囲内において政令で定める日から施行する。

This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding nine months from the date of promulgation.

### **附 則 [昭和四十年五月二十四日法律第八十一号] [抄]**

#### **Supplementary Provisions [Act No. 81 of May 24, 1965 Extract] [Extract]**

この法律は、千九百年十二月十四日にブラッセルで、千九百十一年六月二日にワシントンで、千九百二十五年十一月六日にヘーグで、千九百三十四年六月二日にロンドンで、及び千九百五十八年十月三十一日にリスボンで改正された工業所有権の保護に関する千八百八十三年三月二十日のパリ条約への加入の効力発生の日から施行する

This Act comes into effect as of the date on which the Accession to the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958, and at Stockholm on July 14, 1967.

### **附 則 [昭和四十五年五月二十二日法律第九十一号] [抄]**

#### **Supplementary Provisions [Act No. 91 of May 22, 1970 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、昭和四十六年一月一日から施行する。

Article 1 This Act comes into effect as of January 1, 1971.

(改正前の特許法の適用)

(Application to the Patent Act Prior to Revision)

第二条 この法律の施行の際現に特許庁に係属している特許出願については、別段の定めがある場合を除き、その特許出願について査定又は審決が確定するまでは、なお従前の例による。

Article 2 Prior laws continue to govern patent applications actually pending before the Japan Patent Office at the time of the enforcement of this Act, until the examiner's decision or a trial decision for the patent applications becomes final and binding, except where it has otherwise been provided for.

(特許料)

(Patent Fees)

第三条 この法律の施行前にすでに納付し、又は納付すべきであつた特許料については、

改正後の特許法（以下「新特許法」という。）第百七条第一項の規定にかかわらず、なお従前の例による。

**Article 3** Prior laws continue to govern patent fees that have been paid or should have been paid for, prior to the enforcement of this Act, notwithstanding Article 107, paragraph (1) of the revised Patent Act (hereinafter, referred to as the "New Patent Act").

（特許の無効の理由）

**(The Reason for an Invalidation of a Patent)**

第四条 この法律の施行前にした特許出願に係る特許の無効の理由については、新特許法第二十九条の二及び第百二十三条第一項第一号の規定にかかわらず、なお従前の例による。

**Article 4** Prior laws continue to govern the reason for an invalidation of a patent application that have been filed prior to the enforcement of this Act, notwithstanding Article 29-2 and Article 123, paragraph (1), item (i) of the new Patent Act.

（特許出願の手数料）

**(Fees for Filing a Patent Application)**

第五条 新特許法第百九十五条第一項の規定は、この法律の施行後に納付すべき手数料について適用する。ただし、この法律の施行前にした特許出願についての同法別表第四号の手数料については、この限りでない。

**Article 5** Provisions of Article 195, paragraph (1) of the new Patent Act applies to fees to be paid after the enforcement of this Act; provided, however, that, with respect to fees of item (iv) of the appended table of the new Patent Act, those do not apply to the patent applications filed prior to the enforcement of this Act.

（実用新案法の改正に伴う経過措置）

**(Transitional Measures Upon Revision of the Utility Model Act)**

第六条 附則第二条から前条までの規定は、第二条の規定による実用新案法の改正に伴う経過措置に関して準用する。

**Article 6** Provisions of Article 2 through the preceding Article of the Supplementary Provisions applies mutatis mutandis with respect to transitional measures upon revision of the Utility Model Act pursuant to the provisions of Article 2.

（政令への委任）

**(Delegation to Cabinet Order)**

第九条 前各条に定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 9 Beyond what is provided by the preceding Articles, transitional measures necessary for the enforcement of this Act is specified by Cabinet Order.

附 則 〔昭和四十六年六月一日法律第九十六号〕 〔抄〕

**Supplementary Provisions [Act No. 96: June 1, 1971 Extract] [Extract]**

(施行期日等)

(Effective Date)

1 この法律は、公布の日から施行する。

(1) This Act comes into effect as of the date of promulgation.

附 則 〔昭和五十年六月二十五日法律第四十六号〕 〔抄〕

**Supplementary Provisions [Act No. 46: June 1, 1975 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、昭和五十一年一月一日から施行する。ただし、次の各号に掲げる規定は、当該各号に定める日から施行する。

Article 1 This Act comes into effect as of January 1, 1976; provided, however, that the revising provisions listed as follows, come into effect as of the date listed in the relevant item:

一 第一条の規定中特許法第一百七条第一項の表の改正規定及び同法別表の改正規定、第二条の規定中実用新案法第三十一条第一項の改正規定及び同法別表の改正規定、第三条の規定中意匠法第四十二条第一項及び第二項の改正規定並びに同法別表の改正規定、第四条の規定中商標法第四十条第一項及び第二項の改正規定並びに同法別表の改正規定並びに次条第二項、附則第三条第二項及び第四条の規定 公布の日

(i) the date of promulgation of :the revised provisions of the table of Article 107, paragraph (1) of the Patent Act and of the appended table of the Patent Act, among provisions of Article 1; the revised provisions of Article 31, paragraph (1) of the Utility Model Act and of the appended table of the Utility Model Act, among provisions of Article 2; the revised provisions of Articles 42, paragraphs (1) and (2) of the Utility Model Act and of the appended table of the Utility Model Act, among provisions of Article 3; the revised provisions of Articles 40, paragraphs (1) and (2) of the Trademark Act and of the appended table of the Trademark Act, among provisions of Article 4; and the provisions of paragraph (2) of the following Article and of Articles 3, paragraph (1), and 4 of the Supplementary Provisions.

二 第一条の規定中特許法第十七条第一項ただし書の改正規定（「及び第六十四条」を「、第十七条の三及び第六十四条」に改める部分を除く。）、第二条の規定中実用新案法第十三条の二第一項の改正規定、第四条の規定中商標法第四条第一項第二

号及び第九条第一項の改正規定並びに第五条の規定 千九百年十二月十四日にブラッセルで、千九百十一年六月二日にワシントンで、千九百二十五年十一月六日にヘーグで、千九百三十四年六月二日にロンドンで、千九百五十八年十月三十一日にリスボンで及び千九百六十七年七月十四日にストックホルムで改正された工業所有権の保護に関する千八百八十三年三月二十日のパリ条約第二十条（2）（C）の規定による同条約第一条から第十二条までの規定の効力の発生の日

- (ii) the effective date of the revised provisions of the proviso to Article 17, paragraph (1) (excluding the part revising "and Article 64" to "Articles 17-3 and 64"), among provisions of Article 1; the revised provisions Article 13-2, paragraph (1) of the Utility Model Act among provisions of Article 2; the revised provisions of Article 4, paragraph (1) item (ii), Article 9, paragraph (1) among provisions of Article 4 and the provisions of Article 5; and the provisions of Articles 1 through 12 of the Paris Convention pursuant to the provisions of Article 20 (2) (C) of the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958, and at Stockholm on July 14, 1967.

(特許法の改正に伴う経過措置)

(Transitional Measures Upon Revision of the Patent Act)

第二条 この法律の施行の際現に特許庁に係属している特許出願については、改正後の特許法第九十五条第一項の規定により納付すべき手数料を除き、その特許出願について査定又は審決が確定するまでは、なお従前の例による。

Article 2 (1) Prior laws continue to govern patent applications actually pending before the Japan Patent Office at the time of the enforcement of this Act, until the examiner's decision or trial decision for the patent applications has become final and binding, except for fees that should be paid pursuant to the provision of Article 195, paragraph (1) of the revised Patent Act.

2 前条ただし書第一号に定める日前に既に納付し、又は納付すべきであつた特許料については、改正後の特許法第七條第一項の規定にかかわらず、なお従前の例による。

(2) Prior laws continue to govern patent fees that have been paid or should have been paid prior to the date prescribed by item (i) of the proviso through the preceding Article, notwithstanding the provision of Article 107, paragraph (1) of the revised Patent Act.

3 この法律の施行前にした特許出願に係る特許の無効の理由については、なお従前の例による。

(3) Prior laws continue to govern grounds for invalidation of patent applications that have been filed prior to the enforcement of this Act.

(実用新案法の改正に伴う経過措置)

(Transitional Measures Upon Revision of the Utility Model Act)

第三条 前条第一項の規定はこの法律の施行の際現に特許庁に係属している実用新案登録出願に、前条第三項の規定はこの法律の施行前にした実用新案登録出願に係る実用新案登録の無効の理由に準用する。

Article 3 (1) The provisions of paragraph (1) of the preceding Article apply mutatis mutandis to utility model applications actually pending before the Japan Patent Office at the time of the enforcement of this Act, and the provision of paragraph (3) of the preceding Article apply mutatis mutandis to grounds for invalidation of utility model registrations pertaining to utility models that have been filed prior to the enforcement of this Act.

2 前条第二項の規定は、附則第一条ただし書第一号に定める日前に既に納付し、又は納付すべきであつた登録料に準用する。

(2) The provisions of the paragraph (2) of the preceding Article apply mutatis mutandis to registration fees that have been paid or should have been paid prior to the date prescribed by item (i) of the proviso to Article 1 of Supplementary Provisions.

附 則 [昭和五十三年四月二十四日法律第二十七号] [抄]

Supplementary Provisions [Act No. 27 of April 24, 1978 Extract] [Extract]

(施行期日)

(Effective Date)

1 この法律は、公布の日から施行する。ただし、第一条中不動産の鑑定評価に関する法律第十一条第一項の改正規定、第二条、第三条、第五条及び第六条の規定、第十九条中特許法第一百七条第一項の改正規定、第二十条中実用新案法第三十一条第一項の改正規定、第二十一条中意匠法第四十二条第一項及び第二項の改正規定、第二十二条中商標法第四十条第一項及び第二項の改正規定、第二十八条中通訳案内業法第五条第二項の改正規定並びに第二十九条及び第三十条の規定は、昭和五十三年五月一日から施行する。

(1) This Act comes into effect as of the date of promulgation; provided, however, that the revised provisions of paragraph (1) of Article 11 of the Act on Real Estate Appraising and Valuation in Article 1 of this Act, the provisions of Articles 2, 3, 5 and 6, the revised provisions of paragraph (1) of Article 107 of the Patent Act in Article 19 of this Act, the revised provisions of paragraph (1) of Article 31 of the Utility Model Act in Article 20 of this Act, the revised provisions of paragraphs (1) and (2) of Article 42 of the Design Act in Article 21 of this Act, the revised provisions of paragraphs (1) and (2) of Article 40 of the Trademark Act in Article 22 of this Act, the revised provisions of paragraph (2) of Article 5 of the Guide Interpreter Act in Article 28 of this Act, and the provisions of Articles 29 and 30 come into effect as of May 1, 1978.

(経過措置)

(Transitional Measures)

2 次に掲げる受験手数料等については、なお従前の例による。

(2) Prior laws continue to govern the following examination fees, etc.;

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(i) through (iii) omitted

四 実用新案法第三十一条第一項の改正規定の施行前に納付し、又は納付すべきであった登録料

(iv) the registration fees that have been paid or should have been paid prior to the enforcement of the revised provisions of Article 31, paragraph (1) of the Utility Model Act.

附 則 [昭和五十三年四月二十六日法律第三十号] [抄]

**Supplementary Provisions [Act No. 30 of April 26, 1978 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、条約が日本国について効力を生ずる日から施行する。ただし、第三章の規定は条約第十六条（3）（b）に規定する取決めが特許庁について効力を生ずる日から、第四章及び次条の規定は条約第三十二条（3）において準用する条約第十六条（3）（b）に規定する取決めが特許庁について効力を生ずる日から施行する。

Article 1 This Act comes into effect as from the day when the Convention becomes effective in Japan; provided however, that the provisions of Chapter III come into effect as from the day when the agreement prescribed by Article 16 (3)(b) of the Convention comes into effect in the Japan Patent Office, and the provisions of Chapter IV and the following Article come into effect as from the day when the agreement prescribed by Article 16 (3)(b) of the Convention as applied mutatis mutandis pursuant to Article 32 (3) of the Convention comes into effect in the Japan Patent Office.

附 則 [昭和五十六年五月十九日法律第四十五号] [抄]

**Supplementary Provisions [Act No. 30 of May 19, 1981 Extract] [Extract]**

(施行期日)

(Effective Date)

1 この法律は、公布の日から施行する。ただし、第一条中不動産の鑑定評価に関する法律第十一条第一項の改正規定、第二条、第五条及び第六条の規定、第十九条中特許法第一百七条第一項の改正規定、第二十条中実用新案法第三十一条第一項の改正規定、第二十一条中意匠法第四十二条第一項及び第二項の改正規定、第二十二条中商標法第四十条第一項及び第二項の改正規定、第二十九条中通訳案内業法第五条第二項の改正規定並びに第三十条の規定は、昭和五十六年六月一日から施行する。

(1) This Act comes into effect as of the date of promulgation; provided however, that the revised provisions of Article 11, paragraph (1) of the Act on Real Estate Appraising and Valuation in Article 1 of this Act, the provisions of Articles 2, 3, 5 and 6, the revised provisions of Article 107, paragraph (1) of the Patent Act in Article 19 of this Act, the revised provisions of Article 31, paragraph (1) of the Utility Model Act in Article 20 of this Act, the revised provisions of Article 42, paragraphs (1) and (2) of the Design Act in Article 21 of this Act, the revised provisions of Article 40, paragraphs (1) and (2) of the Trademark Act in Article 22 of this Act, the revised provisions of paragraph (2) of Article 5, paragraph (2) of the Guide Interpreter Act in Article 29 of this Act, and the provisions of Articles 30 comes into effect as from June 1, 1981.

(経過措置)

(Transitional Measures)

2 次に掲げる受験手数料等については、なお従前の例による。

(2) Prior laws continue to govern the following examination fees, etc.;

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(i) through (iii) omitted

四 実用新案法第三十一条第一項の改正規定の施行前に納付し、又は納付すべきであった登録料

(iv) the registration fees that have been paid or should have been paid prior to the enforcement of the revised provisions of Article 31, paragraph (1) of the Utility Model Act.

附 則 [昭和五十九年五月一日法律第二十三号] [抄]

**Supplementary Provisions [Act No. 23 of May 1, 1984 Extract] [Extract]**

(施行期日)

(Effective Date)

1 この法律は、公布の日から起算して二十日を経過した日から施行する。ただし、第二十四条から第二十七条まで並びに附則第三項及び第四項の規定は、昭和五十九年八月一日から施行する。

(1) This Act comes into effect as from the date on which twenty days have lapsed from the date of promulgation; provided however, that the provisions of Articles 24 through 27 and paragraphs (3) and (4) of Supplementary Provisions come into effect as from August 1, 1984.

(経過措置)

(Transitional Measures)

2 次に掲げる受験手数料等については、なお従前の例による。

(2) Prior laws continue to govern the following examination fees, etc.;

一及び二 略

(i) and (ii) omitted

三 実用新案法第三十一条第一項の改正規定の施行前に納付し、又は納付すべきであった登録料

(iii) the registration fees that have been paid or should have been paid prior to the enforcement of the revised provisions of Article 31, paragraph (1) of the Utility Model Act.

附 則 〔昭和五十九年五月一日法律第二十四号〕 〔抄〕

**Supplementary Provisions [Act No. 24 of May 1, 1984 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、昭和五十九年七月一日から施行する。

Article 1 This Act comes into effect as of July 1, 1984.

(特許印紙による納付の開始に伴う経過措置)

(Transitional Measures Upon the Start of Payment by Patent Revenue Stamps)

第八条 附則第三条から前条までの規定による改正後の特許法、実用新案法、意匠法、商標法又は特許協力条約に基づく国際出願等に関する法律の規定にかかわらず、この法律の施行の日から二週間以内に特許料、割増特許料、手数料、登録料又は割増登録料を納付するときは、収入印紙又は特許印紙をもつてすることができる。

Article 8 Notwithstanding the provisions of the Patent Act, the revised Utility Model Act, the revised Design Act, the revised Trademark Act or the revised Act on the International Applications under the Patent Cooperation Treaty that are revised pursuant to Article 3 through the preceding Article of Supplementary Provisions, when patent fees, patent surcharges, fees, registration fees, or registration surcharges are paid within two weeks as from the date of enforcement of this Act, revenue stamps or patent stamps may be used.

附 則 〔昭和六十年五月二十八日法律第四十一号〕 〔抄〕

**Supplementary Provisions [Act No. 41 of May 28, 1985 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、公布の日から起算して六月を超えない範囲内において政令で定める日から施行する。

Article 1 This Act comes into effect as of the date to be specified by Cabinet

Order within a period not exceeding six months from the date of promulgation.

(経過措置)

(Transitional Measures)

第三条 特許出願又は実用新案登録出願の願書に添付した明細書又は図面についてのこの法律の施行前にした補正（出願公告をすべき旨の決定の謄本の送達前にしたものに限り。）であつて、当該願書に添付した明細書又は図面の要旨を変更するものであるとして決定をもつて却下されたものについては、この法律による改正前の特許法及び実用新案法の規定は、この法律の施行後も、なおその効力を有する。

Article 3 With respect to amendments on the description or the drawings accompanying an application for patent or utility model registration (limited to those filed prior to the transcript of a ruling of a publication of an unexamined application), which have been filed prior to the enforcement of this Act and have been dismissed by a ruling that they change the outline of the description or drawings accompanying the relevant application, the provisions of the Patent Act and the Utility Model Act prior to revision by this Act remains applicable even after the enforcement of this Act.

第四条 この法律の施行前にした行為に対する罰則の適用については、なお従前の例による。

Article 4 Prior laws continue to govern the application of penal provisions to acts committed prior to the enforcement of this Act.

(政令への委任)

(Delegation to Cabinet Order)

第五条 前三条に定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 5 Beyond what is prescribed by the preceding Articles, transitional measures necessary for the enforcement of this Act are specified by Cabinet Order.

附 則 〔昭和六十二年五月二十五日法律第二十七号〕 〔抄〕

**Supplementary Provisions [Act No. 27 of May 25, 1987 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、昭和六十三年一月一日から施行する。ただし、次の各号に掲げる規定は、当該各号に定める日から施行する。

Article 1 This Act comes into effect as of January 1, 1988; provided, however, that the provisions listed as follows comes into effect as from the date listed in the relevant item:

- 一 第一条、第三条、第五条の規定中意匠法第十五条第一項に後段を加える改正規定、同法第四十二条第一項及び第二項の改正規定、同法第四十九条の改正規定並びに同

法別表の改正規定、第六条の規定中商標法第十三条第一項に後段を加える改正規定、同法第四十条第一項及び第二項の改正規定並びに同法別表の改正規定並びに次条、附則第四条、第六条、第七条、第八条及び第十一条の規定 昭和六十二年六月一日

- (i) the revised provisions adding a second sentence to Article 15, paragraph (1) of the Design Act, the revised provisions of Article 42, paragraphs (1) and (2) of the relevant Act, the revised provisions of Article 49 of the relevant Act and the revised provisions of the appended table of the relevant Act, in the provisions of Articles 1, 3 and 5 of this Act; the revised provisions adding a second sentence to Article 13, paragraph (1) of the Trademark Act, the revised provisions of Article 40, paragraphs (1) and (2) of the relevant Act, and the revised provisions of the appended table of the relevant Act, in the provisions of Article 6 of this Act; and the revisions of the next Article, Articles 4, 6, 7, 8 and 11 of Supplementary Provisions: June 1, 1987

二 第二条の規定中特許法第百八十四条の四第一項から第四項までの改正規定、同法第百八十四条の五第一項並びに第二項第一号及び第四号の改正規定、同法第百八十四条の六第二項の改正規定、同法第百八十四条の七第一項の改正規定、同法第百八十四条の八の改正規定、同法第百八十四条の九第一項の改正規定、同法第百八十四条の十の二第一項及び第二項の改正規定、同法第百八十四条の十一第一項の改正規定、同法第百八十四条の十一の二の改正規定、同法第百八十四条の十一の三第四項の改正規定、同法第百八十四条の十二の改正規定、同法第百八十四条の十三の改正規定並びに同法第百八十四条の十六第五項の改正規定、第四条の規定中実用新案法第四十八条の四第一項から第四項までの改正規定、同法第四十八条の五第一項並びに第二項第一号及び第四号の改正規定、同法第四十八条の六第二項の改正規定、同法第四十八条の七第一項及び第二項の改正規定、同法第四十八条の八第一項の改正規定、同法第四十八条の八の二第四項の改正規定、同法第四十八条の九の改正規定、同法第四十八条の十の改正規定並びに同法第四十八条の十四第五項の改正規定並びに第五条の規定中意匠法第十三条の二第一項及び第二項の改正規定 千九百七十年六月十九日にワシントンで作成された特許協力条約第六十四条（6）（b）の規定による同条（2）（a）の宣言の撤回の効力の発生の日

- (ii) the provisions for revising Article 184-4, paragraphs (1) through (4) of the Patent Act, the provisions for revising Article 184-5, paragraphs (1) and (2), items (i) and (iv) of the relevant Act, the provisions for revising Article 184-6, paragraph (2) of the relevant Act, the provisions for revising Article 184-7, paragraph (1) of the relevant Act, the provisions for revising Article 184-8 of the relevant Act, the provisions for revising Article 184-9, paragraph (1) of the relevant Act, the provisions for revising Article 184-10-2, paragraphs (1) and (2) of the relevant Act, the provisions for revising Article 184-11, paragraph (1) of the relevant Act, the provisions for revising Article 184-11-2 of the relevant Act, the provisions for revising Article 184-11-3, paragraph (4) of the relevant Act, the provisions for revising Article 184-12 of the relevant Act, the provisions for revising Article 184-13 of the relevant Act

and the provisions for revising Article 184-16, paragraph (5) of the relevant Act, in the provisions of Article 2 of this Act; the provisions for revising Articles 48-4, paragraphs (1) through (4) of the Utility Model Act, the provisions for revising Article 48-5, paragraphs (1) and (2), items (i) and (iv) of the relevant Act, the provisions for revising Article 48-6, paragraph (2) of the relevant Act, the provisions for revising Article 48-7, paragraphs (1) and (2), the provisions for revising Article 48-8, paragraph (1) of the relevant Act, the provisions for revising Article 48-8-2, paragraph (4) of the relevant Act, the provisions for revising Article 48-9 of the relevant Act, the revisions for revising 48-10 of the relevant Act, and the provisions for revising Article 48-14, paragraphs (5) of the relevant Act in the provisions of Article 4 of this Act; and provisions for revising Article 13-2, paragraphs (1) and (2) of the Design Act, in the provisions of Article 5 of this Act: the day when the revocation of the declaration under the Article 64 (2) (a) of the Patent Cooperation Treaty provided for in the Article 64 (6) (b) of the Treaty signed in Washington on June 19, 1970 pursuant to the provisions of Article 64 (6) (b) of the relevant Act becomes effective

(第三条の規定による実用新案法の改正に伴う経過措置)

(Transitional Measures Upon Revision of the Utility Model Act Pursuant to the Provisions of Article 3)

第四条 附則第一条ただし書第一号に定める日前に既に納付した登録料又は同日前に納付すべきであつた登録料であつて実用新案法第三十四条において準用する特許法第九十九条の規定によりその納付が猶予されたもの（その猶予期間内に納付するものに限る。）については、第三条の規定による改正後の実用新案法第三十一条第一項の規定にかかわらず、なお従前の例による。

Article 4 (1) Prior laws continue to govern registration fees that have already been paid prior to the date prescribed by item (i) in the proviso of Article 1 of the Supplementary Provisions or those that should have been paid prior to the same date, of which payment is deferred pursuant to the provisions of Article 109 of the Patent Act applied mutatis mutandis in Article 34 of the Utility Model Act (limited to those paid within the grace period), notwithstanding the provisions of Article 31, paragraph (1) of the Utility Model Act revised by the provisions of Article 3.

2 附則第一条ただし書第一号に定める日前に設定の登録をした実用新案権に係る実用新案法第三十七条第一項の審判については、第三条の規定による改正前の実用新案法第三十八条の規定は、同日以後も、なおその効力を有する。

(2) With regard to the trial of Article 37, paragraph (1) pertaining to the establishment of the utility model right which been registered prior to the date prescribed by item (i) in the proviso of Article 1 of Supplementary Provisions, the provisions of Article 38 of the Utility Model Act prior to revision pursuant

to the provisions of Article 3 remain applicable even after the relevant date

(第四条の規定による実用新案法の改正に伴う経過措置)

(Transitional Measures Upon Revision of the Utility Model Act Pursuant to the Provisions of Article 4)

第五条 第四条の規定による改正後の実用新案法（以下この条において「新実用新案法」という。）第五条第四項及び第五項、第六条、第十一条第三号、第三十七条第一項各号列記以外の部分及び第三号、第四十一条、第五十条の二並びに第五十四条第三項の規定は、この法律の施行後にした実用新案登録出願について適用し、この法律の施行前にした実用新案登録出願については、なお従前の例による。

Article 5 (1) Prior laws continue to govern provisions of Article 5, paragraph (4), Article 6, Article 11, item (iii), Article 37, paragraph (1) the non-itemized part thereof, item (iii), Article 41, Article 50-2 and Article 54, paragraph (3) of the revised Utility Model Act pursuant to the provisions of Article 4 (hereinafter referred to as the "new Utility Model Act") applies to applications of utility model registration filed after the enforcement of this Act, and with regard to applications of utility model registration filed prior to the enforcement of this Act.

2 この法律の施行前にした実用新案登録出願に係る登録料の納付についての新実用新案法第三十一条第一項の規定の適用については、同項の表に掲げる登録料の金額は、次の表に掲げる金額とする。

(2) With regard to the application of the provisions of Article 31, paragraph (1) of the new Utility Model Act regarding the payment of registration fees pertaining to applications of utility model registration filed prior to the enforcement of this Act, the amount of registration fees listed in the table of the relevant paragraph are the amounts listed in the following table.

各年の区分 Period within term	金額 Amount
第一年から第三年まで First to third year	毎年二千百円に一請求項につき百円を加えた額 Annually 2,100 yen plus 100 yen per claim
第四年から第六年まで Fourth to sixth year	毎年六千百円に一請求項につき三百円を加えた額 Annually 6,100 yen plus 300 yen per claim
第七年から第十年まで Seventh to tenth year	毎年一万八千百円に一請求項につき九百円を加えた額 Annually 18,100 yen plus 900 yen per claim

3 この法律の施行前にした実用新案登録出願に係る手数料の納付についての新実用新

案法第五十四条第二項の規定の適用については、別表第四号中「三万千円に一請求項につき千円を加えた額」とあるのは「三万二千円」と、同表第九号中「三万九千六百円に一請求項につき四千四百円」とあるのは「四万四千円」とする。

(3) With regard to the application of the provisions of paragraph (2) of Article 54 of the new Utility Model Act regarding the payment of fees pertaining to applications of utility model registration filed prior to the enforcement of this Act, in item (iv) of the appended table "31,000 yen plus 1,000 yen per claim" is "32,000 yen", and in item (ix) of the same table "39,600 yen plus 4,400 yen per claim" is "44,000 yen".

(政令への委任)

(Delegation to Cabinet Order)

第十一条 附則第二条から第六条まで及び第八条に定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 11 Beyond what is prescribed by Articles 2 through 6 and 8 of Supplementary Provisions, transitional measures necessary for the enforcement of this Act are specified by Cabinet Order.

附 則 〔平成二年六月十三日法律第三十号〕 〔抄〕

Supplementary Provisions [Act No. 30 of June 13, 1990 Extract] [Extract]

(施行期日)

(Effective Date)

第一条 この法律は、公布の日から起算して一年を超えない範囲内において政令で定める日から施行する。ただし、第九条、第十四条、第十五条第二項、第十六条（第十五条第一項及び第三項の準用に係る部分を除く。）、第十七条から第十九条まで、第二十一条、第二十二条、第二十四条から第二十九条まで、第三十条（第三号を除く。）、第三十二条、第三十四条、第三十六条、第三十七条、第三十九条（第二十三条、第三十条第三号、第三十一条及び第三十五条の準用に係る部分を除く。）、第四十一条、第四十二条、第四十四条第二号及び附則第九条の規定並びに附則第三条中印紙をもつてする歳入金納付に関する法律（昭和二十三年法律第百四十二号）第二条第二項の改正規定は、公布の日から起算して六月を超えない範囲内において政令で定める日から施行する。

Article 1 This Act comes into effect as of a date specified by Cabinet Order within a period not exceeding one year from the date of promulgation; provided however, that the provisions of Articles 9 and 14, Article 15, paragraph (2), Article 16 (excluding the parts pertaining to application mutatis mutandis of Articles 15, paragraphs (1) and (3)), Articles 17 through 19, 21, 22, 24 through 29, and 30 (excluding item (iii)), Articles 32, 34, 36, 37, and 39 (excluding the parts pertaining to application mutatis mutandis of Articles 23, 30, 31 and 35), Articles 41 and 42, Article 44, item (ii) and Article 9 of the Supplementary

Provisions, and the provisions for revising Article 2, paragraph (2) of the Act on Payment of money for national revenue by revenue stamps (Act No. 142 of 1948) in Article 2, paragraph (2) of the Supplementary Provisions come into effect as of the date to be specified by Cabinet Order within a period not exceeding six months from the date of promulgation.

(政令への委任)

(Delegation to Cabinet Order)

第九条 この法律の施行の日前において電子情報処理組織を整備する場合の手続その他この法律の施行に関し必要な経過措置は、政令で定める。

Article 9 Prior to the date of enforcement of this Act, procedures for maintaining an Electronic Data Processing System and other transitional measures necessary for the enforcement of this Act are specified by Cabinet Order.

附 則 〔平成五年四月二十三日法律第二十六号〕 〔抄〕

**Supplementary Provisions [Act No. 26 of April 23, 1993 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、公布の日から起算して一年を超えない範囲内において政令で定める日から施行する。ただし、第一条の規定中特許法第百七条第一項の表の改正規定及び同法別表の改正規定（同表第六号中「（請求公告に係る異議の申立てを含む。）」を削る部分及び同表第十二号を同表第十三号とし、同表第十一号の次に一号を加える部分を除く。）、第二条の規定、第四条の規定中意匠法第四十二条第一項及び第二項の改正規定並びに同法別表の改正規定、第五条の規定中商標法第四十条第一項及び第二項の改正規定並びに同法別表の改正規定、次条第三項並びに附則第三条、第六条から第十条まで及び第十七条の規定は、平成五年七月一日から施行する。

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding one year from the date of promulgation; provided however, that the provisions for revising the table of Article 107, paragraph (1), the provisions for revising the appended table of the relevant Act (excluding the part deleting "(including opposition pertaining to publication of request" in item (vi) of the same table), and changing item (xii) of the same table to item (xiii) of the same table and adding item (i) next to (xi) of the same table); the provisions of Article 2 in the provisions of Article 1 of this Act; the revised provisions in Article 42, paragraphs (1) and (2) of the Design Act, and the provisions for revising the appended table of the relevant Act in the provisions of Article 4 of this Act; in the provisions of Article 5, the provisions for revising Article 40, paragraphs (1) and (2) of the Trademark Act and the provisions for revising the appended table of the relevant Act; and the provisions of paragraph (3) of the following Article and Articles 3, 6 through 10 and 17 of

Supplementary Provisions are to come into effect as of July 1, 1993.

(第二条の規定による実用新案法の改正に伴う経過措置)

(Transitional Measures Upon Revision of the Utility Model Act Pursuant to the Provisions of Article 2)

第三条 附則第一条ただし書に規定する日前に第二条の規定による改正前の実用新案法第三十一条第一項の規定により既に納付した登録料又は同日前に同項の規定により納付すべきであった登録料であつて同法第三十四条において準用する旧特許法第九十九条の規定によりその納付が猶予されたもの（その猶予期間内に納付するものに限る。）については、第二条の規定による改正後の実用新案法第三十一条第一項の規定にかかわらず、なお従前の例による。

Article 3 Prior laws continue to govern registration fees that have already been paid prior to the date prescribed by the proviso to Article 1 of the Supplementary Provisions under the provisions of Article 31, paragraph (1) of the Utility Model Act prior to revision pursuant to Article 2 or those that should have been paid prior to the same date under the relevant paragraph, of which payment is deferred pursuant to the provisions of Article 109 of the former Patent Act applied mutatis mutandis in Article 34 of the Utility Model (limited to those paid within the grace period), notwithstanding the provisions of Article 31, paragraph (1), of the Utility Model Act revised by the provisions of Article 2.

(第三条の規定による実用新案法の改正に伴う経過措置)

(Transitional Measures Upon Revision of the Utility Model Act Pursuant to the Provisions of Article 3)

第四条 この法律の施行の際現に特許庁に係属している実用新案登録出願（次条第一項に規定する旧実用新案登録出願を除く。）又はこの法律の施行前にした実用新案登録出願に係る実用新案登録、実用新案権、審判若しくは再審については、第三条の規定による改正前の実用新案法（以下「旧実用新案法」という。）、附則第十一条の規定による改正前の弁理士法（大正十年法律第百号）、附則第十二条の規定による改正前の輸出品デザイン法（昭和三十四年法律第百六号）、旧特許法、第四条の規定による改正前の意匠法及び附則第十五条の規定による改正前の工業所有権に関する手続等の特例に関する法律（平成二年法律第三十号。以下この項において「旧特例法」という。）の規定は、この法律の施行後も、なおその効力を有する。この場合において、旧実用新案法第五十四条第五項並びに旧特例法第六条第三項、第七条第一項及び第八条第一項中「通商産業省令」とあるのは、「経済産業省令」とする。

Article 4 (1) With regard to utility model applications (excluding those filed under the former Utility Model Act prescribed in paragraph (1) of the following Article) actually pending before the Japan Patent Office at the time of the enforcement of this Act or the utility model registration, the utility model right, the examiner's decision or the trial decision pertaining to a utility model

application filed prior to the enforcement of this Act, the provisions of the Utility Model Act prior to revision (hereinafter referred to as "the former Utility Model Act") pursuant to the provisions of Article 3, the Patent Attorneys Act prior to revision (Act No. 100 of 1921) pursuant to the provisions of Article 11 of Supplementary Provisions, the Export Commodities Design Act prior to the revision pursuant to the provisions of Article 12 of the Supplementary Provisions (Act No. 106 of 1959), the former Patent Act, the Design Act prior to revision pursuant to the provisions of Article 4 and the Act on Special Provisions of Procedures concerning Industrial Property Rights prior to revision pursuant to Article 15 of the Supplementary Provisions (Act No. 30 of 1990, hereinafter referred to as "the former Special Act" in this paragraph) remains applicable. In this case, the term "Order of Ministry of International Trade and Industry" in Article 54, paragraph (5) of the former Utility Model Act and in Articles 6, paragraph (3), Article 7, paragraph (1), and Article 8, paragraph (1) of the former Patent Act, is replaced with "Order of the Ministry of Economy, Trade and Industry."

2 前項の場合において、特許法等の一部を改正する法律（平成二十三年法律第六十三号。以下「平成二十三年改正法」という。）の施行後に請求される旧実用新案法第三十七条第一項、第三十九条第一項又は第四十八条の十二第一項の審判については、前項の規定によりなおその効力を有するものとされる旧実用新案法の次の表の上欄に掲げる規定中同表の中欄に掲げる字句は、それぞれ同表の下欄に掲げる字句に読み替えるものとするほか、同項の規定の適用に関し必要な技術的読替えは、政令で定める。

(2) In a case of the preceding paragraph, with regard to a trial or appeal under Article 37, paragraph (1), Article 39, paragraph (1) or, Article 48-12, paragraph (1) of the former Utility Model Act appealed after the enforcement of the Partial Amendment of the Patent Act (Act No. 63 of 2011, hereinafter referred to as "2011 Amendment Act"), in the provisions listed in the left-hand column of the following table of the former Utility Model Act, which remains in force pursuant to the provisions of the preceding paragraph, the terms and phrases listed in the middle column are deemed to be replaced with the terms and phrases listed in the right-hand column of the same table, and any other technical replacement of terms necessary for application of the provisions of the relevant paragraph are specified by Cabinet Order.

<p>第七条の二第二項 Article 7-2, paragraph (2)</p>	<p>並びに第三十九条第三項 and Article 39, paragraph (3)</p>	<p>並びに第三十九条第七項（第四十条の二第九項において準用する場合を含む。） and Article 39, paragraph (7) (including cases where applied mutatis mutandis pursuant to paragraph (9) of Article 40-2)</p>
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<p>第三十七 条 Article 37</p>	<p>第三十七条 実用新案登録が次の各号の一に該当するときは、その実用新案登録を無効にすることができる。この場合において、二以上の請求項に係るものについては、請求項ごとに請求することができる。</p> <p>Article 37 (1) If a utility model registration falls under any of the following items, a request for a trial for invalidation of the registration of a utility model may be filed. In the event of two or more claims, a request for a trial for invalidation of the registration of a utility model may be filed for each claim.</p> <p>一 その実用新案登録が第三条、第三条の二、第四条、第七条第一項から第三項まで若しくは第八項、第九条第一項において準用する特許法第三十八条又は第五十五条第三項において準用する特許法第二十五条の規定に違反してされたとき。</p> <p>(i) if the utility model registration has been granted in violation of Article 25 of the Patent Act as applied mutatis mutandis pursuant to Article 2-5 (3) of this Act, Article 3, Article 3-2, Article 4, paragraphs (1) through (3) of Article 7 or Article 7, paragraph (7) of this Act, or Article 38 of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1) of this Act;</p> <p>二 その実用新案登録が条約に違反してされたとき。</p> <p>(ii) if the utility model registration has been granted in violation of a treaty;</p>	<p>第三十七条 実用新案登録が次の各号のいずれかに該当するときは、その実用新案登録を無効にすることができる。この場合において、二以上の請求項に係るものについては、請求項ごとに請求することができる。</p> <p>Article 37 (1) If a utility model registration falls under any of the following items, a request for a trial for invalidation of the registration of a utility model may be filed. In the event of two or more claims, a request for a trial for invalidation of the registration of a utility model may be filed for each claim.</p> <p>一 その実用新案登録が第三条、第三条の二、第四条、第七条第一項から第三項まで若しくは第八項、第九条第一項において準用する特許法第三十八条又は第五十五条第三項において準用する特許法第二十五条の規定に違反してされたとき。</p> <p>(i) if the utility model registration has been granted in violation of Article 25 of the Patent Act as applied mutatis mutandis pursuant to Article 2-5, paragraph (3) of this Act, Article 3, Article 3-2, Article 4, paragraphs (1) through (3) of Article 7 or Article 7, paragraph (7) of this Act, or Article 38 of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1) of this Act;</p> <p>二 その実用新案登録が条約に違反してされたとき。</p> <p>(ii) if the utility model registration has been granted in violation of a treaty;</p>
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二の二 その実用新案登録の願書に添付した明細書又は図面の訂正が第三十九条第一項ただし書若しくは第五項から第七項まで（第四十条の二第九項において準用する場合を含む。）又は第四十条の二第一項ただし書の規定に違反してされたとき。

(ii)-2 if the correction of the description or the drawings attached to the application of the utility model registration has been made in violation of the provisions of Article 39, paragraph (1), the proviso or paragraphs (5) through (7) (including cases where applied mutatis mutandis pursuant to Article 40-2, paragraph (9)), or Article 40-2, paragraph (1), the proviso;

三 その実用新案登録が第五条第四項又は第五項（第三号を除く。）及び第六項に規定する要件を満たしていない実用新案登録出願に対してされたとき。

(iii) if the utility model registration has been granted with respect to an application for utility model registration that does not comply with the requirements provided in Article 5, paragraph (4) or (5) (excluding item (iii)) and paragraph (6);

四 その実用新案登録が考案者でない者であつてその考案について実用新案登録を受ける権利を承継しないものの実用新案登録出願に対してされたとき。

(iv) if the utility model registration has been granted on an application for a utility model registration filed by a person who is not the creator of the device and has not succeeded the right to obtain a utility model registration for the relevant device; and

三 その実用新案登録が第五条第四項又は第五項（第三号を除く。）及び第六項に規定する要件を満たしていない実用新案登録出願に対してされたとき。

(iii) if the utility model registration has been granted with respect to an application for utility model registration that does not comply with the requirements provided in Article 5, paragraph (4) or (5) (excluding item (iii)) and paragraph (6);

四 その実用新案登録が考案者でない者であつてその考案について実用新案登録を受ける権利を承継しないものの実用新案登録出願に対してされたとき。

(iv) if the utility model registration has been granted on an application for a utility model registration filed by a person who is not the creator of the device and has not succeeded the right to obtain a utility model registration for the relevant device; and

五 実用新案登録がされた後において、その実用新案権者が第五十五条第三項において準用する特許法第二十五条の規定により実用新案権を享有することができない者になつたとき、又はその実用新案登録が条約に違反することとなつたとき。

(v) if, after the grant of a utility model registration, the holder of utility model right has become unable to hold a utility model right under Article 25 of the Patent Act as applied mutatis mutandis pursuant to Article 55, paragraph (3), or the utility model registration has come to be in violation of a treaty.

2 前項の審判は、実用新案権の消滅後においても、請求することができる。

(2) A request for the trial of the preceding paragraph may be filed even after the utility model right has lapsed.

五 実用新案登録がされた後において、その実用新案権者が第五十五条第三項において準用する特許法第二十五条の規定により実用新案権を享有することができない者になつたとき、又はその実用新案登録が条約に違反することとなつたとき。

(v) if, after the grant of a utility model registration, the holder of a utility model right has become unable to hold a utility model right under Article 25 of the Patent Act as applied mutatis mutandis pursuant to Article 55, paragraph (3), or the utility model registration has come to be in violation of a treaty.

2 前項の審判は、何人も請求することができる。ただし、実用新案登録が同項第一号に該当すること（その実用新案登録が第九条第一項において準用する特許法第三十八条の規定に違反してされたときに限る。）又は前項第四号に該当することを理由とするものは、利害関係人に限り請求することができる。

(2) Any person may file a request for the trial of the preceding paragraph; provided, however, that if a request for invalidation trial of utility model registration is filed on the ground that the utility model registration falls under item (i) of the relevant paragraph (limited to the case where the utility model registration is obtained in violation of Article 38 of the Patent Act as applied mutatis mutandis pursuant to Article 9, paragraph (1)) or item (iv) of the preceding paragraph), only an interested person may file a request for the trial or appeal.

	<p>3 審判長は、第一項の審判の請求があつたときは、その旨を当該実用新案権についての専用実施権者その他その実用新案登録に関し登録した権利を有する者に通知しなければならない。</p> <p>(3) If a request for the trial in paragraph (1) has been filed, the chief administrative judge is to notify the exclusive licensee of the utility model right and other persons who have any registered rights relating to the utility model.</p>	<p>3 第一項の審判は、実用新案権の消滅後においても、請求することができる。</p> <p>(3) A request for the trial mentioned in paragraph (1) may be filed even after the utility model right has lapsed.</p> <p>4 審判長は、第一項の審判の請求があつたときは、その旨を当該実用新案権についての専用実施権者その他その実用新案登録に関し登録した権利を有する者に通知しなければならない。</p> <p>(4) If a request for the trial mentioned in paragraph (1) has been filed, the chief administrative judge is to notify the exclusive licensee of the utility model right and other persons who have any registered rights relating to the utility model.</p>
<p>第三十九条から第四十一条まで Articles 39 through 41</p>	<p>第三十九条 実用新案権者は、次に掲げる事項を目的とする場合に限り、願書に添付した明細書又は図面の訂正をすることについて審判を請求することができる。</p> <p>Articles 39 The holder of a utility model right may file a request an appeal regarding a correction of the description or drawings attached to the application, only for the following purposes.</p> <p>一 実用新案登録請求の範囲の減縮 (i) restriction of the scope of claims; 二 誤記の訂正 (ii) correction of errors; and</p>	<p>第三十九条 実用新案権者は、願書に添付した明細書又は図面の訂正をすることについて審判を請求することができる。ただし、その訂正は、次に掲げる事項を目的とするものに限る。</p> <p>Articles 39 The holder of a utility model right may file a request for an appeal regarding a correction of the description or drawings attached to the application; provided however, that the correction is limited to those for the following purposes:</p> <p>一 実用新案登録請求の範囲の減縮 (i) restriction of the scope of claims; 二 誤記の訂正 (ii) correction of errors;</p>

三 明瞭でない記載の釈明  
(iii) clarification of an  
ambiguous statement.

2 前項の明細書又は図面の訂正  
は、実質上実用新案登録請求の範  
囲を拡張し、又は変更するもので  
あつてはならない。

(2) Any correction of the  
description or drawings referred  
to in the preceding paragraph  
must not substantially enlarge  
or alter the scope of claims for a  
utility model registration.

三 明瞭でない記載の釈明  
(iii) clarification of an  
ambiguous statement; and  
四 他の請求項の記載を引用する  
請求項の記載を当該他の請求項の  
記載を引用しないものとするこ  
と。  
(iv) correction of a statement of  
claims which cites the  
statement of another claim in a  
way it does not provide  
description of the relevant  
citation of another claim.

2 前項の審判は、第三十七条第  
一項の審判が特許庁に係属した時  
からその審決（請求項ごとに請求  
がされた場合にあつては、その全  
ての審決）が確定するまでの間  
は、請求することができない。

(2) The request for an appeal of  
the preceding paragraph may  
not be filed from the time the  
trial under Article 37,  
paragraph (1) has become  
pending before the Japan  
Patent Office to the time the  
trial decision (if the request is  
filed for each of the claims, for  
all of the trial decisions) has  
become final and binding.

3 第一項第一号の場合は、訂正後における実用新案登録請求の範囲に記載されている事項により構成される考案が実用新案登録出願の際独立して実用新案登録を受けることができるものでなければならない。

(3) In the case of paragraph (1), item (i), a device constituted by the matters described in the corrected scope of claims must be one which could have been entitled to obtain a utility model registration for the device independently at the time of filing of the utility model application.

3 二以上の請求項に係る願書に添付した明細書のうち第五条第三項第四号に掲げる事項の訂正をする場合には、請求項ごとに第一項の規定による請求をすることができる。この場合において、当該請求項の中に一の請求項の記載を他の請求項が引用する関係その他経済産業省令で定める関係を有する一群の請求項（以下「一群の請求項」という。）があるときは、当該一群の請求項ごとに当該請求をしなければならない。

(3) If correction of particulars listed in Article 5, paragraph (3), item (iv) in description attached to the application pertaining to two or more claims are made, the request under the provisions of paragraph (1) may be filed for each claim. In this case, if a group of claims having any relation cited by another claim and other relations prescribed by Order of the Ministry of Economy, Trade and Industry (hereinafter referred to as "the group of claims") is present, the relevant request is filed for each of the group of claims.

4 第一項の審判は、実用新案権の消滅後においても、請求することができる。ただし、第三十七条第一項の審判により無効にされた後は、この限りでない。

(4) The request for the trial of paragraph (1) may be filed even after the utility model right has lapsed; provided however, that this does not apply after the utility model right has been invalidated in the trial of Article 37, paragraph (1).

4 願書に添付した明細書のうち第五条第三項第一号から第三号までに掲げる事項又は図面の訂正をする場合であつて、請求項ごとに第一項の規定による請求をしようとするときは、当該明細書又は図面の訂正に係る請求項の全て（前項後段の規定により一群の請求項ごとに第一項の規定による請求をする場合にあつては、当該明細書又は図面の訂正に係る請求項を含む一群の請求項の全て）について行わなければならない。

(4) In a case when the correction of particulars listed in Article 5, paragraph (3), items (i) through (iii) in the description is accompanying the application or the drawings, and if each request under the provisions of paragraph (1) is intended to be made, the relevant request must be filed for all claims pertaining to the relevant correction of the description or the drawings (for all of the group of claims including claims pertaining to the relevant correction of the description or the drawings, if the request under paragraph (1) is filed for each of the group of claims pursuant to the provisions in the second sentence of the preceding paragraph).

5 第一項の明細書又は図面の訂正は、願書に添付した明細書又は図面に記載した事項の範囲内においてしなければならない。

(5) The correction of the description or the drawings under paragraph (1) is made within the scope of matters described in the description or the drawings attached to the application.

	<p>6 第一項の明細書又は図面の訂正は、実質上実用新案登録請求の範囲を拡張し、又は変更するものであつてはならない。</p> <p>(6) Any correction of the description or drawings referred to in paragraph (1) does not substantially enlarge or alter the scope of claims for a utility model registration.</p> <p>7 第一項ただし書第一号に掲げる事項を目的とする訂正は、訂正後における実用新案登録請求の範囲に記載されている事項により構成される考案が実用新案登録出願の際独立して実用新案登録を受けることができるものでなければならない。</p> <p>(7) In the case of a correction for any of the purposes as provided in item (i) of the proviso to paragraph (1), the device constituted by the matters stated in the corrected scope of claims is entitled to independently obtain a utility model registration for relevant device.</p> <p>8 第一項の審判は、実用新案権の消滅後においても、請求することができる。ただし、第三十七条第一項の審判により無効にされた後は、この限りでない。</p> <p>(8) A request for the appeal in paragraph (1) may be filed even after the utility model right has lapsed; provided however, that this does not apply after the utility model right has been invalidated in the trial of Article 37, paragraph (1).</p>
<p>(訂正の無効の審判) (Trial for invalidation of correction)</p>	<p>(答弁書の提出等) (Submission of a Written Reply)</p>

第四十条 願書に添附した明細書又は図面の訂正が前条第一項から第三項までの規定に違反しているときは、その訂正を無効にすることについて審判を請求することができる。

Article 40 (1) In a case where the correction of the description or drawings attached to the application violates the provisions of the preceding Article, paragraphs (1) through (3), a request for a trial for invalidating the correction may be filed.

第四十条 審判長は、審判の請求があつたときは、請求書の副本を被請求人に送達し、相当の期間を指定して、答弁書を提出する機会を与えなければならない。

Article 40 (1) If a request for trial has been filed, the chief administrative judge serves a copy of the written request to the demandee and gives the demandee an opportunity to submit a written reply, designating an adequate period.

2 第三十七条第二項及び第三項の規定は、前項の審判の請求に準用する。

(2) The provisions of Article 37, paragraphs (2) and (3) are applied mutatis mutandis to the request for trial under the preceding paragraph.

2 審判長は、第四十一条において準用する特許法等の一部を改正する法律（平成二十三年法律第六十三号）第一条の規定による改正後の特許法（以下「平成二十三年改正特許法」という。）第百三十一条の二第二項の規定により請求書の補正を許可するときは、その補正に係る手続補正書の副本を被請求人に送達し、相当の期間を指定して、答弁書を提出する機会を与えなければならない。ただし、被請求人に答弁書を提出する機会を与える必要がないと認められる特別の事情があるときは、この限りでない。

(2) If the chief administrative judge approves an amendment of the written request under the provisions of Article 38-2, paragraph (2), the examiner serves a copy of the written amendment with respect to the relevant amendment to the demandee, and gives the demandee an opportunity to submit a written reply, designating an adequate period; provided, however, that this does not apply when special circumstances exist under which it is recognized that giving an opportunity to the demandee to submit a written reply is not required.

3 審判長は、第一項又は前項本文の答弁書を受理したときは、その副本を請求人に送達しなければならない。

(3) Upon receipt of a written reply as provided in paragraph (1) or the main clause of the preceding paragraph, the chief administrative judge serves the demandant a copy thereof.

4 審判長は、審判に関し、当事者及び参加人を審尋することができる。

(4) The chief administrative judge may question the parties and the intervenors relating to the trial.

(訂正の請求)

(Request for Correction)

第四十条の二 第三十七条第一項又は第四十八条の十二第一項の審判の被請求人は、前条第一項若しくは第二項、次条又は第四十一条において準用する特許法第一百五十三条第二項若しくは平成二十三年改正特許法第六十四条の二第二項の規定により指定された期間内に限り、願書に添付した明細書又は図面の訂正を請求することができる。ただし、その訂正は、次に掲げる事項を目的とするものに限る。

Article 40-2 (1) The demandee in a trial under Article 37, paragraph (1), or Article 48-12, paragraph (1) may file a request for a correction of the description, scope of claims or drawings attached to the application only within the time limit designated in accordance with Article 153, paragraph (2) or Article 164-2, paragraph (2) of the revised Patent Act of 2011 applied mutatis mutandis in the preceding Article paragraph (1) or (2), or the following Article or Article 41, respectively; provided, however, that the correction is limited to the following purposes:

一 実用新案登録請求の範囲の減縮

(i) restriction of the scope of claims;

二 誤記の訂正

(ii) correction of errors in the description;

三 明瞭でない記載の釈明

(iii) clarification of an ambiguous description; and

四 他の請求項の記載を引用する請求項の記載を当該他の請求項の記載を引用しないものとする事

と。  
(iv) making the description of a claim citing and using the description of other claims, without citing the relevant description of the other claims.

2 二以上の請求項に係る願書に添付した明細書のうち第五条第三項第四号に掲げる事項の訂正をする場合には、請求項ごとに前項の訂正の請求をすることができる。ただし、第三十七条第一項又は第四十八条の十二第一項の審判が請求項ごとに請求された場合にあつては、請求項ごとに前項の訂正の請求をしなければならない。

(2) When correction of the particulars listed in Article 5, paragraph (3), item (iv) in the description attached to the application pertaining to two or more claims, the request for correction under the preceding paragraph may be filed for each claim; provided however, that where the request for trial under Article, paragraph (1) or Article 48-12, paragraph (1) has been filed for each claim, the request for correction under the preceding paragraph is filed for each claim.

3 前項の場合において、当該請求項の中に一群の請求項があるときは、当該一群の請求項ごとに当該請求をしなければならない。

In the case prescribed in the preceding paragraph, when there is a group of claims in the claims concerned, the petition is filed for each claim in the group of claims.

4 審判長は、第一項の訂正の請求書及びこれに添付された訂正した明細書又は図面を受理したときは、これらの副本を請求人に送達しなければならない。

(4) Upon receipt of a written request for correction as provided in paragraph (1) and a corrected description and drawings attached thereto, the chief administrative judge serves the demandant copies thereof.

5 審判官は、第一項の訂正の請求が同項ただし書各号に掲げる事項を目的とせず、又は第九項において読み替えて準用する第三十九条第五項から第七項までの規定に適合しないことについて、当事者又は参加人が申し立てない理由についても、審理することができる。この場合において、当該理由により訂正の請求を認めないときは、審判長は、審理の結果を当事者及び参加人に通知し、相当の期間を指定して、意見を申し立てる機会を与えなければならない。

(5) The administrative judge may examine the grounds that have not been pleaded by a party in the case or an intervenor in determining whether the request for correction under paragraph (1) is not for any of the purposes provided in the items of the proviso to the relevant paragraph, or does not conform to the provisions of Article 39, paragraphs (5) through (7) that must be applied mutatis mutandis by replacing the terms under paragraph (9). In this case, when the request for correction on the grounds mentioned are not approved of, the chief administrative judge notifies the parties in the case and the intervenors of the result of the proceedings and gives them an opportunity to state their opinions, designating an adequate time limit.

6 第一項の訂正の請求がされた場合において、その審判事件において先にした訂正の請求があるときは、当該先の請求は、取り下げられたものとみなす。

(6) When a request for correction under paragraph (1) is made, if another request for correction has been previously made in the relevant trial, the previous request is deemed to have been withdrawn.

7 第一項の訂正の請求は、同項の訂正の請求書に添付された訂正した明細書又は図面について第五十五条第二項において読み替えて準用する特許法第十七条第一項の補正をすることができる期間内に限り、取り下げることができる。この場合において、第一項の訂正の請求を第二項又は第三項の規定により請求項ごとに又は一群の請求項ごとにしたときは、その全ての請求を取り下げなければならない。

(7) The request for correction under paragraph (1) may only be withdrawn within an allowable period for amendments under Article 17, paragraph (1) of the Patent Act applied mutatis mutandis by replacing the terms under Article 55, paragraph (2) regarding the corrected description or drawings appended to the written request for correction under the relevant paragraph. In this case, if the request for correction under paragraph (1) have been filed for each claim or for each group of claims pursuant to the provisions of paragraph (2) or (3), all of these requests is withdrawn.

8 第四十一条において準用する平成二十三年改正特許法第一百五十五条第三項の規定により第三十七条第一項又は第四十八条の十二第一項の審判の請求が請求項ごとに取り下げられたときは、第一項の訂正の請求は、当該請求項ごとに取り下げられたものとみなし、第三十七条第一項又は第四十八条の十二第一項の審判の審判事件に係る全ての請求が取り下げられたときは、当該審判事件に係る第一項の訂正の請求は、全て取り下げられたものとみなす。

(8) If the request for the trial under Article 37, paragraph (1), or Article 48-12, paragraph (1) has been withdrawn for each claim pursuant to the provisions of Article 155, paragraph (3) of the revised Patent Act of 2011 applied mutatis mutandis in Article 41, the request for correction under paragraph (1) is deemed to have been withdrawn for each of the relevant claims, and if all of the requests pertaining to a trial case of the trial under Article 37, paragraph (1), or Article 48-12, paragraph (1) have been withdrawn, all of the requests for correction under paragraph (1) pertaining to the relevant trial case is deemed to have been withdrawn.

9 第三十九条第四項から第八項まで、特許法第二百二十七条、第二百二十八条並びに第一百三十二条第三項及び第四項並びに平成二十三年改正特許法第一百三十一条第一項、第三項及び第四項、第一百三十一条の二第一項並びに第一百三十三条第一項、第三項及び第四項の規定は、第一項の場合に準用する。この場合において、第三十九条第七項中「第一項ただし書第一号」とあるのは、「第三十七条第一項又は第四十八条の十二第一項の審判の請求がされていない請求項に係る第一項ただし書第一号」と読み替えるものとする。

(9) The provisions of Article 39, paragraphs (4) through (8), Articles 127, 128 and 132, paragraphs (3) and (4) of the Patent Act, and Article 131, paragraphs (1), (3) and (4), Article 131-2, paragraph (1), and Article 133, paragraphs (1), (3) and (4) apply mutatis mutandis to the case of paragraph (1). In this case, "paragraph (1), proviso, item (i)" in Article 39, paragraph (7) replaced with "paragraph (1), proviso, item (i) pertaining to a claim for which a request for the trial under Article 37, paragraph (1), or Article 48-12, paragraph (1) has not been filed".

(取消しの判決があつた場合における訂正の請求)

(Request for Correction in the Case of Rescission Judgment)

	<p>第四十条の三 審判長は、第三十七条第一項又は第四十八条の十二第一項の審判の審決（審判の請求に理由がないとするものに限る。）に対する第四十七条第二項において準用する平成二十三年改正特許法第百八十一条第一項の規定による取消しの判決が確定し、同条第二項の規定により審理を開始するときは、その判決の確定の日から一週間以内に被請求人から申立てがあつた場合に限り、被請求人に対し、願書に添付した明細書又は図面の訂正を請求するための相当の期間を指定することができる。</p> <p>Article 40-3 If a judgment rescinding a trial decision in a trial under Article 37, paragraph (1), or Article 48-12, paragraph (1) (limited to a trial decision concluding that the request for a trial or appeal is groundless) under Article 181, paragraph (1) of revised Patent Act of 2011 applied mutatis mutandis in article 47, paragraph (2) has become final and binding, and following which proceedings are initiated under paragraph (2) of the Article, the chief administrative judge may designate to the demandee an adequate period for filing a request for the correction of the description, scope of the claims or the drawings attached to the application, only if the motion is made by the demandee within one week from the date when the judgment became final and binding.</p>
<p>(特許法の準用) (Mutatis mutandis application of the Patent Act)</p>	<p>(特許法の準用) (Mutatis Mutandis Application of the Patent Act)</p>

	<p>第四十一条 特許法第二百二十五条、第二百二十七条、第二百二十八条、第二百三十条から第七十条まで（審決の効果、審判の請求、審判官、審判の手續、訴訟との関係及び審判における費用）の規定は、審判に準用する。</p> <p>Article 41 The provisions of Articles 125, 127, 128, and 130 through 170 of the Patent Act (effect of trial decision, request for trial or appeal, administrative judge, trial procedures, relation to litigation, and costs of trial) apply mutatis mutandis to a trial or appeal.</p>	
<p>第四十五条 Article 45</p>	<p>、第七十四条（審判の規定等の準用）及び第七十六条（再審の請求登録前の実施による通常実施権）</p> <p>, Article 174 (Application mutatis mutandis of provisions regarding trial) and Article 176 (Non-exclusive license due to the working of the invention prior to the registration of the request for a retrial)</p>	<p>及び第七十六条（再審の請求登録前の実施による通常実施権）並びに平成二十三年改正特許法第七十四条（審判の規定等の準用）</p> <p>and Article 176 (non-exclusive license due to the working of the invention prior to the registration of the request for a retrial), and Article 174 of the revised Patent Act of 2011 (application mutatis mutandis of provisions regarding trial)</p>
<p>第四十七条第一項 Article 47, paragra ph (1)</p>	<p>審判又は再審の請求書</p> <p>a written request for a trial or appeal, or a retrial</p>	<p>審判若しくは再審の請求書又は第四十条の二第一項の訂正の請求書</p> <p>a written request for a trial or appeal, or a retrial or a written request for correction under Article 40-2, paragraph (1)</p>

<p>第四十七 条第二項 Article 47, paragra ph (2)</p>	<p>特許法第七十八條第二項から第 六項まで（出訴期間等）及び第百 七十九條から第百八十二條まで （被告適格、出訴の通知、審決又 は決定の取消及び裁判の正本の送 付） Article 178, paragraphs (2) through (6) (Period of institution of action), and Articles 179 through 182 (Appropriate party as defendant, notice of institution of action, rescission of the trial decision or ruling, and delivery of original copy of judgment)</p>	<p>特許法第七十九條（被告適格） 並びに平成二十三年改正特許法第 百七十八條第二項から第六項まで （出訴期間等）並びに第百八十 條、第百八十一條及び第百八十二 條（出訴の通知等、審決又は決定 の取消し及び裁判の正本等の送 付） Article 179 of the Patent Act (Appropriate party as defendant) and Article 178, paragraphs (2) through (6) (Period of institution of action), and Articles 180, 181 and 182 (notice of institution of action, etc., rescission of the trial decision or ruling, and delivery of the original copy of judgment) of the revised Patent Act of 2011</p>
<p>第四十八 條の十二 第二項 Article 48-12, paragra ph (2)</p>	<p>第三十九條第四項中「第三十七條 第一項」とあるのは、「第三十七 條第一項又は第四十八條の十二第 一項」とする "Article 37, paragraph (1)" in Article 39, paragraph (4) is replaced with "Article 37, paragraph (1) or Article 48-12, paragraph (1)"</p>	<p>第三十九條第二項及び第八項中 「第三十七條第一項」とあるの は、「第三十七條第一項又は第四 十八條の十二第一項」とする "Article 37, paragraph (1)" in Article 39, paragraphs (2) and (8) is replaced with "Article 37, paragraph (1) or Article 48-12, paragraph (1)"</p>
<p>第四十八 條の十二 第三項 Article 48-12, paragra ph (3)</p>	<p>第三十七條第二項及び第三項の規 定並びに特許法第百八十四條の十 五第二項及び第四項（国際特許出 願固有の理由に基づく特許の無効 の審判） the provisions of Article 37, paragraphs (2) and (3) and Article 184-15, paragraphs (2) and (4) (a trial for invalidation of a patent based on grounds inherent in an international patent application)</p>	<p>第三十七條第一項後段、第三項及 び第四項の規定並びに特許法第百 八十四條の十五第四項 the provisions of Article 37, paragraphs (1), second sentence, (3) and (4), and Article 184-15, paragraph (4)</p>

<p>第五十条の二 Article 50-2</p>	<p>第三十七条第二項（第四十条第二項及び第四十八条の十二第三項において準用する場合を含む。）、第三十九条第四項、第四十一条において準用する特許法第二百二十五条 Article 125 of the Patent Act applied mutatis mutandis in Article 37, paragraph (2) (including cases applied mutatis mutandis in Article 40, paragraph (2), and Article 48-12, paragraph (3))</p>	<p>第三十七条第三項（第四十八条の十二第三項において準用する場合を含む。）、第三十九条第八項（第四十条の二第九項において準用する場合を含む。）、第四十条の二第九項及び第四十一条において準用する特許法第二百二十八条、第四十一条において準用する特許法第二百二十五条 Article 128 of the Patent Act applied mutatis mutandis in Article 37, paragraph (3) (including cases applied mutatis mutandis in Article 48-12, paragraph (3)), Article 39, paragraph (8) (including a case applied mutatis mutandis in Articles 40-2, paragraph (9)), Article 40-2, paragraph (9) and Article 41, Article 125 of the Patent Act applied mutatis mutandis in Article 41</p>
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<p>第五十五条第二項 Article 55, paragraph (2)</p>	<p>準用する。 apply mutatis mutandis.</p>	<p>準用する。この場合において、同法第十七条第一項ただし書中「及び請求公告をすべき旨の決定の謄本の送達があつた後」とあるのは「、実用新案法第三十七条第一項又は第四十八条の十二第一項の審判において同法第四十条第一項の規定により指定された期間が経過した後（同条第二項、同法第四十条の二第五項、同法第四十条の三又は同法第四十一条において準用する特許法第一百五十三条第二項若しくは平成二十三年改正特許法第六十四条の二第二項の規定により期間が指定された場合にあつては、当該期間が経過した後）及び実用新案法第三十九条第一項の審判において同法第四十一条において準用する平成二十三年改正特許法第一百五十六条第一項の規定による通知があつた後（同条第三項の規定による審理の再開がされた場合にあつては、その後更に同条第一項の規定による通知があつた後）」と、「審判」とあるのは「審判若しくは実用新案法第四十条の二第一項の訂正」と読み替えるものとする。</p> <p>apply mutatis mutandis. In this case, "and after a certified copy of a ruling that publication of request done have been served" replaced with, "after a period designated by the provisions of Article 40, paragraph (1) of the Utility Model Act in a trial under Article 37, paragraph (1), or Article 48-12, paragraph (1) of the relevant Act has lapsed (in a case when a period is designated under the provisions of Article 153, paragraph (2) of the Patent Act or Article 164-2, paragraph (2) of the revised Patent Act of 2011 applied mutatis mutandis in Article 40, paragraph (1), Article 40-2 paragraph (5), Article 40-3, or Article 41 of the Utility Model Act, after the relevant period lapsed) and after a notice under the provisions of Article 156, paragraph (1) of the revised Patent Act of 2011 applied mutatis mutandis in Article 41</p>
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<p>第五十五条第六項 Article 55, paragraph (6)</p>	<p>特許法第九十五条の三（行政不服審査法による不服申立ての制限）の規定は、この法律の規定による補正の却下の決定、査定、審決及び審判又は再審の請求書の却下の決定 the provisions of Article 195-3 (restriction on appeals under Administrative Appeal Act) of the patent Act are a decision of dismissal of amendment, a decision of dismissal of written requests of an examiner's decision, a trial decision and a trial or appeal, or a retrial pursuant to the provisions of this Act</p>	<p>平成二十三年改正特許法第九十五条の四（行政不服審査法による不服申立ての制限）の規定は、この法律の規定による補正の却下の決定、査定、審決及び審判若しくは再審の請求書又は第四十条の二第一項の訂正の請求書の却下の決定 the provisions of Article 195-4 (restriction on appeals under Administrative Appeal Act) of the revised Patent Act of 2011 are a decision of dismissal of amendment, a decision of dismissal of written requests of an examiner's decision, a trial decision and a trial or appeal, or a retrial, or a written request for correction under Article 40-2, paragraph (1) pursuant to the provisions of this Act</p>
<p>別表第五号 Appendix table, item (v)</p>	<p>登録異議の申立て（請求公告に係る異議の申立てを含む。）をする者 A person filing an opposition to registration (including an opposition pertaining to publication of request)</p>	<p>登録異議の申立てをする者 A person filing an objection to registration</p>
<p>別表第九号 Appendix table, item (ix)</p>	<p>審判又は再審を請求する者 A person filing a request for a trial or appeal, or a retrial</p>	<p>審判、再審又は明細書若しくは図面の訂正を請求する者 A person filing a request for a trial or appeal, or a retrial; or for the correction of a description or drawings</p>

3 平成十五年改正法の施行前にされた平成十五年改正法附則第十四条の規定による改正前の特許法等の一部を改正する法律（平成六年法律第百十六号。以下「平成六年改正法」という。）附則第九条第二項において準用する平成六年改正法第二条の規定による改正後の特許法（以下「平成六年改正特許法」という。）第百十三条の登録異議の申立て（以下単に「登録異議の申立て」という。）の決定が確定していない場合における平成十五年改正法の施行後に訂正をする実用新案登録に係る前項において読み替えられた旧実用新案法第三十九条第二項の規定の適用については、同項中「第三十七条第一項の審判が」とあるのは「特許法等の一部を改正する法律（平成十五年法律第四十七号）附則第十四条の規定による改正前の特許法等の一部を改正する法律（平成六年法律第百十六号。以下「平成六年改正法」という。）附則第九条第二項において準用する平成六年改正法第二条の規定による改正後の特許法（以下「平成六年改正

特許法」という。) 第百十三条の登録異議の申立て(以下単に「登録異議の申立て」という。)又は第三十七条第一項の審判が」と、「その審決」とあるのは「その決定又は審決」と、「同項の審判の審決に対する」とあるのは「登録異議の申立てについての平成六年改正法附則第九条第二項において準用する平成六年改正特許法第一百四十二条第二項の取消決定(以下単に「取消決定」という。)又は第三十七条第一項の審判の審決に対する」と、「審決の取消しの判決」とあるのは「取消決定又は審決の取消しの判決」とする。

(3) If the decision on an objection to registration under Article 113 (hereinafter, simply, referred to as "objection to registration") of the revised Patent Act under the provisions of Article 2 of 1994 Amending Act applied mutatis mutandis in Article 9, paragraph (2) of the Supplementary Provisions of the Partial Amendment of the Patent Act (Act No. 116 of 1994, hereinafter referred to as "1994 Amendment Act") before revision under the provisions of Article 14 of the Supplementary Provisions of 2003 Amendment Act issued prior to the enforcement of 2003 Amendment Act, does not become final, with regard to application of the provisions of Article 39, paragraph (2) of the former Utility Model Act pertaining to a utility model registration, which is to be corrected after the enforcement of 2003 Amendment Act, and which has been replaced in the preceding paragraph, "the trial under Article 37, paragraph (1)" is replaced with "the trial on the objection to registration under Article 113 of the revised Patent Act under the provisions of Article 2 of the 1994 Amending Act (hereinafter referred to as "the revised Patent Act of 1994") applied mutatis mutandis in Article 9, paragraph (2) of Supplementary Provisions of the Partial Amendment of the Patent Act, etc. (Act No. 116 of 1994, hereinafter referred to as "1994 Amendment Act") prior to revision under the provisions of Article 14 of Supplementary Provisions of the Partial Amendment of the Patent Act, etc. (Act No. 47 of 2003), (hereinafter, simply, referred to as "the objection to registration"), or the trial under Article 37, paragraph (1)"; "the trial decision" is replaced with "the decision or trial decision"; "against the decision of the trial of the relevant paragraph" is replaced with "against the revocation decision under Article 114, paragraph (2) hereinafter, simply, referred to as "revocation decision") of the Patent Act revised in 1994 applied mutatis mutandis in Article 9, paragraph (2) of the Supplementary Provisions of 1994 Amending Act regarding the objection to registration or the trial decision under Article 37, paragraph (1)"; and "the judicial decision of revocation of a trial decision" is replaced with "the revocation decision or the judicial decision of revocation of a trial decision", in the relevant paragraph.

4 平成十五年改正法の施行前に請求された登録異議の申立て又は旧実用新案法第三十七条第一項若しくは第四十八条の十二第一項の審判に係る平成六年改正法附則第九条第二項において準用する平成六年改正特許法第一百四十二条第二項の取消決定又は審決に対する訴えが、平成十五年改正法の施行の際現に裁判所に係属している場合において、

平成十五年改正法の施行後当該訴えについての判決が確定するまでの間において訂正をする実用新案登録に係る第二項において読み替えられた旧実用新案法第三十九条第二項の規定の適用については、前項の規定にかかわらず、第二項において読み替えられた旧実用新案法第三十九条第二項中「第三十七条第一項の審判が特許庁に係属したときからその審決が確定するまでの間は」とあるのは「特許法等の一部を改正する法律（平成十五年法律第四十七号）附則第十四条の規定による改正前の特許法等の一部を改正する法律（平成六年法律第百十六号）附則第九条第二項において準用する同法第二条の規定による改正後の特許法第百十三条の登録異議の申立て又は第三十七条第一項若しくは第四十八条の十二第一項の審判が特許庁に係属している場合は」とし、同項ただし書の規定は、適用しない。

- (4) If an appeal against the objection to registration requested prior to the enforcement of 2003 Amendment Act, or the revocation decision or the trial decision under Article 114, paragraph (2) of the revised Patent Act of 1994 applied mutatis mutandis in Article 9, paragraph (2) of the Supplementary Provisions of 1994 Amendment Act pertaining to the trial under Article 37, paragraph (1), or Article 48-12, paragraph (1) of the former Utility Model Act, is pending before any court at the time of enforcement of 2003 Amendment Act, with regard to the application of the provisions of Article 39, paragraph (2) of the former Utility Model Act pertaining to a utility model registration, which is to be corrected after the enforcement of 2003 Amendment Act to the time the judicial decision to the relevant appeal has become final and binding, and which has been replaced in paragraph (2), notwithstanding the provisions of the preceding paragraph, in Article 39, paragraph (2) of the former Utility Model Act which has been replaced in paragraph (2), "after the trial under Article 37, paragraph (1) has been pending before the Japan Patent Office to the time the trial decision has been final and binding" is replaced with "in a case where the trial on the objection to registration under Article 113 of the revised Patent Act under the provisions of Article 2 of 1994 Amending Act applied mutatis mutandis in Article 9, paragraph (2) of the Supplementary Provisions of the Partial Amendment of the Patent Act ,etc. (Act No. 116 of 1994) prior to the revision under the provisions of Article 14 of Supplementary Provisions of the Partial Amendment of the Patent Act ,etc. (Act No. 47 of 2003), or the trial under Article 37, paragraph (1) or under Article 48-12, paragraph (1) is pending before the Japan Patent Office", and the provisions of the proviso of the relevant paragraph does not apply.

第五条 実用新案登録出願人は、この法律の施行の際現に特許庁に係属している実用新案登録出願（その実用新案登録出願の日から五年六月を経過したものを除く。）であって、第三条の規定による改正後の実用新案法（以下「新実用新案法」という。）の規定の適用を受けるものとして、通商産業省令で定めるところにより、特許庁長官に届け出たもの（以下「旧実用新案登録出願」という。）を新実用新案法の規定の適用

を受ける実用新案登録出願（以下「新実用新案登録出願」という。）とすることができる。

Article 5 (1) An applicant for a utility model registration may let an application for a utility model registration (excluding an application for a utility model registration where five and a half years have been lapsed from the date of filing the application for a utility model registration) which has been pending before the Japan Patent Office at the time of enforcement of this Act and notified to the Commissioner of the Patent Office has come under the provisions of the revised Utility Model Act (hereinafter, referred to as "the New Utility Model Act") pursuant to Article 3, pursuant to the provisions of an Order of the Ministry of International Trade and Industry (hereinafter, referred to as "the former application for a utility model registration") as an application for a utility model registration that has come under the provisions of the New Utility Model Act (hereinafter, referred to as "the new application for a utility model registration").

2 前項の場合において、新実用新案登録出願は、旧実用新案登録出願の時にしたものとみなす。この場合において、新実用新案法第二条の二第一項ただし書中「実用新案登録出願の日」とあるのは「特許法等の一部を改正する法律（平成五年法律第二十六号）附則第五条第一項の規定による届出（以下「変更届出」という。）の日」と、新実用新案法第三十二条第一項中「実用新案登録出願と同時に」とあるのは「変更届出と同時に」とする。

(2) In the case of the preceding paragraph, the new application for a utility model registration is deemed to have been filed at the time of filing the former application for a utility model registration. In this case, "filing date of a utility model registration application" in the proviso to Article 2-2, paragraph (1) of the New Utility Model Act, is replaced with "the date of notification pursuant to the provisions of Article 5, paragraph (1) of Supplementary Provisions of the Partial Amendment of the Patent Act (Act No. 26 of 1993) (hereinafter referred to as "notification of change")," and "at the time of filing of the application for a utility model registration" is replaced with "along with the notification of change."

3 第一項の規定による届出があったときは、旧実用新案登録出願は、取り下げたものとみなす。

(3) If there is a notification under paragraph (1), the former application for design registration is deemed to have been withdrawn.

4 旧実用新案法第四十八条の三第一項又は第四十八条の十四第四項の規定により実用新案登録出願とみなされた国際出願に係る第一項の規定による届出については、旧実用新案法第四十八条の六第二項の日本語実用新案登録出願にあっては旧実用新案法第四十八条の五第一項、旧実用新案法第四十八条の四第一項の外国語実用新案登録出願にあっては同項及び旧実用新案法第四十八条の五第一項の規定による手続をし、かつ、旧実用新案法第五十四条第二項の規定により納付すべき手数料を納付した後（旧実用

新案法第四十八条の十四第四項の規定により実用新案登録出願とみなされた国際出願については、同項に規定する決定の後）でなければすることができない。

(4) With regard to a notification under paragraph (1) pertaining to an international application which has been deemed to be an application for a utility model registration under the registration of Article 48-3, paragraph (1) or Article 48-14, paragraph (4) of the Former Utility Model Act, it may only be received after the registration fees payable under the provisions of Article 54, paragraph (2) have been paid (with regard to an international application which is deemed to be an application for a utility model registration under the provisions of Article 48-14, paragraph (4), after the decision under the relevant paragraph), and, in the case of a Utility Model Registration Application in the Japanese Language under Article 48-6, paragraph (2) of the Former Utility Model Act, after the procedures under the provisions of Article 48-5, paragraph (1) of the former Utility Model Act have been completed, or in the case of a Utility Model Registration Application in a Foreign Language under Article 48-14, paragraph (4) of the former Utility Model Act, after the procedures under the provisions of the relevant paragraph and Article 48-5, paragraph (1) of the former Utility Model Act have been completed.

5 特許出願人又は意匠登録出願人は、この法律の施行の際現に特許庁に係属している特許出願又は意匠登録出願（その特許出願又は意匠登録出願の日から五年六月を経過したものを除く。）であって、新実用新案法の規定の適用を受けるものとして、通商産業省令で定めるところにより、特許庁長官に届け出たものを新実用新案法の規定の適用を受ける新実用新案登録出願に変更することができる。

(5) An applicant for a patent or an applicant for a design registration may convert their application (excluding patent applications or design registrations where five and a half years have been lapsed from the date of filing of the patent applications or design registrations) which has been pending before the Japan Patent Office at the time of enforcement of this Act and notified to the Commissioner of the Patent Office as having come under the provisions of the New Utility Model Act, into a new application for a utility model registration having come under the provisions of the new Utility Model Act.

6 第二項及び第三項の規定は、前項の場合に準用する。

(6) The provisions of paragraphs (2) and (3) apply mutatis mutandis to the case of the preceding paragraph.

（罰則の適用に関する経過措置）

(Transitional Measures Concerning the Application of Penal Provisions)

第十六条 この法律の施行前にした行為に対する罰則の適用については、なお従前の例による。

Article 16 Prior laws continue to govern the applicability of penal provisions to acts committed before the enforcement of this Act.

(政令への委任)

(Delegation to Cabinet Order)

第十七条 附則第二条から第六条まで、第八条、第十条及び前条に定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 17 Beyond what is prescribed by Articles 2 through 6, 8 and 10 and the preceding Article of Supplementary Provisions, transitional measures necessary for the enforcement of this Act are specified by Cabinet Order.

附 則 [平成五年十一月十二日法律第八十九号] [抄]

**Supplementary Provisions [Act No. 89 of November 12, 1993 Extract]  
[Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、行政手続法（平成五年法律第八十八号）の施行の日から施行する。

Article 1 This Act comes into effect from the date of enforcement of the Administrative Procedure Act (Act No. 88 of 1993).

(諮問等がされた不利益処分に関する経過措置)

(Transitional Measures Concerning Adverse Dispositions Following Consultation)

第二条 この法律の施行前に法令に基づき審議会その他の合議制の機関に対し行政手続法第十三条に規定する聴聞又は弁明の機会の付与の手続その他の意見陳述のための手続に相当する手続を執るべきことの諮問その他の求めがされた場合においては、当該諮問その他の求めに係る不利益処分の手続に関しては、この法律による改正後の関係法律の規定にかかわらず、なお従前の例による。

Article 2 Prior laws continue to govern a request for consultation or any other requests made based on laws and regulations prior to the enforcement of this Act to a council or any other consultative organ to carry out a procedure equivalent to the procedure for the hearing or the grant of an opportunity for an explanation or any other procedure for hearing statements of an opinion prescribed in Article 13 of the Administrative Procedure Act, with regard to the procedure of an adverse disposition to which the relevant request for consultation or any other respect pertains, notwithstanding the provisions of the relevant Act after the revision by this Act.

(罰則に関する経過措置)

(Transitional Measures Concerning Penal Provisions)

第十三条 この法律の施行前にした行為に対する罰則の適用については、なお従前の例による。

Article 13 Prior laws continue to govern the applicability of penal provisions to acts committed before the enforcement of this Act.

(聴聞に関する規定の整理に伴う経過措置)

(Transitional Measures Upon Arrangement of Provisions on Hearings)

第十四条 この法律の施行前に法律の規定により行われた聴聞、聴問若しくは聴聞会（不利益処分に係るものを除く。）又はこれらのための手続は、この法律による改正後の関係法律の相当規定により行われたものとみなす。

Article 14 Proceedings for a hearing (excluding those pertaining to adverse dispositions) implemented pursuant to the provisions of Acts prior to the enforcement of this Act or procedures for these hearings are deemed to have been implemented pursuant to the equivalent provisions of the related Acts revised by this Act.

(政令への委任)

(Delegation to Cabinet Order)

第十五条 附則第二条から前条までに定めるもののほか、この法律の施行に関して必要な経過措置は、政令で定める。

Article 15 Beyond what is prescribed for in Articles 2 through to the preceding Article of the Supplementary Provisions, transitional measures necessary for the enforcement of this Act are specified by Cabinet Order.

附 則 〔平成六年十二月十四日法律第百十六号〕 〔抄〕

Supplementary Provisions [Act No. 116 of December 14, 1994 Extract]

[Extract]

(施行期日)

(Effective Date)

第一条 この法律は、平成七年七月一日から施行する。ただし、次の各号に掲げる規定は、当該各号に定める日から施行する。

Article 1 This Act comes into effect as of June 1, 1995; provided, however, that the provisions listed in the following items come into effect from the date listed in the relevant item:

二 第二条の規定、第三条中実用新案法第三条の二第一項の改正規定（「出願公告」を「特許法第六十六条第三項の規定により同項各号に掲げる事項を掲載した特許公報の発行」に改める部分に限る。）、同法第十条第五項及び第六項、第十四条第四項並びに第三十九条第三項の改正規定、同法第四十五条の改正規定（同条に一項を加える部分を除く。）、同法第五十条の二の改正規定（「第七十四条第二項」を「第七十四条第三項」に、「第九十三条第二項第五号」を「第九十三条第二項第四号」に改める部分に限る。）、同法第五十三条第二項の改正規定並びに同法第六十二条の改正規定（「第七十四条第二項」を「第七十四条第三項」に改め

る部分に限る。) 、 第四条中意匠法第十三条第三項、 第十九条、 第五十八条、 第六十八條第一項及び第七十五條の改正規定、 第六條の規定、 第七條中弁理士法第五條の改正規定並びに附則第八條、 第九條、 第十條第二項、 第十七條及び第十九條の規定 平成八年一月一日

(ii) the provisions of Article 2; in Article 3, the provisions for revising Article 3-2, paragraph (1) of the Utility Model Act (limited to the portion changing "publication of an unexamined application" to "issuance of the patent gazette containing matters listed in each of the items of Article 66, paragraph (3) of the Patent Act under the provisions of the relevant paragraph"), the provisions of Article 10, paragraphs (5) and (6), Article 14, paragraph (4), and Article 39, paragraph (3) of the relevant Act, the revised provisions of Article 45 of the relevant Act (excluding the portion adding paragraph (1) to the same Article), the revised provisions of Article 50-2 of the relevant Act (limited to the portions changing "Article 174, paragraph (2)" to "Article 174, paragraph (3)", and "Article 193, paragraph (2), (v)" to "Article 193, paragraph (2), (iv)"), the revised provisions of Article 53, paragraph (2) of the relevant Act, and the revised provisions of Article 62 of the relevant Act (limited to the portion changing "Article 174, paragraph (2)" to "Article 174, paragraph (3)"); in Article 4, the revised provisions of Article 13, paragraph (3), Article 19, Article 58, Article 68, paragraph (1), Article 75 of the Design Act; the provisions of Article 6; in Article 7, the revised provisions of Article 5 of the Patent Attorneys Act; and the provisions of Article 8, Article 9, Article 10, paragraph (2), Article 17, and Article 19 of the Supplementary Provisions: January 1, 1996

(実用新案法の改正に伴う経過措置)

(Transitional Measures Upon Revision of the Utility Model Act)

第十条 この法律の施行の際現に特許庁に係属している実用新案登録出願又はこの法律の施行前にした実用新案登録出願に係る審判若しくは再審については、新実用新案法第四十五条第一項において準用する新特許法第七十三条第二項並びに新実用新案法第四十五条第二項及び第五十四条第一項の規定を除き、なお従前の例による。

Article 10 (1) Prior laws continue to govern utility model applications actually pending before the Japan Patent Office at the time of the enforcement of this Act or the trial decision or the retrial pertaining to a utility model application filed prior to the enforcement of this Act, excluding the provisions of Article 173, paragraph (2) of the new Patent Act applied mutatis mutandis in Article 45, paragraph (2) and Article 54, paragraph (1) of the new Utility Model.

2 実用新案登録出願の日が、第二条及び前条第一項の規定の施行前にその決定の謄本の送達があった出願公告のすべてが終了する日前である実用新案登録出願についての新実用新案法第三条の二の規定の適用については、同条中「発行又は」とあるのは「発行、」と、「出願公開」とあるのは「出願公開又は出願公告」とする。

(2) With regard to an application of the provisions of Article 3-2 of a new Utility Model Act application for utility model registration filed prior to the date on which all publications of an examined application of which a certified copy of the ruling has been served and prior to the completion of the enforcement of the provisions of Article 2 and the preceding Article, paragraph (1), in the same Article, "issuance or" is replaced with "issuance", and "publication of an examined application" is replaced with "publication of an examined application or publication of an unexamined application."

3 新実用新案法第三十三条の二の規定は、旧実用新案法第三十三条第四項又は第五項の規定により消滅したもの又は初めから存在しなかったものとみなされた実用新案権には、適用しない。

(3) The provisions of Article 33-2 of the new Utility Model Act applies to the utility model right that have been deemed to be lapsed or non-existent from the beginning pursuant to Article 33, paragraph (4) or (5) of the former Utility Model Act.

(罰則の適用に関する経過措置)

**(Transitional Measures Concerning the Application of Penal Provisions)**

第十三条 この法律の各改正規定の施行前にした行為及びこの附則の規定によりなお従前の例によることとされる事項に係るこの法律の各改正規定の施行後にした行為に対する罰則の適用については、それぞれなお従前の例による。

Article 13 Prior laws continue to govern the applicability of penal provisions to acts committed prior to the enforcement of the revised provisions of this Act and acts committed after the enforcement of the revised provisions of this Act.

(政令への委任)

**(Delegation to Cabinet Order)**

第十四条 附則第二条から前条までに定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 14 Beyond what is prescribed by Article 2 through to the preceding Article of Supplementary Provisions, transitional measures necessary for the enforcement of this Act is specified by Cabinet Order.

**附 則** [平成七年五月十二日法律第九十一号] [抄]

**Supplementary Provisions [Act No. 91 of May 12, 1995 Extract] [Extract]**

(施行期日)

**(Effective Date)**

第一条 この法律は、公布の日から起算して二十日を経過した日から施行する。

Article 1 This Act comes into effect as of the day on which twenty days have passed from the date of promulgation.

附 則 〔平成八年六月十二日法律第六十八号〕 〔抄〕

Supplementary Provisions [Act No. 68 of June 12, 1996 Extract] [Extract]

(施行期日)

(Effective Date)

第一条 この法律は、平成九年四月一日から施行する。ただし、次の各号に掲げる規定は、当該各号に定める日から施行する。

Article 1 This Act comes into effect as of April 1, 1997; provided, however, that the revising provisions listed as follows, comes into effect as of the date listed in the relevant item.

二 第一条中商標法第四十条第四項及び第七十六条第四項にただし書を加える改正規定、第二条中特許法第一百七条第三項、第一百十二条第三項及び第九十五条第五項にただし書を加える改正規定、第三条中実用新案法第三十一条第三項、第三十三条第三項及び第五十四条第四項にただし書を加える改正規定、第四条中意匠法第四十二条第四項、第四十四条第三項及び第六十七条第四項にただし書を加える改正規定、第五条中工業所有権に関する手続等の特例に関する法律第四十条第四項にただし書を加える改正規定並びに附則第二十七条の規定 平成八年十月一日

(ii) the revised provisions adding the proviso to Article 40, paragraph (4) and Article 76, paragraph (4) of the Trademark Act, in Article 1 of this Act; the revised provisions adding the proviso to Article 107, paragraph (3), Article 112, paragraph (3) and Article 195, paragraph (5) of the Patent Act, in Article 2 of this Act; the revised provisions adding the proviso to Article 31, paragraph (3), Article 33, paragraph (3) and Article 54, paragraph (4) of the Utility Model Act, in Article 3 of this Act; in Article 4, the revised provisions adding the proviso to Article 42, paragraph (4), Article 44, paragraph (3) and Article 67, paragraph (4) of the Design Act, in Article 4 of this Act; the revised provisions adding the proviso to Article 40, paragraph (4) of the Act on Special Provisions of Procedures, etc. concerning Industrial Property Rights in Article 5 of this Act; and the provisions of Article 27 of the Supplementary Provisions: October 1, 1996

(罰則の適用に関する経過措置)

(Transitional Measures Concerning the Application of Penal Provisions)

第二十条 この法律の各改正規定の施行前にした行為及びこの附則の規定によりなお従前の例によることとされる事項に係るこの法律の各改正規定の施行後にした行為に対する罰則の適用については、それぞれなお従前の例による。

Article 20 Prior laws continue to govern the applicability of penal provisions to acts committed prior to the enforcement of provisions of this Act and acts committed after the enforcement of provisions of this Act pertaining to the matters to which the provisions then in force remain in effect.

(政令への委任)

(Delegation to Cabinet Order)

第二十一条 附則第二条から前条までに定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 21 Beyond what is prescribed by Articles 2 through the preceding Article of Supplementary Provisions, transitional measures necessary for the enforcement of this Act are specified by Cabinet Order.

附 則 〔平成八年六月二十六日法律第百十号〕〔抄〕

**Supplementary Provisions [Act No. 110 of June 26, 1996 Extract]**  
**[Extract]**

この法律は、新民訴法の施行の日から施行する。ただし、次の各号に掲げる規定は、当該各号に定める日から施行する。

This Act comes into effect as of the date of enforcement of the new Code of Civil Procedure; provided, however, that the revising provisions listed as follows come into effect as of the date listed in the relevant item:

二 第三十条中特許法第十条の改正規定、第三十二条中実用新案法第二条の五第二項の改正規定、第三十三条中意匠法第六十八条第二項の改正規定、第三十四条中商標法第七十七条第二項、附則第二十七条第二項及び附則第三十条の改正規定並びに第五十一条中工業所有権に関する手続等の特例に関する法律第四十一条第二項の改正規定 平成十年四月一日又は新民訴法の施行の日のいずれか遅い日

(ii) in Article 30, the provisions for revising Article 10; in Article 32, the provisions for revising Article 2-5, paragraph (2) of the Utility Model Act; in Article 33, the provisions for revising Article 68, paragraph (2) of the Design Act; in Article 34, the provisions for revising Article 77, paragraph (2) of the Trademark Act, Articles 27, paragraph (2) and 30 of the Supplementary Provisions; and the provisions for revising Article 41, paragraph (2) of the Act on Special Provisions of Procedures concerning Industrial Property Rights: the latter of the dates of April 1, 1998 and the date of the enforcement of the new Code of Civil Procedure.

附 則 〔平成十年五月六日法律第五十一号〕〔抄〕

**Supplementary Provisions [Act No. 51: May 6, 1998 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、平成十一年一月一日から施行する。ただし、次の各号に掲げる規定は、当該各号に定める日から施行する。

Article 1 This Act comes into effect as of January 1, 1999; provided, however,

that the revising provisions listed as follows come into effect from the date listed in the relevant item.

二 第一条中特許法第百七条の改正規定（同条第一項の表の改正規定を除く。）及び同法第百九十五条の改正規定（同条第一項第四号から第七号までの改正規定を除く。）、第二条中実用新案法第三十一条の改正規定及び同法第五十四条の改正規定（同条第一項第四号から第七号までの改正規定を除く。）、第四条の規定、第五条中商標法第四十条、第四十一条の二第五項及び第六十五条の七第三項の改正規定並びに同法第七十六条の改正規定（同条第一項の改正規定を除く。）、第六条中工業所有権に関する手続等の特例に関する法律第四十条の改正規定並びに次条第三項、附則第三条第二項、第五条並びに第六条第二項の規定、附則第十四条中商標法等の一部を改正する法律（平成八年法律第六十八号）附則第十五条第二項の改正規定並びに附則第十八条の規定 平成十一年四月一日

(ii) the provisions for revising Article 107 of the Patent Act (excluding the provisions for revising the table of paragraph (1) of the relevant Article), and the provisions for revising Article 195 of the relevant Act (excluding the provisions for revising paragraph (1), items (iv) through (vii)), in Article 1 of this Act; the provisions for revising Article 31 of the Utility Model Act and the provisions for revising Article 54 of the relevant Act (excluding the provisions for revising paragraph (1), items (iv) through (vii)); the provisions of Article 4, in Article 2 of this Act; the provisions for revising Article 40, Article 41-2, paragraph (5) and Article 65-7, paragraph (3), and the provisions for revising Article 76 of the relevant Act (excluding the provisions for revising the paragraph (1) of the relevant Article), in Article 5 of this Act; the provisions for revising Article 40 of the Act on Special Provisions of Procedures concerning Industrial Property Rights, and provisions of paragraph (2) of the following Article, Article 3, paragraph (2), Article 5 and Article 6, paragraph (2) of Supplementary Provisions, in Article 6 of this Act; the provisions for revising Article 15, paragraph (2), of Supplementary Provisions of the Act for Partial Revision of the Trademark Act (Act No. 68 of 1996), in Article 14 of the Supplementary Provisions; and the provisions of Article 18 of the Supplementary Provisions: April 1, in 1999.

（実用新案法の改正に伴う経過措置）

(Transitional Measures Upon Revision of the Utility Model Act)

第三条 この法律の施行の際現に特許庁に係属している実用新案登録出願については、別段の定めがある場合を除き、その実用新案登録出願について査定若しくは審決が確定するまで、又は設定の登録がされるまでは、なお従前の例による。

Article 3 (1) Prior laws continue to govern a utility model application actually pending before the Japan Patent Office at the time of the enforcement of this Act, until the examiner's decision or a trial decision for the utility model application becomes final and binding, except where it has otherwise been

provided for.

2 附則第一条第二号に定める日前に既に納付した登録料又は同日前に納付すべきであった登録料については、第二条の規定による改正後の実用新案法（以下「新実用新案法」という。）第三十一条第三項及び第四項の規定にかかわらず、なお従前の例による。

(2) Prior laws continue to govern registration fees that have already been paid for prior to the date prescribed by Article 1, item (ii) of the Supplementary Provisions or should have been paid for prior to that date, notwithstanding the provisions of Article 31, paragraphs (3) and (4) of the revised Utility Model pursuant to the provisions of Article 2 (hereinafter, referred to as "the new Utility Model Act").

3 この法律の施行前にした実用新案登録出願に係る実用新案登録についての登録異議の申立て又は無効の理由については、なお従前の例による。

(3) Prior laws continue to govern the grounds for opposition or invalidity to a utility model registration pertaining to applications for utility model registration filed prior to the enforcement of this Act.

（罰則の適用に関する経過措置）

(Transitional Measures Concerning Application of Penal Provisions)

第七条 この法律の施行前にした行為及びこの附則の規定によりなお従前の例によることとされる事項に係るこの法律の施行後にした行為に対する罰則の適用については、それぞれなお従前の例による。

Article 7 Prior laws continue to govern the applicability of penal provisions to acts committed prior to the enforcement of this Act and acts committed after the enforcement of this Act pertaining to the matters to which the provisions then in force remain in effect.

（政令への委任）

(Delegation to Cabinet Order)

第八条 附則第二条から前条までに定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 8 Beyond what is prescribed by Articles 2 through the preceding Article of the Supplementary Provisions, transitional measures necessary for the enforcement of this Act is specified by Cabinet Order.

附 則 〔平成十一年五月十四日法律第四十一号〕 〔抄〕

Supplementary Provisions [Act No. 41 of May 14, 1999 Extract] [Extract]

（施行期日）

(Effective Date)

第一条 この法律は、平成十二年一月一日から施行する。ただし、次の各号に掲げる規

定は、当該各号に定める日から施行する。

**Article 1** This Act comes into effect as of January 1, 2000; provided, however, that the provisions listed in the following items come into effect as of the date prescribed respectively in those items.

一 第一条中特許法第百七条第一項の表の改正規定及び同法第百六十八条に二項を加える改正規定、第二条中実用新案法第三十一条第一項の表の改正規定及び同法第四十条に二項を加える改正規定並びに次条第十項、附則第三条第六項及び附則第七条から第十二条までの規定 公布の日から起算して一月を超えない範囲内において政令で定める日

(i) the provisions revising the table of Article 107, paragraph (1) of the Patent Act and the provisions adding two paragraphs in Article 168 of the relevant Act in Article 1; the provisions revising the table of Article 31, paragraph (1) of the Utility Model Act and the provisions adding two paragraphs in Article 40 of the relevant Act in Article 2; and the provisions of the following Article, paragraph (10), Article 3, paragraph (6) of these Supplementary Provisions and Articles 7 through 12 of these Supplementary Provisions: the date specified by Cabinet Order within a period not exceeding one month from the date of promulgation

(実用新案法の改正に伴う経過措置)

(Transitional Measures Upon Partial Revision of the Utility Model Act)

第三条 この法律の施行の際現に特許庁に係属している実用新案登録出願に係る考案の新規性の要件については、その実用新案登録出願について設定の登録がされるまでは、なお従前の例による。

**Article 3** (1) Prior laws continue to govern novelty requirements for a device pertaining to an application for utility model registration actually pending before the Japan Patent Office at the time of the enforcement of this Act, until the establishment concerning the application for utility model registration is registered.

2 この法律の施行後にされた実用新案登録出願であつて、実用新案法第十条第三項の規定により施行前にしたものとみなされるものについては、第二条の規定による改正後の実用新案法（以下「新実用新案法」という。）第十条第八項及び第九項の規定を適用する。

(2) The provisions of Article 10, paragraphs (8) and (9) of the Utility Model Act revised by the provisions of Article 2 (hereinafter referred to as the "new Utility Model Act") is applied to an application for utility model registration which has been filed after the enforcement of this Act, and is deemed to have been filed pursuant to the provisions of Article 10, paragraph (3) of the Utility Model Act, prior to the enforcement.

3 この法律の施行前に求められた登録実用新案の技術的範囲についての判定については、なお従前の例による。

- (3) Prior laws continue to govern a judgment concerning a technical scope of a registered utility model required prior to the enforcement of this Act.
- 4 新実用新案法第四章第二節の規定は、別段の定めがある場合を除き、この法律の施行前に生じた事項にも適用する。ただし、第二条の規定による改正前の実用新案法（以下「旧実用新案法」という。）第四章第二節の規定により生じた効力を妨げない。
- (4) The provisions of Chapter 4, Section 2 of the new Utility Model Act, except as otherwise provided, are also applied to the matters which occurred prior to the enforcement of this Act; provided, however, that this does not preclude an effect raised by the provisions of Chapter 4, Section 2 of the Utility Model Act prior to the revision by the provisions of Article 2 (hereinafter referred to as the "former Utility Model Act").
- 5 新実用新案法第三十条において準用する新特許法第百五条の三の規定は、この法律の施行前に、第二審である高等裁判所又は地方裁判所における口頭弁論が終結した事件及び簡易裁判所の判決又は地方裁判所が第一審としてした判決に対して上告をする権利を留保して控訴をしない旨の合意をした事件については、適用しない。
- (5) The provisions of Article 105-3 of the new Patent Act applied mutatis mutandis in Article 30 of the New Utility Model Act does not apply to a case for which oral arguments before a high court or a district court that constitutes a court of a second instance has finished prior to the enforcement of this Act, and a case for which, before this Act comes into effect, parties reserve the right to a final appeal against a judgment made by a summary court or a judgment made by a district court as a court of first instance, and have agreed not to appeal to the court of a second instance.
- 6 附則第一条第一号に定める日前に既に納付した登録料又は同日前に納付すべきであった登録料（旧実用新案法第三十六条において準用する旧特許法第百九条の規定によりその納付が猶予されたものを含む。）については、新実用新案法第三十一条第一項の規定にかかわらず、なお従前の例による。
- (6) Prior laws continue to govern registration fees which have been already paid prior to the date prescribed in Article 1, item (i) of the Supplementary Provisions or should have been paid prior to the same date (including registration fees the payment of which was deferred pursuant to the provisions of Article 109 of the former Patent Act applied mutatis mutandis in Article 36 of the former Utility Model Act); notwithstanding the provisions of Article 31, paragraph (1) of the new Utility Model Act.
- 7 この法律の施行前にした実用新案登録出願に係る実用新案登録についての無効の理由については、なお従前の例による。
- (7) Prior laws continue to govern grounds for invalidation concerning utility model registration pertaining to applications for utility model registration filed prior to the enforcement of this Act.

（平成五年旧実用新案法の一部改正）

(Partial Revision of the Former Utility Model Act of 1993)

第十一条 特許法等の一部を改正する法律（平成五年法律第二十六号。以下「平成五年改正法」という。）附則第四条第一項の規定によりなおその効力を有するものとされた同法第三条の規定による改正前の実用新案法（以下「平成五年旧実用新案法」という。）の一部を次のように改正する。

Article 11 A part of the Utility Model Act prior to revision (hereinafter referred to as the "former Utility Model Act of 1993") by the provisions of Article 3 of the Act for Partial Revision of the Patent Act (Act No. 26 of 1993; hereinafter referred to as the "Amendment Act of 1993") then in force, remain applicable pursuant to the provisions of Article 4, paragraph (1) of the Supplementary Provisions of the Act for Partial Revision of the Patent Act is revised as follows:

第三十一条第一項の表中「千円」を「八百円」に、「二千円」を「千六百元」に、「四千元」を「三千二百円」に改める。

The terms "one thousand yen", "two thousand yen" and "four thousand yen" in the table of Article 31, paragraph (1) are changed to "eight hundred yen", "one thousand six hundred yen" and "three thousand two hundred yen", respectively.

(平成五年旧実用新案法の一部改正に伴う経過措置)

(Transitional Measures Upon Partial Revision of the former Utility Model Act of 1993)

第十二条 附則第一条第一号に定める日前に前条の規定による改正前の平成五年旧実用新案法第三十一条第一項の規定により既に納付した登録料又は同日前に同項の規定により納付すべきであった登録料（平成五年旧実用新案法第三十四条において準用する平成五年改正法附則第四条第一項の規定によりなおその効力を有するものとされた平成五年改正法第一条の規定による改正前の特許法第百九条の規定によりその納付が猶予されたものを含む。）については、前条の規定による改正後の平成五年旧実用新案法第三十一条第一項の規定にかかわらず、なお従前の例による。

Article 12 Prior laws continue to govern registration fees which have been already paid prior to the date prescribed in Article 1, item (i) of the Supplementary Provisions, pursuant to the provisions of Article 31, paragraph (1) of the former Utility Model Act of 1993 prior to revision by the provisions of the preceding Article, or with regard to registration fees which should have been paid prior to the same date, pursuant to the provisions of the relevant paragraph (including registration fees the payment of which were deferred pursuant to the provisions of Article 109 of the Patent Act prior to revision by the provisions of Article 1 of the Amendment Act of 1993 then in force remain applicable pursuant to the provisions of Article 4, paragraph (1) of the Supplementary Provisions of the Amendment Act of 1993 applied mutatis mutandis in Article 34 of the former Utility Model Act of 1993);

notwithstanding the provisions of Article 31, paragraph (1) of the former Utility Model Act of 1993 revised by the provisions of the preceding Article.

(罰則の適用に関する経過措置)

(Transitional Measures Relating to Application of Penal Provisions)

第十八条 この法律の施行前にした行為及びこの附則の規定によりなお従前の例によることとされる事項に係るこの法律の施行後にした行為に対する罰則の適用については、それぞれなお従前の例による。

Article 18 Prior laws continue to govern the applicability of penal provisions to conduct engaged in before this Act comes into effect and to conduct engaged after this Act comes into effect in respect of things that, pursuant to these Supplementary Provisions, are to continue to be governed by the respective provisions then in force.

(政令への委任)

(Delegation to Cabinet Order)

第十九条 附則第二条から第六条まで、第八条、第十条、第十二条及び前条に定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 19 Beyond what is prescribed in Articles 2 through 6, 8, 10, 12 and the preceding Article of these Supplementary Provisions, necessary transitional measures relating to the enforcement of this Act are specified by Cabinet Order.

附 則 〔平成十一年十二月二十二日法律第百六十号〕 〔抄〕

**Supplementary Provisions [Act No. 160 of December 22, 1999 Extract]  
[Extract]**

(施行期日)

(Effective Date)

第一条 この法律（第二条及び第三条を除く。）は、平成十三年一月六日から施行する。

Article 1 This Act (excluding Articles 2 and 3) comes into effect as of January 6, 2001.

附 則 〔平成十一年十二月二十二日法律第二百二十号〕 〔抄〕

**Supplementary Provisions [Act No. 220 of December 22, 1999 Extract]  
[Extract]**

(施行期日)

(Effective Date)

第一条 この法律（第一条を除く。）は、平成十三年一月六日から施行する。

Article 1 This Act (excluding Article 1) comes into force as of January 6, 2001.

(政令への委任)

(Delegation to Cabinet Order)

第四条 前二条に定めるもののほか、この法律の施行に関し必要な事項は、政令で定める。

Article 4 Beyond what is prescribed in the preceding 2 Articles, necessary matters relating to the enforcement of this Act are specified by Cabinet Order.

附 則 [平成十四年四月十七日法律第二十四号] [抄]

Supplementary Provisions [Act No. 24 of April 17, 2002 Extract] [Extract]

(施行期日)

(Effective Date)

第一条 この法律は、公布の日から起算して六月を超えない範囲内において政令で定める日から施行する。ただし、次の各号に掲げる規定は、当該各号に定める日から施行する。

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding six months from the date of promulgation; provided, however, that the provisions listed in the following items come into effect as of the date prescribed respectively in those items.

一 第二条中特許法第百一条の改正規定、同法第百十二条の三第二項の改正規定及び同法第百七十五条第二項の改正規定、第四条中実用新案法第二十八条の改正規定並びに同法第三十三条の三第二項第二号及び第四十四条第二項第二号の改正規定並びに第六条中商標法第六十八条の十九第一項の改正規定、同法第六十八条の三十の改正規定及び同法第六十八条の三十五の改正規定並びに附則第六条の規定 公布の日から起算して一年を超えない範囲内において政令で定める日

(i) the provisions revising Article 101, Article 112-3, paragraph (2) and Article 175, paragraph (2) of the Patent Act in Article 2; the provisions revising Article 28 and Article 33-3, paragraph (2), item (ii) and Article 44, paragraph (2), item (ii) of the Utility Model Act in Article 4; and the provisions revising Article 68-19, paragraph (1), Articles 68-30 and 68-35 of the Trademark Act in Article 6; and the provisions revising Article 6 of these Supplementary Provisions: the date specified by Cabinet Order within a period not exceeding one year from the date of promulgation

二 第二条の規定（特許法第百一条の改正規定、同法第百十二条の三第二項の改正規定及び同法第百七十五条第二項の改正規定を除く。）及び第四条の規定（実用新案法第二十八条の改正規定並びに同法第三十三条の三第二項第二号及び第四十四条第二項第二号の改正規定を除く。）並びに附則第三条及び第五条の規定 公布の日から起算して一年六月を超えない範囲内において政令で定める日

(ii) the provisions of Article 2 (excluding the provisions revising Article 101, Article 112-3, paragraph (2) and Article 175, paragraph (2) of the Patent Act) and the provisions of Article 4 (excluding the provisions revising Article 28

and Article 33-3, paragraph (2), item (ii) and Article 44, paragraph (2), item (ii) of the Utility Model Act) and the provisions of Articles 3 and 5 of these Supplementary Provisions: the date specified by Cabinet Order within a period not exceeding one year and six months from the date of promulgation

(第三条の規定による実用新案法の改正に伴う経過措置)

(Transitional Measures Upon Partial Revision of the Utility Model Act by Provisions of Article 3)

第四条 この法律の施行前に第三条の規定による改正前の実用新案法第四十八条の五第一項の規定による手続をした日本語実用新案登録出願並びに同法第四十八条の四第一項及び第四十八条の五第一項の規定による手続をした外国語実用新案登録出願に係る国内書面提出期間及び国内処理基準時については、なお従前の例による。

Article 4 Prior laws continue to govern the period for the submission of national documents and the national processing standard time pertaining to a Japanese language application for a utility model registration for which the procedure is performed prior to the enforcement of this Act, pursuant to the provisions of Article 48-5, paragraph (1) of the Utility Model Act prior to revision by the provisions of Article 3, and application for utility model registration in a foreign language for which the procedure is performed prior to the enforcement of this Act, pursuant to the provisions of Article 48-4, paragraph (1) and Article 48-5, paragraph (1) of the relevant Act.

(第四条の規定による実用新案法の改正に伴う経過措置)

(Transitional Measures Upon Partial Revision of the Utility Model Act by Provisions of Article 4)

第五条 第四条の規定（実用新案法第二十八条の改正規定並びに同法第三十三条の三第二項第二号及び第四十四条第二項第二号の改正規定を除く。）による改正後の実用新案法（以下この条において「新実用新案法」という。）の規定は、施行日以後にする実用新案登録出願（施行日以後にする実用新案登録出願であって、実用新案法第十条第三項の規定又は同法第十一条第一項において準用する特許法第四十四条第二項の規定により施行日前にしたものとみなされるもの（以下この項において「施行日前の実用新案登録出願の分割等に係る実用新案登録出願」という。）を含む。）について適用し、施行日前にした実用新案登録出願（施行日前の実用新案登録出願の分割等に係る実用新案登録出願を除く。）については、なお従前の例による。

Article 5 (1) Prior laws continue to govern the provisions of the Utility Model Act (hereinafter referred to as the "new Utility Model Act" in this Article) revised by the provisions of Article 4 (excluding the provisions revising Article 28 and Article 33-3, paragraph (2), item (ii) and Article 44, paragraph (2), item (ii) of the Utility Model Act) applies to applications for utility model registration being filed on or after the effective date (including applications for utility model registration being filed on or after the effective date, which are deemed

to have been filed prior to the effective date pursuant to the provisions of Article 10, paragraph (3) of the Utility Model Act or the provisions of Article 44, paragraph (2) of the Patent Act applied mutatis mutandis in Article 11 paragraph (1) of the Utility Model Act (hereinafter referred to as an "application for utility model registration pertaining to division, etc. of an application for utility model registration prior to the effective date" in this paragraph)); and with regard to applications for utility model registration filed prior to the effective date (excluding applications for utility model registration pertaining to division, etc. of an application for utility model registration prior to the effective date).

2 施行日前にした実用新案登録出願又は特許出願が、新実用新案法第三条の二に規定する他の実用新案登録出願又は特許出願である場合における同条の適用については、同条中「明細書、実用新案登録請求の範囲若しくは特許請求の範囲」とあるのは、「明細書」とする。

(2) With regard to the application of Article 3-2 of the new Utility Model Act, if an application for utility model registration or for patent filed prior to the effective date is another application for utility model registration, or for a patent prescribed in the relevant Article, the term "the description, scope of claims for a utility model registration or scope of claims for a patent" in the relevant Article is deemed to be replaced with "the description".

3 施行日前にした実用新案登録出願又は特許出願が、新実用新案法第八条第一項に規定する先の出願である場合における同条第一項から第三項までの適用については、これらの規定中「明細書、実用新案登録請求の範囲若しくは特許請求の範囲」とあるのは、「明細書」とする。

(3) With regard to the application of Article 8, paragraphs (1) through (3) of the new Utility Model Act, if an application for utility model registration or an application for a patent filed prior to the effective date is an earlier application prescribed in Article 8, paragraph (1) of the relevant Act, the terms "the description, scope of claims for a utility model registration or patent" in these provisions are deemed to be replaced with "the description".

(罰則の適用に関する経過措置)

(Transitional Measures Relating to an Application of Penal Provisions)

第七条 この法律の施行前にした行為に対する罰則の適用については、なお従前の例による。

Article 7 Prior laws continue to govern the applicability of penal provisions to acts committed before to the enforcement of this Act.

(政令への委任)

(Delegation Cabinet Order)

第八条 附則第二条から前条までに定めるもののほか、この法律の施行に関し必要な経

過措置は、政令で定める。

Article 8 Beyond what is prescribed in Articles 2 through the preceding Article of these Supplementary Provisions, necessary transitional measures relating to the enforcement of this Act are specified by Cabinet Order.

附 則 〔平成十五年五月二十三日法律第四十七号〕 〔抄〕

**Supplementary Provisions [Act No. 47 of May 23, 2003 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、平成十六年一月一日から施行する。ただし、次の各号に掲げる規定は、当該各号に定める日から施行する。

Article 1 This Act comes into effect as of January 1, 2004; provided, however, that the provisions listed in the following items come into effect as of the date prescribed respectively in those items.

一 附則第十八条の規定 公布の日

(i) the provisions of Article 18 of these Supplementary Provisions: the date of promulgation

二 第一条中特許法第百七条、第百九十五条並びに別表第一号から第四号まで及び第六号の改正規定、第二条中実用新案法第三十一条及び第五十四条の改正規定、第三条中意匠法第四十二条及び第六十七条の改正規定、第四条中商標法第四十条、第四十一条の二、第六十五条の七及び第七十六条の改正規定、第五条中特許協力条約に基づく国際出願等に関する法律第十八条の改正規定、第六条中工業所有権に関する手続等の特例に関する法律第四十条の改正規定（同条第一項に係る部分を除く。）並びに第七条及び第八条の規定並びに附則第二条第二項から第六項まで、第三条第二項及び第三項、第四条第一項、第五条第一項、第七条から第十一条まで、第十六条並びに第十九条の規定 平成十六年四月一日

(ii) the provisions revising Articles 107 and 195 and Appended Table items (i) through (iv) and (vi) of the Patent Act in Article 1; the provisions revising Articles 31 and 54 of the Utility Model Act in Article 2; the provisions revising Articles 42 and 67 of the Design Act in Article 3; the provisions revising Articles 40, 41-2, 65-7 and 76 of the Trademark Act in Article 4; the provisions revising Article 18 of the Act on International Applications under the Patent Cooperation Treaty in Article 5; the provisions revising Article 40 of the Act on Special Provisions for Procedures related to Industrial Property Rights in Article 6 (excluding the part pertaining to paragraph (1) of the relevant Article); and the provisions of Articles 7 and 8; and the provisions of Article 2, paragraphs (2) through (6), Article 3, paragraphs (2) and (3), Article 4, paragraph (1), Article 5, paragraph (1), Articles 7 through 11, Articles 16 and 19 of these Supplementary Provisions: April 1, 2004

(実用新案法の改正に伴う経過措置)

(Transitional Measures Accompanying Revision of the Utility Model Act)

第三条 第二条の規定による改正後の実用新案法（以下この条において「新実用新案法」という。）第六条の規定は、この法律の施行後にする実用新案登録出願について適用し、この法律の施行前にした実用新案登録出願については、なお従前の例による。

Article 3 (1) Prior laws continue to govern the provisions of Article 6 of the Utility Model Act revised by the provisions of Article 2 (hereinafter referred to as the "new Utility Model Act" in this Article) is applied to applications for utility model registration being filed after the enforcement of this Act; and with regard to applications for utility model registration filed prior to the enforcement of this Act.

2 一部施行日前にした実用新案登録出願（一部施行日以後にする実用新案登録出願であって、実用新案法第十条第三項の規定又は同法第十一条第一項において準用する特許法第四十四条第二項の規定により一部施行日前にしたものとみなされるもの（以下「一部施行日前の実用新案登録出願の分割等に係る実用新案登録出願」という。）を除く。）に係る登録料の納付についての新実用新案法第三十一条第二項及び第三項の規定並びに手数料の納付についての新実用新案法第五十四条第三項から第五項までの規定の適用については、これらの規定中「国」とあるのは、「国等（特許法等の一部を改正する法律（平成十五年法律第四十七号）第二条の規定による改正前の実用新案法第三十一条第四項に規定する国等をいう。）」とする。

(2) With regard to the application of the provisions of Article 31, paragraphs (2) and (3) of the new Utility Model Act concerning the payment of registration fees pertaining to an application for utility model registration partially filed prior to the enforcement date (excluding applications for utility model registration being partially filed on or after the enforcement date, which are deemed to have been partially filed prior to the enforcement date pursuant to the provisions of Article 10, paragraph (3) of the Utility Model Act, or the provisions of Article 44, paragraph (2) of the Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the Utility Model Act (hereinafter referred to as "applications for utility model registration pertaining to the division, etc. of an application for utility model registration prior to the partial enforcement date")); and with regard to the application of the provisions of Article 54, paragraphs (3) through (5) of the new Utility Model Act concerning the payment of fees pertaining to the same application; the term "the national government" in these provisions is deemed to be replaced with "the national government, etc. (meaning the national government, etc. prescribed in Article 31, paragraph (4) of the Utility Model Act prior to revision by the provisions of Article 2 of the Act for Partial Revision of the Patent Act (Act No. 47 of 2003))."

3 共有に係る実用新案権について一部施行日前に既に納付した登録料又は一部施行日前に納付すべきであった登録料（第二条の規定による改正前の実用新案法第三十二条の二の規定によりその納付が猶予されたものを含む。）については、新実用新案法第

三十一条第三項の規定にかかわらず、なお従前の例による。

(3) Prior laws continue to govern registration fees concerning a jointly owned utility model right, which has already been partially paid or is required to be partially paid prior to the enforcement date (including registration fees the payment of which was deferred pursuant to the provisions of Article 32-2 of the Utility Model Act prior to revision by the provisions of Article 2); notwithstanding the provisions of Article 31, paragraph (3) of the new Utility Model Act.

4 この法律の施行前に請求された審判又は再審については、その審判又は再審について審決が確定するまでは、なお従前の例による。

(4) Prior laws continue to govern a trial or appeal, or a retrial requested prior to the enforcement of this Act, until the decision becomes final and binding.

5 この法律の施行前に請求された審判の確定した審決に対する再審については、なお従前の例による。

(5) Prior laws continue to govern a retrial against a final and binding decision on a trial or appeal requested prior to the enforcement of this Act.

(平成五年改正法の一部改正に伴う経過措置)

(Transitional Measures Upon Partial Revision of the Amendment Act of 1993)

第十三条 この法律の施行前に請求された平成五年改正法第三条の規定による改正前の実用新案法（以下「旧実用新案法」という。）第三十七条第一項、第三十九条第一項又は第四十八条の十二第一項の審判については、その審決が確定するまでは、なお従前の例による。

Article 13 (1) Prior laws continue to govern a trial or appeal which was requested prior to the enforcement of this Act, and is under Article 37, paragraph (1), Article 39, paragraph (1) or Article 48-12, paragraph (1) of the Utility Model Act prior to revision by the provisions of the Amendment Act of 1993 (hereinafter referred to as the "former Utility Model Act"); until the decision becomes final and binding.

2 前条の規定による改正後の平成五年改正法附則第四条第二項において読み替えられた旧実用新案法第四十七条第二項において準用する新特許法第百八十一条の規定は、この法律の施行後に請求される旧実用新案法第三十七条第一項又は第四十八条の十二第一項の審判についての審決に対する訴えについて適用し、この法律の施行前に請求された旧実用新案法第三十七条第一項又は第四十八条の十二第一項の審判についての審決に対する訴えについては、なお従前の例による。

(2) Prior laws continue to govern provisions of Article 181 of the new Patent Act applied mutatis mutandis in Article 47, paragraph (2) of the former Utility Model Act replaced in Article 4 paragraph (2) of the Supplementary Provisions of the Amendment Act of 1993 revised by the provisions of the preceding Article apply to an action against a decision on a trial which is requested after the enforcement of this Act and is under Article 37, paragraph (1) or Article 48-

12, paragraph (1) of the former Utility Model Act; and with regard to an action against a decision on a trial which has been requested prior to the enforcement of this Act and is under Article 37, paragraph (1) or Article 48-12, paragraph (1) of the former Utility Model Act.

(罰則の適用に関する経過措置)

(Transitional Measures Concerning an Application of Penal Provisions)

第十七条 この法律の施行前にした行為及びこの附則の規定によりなお従前の例によることとされる事項に係るこの法律の施行後にした行為に対する罰則の適用については、それぞれなお従前の例による。

Article 17 Prior laws continue to govern the applicability of penal provisions to conduct engaged in before this Act comes into effect and to conduct engaged after this Act comes into effect in respect of things that, pursuant to these Supplementary Provisions, are to continue to be governed by the respective provisions then in force.

(政令への委任)

(Delegation to Cabinet Order)

第十八条 附則第二条から前条までに定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 18 Beyond what is prescribed in Articles 2 through the preceding Article of these Supplementary Provisions, necessary transitional measures relating to the enforcement of this Act are specified by Cabinet Order.

(検討)

(Review)

第十九条 政府は、附則第一条第二号に掲げる規定の施行後五年を経過した場合において、新特許法第一百七条第一項並びに別表第一号から第四号まで及び第六号の規定の施行の状況について検討を加え、その結果に基づいて必要な措置を講ずるものとする。

Article 19 When five years have passed since the enforcement of the provisions listed in Article 1, item (ii) of these Supplementary Provisions, the government is to review the status of enforcement of the provisions of Article 107, paragraph (1) as well as item (i) through item (iv) and item (vi) of the Appended Table of the new Patent Act and take measures necessary based on the results.

附 則 〔平成十五年七月十六日法律第百八号〕 〔抄〕

Supplementary Provisions [Act No. 108 of July 16, 2003 Extract]

[Extract]

(施行期日)

(Effective Date)

第一条 この法律は、公布の日から起算して一年を超えない範囲内において政令で定める日から施行する。ただし、第三条の規定は、特許法等の一部を改正する法律（平成十五年法律第四十七号）の施行の日又はこの法律の施行の日のいずれか遅い日から施行する。

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding one year from the date of promulgation; provided, however, that the provisions of Article 3 comes into effect as of the date of the enforcement of the Act for Partial Revision of the Patent Act (Act No. 47 of 2003) or the date of the enforcement of this Act, whichever comes later.

(特許権等に関する訴え及び意匠権等に関する訴えに係る訴訟の管轄等に関する経過措置)

(Transitional Measures Relating to Jurisdiction, etc. over Litigation Pertaining to Actions Relating to Patent Right and Design Right)

第三条 この法律の施行の際現に係属している特許権、実用新案権、回路配置利用権又はプログラムの著作物についての著作者の権利に関する訴え（第四項において「特許権等に関する訴え」という。）及び意匠権、商標権、著作者の権利（プログラムの著作物についての著作者の権利を除く。）、出版権、著作隣接権若しくは育成者権に関する訴え又は不正競争（不正競争防止法（平成五年法律第四十七号）第二条第一項に規定する不正競争をいう。）による営業上の利益の侵害に係る訴えに係る訴訟の管轄及び移送については、なお従前の例による。

Article 3 (1) Prior laws continue to govern a jurisdiction and transfer of litigations pertaining to actions actually pending at the time of the enforcement of this Act: actions relating to patent rights, utility model rights, layout-design exploitation rights or author's rights over computer programs (referred to as "actions relating to patent rights, etc." in paragraph (4)), and actions relating to design rights, trademark rights, author's rights (excluding author's rights over computer programs), publication rights, neighboring rights or breeder's rights, or actions pertaining to the infringement of business interests due to unfair competition (meaning unfair competition prescribed in Article 2, paragraph (1) of the Unfair Competition Prevention Act (Act No. 47 of 1993)).

2 この法律の施行の際現に係属している事件については、第一条の規定による改正後の民事訴訟法第二百六十九条の二及び第三百十条の二並びに第二条の規定による改正後の特許法第百八十二条の二（第三条の規定による改正後の実用新案法第四十七条第二項において準用する場合を含む。）の規定は、適用しない。

(2) The provisions of Articles 269-2 and 310-2 of the Code of Civil Procedure revised by the provisions of Article 1, and the provisions of Article 182-2 of the Patent Act revised by the provisions of Article 2 (including cases where Article 182-2 of the Patent Act are applied mutatis mutandis in Article 47, paragraph

(2) of the Utility Model Act revised by the provisions of Article 3) do not apply to cases actually pending at the time of the enforcement of this Act.

3 特許法等の一部を改正する法律附則第二条第九項の規定によりなお従前の例によることとされる同法第一条の規定による改正前の特許法第一百七十八条第一項の訴えであって特許異議の申立てについての取消決定又は特許異議申立書の却下の決定に対するものに係る事件については、前項に定める場合を除き、第二条の規定による改正後の特許法第八十二条の二の規定を適用する。

(3) The provisions of Article 182-2 of the Patent Act revised by the provisions of Article 2, except in the case prescribed in the preceding paragraph, applies to cases pertaining to actions with regard to which the provisions then in force remain applicable pursuant to the provisions of Article 2, paragraph (9) of the supplementary provisions of the Act for Partial Revision of the Patent Act, and which are under Article 178, paragraph (1) of the Patent Act prior to revision by the provisions of Article 1 of the Act for Partial Revision of the Patent Act and are against rescission decisions concerning patent oppositions or decisions of dismissal of written patent oppositions.

4 この法律の施行前にした申立てに係る保全命令事件であって本案の訴えが特許権等に関する訴えであるものの管轄については、なお従前の例による。

(4) Prior laws continue to govern a jurisdiction over a case if a temporary restraining order pertains to a petition submitted prior to the enforcement of this Act and an action on the merits is an action relating to a patent right, etc.

(実用新案法に関する経過措置)

(Transitional Measures Relating to the Utility Model Act)

第五条 この法律の施行の日が特許法等の一部を改正する法律の施行の前日である場合には、同法の施行の日の前日までの間における実用新案法第四十七条第二項の規定の適用については、同項中「第八十二条」とあるのは「第八十二条の二」と、「及び裁判の正本の送付」とあるのは「、裁判の正本の送付及び合議体の構成」とする。

Article 5 (1) If the date of the enforcement of this Act is before the date of the enforcement of the Act for Partial Revision of the Patent Act, with regard to the application of the provisions of Article 47, paragraph (2) of the Utility Model Act until the date preceding the date of the enforcement of the Act for Partial Revision of the Patent Act, the terms "Article 182" and "and delivery of original copy of judgment" are deemed to be replaced with "Article 182-2", and "and, delivery of the original copy of the judgment and a collegiate panel", respectively.

2 前項の場合には、この法律の施行の際現に係属している事件については、同項において読み替えて適用する実用新案法第四十七条第二項において準用する第二条の規定による改正後の特許法第八十二条の二の規定は、適用しない。

(2) In the case referred to in the preceding paragraph, the provisions of Article 182-2 of the Patent Act revised by the provisions of Article 2 and applied

mutatis mutandis in Article 47, paragraph (2) of the Utility Model Act which is deemed to be replaced in the preceding paragraph and applied do not apply to a case actually pending at the time of the enforcement of this Act.

附 則 〔平成十六年六月四日法律第七十九号〕〔抄〕

**Supplementary Provisions [Act No. 79 of June 4, 2004 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、平成十七年四月一日から施行する。ただし、次の各号に掲げる規定は、当該各号に定める日から施行する。

Article 1 This Act comes into effect as of April 1, 2005; provided, however, that the provisions listed in the following items come into effect as of the date prescribed respectively in those items.

一 附則第六条の規定 公布の日

(i) the provisions of Article 6 of these Supplementary Provisions: the date of promulgation

二 第一条中特許法第百九十五条第七項の改正規定、第二条中実用新案法第五十四条第六項の改正規定及び第三条中工業所有権に関する手続等の特例に関する法律第十四条から第十六条までの改正規定並びに附則第四条第一項の規定 公布の日又は平成十六年四月一日のいずれか遅い日

(ii) the provisions revising Article 195, paragraph (7) of the Patent Act in Article 1; the provisions revising Article 54, paragraph (6) of the Utility Model Act in Article 2; and the provisions revising Articles 14 through 16 of the Act on Special Provisions for Procedures related to Industrial Property Rights in Article 3; and the provisions of Article 4, paragraph (1) of these Supplementary Provisions: the date of promulgation or April 1, 2004, whichever comes later

(実用新案法の改正に伴う経過措置)

(Transitional Measures Upon Revision of the Utility Model Act)

第三条 第二条の規定（実用新案法第五十四条第六項の改正規定を除く。）による改正後の実用新案法の規定は、この法律の施行後にする実用新案登録出願について適用し、この法律の施行前にした実用新案登録出願については、なお従前の例による。

Article 3 Prior laws continue to govern the provisions of the Utility Model Act revised by the provisions of Article 2 (excluding the provisions revising Article 54, paragraph (6) of the Utility Model Act) apply to applications for utility model registration being filed after the enforcement of this Act; and with regard to applications for utility model registration filed prior to the enforcement of this Act.

(政令への委任)

(Delegation to Cabinet Order)

第六条 附則第二条から前条までに定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 6 Beyond what is provided for in Article 2 to the preceding Article of the Supplementary Provisions, the necessary transitional measures pertaining to the enforcement of this Act are specified by Cabinet Order.

(検討)

(Review)

第七条 政府は、この法律の施行後五年を経過した場合において、新々特例法第四章第三節の規定の施行の状況を勘案し、必要があると認めるときは、同節の規定について検討を加え、その結果に基づいて必要な措置を講ずるものとする。

Article 7 When five years have passed since this Act comes into effect, the government is to review the status of enforcement of the provisions of Chapter 4, Section 3 of the Newly Revised Act on Special Provisions, review the provisions of the same section, and take necessary measures based on the findings of the review.

附 則 〔平成十六年六月十八日法律第百二十号〕

**Supplementary Provisions [Act No. 102 of June 18, 2004 Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、平成十七年四月一日から施行する。

Article 1 This Act comes into effect as of April 1, 2005.

(経過措置の原則)

(Principles of Transitional Measures)

第二条 この法律による改正後の裁判所法、民事訴訟法、民事訴訟費用等に関する法律、特許法、実用新案法、意匠法、商標法、不正競争防止法及び著作権法の規定（罰則を除く。）は、この附則に特別の定めがある場合を除き、この法律の施行前に生じた事項にも適用する。ただし、この法律による改正前のこれらの法律の規定により生じた効力を妨げない。

Article 2 The provisions (excluding the penal provisions) of the Court Act, the Code of Civil Procedure, the Act on Costs of Civil Procedure, the Patent Act, the Utility Model Act, the Design Act, the Trademark Act, the Unfair Competition Prevention Act and the Copyright Act revised by this Act, except as otherwise provided in these Supplementary Provisions, are also applied to the matters which occurred prior to the enforcement of this Act; provided, however, that this does not preclude an effect raised prior to this Act and the

revision by the provisions of these Acts.

(平成五年旧実用新案法の一部改正に伴う経過措置)

(Transitional Measures Upon Partial Revision of the Former Utility Model Act of 1993)

第五条 この法律による改正後の平成五年旧実用新案法の規定（罰則を除く。）は、次項に定める場合を除き、この法律の施行前に生じた事項にも適用する。ただし、この法律による改正前の平成五年旧実用新案法の規定により生じた効力を妨げない。

Article 5 (1) The provisions (excluding the penal provisions) of the former Utility Model Act of 1993 revised by this Act, except in the case prescribed in the following paragraph, is also to be applied to matters which occurred prior to the enforcement of this Act; provided, however, that this does not preclude an effect raised by the provisions of the former Utility Model Act of 1993 prior to revision by this Act.

2 次に掲げる規定は、この法律の施行前に、訴訟の完結した事件、第二審である高等裁判所又は地方裁判所における口頭弁論が終結した事件及び簡易裁判所の判決又は地方裁判所が第一審としてした判決に対して上告をする権利を留保して控訴をしない旨の合意をした事件については、適用しない。

(2) The following provisions do not apply to a case for which a litigation is completed before this Act comes into effect; nor to a case for which oral arguments before the high court or a district court that constitutes the court of second instance is finished before this Act comes into effect; nor to a case for which a party, before this Act comes into effect, reserves the right to a final appeal but agrees not to appeal to court of second instance against a summary court decision or the decision that the district court has reached as the court of first instance:

一 この法律による改正後の平成五年旧実用新案法第十三条の三第四項（この法律による改正後の平成五年旧実用新案法第四十八条の十三第二項において準用する場合を含む。）において準用する新特許法第四百条の三、第四百五条の四から第四百五条の六まで並びに第四百六十八条第五項及び第六項の規定

(i) the provisions of Articles 104-3, 105-4 through 105-6 and Article 168, paragraphs (5) and (6) of the new Patent Act apply mutatis mutandis in Article 13-3, paragraph (4) of the former Utility Model Act of 1993 revised by this Act (including cases when they are applied mutatis mutandis in Article 48-13, paragraph (2) of the former Utility Model Act of 1993 revised by this Act); and

二 この法律による改正後の平成五年旧実用新案法第三十条において準用する新特許法第四百五条の四から第四百五条の六までの規定

(ii) the provisions of Articles 105-4, through 105-6 of the new Patent Act applied mutatis mutandis in Article 30 of the former Utility Model Act of 1993 revised by this Act.

附 則 〔平成十七年六月二十九日法律第七十五号〕 〔抄〕

**Supplementary Provisions [Act No. 75 of June 29, 2005 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、公布の日から起算して一年を超えない範囲内において政令で定める日から施行する。

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding one year from the date of promulgation.

(経過措置)

(Transitional Measures)

第二条 第一条の規定による改正後の不正競争防止法第二条第一項第三号の規定は、この法律の施行後にした同号に掲げる行為について適用し、この法律の施行前にした第一条の規定による改正前の不正競争防止法第二条第一項第三号に掲げる行為については、なお従前の例による。

Article 2 Prior laws continue to govern the provisions of Article 2, paragraph (1), item (iii) of the Unfair Competition Prevention Act revised by the provisions of Article 1 applies to the acts listed in the relevant item, which were conducted after the enforcement of this Act; and with regard to the acts which have been conducted prior to the enforcement of this Act, listed in Article 2, paragraph (1), item (iii) of the Unfair Competition Prevention Act prior to the revision by the provisions of Article 1.

第三条 削除

Article 3 Deleted

第四条 削除

Article 4 Deleted

(政令への委任)

(Delegation to Cabinet Order)

第五条 附則第二条に定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 5 Beyond what is prescribed in Article 2 of these Supplementary Provisions, necessary transitional measures relating to the enforcement of this Act are specified by Cabinet Order.

附 則 〔平成十八年六月七日法律第五十五号〕 〔抄〕

**Supplementary Provisions [Act No. 55 of June 7, 2006 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、公布の日から起算して一年を超えない範囲内において政令で定める日から施行する。ただし、次の各号に掲げる規定は、当該各号に定める日から施行する。

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding one year from the date of promulgation; provided, however, that the provisions listed in the following items come into effect as of the date prescribed respectively in those items.

二 第一条中意匠法第二条第三項、第三十八条、第四十四条の三及び第五十五条の改正規定、第六十九条の見出しを削る改正規定、同条の前に見出しを付する改正規定、同条の改正規定、同条の次に一条を加える改正規定並びに第七十四条の改正規定、第二条中特許法第二条、第一百一条、第一百十二条の三及び第一百七十五条の改正規定、第一百九十六条の見出しを削る改正規定、同条の前に見出しを付する改正規定、同条の改正規定、同条の次に一条を加える改正規定並びに第二百一条の改正規定、第三条の規定、第四条中商標法第二条第三項、第三十七条及び第六十七条の改正規定、第七十八条の見出しを削る改正規定、同条の前に見出しを付する改正規定、同条の改正規定、同条の次に一条を加える改正規定並びに第八十二条の改正規定並びに第五条の規定並びに次条第三項並びに附則第三条第二項、第四条、第五条第二項、第九条、第十二条、第十三条及び第十六条の規定 平成十九年一月一日

(ii) the provisions revising Article 2, paragraph (3), Articles 38, 44-3 and 55, the provisions deleting the heading of Article 69, the provisions adding the heading prior to the relevant Article, the provisions revising the relevant Article, the provisions adding one Article next to the relevant Article and the provisions revising Article 74 of the Design Act in Article 1; the provisions revising Articles 2, 101, 102-3 and 175, the provisions deleting the heading of Article 196, the provisions adding the heading prior to the relevant Article, the provisions revising the relevant Article, the provisions adding one Article next to the relevant Article and the provisions revising Article 201 of the Patent Act in Article 2; the provisions of Article 3; the provisions revising Article 2, paragraph (3), Articles 37 and 67, the provisions deleting the heading of Article 78, the provisions adding the heading prior to the relevant Article, the provisions revising the relevant Article, the provisions adding one Article next to the relevant Article and the provisions revising Article 82 of the Trademark Act in Article 4; and the provisions of Article 5; and the provisions of the following Article, paragraph (3) and Article 3, paragraph (2), Article 4, Article 5, paragraph (2), Articles 9, 12, 13 and 16 of these Supplementary Provisions: January 1, 2007

(実用新案法の改正に伴う経過措置)

(Transitional Measures Upon Revision of the Utility Model Act)

第四条 第三条の規定による改正後の実用新案法第二条、第二十八条、第三十三条の三及び第四十四条の規定は、一部施行日以後にした行為について適用し、一部施行日前にした行為については、なお従前の例による。

Article 4 Prior laws continue to govern the provisions of Articles 2, 28, 33-3 and 44 of the Utility Model Act revised by the provisions of Article 3 apply to acts partially conducted on or after the enforcement date; and with regard to acts partially conducted prior to the enforcement date.

第九条 削除

Article 9 Deleted

第十条 削除

Article 10 Deleted

(平成五年旧実用新案法の一部改正に伴う経過措置)

(Transitional Measures Upon Partial Revision of the Former Utility Model Act of 1993)

第十三条 前条の規定による改正後の平成五年旧実用新案法第二条及び第二十八条の規定は、一部施行日以後にした行為について適用し、一部施行日前にした行為については、なお従前の例による。

Article 13 Prior laws continue to govern provisions of Articles 2 and 28 of the former Utility Model Act of 1993 revised by the provisions of the preceding Article apply to acts partially conducted on, or after the enforcement date; and with regard to acts partially conducted prior to the enforcement date.

(政令への委任)

(Delegation to Cabinet Order)

第十四条 附則第二条から第十一条まで及び前条に定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 14 Beyond what is prescribed in Articles 2 through 11 and the preceding Article of these Supplementary Provisions, necessary transitional measures relating to the enforcement of this Act are specified by Cabinet Order.

附 則 [平成二十年四月十八日法律第十六号] [抄]

Supplementary Provisions [Act No. 16 of April 18, 2008 Extract] [Extract]

(施行期日)

(Effective Date)

第一条 この法律は、公布の日から起算して一年を超えない範囲内において政令で定める日から施行する。ただし、次の各号に掲げる規定は、当該各号に定める日から施行

する。

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding one year from the date of promulgation; provided, however, that the provisions listed in the following items come into effect as of the date prescribed respectively in those items.

一 附則第六条の規定 公布の日

(i) the provisions of Article 6 of these Supplementary Provisions: the date of promulgation

三 第一条中特許法第二十七条第一項第一号及び第九十八条第一項第一号の改正規定、第二条中実用新案法第四十九条第一項第一号の改正規定、第三条中意匠法第六十一条第一項第一号の改正規定並びに第四条中商標法第六十八条の二十七第一項及び第二項の改正規定 平成二十年九月三十日

(iii) the provisions revising Article 27, paragraph (1), item (i) and Article 98, paragraph (1), item (i) of the Patent Act in Article 1; the provisions revising Article 49, paragraph (1), item (i) of the Utility Model Act in Article 2; the provisions revising Article 61, paragraph (1), item (i) of the Design Act in Article 3; and the provisions revising Article 68-27, paragraphs (1) and (2) of the Trademark Act in Article 4: September 30, 2008

(実用新案法の改正に伴う経過措置)

(Transitional Measures Upon Revision of the Utility Model Act)

第三条 新実用新案法第十条第一項ただし書及び第六項の規定は、この法律の施行の日以後に拒絶をすべき旨の最初の査定の謄本が送達される特許出願について適用し、この法律の施行の日前に拒絶をすべき旨の最初の査定の謄本の送達があった特許出願については、なお従前の例による。

Article 3 (1) Prior laws continue to govern the provisions of Article 10, paragraph (1), proviso and paragraph (6) of the new Utility Model Act apply to an application for patent concerning which a certified copy of the examiner's initial decision is to be served on or after the date of the enforcement of this Act to the effect that the application for patent should be refused; and with regard to an application for patent concerning which a certified copy of the examiner's initial decision has been served prior to the date of the enforcement of this Act to the effect that the application for patent should have been refused.

2 新実用新案法第十条第二項ただし書及び第七項の規定は、この法律の施行の日以後に拒絶をすべき旨の最初の査定の謄本が送達される意匠登録出願について適用し、この法律の施行の日前に拒絶をすべき旨の最初の査定の謄本の送達があった意匠登録出願については、なお従前の例による。

(2) Prior laws continue to govern provisions of Article 10, paragraph (2), proviso and paragraph (7) of the new Utility Model Act apply to an application for design registration concerning which a certified copy of the examiner's initial

decision is to be served on or after the date of the enforcement of this Act to the effect that the application for design registration should be refused; and with regard to an application for design registration concerning which a certified copy of the examiner's initial decision has been served prior to the date of the enforcement of this Act to the effect that the application for design registration should have been refused.

(政令への委任)

(Delegation to Cabinet Order)

第六条 附則第二条から前条までに定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 6 Beyond what is prescribed in Article 2 through the preceding Article of these Supplementary Provisions, necessary transitional measures relating to the enforcement of this Act are specified by Cabinet Order.

附 則 [平成二十三年六月八日法律第六十三号] [抄]

Supplementary Provisions [Act No. 63 of June 8, 2011 Extract] [Extract]

(施行期日)

(Effective Date)

第一条 この法律は、公布の日から起算して一年を超えない範囲内において政令で定める日から施行する。

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding one year from the date of promulgation.

(実用新案法の一部改正に伴う経過措置)

(Transitional Measures Upon Partial Revision of the Utility Model Act)

第三条 第二条の規定による改正後の実用新案法（以下「新実用新案法」という。）第四条の二第三項において準用する新特許法第三十四条の三第五項の規定は、この法律の施行の前日に新実用新案法第八条第一項の規定による優先権の主張があった場合については、適用しない。

Article 3 (1) The provisions of Article 34-3, paragraph (5) of the new Patent Act applied mutatis mutandis in Article 4-2, paragraph (3) of the Utility Model Act revised by the provisions of Article 2 (hereinafter referred to as the "new Utility Model Act") does not apply in a case when a priority claim has been made pursuant to the provisions of Article 8, paragraph (1) of the new Utility Model Act prior to the date of the enforcement of this Act.

2 新実用新案法第七条の規定は、この法律の施行の日以後にする実用新案登録出願又は特許出願について適用し、この法律の施行の前にした実用新案登録出願又は特許出願については、なお従前の例による。

(2) Prior laws continue to govern the provisions of Article 7 of the new Utility

Model Act applied to applications for utility model registration or applications for patent filed on or after the date of the enforcement of this Act, and with regard to applications for utility model registration or applications for patent filed prior to the date of the enforcement of this Act.

- 3 この法律の施行の際現に特許庁に係属している特許出願について登録した仮通常実施権を有する者がある場合には、当該特許出願を基礎とする新実用新案法第八条第一項の規定による優先権の主張又は当該特許出願に基づく新実用新案法第十条第一項の規定による出願の変更に係る承諾については、新実用新案法第八条第一項ただし書又は第十条第九項の規定にかかわらず、なお従前の例による。
- (3) Prior laws continue to govern a person that has a provisional non-exclusive license registered concerning an application for patent actually pending before the Japan Patent Office at the time of the enforcement of this Act, with regard to consent pertaining to a priority claim which is based on the application for a patent and is pursuant to the provisions of Article 8, paragraph (1) of the new Utility Model Act, or a conversion of an application which is based on the application for a patent and is pursuant to the provisions of Article 10, paragraph (1) of the new Utility Model Act, notwithstanding the provisions of Article 8, paragraph (1), proviso or Article 10, paragraph (9) of the new Utility Model Act.
- 4 新実用新案法第十一条第一項において準用する新特許法第三十条の規定は、次項に規定する場合を除き、この法律の施行の日以後にする実用新案登録出願に係る考案について適用し、この法律の施行の日前にした実用新案登録出願に係る考案については、なお従前の例による。
- (4) Prior laws continue to govern the provisions of Article 30 of the new Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the new Utility Model Act, except in the case prescribed in the following paragraph, the provisions apply to devices pertaining to applications for utility model registration filed on or after the date of the enforcement of this Act, and with regard to devices pertaining to applications for utility model registration filed prior to the date of the enforcement of this Act.
- 5 この法律の施行の日以後にする実用新案登録出願が新実用新案法第八条第一項の規定による優先権の主張を伴う場合であって、当該優先権の主張の基礎とされた同項に規定する先の出願がこの法律の施行の日前にされたものであるときは、当該実用新案登録出願に係る考案のうち、当該先の出願に係る考案については、新実用新案法第十一条第一項において準用する新特許法第三十条の規定にかかわらず、なお従前の例による。
- (5) Prior laws continue to govern an application for utility model registration filed on or after the date of the enforcement of this Act, if it is accompanied with a priority claim pursuant to the provisions of Article 8, paragraph (1) of the new Utility Model Act, and the earlier application prescribed in the relevant paragraph, deemed to be the basis for the priority claim, has been

filed prior to the date of the enforcement of this Act; with regard to a device pertaining to the earlier application among devices pertaining to the application for utility model registration, notwithstanding the provisions of Article 30 of the new Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the new Utility Model Act.

6 新実用新案法第十七条の二、新実用新案法第三十条において準用する新特許法第一百四条の三第三項並びに新実用新案法第三十七条第一項第五号及び第二項の規定は、この法律の施行の日以後にする実用新案登録出願について適用し、この法律の施行の日前にした実用新案登録出願については、なお従前の例による。

(6) Prior laws continue to govern the provisions of Article 17-2 of the new Utility Model Act, Article 104-3, paragraph (3) of the new Patent Act applied mutatis mutandis in Article 30 of the new Utility Model Act and Article 37, paragraph (1), item (v) and paragraph (2) of the new Utility Model Act apply to applications for utility model registration filed on or after the date of the enforcement of this Act, and with regard to applications for utility model registration filed prior to the date of the enforcement of this Act.

7 新実用新案法第十九条第三項において準用する新特許法第九十九条及び新実用新案法第二十条第一項の規定は、この法律の施行の際現に存する通常実施権にも適用する。

(7) The provisions of Article 99 of the new Patent Act and Article 20, paragraph (1) of the new Utility Model Act which are applied mutatis mutandis in Article 19, paragraph (3) of the new Utility Model Act also apply to the non-exclusive licenses actually existing at the time of the enforcement of this Act.

8 この法律の施行の日前に通常実施権の移転、変更、消滅若しくは処分の制限又は通常実施権を目的とする質権の設定、移転、変更、消滅若しくは処分の制限に係る第二条の規定による改正前の実用新案法（以下「旧実用新案法」という。）第十九条第三項又は第二十五条第四項において準用する旧特許法第九十九条第三項の登録（旧産活法第五十八条第二項の規定により旧実用新案法第十九条第三項において準用する旧特許法第九十九条第三項の登録があったものとみなされた場合における当該登録を含む。）がされた場合における当該登録の第三者に対する効力については、なお従前の例による。

(8) Prior laws continue to govern a case where a registration has been carried out prior to the date of the enforcement of this Act, under Article 99, paragraph (3) of the former Patent Act (including the registration in a case where a registration has been deemed to be carried out under Article 99, paragraph (3) of the former Patent Act applied mutatis mutandis in Article 19, paragraph (3) of the former Utility Model Act, pursuant to the provisions of Article 58, paragraph (2) of the former Industrial Revitalization Act) applied mutatis mutandis in Article 19, paragraph (3) or Article 25, paragraph (4) of the Utility Model Act prior to the revision by the provisions of Article 2 (hereinafter referred to as the "former Utility Model Act") pertaining to the transfer, modification under a trust, expiration or restriction on disposition of a non-

exclusive license, or the establishment, transfer, modification under a trust, expiration or restriction on the disposition of a right of pledge on a non-exclusive license; with regard to the effect of the registration to third parties.

9 新実用新案法第二十六条において準用する新特許法第八十二条第一項の規定は、この法律の施行の際現に存する意匠権又はその専用実施権についての通常実施権にも適用する。

(9) The provisions of Article 82, paragraph (1) of the new Patent Act applied *mutatis mutandis* in Article 26 of the new Utility Model Act also apply to non-exclusive licenses concerning design rights or exclusive licenses thereof which actually exist at the time of the enforcement of this Act.

10 新実用新案法第三十条において準用する新特許法第百四条の四の規定は、この法律の施行の日以後に提起された再審の訴え（裁判所法等の一部を改正する法律（平成十六年法律第百二十号）第五条の規定による改正後の実用新案法第三十条において準用する平成十六年改正特許法第百四条の三第一項の規定が適用される訴訟事件に係るものに限る。）における主張について適用する。

(10) The provisions of Article 104-4 of the new Patent Act applied *mutatis mutandis* in Article 30 of the new Utility Model Act apply to claims in actions for retrial filed on or after the date of the enforcement of this Act (limited to actions for retrial pertaining to lawsuits to which apply the provisions of Article 104-3, paragraph (1) of the Revised Patent Act of 2004 applied *mutatis mutandis* in Article 30 of the Utility Model Act revised by the provisions of the Article 5 of the Act for Partial Revision of the Court Act, etc. (Act No. 120 of 2004)).

11 新実用新案法第三十三条の二第一項の規定は、この法律の施行の日以後に新実用新案法第三十三条第四項又は第五項の規定により消滅したもの又は初めから存在しなかったものとみなされた実用新案権について適用し、この法律の施行の日前に旧実用新案法第三十三条第四項又は第五項の規定により消滅したもの又は初めから存在しなかったものとみなされた実用新案権については、なお従前の例による。

(11) Prior laws continue to govern the provisions of Article 33-2, paragraph (1) of the new Utility Model Act applicable to utility model rights deemed to have expired or have been non-existent from the beginning, pursuant to the provisions of Article 33, paragraph (4) or (5) of the new Utility Model Act on or after the date of the enforcement of this Act, and with regard to utility model rights deemed to have expired or have been non-existent from the beginning pursuant to the provisions of Article 33, paragraph (4) or (5) of the former Utility Model Act prior to the date of the enforcement of this Act.

12 この法律の施行の日前に請求された審判又は再審については、その審決が確定するまでは、なお従前の例による。

(12) Prior laws continue to govern a trial or appeal, or a retrial requested prior to the date of the enforcement of this Act, until the decision becomes final and binding.

1 3 この法律の施行の日前に請求された審判の確定審決に対する再審については、なお従前の例による。

(13) Prior laws continue to govern a retrial against a final and binding decision on a trial or appeal requested prior to the date of the enforcement of this Act.

1 4 この法律の施行の日前にした旧実用新案法第十四条の二第一項の訂正（この法律の施行の日以後にする第十二項の規定によりなお従前の例によることとされるものを含む。）に係る実用新案登録の無効（旧実用新案法第三十七条第一項第七号に係るものに限る。）については、なお従前の例による。

(14) Prior laws continue to govern an invalidation of a utility model registration (limited to invalidation pertaining to Article 37, paragraph (1), item (vii) of the former Utility Model Act) pertaining to correction which has been made under Article 14-2, paragraph (1) of the former Utility Model Act, prior to the date of the enforcement of this Act (including corrections which is made on or after the date of the enforcement of this Act, and with regard to which the provisions then in force remain applicable pursuant to the provisions of paragraph (12)).

1 5 新実用新案法第四十一条において準用する新特許法第百六十七条の規定は、この法律の施行の日以後に確定審決の登録があった審判と同一の事実及び同一の証拠に基づく審判について適用し、この法律の施行の日前に確定審決の登録があった審判と同一の事実及び同一の証拠に基づく審判については、なお従前の例による。

(15) Prior laws continue to govern the provisions of Article 167 of the new Utility Model Act applied mutatis mutandis in Article 41 of the new Utility Model Act apply to a trial or appeal, based on the same facts and same evidence as a trial or appeal for which a final and binding decision has been made after the date of enforcement of this Act, and with regard to a trial based on the same facts and evidence as a trial or appeal for which a final and binding decision has been made prior to the date of enforcement of this Act.

1 6 新実用新案法第四十七条第二項において準用する新特許法第百八十一条の規定は、この法律の施行の日以後に請求される審判についての審決に対する訴えについて適用し、この法律の施行の日前に請求された審判についての審決に対する訴えについては、なお従前の例による。

(16) Prior laws continue to govern the provisions of Article 181 of the new Patent Act applied mutatis mutandis in of Article 47, paragraph (2) of the new Utility Model Act applicable to actions against decisions on trials or appeals requested on or after the date of the enforcement of this Act, and with regard to actions against decisions on trials or appeals requested prior to the date of the enforcement of this Act.

1 7 新実用新案法第四十八条の四第四項及び第五項の規定は、この法律の施行の日前に旧実用新案法第四十八条の四第三項の規定により取り下げられたものとみなされた国際実用新案登録出願には、適用しない。

(17) The provisions of Article 48-4, paragraphs (4) and (5) of the new Utility Model Act do not apply to International Applications for Utility Model

Registration deemed to have been withdrawn pursuant to the provisions of Article 48-4, paragraph (3) of the former Utility Model Act prior to the date of the enforcement of this Act.

18 この法律の施行の日前に登録された通常実施権に係る情報であつて旧実用新案法第五十五条第一項において準用する旧特許法第百八十六条第三項の規定により証明等を行わないものとされたものについての証明等については、新実用新案法第五十五条第一項において準用する新特許法第百八十六条第一項本文の規定にかかわらず、なお従前の例による。

(18) Prior laws continue to govern a certification, etc. for information which is pertaining to non-exclusive licenses registered prior to the date of the enforcement of this Act, and for which certification, etc. has not been made pursuant to the provisions of Article 186, paragraph (3) of the former Patent Act applied mutatis mutandis in Article 55, paragraph (1) of the former Utility Model Act, notwithstanding the provisions of the main clause of Article 186, paragraph (1) of the new Patent Act applied mutatis mutandis in Article 55, paragraph (1) of the new Utility Model Act.

(政令への委任)

(Delegation to Cabinet Order)

第十一条 附則第二条から前条までに定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 11 Beyond what is prescribed in Articles 2 through the preceding Article of these Supplementary Provisions, necessary transitional measures relating to the enforcement of this Act is specified by Cabinet Order.

(平成五年旧実用新案法の一部改正に伴う経過措置)

(Transitional Measures Upon Partial Revision of the former Utility Model Act of 1993)

第十八条 前条の規定による改正後の平成五年旧実用新案法（以下「新平成五年旧実用新案法」という。）第十三条の三第四項において準用する新特許法第百四条の四の規定は、この法律の施行の日以後に提起された再審の訴え（裁判所法等の一部を改正する法律（平成十六年法律第百二十号）附則第四条の規定による改正後の平成五年旧実用新案法第十三条の三第四項において準用する平成十六年改正特許法第百四条の三第一項の規定が適用される訴訟事件に係るものに限る。）における主張について適用する。

Article 18 The provisions of Article 104-4 of the new Patent Act applied mutatis mutandis in Article 13-3, paragraph (4) of the former Utility Model Act of 1993 revised by the provisions of the preceding Article (hereinafter referred to as the "the Revised former Utility Model Act of 1993") apply to claims in actions for retrial filed on or after the date of the enforcement of this Act (limited to actions for retrial pertaining to lawsuits to which the provisions of Article 104-

3, paragraph (1) of the Revised Patent Act of 2004 applied mutatis mutandis in Article 13-3, paragraph (4) of the former Utility Model Act of 1993 revised by the provisions of Article 4 of the Supplementary Provisions of the Act for Partial Revision of the Court Act, etc. (Act No. 120 of 2004) apply).

(平成五年改正法の一部改正に伴う経過措置)

(Transitional Measures Upon Partial Revision of the Amendment Act of 1993)

第二十条 この法律の施行の日前に請求された附則第十七条の規定による改正前の平成五年旧実用新案法（以下「旧平成五年旧実用新案法」という。）第三十七条第一項、第三十九条第一項若しくは第四十八条の十二第一項の審判又は再審については、その審決が確定するまでは、なお従前の例による。

Article 20 (1) Prior laws continue to govern a trial or appeal, or a retrial which has been requested prior to the date of the enforcement of this Act, and is under Article 37, paragraph (1), Article 39, paragraph (1) or Article 48-12, paragraph (1) of the former Utility Model Act of 1993 prior to revision by the provisions of Article 17 of the Supplementary Provisions (hereinafter referred to as the "former Utility Model Act of 1993 prior to Revision"); until the decision becomes final and binding.

2 この法律の施行の日前に請求された旧平成五年旧実用新案法第三十七条第一項又は第四十八条の十二第一項の審判であって、その審決が確定していないものに係る実用新案登録の願書に添付した明細書又は図面の訂正をすることについての審判（次項において「訂正の審判」という。）については、その審決が確定するまでは、なお従前の例による。

(2) Prior laws continue to govern trials concerning the correction of a description or drawings accompanying an application for utility model registration pertaining to a trial which has been requested prior to the date of the enforcement of this Act, and is under Article 37, paragraph (1) or Article 48-12, paragraph (1) of the former Utility Model Act of 1993 prior to Revision, and the decision of which is not final and binding (referred to as a "appeal for correction " in the following paragraph); until the decision becomes final and binding.

3 この法律の施行の日前に請求された旧平成五年旧実用新案法第三十七条第一項、第三十九条第一項又は第四十八条の十二第一項の審判の確定審決及びこの法律の施行の日以後に前項の規定によりなお従前の例により請求される訂正の審判の確定審決に対する再審については、なお従前の例による。

(3) Prior laws continue to govern retrials against final and binding decisions on trials which have been requested prior to the date of the enforcement of this Act and are under Article 37, paragraph (1), Article 39, paragraph (1) or Article 48-12, paragraph (1) of the former Utility Model Act of 1993 prior to Revision, and with regard to retrials against final and binding decisions on appeals for correction being requested under the provisions then in force pursuant to the

provisions of the preceding paragraph on or after the date of the enforcement of this Act.

4 この法律の施行の日前にした旧平成五年旧実用新案法第三十九条第一項又は第四十条の二第一項の規定による訂正（この法律の施行の日以後にする第一項又は第二項の規定によりなお従前の例によることとされるものを含む。）に係る実用新案登録の無効（旧平成五年旧実用新案法第三十七条第一項第二号の二に係るものに限る。）については、なお従前の例による。

(4) Prior laws continue to govern an invalidation of a utility model registration (limited to invalidation pertaining to Article 37, paragraph (1), item (ii)-2 of the former Utility Model Act of 1993 prior to Revision) pertaining to a correction which has been made prior to the date of the enforcement of this Act and is pursuant to the provisions of Article 39, paragraph (1) or Article 40-2, paragraph (1) of the former Utility Model Act of 1993 prior to Revision (including correction which is made on or after the date of the enforcement of this Act, pursuant to the provisions of paragraph (1) or (2));

5 前条の規定による改正後の平成五年改正法附則第四条第二項において読み替えられた新平成五年旧実用新案法（以下「読替え後の新平成五年旧実用新案法」という。）第四十一条において準用する新特許法第百六十七条の規定は、この法律の施行の日以後に確定審決の登録があった審判と同一の事実及び同一の証拠に基づく審判について適用し、この法律の施行の日前に確定審決の登録があった審判と同一の事実及び同一の証拠に基づく審判については、なお従前の例による。

(5) Prior laws continue to govern the provisions of Article 167 applied mutatis mutandis in Article 41 of the revised former Utility Model Act of 1993 replaced in Article 4, paragraph (2) of the Supplementary Provisions of the Amendment Act of 1993 revised by the provisions of the preceding Article (hereinafter referred to as the "replaced revised former Utility Model Act of 1993") applies to a trial or appeal based on the same facts and same evidence as a trial or appeal with the final and binding decision which has been made on or after the date of the enforcement of this Act; and with regard to a trial or appeal based on the same facts and same evidence as a trial or appeal, the final and binding decision of which has been registered prior to the date of the enforcement of this Act.

6 新平成五年旧実用新案法第四十七条第一項及び読替え後の新平成五年旧実用新案法第五十五条第六項において準用する新特許法第百九十五条の四の規定は、この法律の施行の日以後に請求された新平成五年旧実用新案法第三十七条第一項又は第四十八条の十二第一項の審判に係る読替え後の新平成五年旧実用新案法第四十一条において準用する新特許法第百三十三条第三項の規定によりされる新平成五年旧実用新案法第四十条の二第一項の訂正の請求書の却下の決定について適用し、この法律の施行の日前に請求された旧平成五年旧実用新案法第三十七条第一項又は第四十八条の十二第一項の審判に係る旧平成五年旧実用新案法第四十一条において準用する旧特許法第百三十三条第三項の規定によりされた旧平成五年旧実用新案法第四十条の二第一項の訂正の

請求書の却下の決定については、なお従前の例による。

(6) Prior laws continue to govern the provisions of Article 195-4 of the new Patent Act applied mutatis mutandis in Article 47, paragraph (1) of the revised former Utility Model Act of 1993 and Article 55, paragraph (6) of replaced revised former Utility Model Act of 1993 apply to a decision of dismissal of a written request for correction which has been requested on or after the date the enforcement of this Act, and which is made pursuant to the provisions of Article 133, paragraph (3) of the new Patent Act applied mutatis mutandis in Article 41 of the replaced revised former Utility Model Act of 1993 pertaining to a trial under Article 37, paragraph (1) or Article 48-12, paragraph (1) of the revised former Utility Model Act of 1993, and is under Article 40-2, paragraph (1) of the revised former Utility Model Act of 1993; and with regard to a decision of dismissal of a written request for correction which has been requested prior to the date of the enforcement of this Act, and which is made pursuant to the provisions of Article 133, paragraph (3) of the former Patent Act applied mutatis mutandis in Article 41 of the former Utility Model Act of 1993 prior to a revision pertaining to a trial under Article 37, paragraph (1) or Article 48-12, paragraph (1) of the former Utility Model Act of 1993 prior to Revision, and is under Article 40-2, paragraph (1) of the former Utility Model Act of 1993 prior to a revision.

7 読替え後の新平成五年旧実用新案法第四十七条第二項において準用する新特許法第百八十一条の規定は、この法律の施行の日以後に請求される新平成五年旧実用新案法第三十七条第一項、第三十九条第一項又は第四十八条の十二第一項の審判についての審決に対する訴えについて適用し、この法律の施行の日前に請求された旧平成五年旧実用新案法第三十七条第一項、第三十九条第一項又は第四十八条の十二第一項の審判についての審決に対する訴えについては、なお従前の例による。

(7) Prior laws continue to govern the provisions of Article 181 of the new Patent Act applied mutatis mutandis in Article 47, paragraph (2) of a replaced revised former Utility Model Act of 1993 apply to an action against a decision concerning a trial or appeal which is requested on or after the date of the enforcement of this Act, and is under Article 37, paragraph (1), Article 39, paragraph (1) or Article 48-12, paragraph (1) of the Revised former Utility Model Act of 1993; and with regard to an action against a decision on a trial or appeal which has been requested prior to the date of the enforcement of this Act, and is under Article 37, paragraph (1), Article 39, paragraph (1) or Article 48-12, paragraph (1) of the former Utility Model Act of 1993 prior to a revision.

8 新平成五年旧実用新案法別表第九号の規定は、この法律の施行の日以後に請求される新平成五年旧実用新案法第三十七条第一項又は第四十八条の十二第一項の審判に係る手数料について適用し、施行の日前に請求された旧平成五年旧実用新案法第三十七条第一項又は第四十八条の十二第一項の審判に係る手数料については、旧平成五年旧実用新案法別表第九号の規定は、なおその効力を有する。

(8) The provisions of the Appended Tables 9 of the revised former Utility Model Act of 1993 apply to fees pertaining to a trial which is requested on or after the date of the enforcement of this Act, and is under Article 37, paragraph (1) or Article 48-12, paragraph (1) of the revised former Utility Model Act of 1993; and with regard to fees pertaining to a trial which is requested prior to the date of the enforcement of this Act and is under Article 37, paragraph (1) or Article 48-12, paragraph (1) of the former Utility Model Act of 1993 prior to revision, the provisions of Appended Tables 9 of the former Utility Model Act of 1993 prior to a revision remain applicable.

附 則 〔平成二十三年六月二十四日法律第七十四号〕 〔抄〕

**Supplementary Provisions [Act No. 74 of June 24, 2011 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、公布の日から起算して二十日を経過した日から施行する。

Article 1 This Act comes into effect as of the date to which 20 days have elapsed from the date of promulgation.

附 則 〔平成二十六年五月十四日法律第三十六号〕 〔抄〕

**Supplementary Provisions [Act No. 36 of May 14, 2014 Extract] [Extract]**

(施行期日)

(Effective Date)

第一条 この法律は、公布の日から起算して一年を超えない範囲内において政令で定める日から施行する。ただし、次の各号に掲げる規定は、当該各号に定める日から施行する。

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding one year from the date of promulgation; provided, however, that the provisions listed in the following items come into effect as of the date prescribed respectively in those items.

一 附則第九条の規定 公布の日

(i) the provisions of Article 9 of these Supplementary Provisions: the date of promulgation

(実用新案法の一部改正に伴う経過措置)

(Transitional Measures Upon Partial Revision of the Utility Model Act)

第三条 第二条の規定による改正後の実用新案法（以下「新実用新案法」という。）第二条の二第一項ただし書の規定は、この法律の施行後にする実用新案登録出願について適用し、この法律の施行前にした実用新案登録出願については、なお従前の例による。

- Article 3 (1) Prior laws continue to govern the provisions of Article 2-2, paragraph (1), proviso of the Utility Model Act revised by the provisions of Article 2 (hereinafter referred to as the "new Utility Model Act") apply to applications for utility model registration filed after the enforcement of this Act, and with regard to applications for utility model registration filed prior to the enforcement of this Act.
- 2 新実用新案法第八条第一項及び第四項の規定は、この法律の施行後にする実用新案登録出願に伴う優先権の主張について適用し、この法律の施行前にした実用新案登録出願に伴う優先権の主張については、なお従前の例による。
- (2) Prior laws continue to govern the provisions of Article 8, paragraphs (1) and (4) of the new Utility Model Act apply to priority claims accompanying applications for utility model registration filed after the enforcement of this Act, and with regard to priority claims accompanying applications for utility model registration filed prior to the enforcement of this Act.
- 3 新実用新案法第九条第一項の規定は、この法律の施行後にする実用新案登録出願に伴う優先権の主張の基礎とした新実用新案法第八条第一項に規定する先の出願について適用し、この法律の施行前にした実用新案登録出願に伴う優先権の主張の基礎とした第二条の規定による改正前の実用新案法（以下「旧実用新案法」という。）第八条第一項に規定する先の出願については、なお従前の例による。
- (3) Prior laws continue to govern the provisions of Article 9, paragraph (1) of the new Utility Model Act that applies to an early application which has been made to be the basis of a priority claim which accompanies an application for utility model registration filed after the enforcement of this Act, prescribed in Article 8, paragraph (1) of the new Utility Model Act; and with regard to an early application which has been made to be the basis of a priority claim which accompanies an application for utility model registration filed prior to the enforcement of this Act, and which is prescribed in Article 8, paragraph (1) of the Utility Model Act prior to revision by the provisions of Article 2 (hereinafter referred to as the "former Utility Model Act").
- 4 新実用新案法第九条第二項及び第三項の規定は、この法律の施行後にする実用新案登録出願に伴う優先権の主張について適用し、この法律の施行前にした実用新案登録出願に伴う優先権の主張については、なお従前の例による。
- (4) Prior laws continue to govern the provisions of Article 9, paragraphs (2) and (3) of the new Utility Model Act applies to a priority claim accompanying an application for utility model registration being filed after the enforcement of this Act; and with regard to a priority claim accompanying an application for utility model registration filed prior to the enforcement of this Act.
- 5 新実用新案法第十一条第一項において準用する新特許法第三十条第四項の規定は、この法律の施行前に旧実用新案法第十一条第一項において準用する旧特許法第三十条第三項に規定する期間内に同項に規定する証明書の提出がなかった場合については、適用しない。

- (5) The provisions of Article 30, paragraph (4) of the new Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the new Utility Model Act do not apply in a case where no certificate prescribed in Article 30, paragraph (3) of the former Patent Act has been submitted within the period prescribed in the relevant paragraph applied mutatis mutandis in Article 11, paragraph (1) of the former Utility Model Act prior to the enforcement of this Act.
- 6 新実用新案法第十一条第一項において準用する新特許法第四十三条第一項（新実用新案法第十一条第一項において準用する新特許法第四十三条の三第三項において準用する場合を含む。）の規定は、この法律の施行後にする実用新案登録出願に伴う優先権の主張について適用し、この法律の施行前にした実用新案登録出願に伴う優先権の主張については、なお従前の例による。
- (6) Prior laws continue to govern the provisions of Article 43, paragraph (1) of the new Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the new Utility Model Act (including cases where Article 43, paragraph (1) of the new Patent Act is applied mutatis mutandis in Article 43-4, paragraph (3) of the New Patent applied mutatis mutandis in Article 11, paragraph (1) of the new Utility Model Act) that apply to a priority claim accompanying an application for utility model registration being filed after the enforcement of this Act; and with regard to a priority claim accompanying an application for utility model registration filed prior to the enforcement of this Act.
- 7 新実用新案法第十一条第一項において準用する新特許法第四十三条第六項（新実用新案法第十一条第一項において準用する新特許法第四十三条の三第三項において準用する場合を含む。）の規定は、この法律の施行前に旧実用新案法第十一条第一項において準用する旧特許法第四十三条第二項（旧実用新案法第十一条第一項において準用する旧特許法第四十三条の二第三項において準用する場合を含む。以下この項において同じ。）に規定する期間内に旧実用新案法第十一条第一項において準用する旧特許法第四十三条第二項に規定する書類又は旧実用新案法第十一条第一項において準用する旧特許法第四十三条第五項（旧実用新案法第十一条第一項において準用する旧特許法第四十三条の二第三項において準用する場合を含む。）に規定する書面の提出がなかった場合については、適用しない。
- (7) The provisions of Article 43, paragraph (6) of the new Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the new Utility Model Act (including cases where Article 43, paragraph (6) of the new Patent Act is applied mutatis mutandis in Article 43-3, paragraph (3) of the new Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the new Utility Model Act) does not apply in a case where, prior to the enforcement of this Act, no documents prescribed in Article 43, paragraph (2) of the former Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the former Utility Model Act (including cases where Article 43, paragraph (2) of the former Patent Act is applied mutatis mutandis in Article 43-2, paragraph (3) of the former Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the

former Utility Model Act; hereinafter the same apply in this paragraph), within the period prescribed in Article 43, paragraph (2) of the former Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the former Utility Model Act, nor letters prescribed in Article 43, paragraph (5) of the former Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the former Utility Model Act (including cases where Article 43, paragraph (5) of the former Patent Act is applied mutatis mutandis in Article 43-2, paragraph (3) of the former Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the former Utility Model Act) have been submitted.

8 新実用新案法第十一条第一項において準用する新特許法第四十三条の二（新実用新案法第十一条第一項において準用する新特許法第四十三条の三第三項において準用する場合を含む。）の規定は、この法律の施行前にした実用新案登録出願に伴う優先権の主張については、適用しない。

(8) The provisions of Article 43-2 of the new Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the new Utility Model Act (including cases where Article 43-2 of the new Patent Act which is applied mutatis mutandis in Article 43-3, paragraph (3) of the new Patent Act applied mutatis mutandis in Article 11, paragraph (1) of the new Utility Model Act) does not apply to a priority claim accompanying an application for utility model registration filed prior to the enforcement of this Act.

9 新実用新案法第三十二条第四項の規定は、この法律の施行前に旧実用新案法第三十二条第三項の規定により延長された期間内に登録料の納付がなかった場合については、適用しない。

(9) The provisions of Article 32, paragraph (4) of the new Utility Model Act does not apply in cases when registration fees have not been paid within the period extended pursuant to the provisions of Article 32, paragraph (3) of the former Utility Model Act, prior to the enforcement of this Act.

10 新実用新案法第三十四条第三項の規定は、この法律の施行前に旧実用新案法第三十四条第二項に規定する期間内に同条第一項の規定による登録料の返還の請求がなかった場合については、適用しない。

(10) The provisions of Article 34, paragraph (3) of the new Utility Model Act do not apply in cases where a return of registration fees pursuant to the provisions of Article 34, paragraph (1) of the former Utility Model Act has not been requested within the period prescribed in paragraph (2) of the relevant Article prior to the enforcement of this Act.

11 実用新案法第四十八条の十六第四項の規定によりこの法律の施行前にされた実用新案登録出願とみなされた国際出願についての手続の補正については、なお従前の例による。

(11) Prior laws continue to govern the amendment of procedures concerning an international application deemed to be an application for utility model registration filed pursuant to the provisions of Article 48-16, paragraph (4) of

the Utility Model Act, prior to the enforcement of this Act.

1 2 新実用新案法第五十四条の二第十二項の規定は、この法律の施行前に旧実用新案法第五十四条の二第三項、第七項、第九項又は第十一項に規定する期間内に同条第二項、第四項若しくは第六項、第八項又は第十項の規定による手数料の返還の請求がなかった場合については、適用しない。

(12) The provisions of Article 54-2, paragraph (12) of the new Utility Model Act do not apply in cases when a return of fees pursuant to the provisions of Article 54-2, paragraph (2), (4) or (6), (8) or (10) of the former Utility Model Act has not been requested within the period prescribed in paragraph (3), (7), (9) or (11) of the relevant Article prior to the enforcement of this Act.

(罰則に関する経過措置)

(Transitional Measures Relating to Penal Provisions)

第八条 この法律の施行前にした行為に対する罰則の適用については、なお従前の例による。

Article 8 Prior laws continue to govern the applicability of penal provisions to acts conducted prior to the enforcement of this Act.

(政令への委任)

(Delegation to Cabinet Order)

第九条 附則第二条から前条まで及び附則第十九条に定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 9 Beyond what is prescribed in Articles 2 through the preceding Article and Article 19 of these Supplementary Provisions, necessary transitional measures relating to the enforcement of this Act are specified by Cabinet Order.

(検討)

(Review)

第十条 政府は、この法律の施行後五年を経過した場合において、第六条の規定による改正後の弁理士法（以下この条において「新弁理士法」という。）の施行の状況を勘案し、必要があると認めるときは、新弁理士法の規定について検討を加え、その結果に基づいて必要な措置を講ずるものとする。

Article 10 When five years have passed from the enforcement of this Act, taking into account the status of enforcement of the Patent Attorney Act revised by the provisions of Article 6 (hereinafter referred to as the "New Patent Attorney Act" in this Article), the government is to review the provisions of the New Patent Attorney Act and take necessary measures based on the results thereof.

附 則 〔平成二十六年六月十三日法律第六十九号〕 〔抄〕

Supplementary Provisions [Act No. 69 of June 13, 2014 Extract] [Extract]

(施行期日)

(Effective Date)

第一条 この法律は、行政不服審査法（平成二十六年法律第六十八号）の施行の日から施行する。

Article 1 This Act comes into effect as of the date of enforcement of the Administrative Appeal Act (Act No. 68 of 2014).

附 則 〔平成二十七年七月十日法律第五十五号〕〔抄〕

Supplementary Provisions [Act No. 55 of July 10, 2015 Extract] [Extract]

(施行期日)

(Effective Date)

第一条 この法律は、公布の日から起算して一年を超えない範囲内において政令で定める日から施行する。

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding one year from the date of promulgation.

(政令への委任)

(Delegation to Cabinet Order)

第五条 前三条及び附則第九条に定めるもののほか、この法律の施行に関し必要な経過措置は、政令で定める。

Article 5 Beyond what is prescribed in the preceding 3 articles and Article 9 of these Supplementary Provisions, necessary transitional measures relating to the enforcement of this Act are specified by Cabinet Order.

別表（第五十四条関係）

Appended table (relating to Article 54)

納付しなければならない者 Person responsible for payment	金額 Amount of Money
実用新案登録出願をする者 Person filing application for utility model registration	一件につき一万四千元 14,000 yen per case
第四十八条の五第一項の規定により手続をすべき者 Person responsible for procedures pursuant to provisions of Article 48-5, paragraph (1)	一件につき一万四千元 14,000 yen per case
第四十八条の十六第一項の規定により申出をする者 Person offering pursuant to provisions of Article 48-16, paragraph (1)	一件につき一万四千元 14,000 yen per case

<p>第二条の五第一項において準用する特許法第五条第三項の規定による期間の延長を請求する者  <b>Person requesting extension of period pursuant to provisions of Article 5, paragraph (3) of the Patent Act applied mutatis mutandis in Article 2-5, paragraph (1)</b></p>	<p>一件につき四千二百円  <b>4,200 yen per case</b></p>
<p>実用新案技術評価の請求をする者  <b>Person requesting Utility Model Technical Opinion</b></p>	<p>一件につき四万二千円に一請求項につき千三百円を加えた額  <b>42,000 yen per case, plus 1,300 yen per claim</b></p>
<p>明細書、実用新案登録請求の範囲又は図面の訂正をする者  <b>Person correcting description, scope of claims for a utility model registration, or drawings</b></p>	<p>一件につき千四百円  <b>1,400 yen per case</b></p>
<p>第二十六条において準用する特許法第七十一条第一項の規定により判定を求める者  <b>Person requesting judgment pursuant to provisions of Article 71, paragraph (1) of the Patent Act applied mutatis mutandis in Article 26</b></p>	<p>一件につき四万円  <b>40,000 yen per case</b></p>
<p>裁定を請求する者  <b>Person requesting ruling</b>  8</p>	<p>一件につき五万五千円  <b>55,000 yen per case</b></p>
<p>裁定の取消しを請求する者  <b>Person requesting rescission of ruling</b>  9</p>	<p>一件につき二万七千五百円  <b>27,500 yen per case</b></p>
<p>審判又は再審を請求する者  <b>Person requesting trial or retrial</b>  1  0</p>	<p>一件につき四万九千五百円に一請求項につき五千五百円を加えた額  <b>49,500 yen per case, plus 5,500 yen per claim</b></p>
<p>審判又は再審への参加を申請する者  <b>Person applying for intervention in trial or retrial.</b>  1  1</p>	<p>一件につき五万五千円  <b>55,000 yen per case</b></p>