特許法

Patent Act

（昭和三十四年四月十三日法律第百二十一号）

(Act No. 121 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、発明の保護及び利用を図ることにより、発明を奨励し、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 inventions through promoting the protection and utilization of inventions, and thereby contribute to the development of industry.

（定義）

(Definitions)

第二条　この法律で「発明」とは、自然法則を利用した技術的思想の創作のうち高度のものをいう。

Article 2 (1) The term "invention" as used in this Act means a highly advanced creation of technical ideas utilizing the laws of nature.

２　この法律で「特許発明」とは、特許を受けている発明をいう。

(2) The term "patented invention" as used in this Act means an invention for which a patent has been granted.

３　この法律で発明について「実施」とは、次に掲げる行為をいう。

(3) The term "work" as used in this Act in respect of an invention means the following actions:

一　物（プログラム等を含む。以下同じ。）の発明にあつては、その物の生産、使用、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。）、輸出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) if the invention is a product (including a computer program or anything equivalent; the same applies hereinafter), the producing, using, transferring, etc. it (meaning transferring it or leasing it out, and this includes providing it through a telecommunications line if it is a computer program or anything equivalent; the same applies hereinafter), exporting or importing it, or offering to transfer, etc. it (this includes displaying it for the purpose of transferring, etc. it; the same applies hereinafter);

二　方法の発明にあつては、その方法の使用をする行為

(ii) if the invention is a process, using it; and

三　物を生産する方法の発明にあつては、前号に掲げるもののほか、その方法により生産した物の使用、譲渡等、輸出若しくは輸入又は譲渡等の申出をする行為

(iii) if the invention is a process for producing a product, beyond the action provided in the preceding item, acts of using, transferring, etc. exporting or importing, or offering to transfer, etc. it.

４　この法律で「プログラム等」とは、プログラム（電子計算機に対する指令であつて、一の結果を得ることができるように組み合わされたものをいう。以下この項において同じ。）その他電子計算機による処理の用に供する情報であつてプログラムに準ずるものをいう。

(4) A "computer program or anything equivalent" in this Act means a computer program (meaning a set of instructions given to a computer which work to produce a specific result; hereinafter the same applies in this paragraph) and any other information that is to be processed by a computer equivalent to a computer program.

（期間の計算）

(Calculation of Time Periods)

第三条　この法律又はこの法律に基く命令の規定による期間の計算は、次の規定による。

Article 3 (1) The calculation of time period under this Act or under an order that is based on this Act is as under the following provisions:

一　期間の初日は、算入しない。ただし、その期間が午前零時から始まるときは、この限りでない。

(i) the first day of the period is not included in the calculation; provided, however, that this does not apply if the period of time commences at twelve midnight;

二　期間を定めるのに月又は年をもつてしたときは、暦に従う。月又は年の始から期間を起算しないときは、その期間は、最後の月又は年においてその起算日に応当する日の前日に満了する。ただし、最後の月に応当する日がないときは、その月の末日に満了する。

(ii) if the period is indicated in months or years, the months or years refer to calendar months or calendar years, and if the period is not calculated from the beginning of a month or a year, the period expires on the day preceding the day corresponding to the first day of the calculation in the final month or year; provided, however, that if there is no corresponding day in the final month, the period expires on the last day of the final month.

２　特許出願、請求その他特許に関する手続（以下単に「手続」という。）についての期間の末日が行政機関の休日に関する法律（昭和六十三年法律第九十一号）第一条第一項各号に掲げる日に当たるときは、その日の翌日をもつてその期間の末日とする。

(2) If the last day of the prescribed period for filing a patent application and a request or demand, or for other procedures relating to a patent (hereinafter referred to as "procedures") is any of the days provided for in Article 1, paragraph (1) of the Act on Holidays of Administrative Organs (Act No. 91 of 1988), the day following that day is the last day of the period.

（期間の延長等）

(Extension of Time Limits)

第四条　特許庁長官は、遠隔又は交通不便の地にある者のため、請求により又は職権で、第四十六条の二第一項第三号、第百八条第一項、第百二十一条第一項又は第百七十三条第一項に規定する期間を延長することができる。

Article 4 The Commissioner of the Japan Patent Office may extend the period provided for in Article 46-2, paragraph (1), item (iii), Article 108, paragraph (1), Article 121, paragraph (1), and Article 173, paragraph (1) for a person in a remote area or an area with transportation difficulty, upon request or by the commissioner's own authority.

第五条　特許庁長官、審判長又は審査官は、この法律の規定により手続をすべき期間を指定したときは、請求により又は職権で、その期間を延長することができる。

Article 5 (1) If the Commissioner of the Japan Patent Office, a chief administrative judge, or an examiner has designated a period during which procedures are to be undertaken pursuant to this Act, the official may extend the period, upon request or by the official's own authority.

２　審判長は、この法律の規定により期日を指定したときは、請求により又は職権で、その期日を変更することができる。

(2) If a chief administrative judge has designated a specific date pursuant to this Act, the judge may change the date, upon request or by the judge's own authority.

３　第一項の規定による期間の延長（経済産業省令で定める期間に係るものに限る。）は、その期間が経過した後であつても、経済産業省令で定める期間内に限り、請求することができる。

(3) The extension of the period of time under paragraph (1) (limited to the period of time provided by Order of the Ministry of Economy, Trade and Industry) may be requested even after the passage of that period, but not later than the period provided by Order of the Ministry of Economy, Trade and Industry.

（法人でない社団等の手続をする能力）

(Capacity of Associations Which Are Not Corporations to Undertake Procedures)

第六条　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 6 (1) An association or foundation which is not a corporation but for which a representative or an administrator has been designated may, in its name:

一　出願審査の請求をすること。

(i) request the examination of an application;

二　特許異議の申立てをすること。

(ii) file an opposition to a granted patent;

三　特許無効審判又は延長登録無効審判を請求すること。

(iii) request a trial for patent invalidation or a trial for invalidation of registration of a patent term extension; and

四　第百七十一条第一項の規定により特許無効審判又は延長登録無効審判の確定審決に対する再審を請求すること。

(iv) request a retrial pursuant to Article 171, paragraph (1), following a final and binding decision in a trial for patent invalidation or a trial for invalidation of registration of a patent term extension

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、その名において特許無効審判又は延長登録無効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 which is not a corporation but for which a representative or an administrator has been designated may be named as a petitioner in a request for a retrial against a final and binding decision in a trial for patent invalidation or a trial for invalidation of registration of a patent term extension.

（未成年者、成年被後見人等の手続をする能力）

(Capacity of a Minor or Adult Ward to Undertake a Procedure)

第七条　未成年者及び成年被後見人は、法定代理人によらなければ、手続をすることができない。ただし、未成年者が独立して法律行為をすることができるときは、この限りでない。

Article 7 (1) A minor or adult ward may not undertake a procedure other than through a legal representative; provided, however, that this does not apply in the case of a minor who is capable of independently performing a juridical act.

２　被保佐人が手続をするには、保佐人の同意を得なければならない。

(2) A person under curatorship must have the consent of the curator in order to undertake a procedure.

３　法定代理人が手続をするには、後見監督人があるときは、その同意を得なければならない。

(3) If there is a guardianship supervisor, the legal representative must have that the supervisor's consent in order to undertake a procedure.

４　被保佐人又は法定代理人が、その特許権に係る特許異議の申立て又は相手方が請求した審判若しくは再審について手続をするときは、前二項の規定は、適用しない。

(4) The preceding two paragraphs do not apply if a person under curatorship or a legal representative undertakes a procedure in connection with the filing of an opposition to a granted patent concerning the person's patent rights or in connection with a request for a trial, appeal, or retrial that an adverse party has filed.

（在外者の特許管理人）

(Patent Administrators for Overseas Residents)

第八条　日本国内に住所又は居所（法人にあつては、営業所）を有しない者（以下「在外者」という。）は、政令で定める場合を除き、その者の特許に関する代理人であつて日本国内に住所又は居所を有するもの（以下「特許管理人」という。）によらなければ、手続をし、又はこの法律若しくはこの法律に基づく命令の規定により行政庁がした処分を不服として訴えを提起することができない。

Article 8 (1) Unless otherwise provided for by Cabinet Order, a person not domiciled or resident in Japan (or, without a business office in Japan, if it is a corporation) (hereinafter referred to as an "overseas resident") may only undertake a procedure or file an action objecting to a disposition reached by an administrative authority pursuant to the provisions of this Act or an order that is based on this Act, through a representative domiciled or resident in Japan that acts as the person's agent in respect of the patent (hereinafter referred to as a "patent administrator").

２　特許管理人は、一切の手続及びこの法律又はこの法律に基づく命令の規定により行政庁がした処分を不服とする訴訟について本人を代理する。ただし、在外者が特許管理人の代理権の範囲を制限したときは、この限りでない。

(2) The patent administrator acts as the principal in all procedures and litigation objecting to dispositions reached by an administrative agency pursuant to the provisions of this Act or an order that is based on this Act; provided, however, that this does not apply if the overseas resident limits the scope of authority of agency of the patent administrator.

（代理権の範囲）

(Scope of Authority of Agency)

第九条　日本国内に住所又は居所（法人にあつては、営業所）を有する者であつて手続をするものの委任による代理人は、特別の授権を得なければ、特許出願の変更、放棄若しくは取下げ、特許権の存続期間の延長登録の出願の取下げ、請求、申請若しくは申立ての取下げ、第四十一条第一項の優先権の主張若しくはその取下げ、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、出願公開の請求、拒絶査定不服審判の請求、特許権の放棄又は復代理人の選任をすることができない。

Article 9 Unless expressly empowered to do so, the privately appointed agent of a person that is domiciled or resident in Japan (in the case of a corporation, with a business office in Japan) and that is undertaking a procedure may not convert, abandon, or withdraw a patent application; withdraw an application to register extension of a patent right; withdraw a request, demand, application or motion; assert or withdraw a priority claim referred to in Article 41, paragraph (1); file a patent application based on the registration of a utility model under Article 46-2, paragraph (1); file a request for publication of an application; file an appeal against a rejection; waive a patent right; or appoint a subagent.

第十条　削除

Article 10 Deleted

（代理権の不消滅）

(Non-Extinguishment of Authority of Agency)

第十一条　手続をする者の委任による代理人の代理権は、本人の死亡若しくは本人である法人の合併による消滅、本人である受託者の信託に関する任務の終了又は法定代理人の死亡若しくはその代理権の変更若しくは消滅によつては、消滅しない。

Article 11 The authority of an agent appointed by mandate of a person undertaking procedures does not extinguish upon the death of the principal, or in the case of a corporation, extinction by merger of the principal, termination of entrusted duties of a trustee that is the principal, the death of the legal representative or change or extinction of the legal representative's authority.

（代理人の個別代理）

(Individual Representation by Agents)

第十二条　手続をする者の代理人が二人以上あるときは、特許庁に対しては、各人が本人を代理する。

Article 12 If there are two or more agents acting for a person that undertakes procedures, each of the agents act as the principal before the Japan Patent Office.

（代理人の改任等）

(Replacement of Agents)

第十三条　特許庁長官又は審判長は、手続をする者がその手続をするのに適当でないと認めるときは、代理人により手続をすべきことを命ずることができる。

Article 13 (1) If the Commissioner of the Japan Patent Office or the chief administrative judge finds that a person undertaking procedures is not competent to undertake the procedures, the commissioner or judge may order the person to undertake the procedures through an agent.

２　特許庁長官又は審判長は、手続をする者の代理人がその手続をするのに適当でないと認めるときは、その改任を命ずることができる。

(2) If the Commissioner of the Japan Patent Office or a chief administrative patent judge finds that an agent acting for a person undertaking procedures is not competent to undertake the procedures, the commissioner or judge may order that the agent be replaced.

３　特許庁長官又は審判長は、前二項の場合において、弁理士を代理人とすべきことを命ずることができる。

(3) In the case of the preceding two paragraphs, the Commissioner of the Japan Patent Office or the chief administrative judge may order that a patent attorney be made the agent.

４　特許庁長官又は審判長は、第一項又は第二項の規定による命令をした後に第一項の手続をする者又は第二項の代理人が特許庁に対してした手続を却下することができる。

(4) After the Commissioner of the Japan Patent Office or the chief administrative judge issues an order under paragraph (1) or (2), the commissioner or judge may dismiss the procedures before the Japan Patent Office undertaken by the person undertaking procedures referred to in paragraph (1) or the agent referred to in paragraph (2).

（複数当事者の相互代表）

(Mutual Representation of Multiple Parties)

第十四条　二人以上が共同して手続をしたときは、特許出願の変更、放棄及び取下げ、特許権の存続期間の延長登録の出願の取下げ、請求、申請又は申立ての取下げ、第四十一条第一項の優先権の主張及びその取下げ、出願公開の請求並びに拒絶査定不服審判の請求以外の手続については、各人が全員を代表するものとする。ただし、代表者を定めて特許庁に届け出たときは、この限りでない。

Article 14 If two or more persons jointly undertake a procedure, each of them acts as the agent of all of them with respect to procedures other than the conversion, abandonment and withdrawal of a patent application, the withdrawal of an application to register a patent term extension, the withdrawal of a request, demand, application, or motion, the assertion or withdrawal of a priority claim as referred to in Article 41, paragraph (1), a request for publication of an application, and the filing of an appeal against a rejection; provided, however, that this does not apply if the persons have appointed a representative for all of them and have notified the Japan Patent Office accordingly.

（在外者の裁判籍）

(Jurisdiction over Overseas Residents)

第十五条　在外者の特許権その他特許に関する権利については、特許管理人があるときはその住所又は居所をもつて、特許管理人がないときは特許庁の所在地をもつて民事訴訟法（平成八年法律第百九号）第五条第四号の財産の所在地とみなす。

Article 15 Regarding a patent right or other right under a patent of an overseas resident, the domicile or residence of the overseas resident's patent administrator, or if there is no patent administrator, the address of the Japan Patent Office, is deemed to be the location of the property under Article 5, item (iv) of the Code of Civil Procedure (Act No. 109 of 1996).

（手続をする能力がない場合の追認）

(Ratification of Acts of a Person Lacking Legal Capacity to Undertake Procedures)

第十六条　未成年者（独立して法律行為をすることができる者を除く。）又は成年被後見人がした手続は、法定代理人（本人が手続をする能力を取得したときは、本人）が追認することができる。

Article 16 (1) A procedure undertaken by a minor (excluding one with the legal capacity to conduct juridical acts independently) or an adult ward may be ratified by the person's legal representative (or by the adult ward, if the person later acquires the legal capacity to undertake procedures).

２　代理権がない者がした手続は、手続をする能力がある本人又は法定代理人が追認することができる。

(2) A procedure undertaken by a person with no authority to act as the principal may be ratified by the principal with the legal capacity to undertake procedures or the principal's legal representative.

３　被保佐人が保佐人の同意を得ないでした手続は、被保佐人が保佐人の同意を得て追認することができる。

(3) A person under curatorship may have a procedure that has been undertaken by a person under curatorship without the consent of the curator ratified by gaining the approval of the curator.

４　後見監督人がある場合において法定代理人がその同意を得ないでした手続は、後見監督人の同意を得た法定代理人又は手続をする能力を取得した本人が追認することができる。

(4) If there is a guardianship supervisor, a legal representative that grains the approval of the guardianship supervisor or a principal who acquires the legal capacity to undertake procedures may ratify a procedure that has been undertaken by the legal representative without the consent of the guardianship supervisor.

（手続の補正）

(Amendment of Proceedings)

第十七条　手続をした者は、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、次条から第十七条の五までの規定により補正をすることができる場合を除き、願書に添付した明細書、特許請求の範囲、図面若しくは要約書、第四十一条第四項若しくは第四十三条第一項（第四十三条の二第二項（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。）に規定する書面又は第百二十条の五第二項若しくは第百三十四条の二第一項の訂正若しくは訂正審判の請求書に添付した訂正した明細書、特許請求の範囲若しくは図面について補正をすることができない。

Article 17 (1) A person undertaking a procedure may make an amendment only while the case is pending before the Japan Patent Office; provided, however, that the person may not amend the description, claims, drawings, or abstract attached to the written application, a document prescribed in Article 41, paragraph (4) or Article 43, paragraph (1) (including as applied mutatis mutandis pursuant to Article 43-2, paragraph (2)) and including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)) and Article 43-3, paragraph (3)), or the corrected description, claims or drawings attached to the written request for correction or for a trial for correction as referred to in Article 120-5, paragraph (2) or Article 134-2, paragraph (1), unless an amendment may be made pursuant to the provisions of the following Article through Article 17-5.

２　第三十六条の二第二項の外国語書面出願の出願人は、前項本文の規定にかかわらず、同条第一項の外国語書面及び外国語要約書面について補正をすることができない。

(2) Notwithstanding the main clause of the preceding paragraph, an applicant filing an application written in a foreign language as referred to in Article 36-2, paragraph (2) may not amend the documents or abstract in a foreign language as referred to in Article 36-2, paragraph (1).

３　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。

(3) The Commissioner of the Japan Patent Office may order an amendment to be made with respect to a procedure with an adequate, specified period of time, in the following cases:

一　手続が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) the procedures do not comply with Article 7, paragraphs (1) through (3) or Article 9;

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) the procedure does not comply with the formal requirements specified by this Act or to an order that is based on this Act; and

三　手続について第百九十五条第一項から第三項までの規定により納付すべき手数料を納付しないとき。

(iii) the fees relating to the procedure that are to be paid pursuant to Article 195, paragraphs (1) through (3) have not been paid.

４　手続の補正（手数料の納付を除く。）をするには、次条第二項に規定する場合を除き、手続補正書を提出しなければならない。

(4) To amend procedures (except in the case of the payment of fees), a written amendment must be submitted, except for cases provided for in Article 17-2, paragraph (2).

（願書に添付した明細書、特許請求の範囲又は図面の補正）

(Amendment of the Description, Claims, or Drawings Attached to the Written Application)

第十七条の二　特許出願人は、特許をすべき旨の査定の謄本の送達前においては、願書に添付した明細書、特許請求の範囲又は図面について補正をすることができる。ただし、第五十条の規定による通知を受けた後は、次に掲げる場合に限り、補正をすることができる。

Article 17-2 (1) An applicant for a patent may amend the description, claims, or drawings attached to the written application, before the service of the certified copy of the examiner's decision notifying that a patent is to be granted; provided, however, that following the receipt of a notice provided under Article 50, an amendment may only be made in the following cases:

一　第五十条（第百五十九条第二項（第百七十四条第二項において準用する場合を含む。）及び第百六十三条第二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。）の規定による通知（以下この条において「拒絶理由通知」という。）を最初に受けた場合において、第五十条の規定により指定された期間内にするとき。

(i) the applicant receives the notice (hereinafter referred to in this Article as the "notice of grounds for rejection") under Article 50 (including as applied mutatis mutandis pursuant to Article 159, paragraph (2) (including as applied mutatis mutandis pursuant to Article 174, paragraph (2)) and Article 163, paragraph (2); hereinafter the same applies in this paragraph) for first time, and makes the amendment within the designated period of time pursuant to Article 50;

二　拒絶理由通知を受けた後第四十八条の七の規定による通知を受けた場合において、同条の規定により指定された期間内にするとき。

(ii) after receiving notice of grounds for rejection, the applicant receives a notice under Article 48-7 and makes the amendment within the period of time specified pursuant to the Article;

三　拒絶理由通知を受けた後更に拒絶理由通知を受けた場合において、最後に受けた拒絶理由通知に係る第五十条の規定により指定された期間内にするとき。

(iii) after receiving notice of grounds for rejection, the applicant receives another notice of grounds for rejection and makes the amendment within the period of time specified pursuant to Article 50 for the most recently received notice of grounds for rejection; and

四　拒絶査定不服審判を請求する場合において、その審判の請求と同時にするとき。

(iv) the applicant files an appeal against a rejection and makes the amendment at the same time as the appeal.

２　第三十六条の二第二項の外国語書面出願の出願人が、誤訳の訂正を目的として、前項の規定により明細書、特許請求の範囲又は図面について補正をするときは、その理由を記載した誤訳訂正書を提出しなければならない。

(2) If an applicant of an application written in a foreign language provided in Article 36-2, paragraph (2) amends a description, claims, or drawings pursuant to the preceding paragraph for the purpose of correcting a mistranslation, the applicant must submit a mistranslation correction form that gives the, reasons for the correction.

３　第一項の規定により明細書、特許請求の範囲又は図面について補正をするときは、誤訳訂正書を提出してする場合を除き、願書に最初に添付した明細書、特許請求の範囲又は図面（第三十六条の二第二項の外国語書面出願にあつては、同条第八項の規定により明細書、特許請求の範囲及び図面とみなされた同条第二項に規定する外国語書面の翻訳文（誤訳訂正書を提出して明細書、特許請求の範囲又は図面について補正をした場合にあつては、翻訳文又は当該補正後の明細書、特許請求の範囲若しくは図面）。第三十四条の二第一項及び第三十四条の三第一項において同じ。）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) Excluding the description, claims, or drawings are being amended pursuant to paragraph (1) through the submission of a mistranslation correction form, the amendment of matters must remain within the scope of the matters indicated in the description, claims, or drawings originally attached to the written application (in the case of an application written in a foreign language under Article 36-2, paragraph (2), the translation of foreign-language documents provided in Article 36-2, paragraph (2) that is deemed to constitute the description, claims, and drawings pursuant to Article 36-2, paragraph (8) (if the description, claims, or drawings has been amended through the submission of a mistranslation correction form, matters indicated in the translation or in the amended description, claims, and drawings)); the same applies in Article 34-2, paragraph (1) and Article 34-3, paragraph (1)).

４　前項に規定するもののほか、第一項各号に掲げる場合において特許請求の範囲について補正をするときは、その補正前に受けた拒絶理由通知において特許をすることができないものか否かについての判断が示された発明と、その補正後の特許請求の範囲に記載される事項により特定される発明とが、第三十七条の発明の単一性の要件を満たす一群の発明に該当するものとなるようにしなければならない。

(4) If an amendment beyond what is provided for in the preceding paragraph is made to a claim, in cases set forth in the items of paragraph (1), it must be made in such a way that the invention for which the pre-amendment notice of grounds for rejection indicates a judgment as to patentability and the invention defined by what is described in the claims after that amendment constitute a single group of inventions that satisfies the Article 37 requirement of unity of invention.

５　前二項に規定するもののほか、第一項第一号、第三号及び第四号に掲げる場合（同項第一号に掲げる場合にあつては、拒絶理由通知と併せて第五十条の二の規定による通知を受けた場合に限る。）において特許請求の範囲についてする補正は、次に掲げる事項を目的とするものに限る。

(5) If an amendment beyond what is provided for in the preceding two paragraphs is made to a claim in the cases of paragraph (1), items (i), (iii), and (iv) (for a case as set forth in item (i) of the paragraph, this is limited to the case where the applicant has received a notice under Article 50-2 along with the notice of grounds for rejection), the amendment of the claims is limited to that which is done for one of the following purposes:

一　第三十六条第五項に規定する請求項の削除

(i) the deletion of a claim provided for in Article 36, paragraph (5);

二　特許請求の範囲の減縮（第三十六条第五項の規定により請求項に記載した発明を特定するために必要な事項を限定するものであつて、その補正前の当該請求項に記載された発明とその補正後の当該請求項に記載される発明の産業上の利用分野及び解決しようとする課題が同一であるものに限る。）

(ii) the restriction of the claims (limited to the case where the restriction is to restrict matters required to identify the invention stated in a claim pursuant to Article 36, paragraph (5), and the industrial applicability and the problem to be solved by the invention stated in a claim prior to the amendment are identical to those after the amendment);

三　誤記の訂正

(iii) the correction of errors; and

四　明りようでない記載の釈明（拒絶理由通知に係る拒絶の理由に示す事項についてするものに限る。）

(iv) the explanation of an ambiguous statement (limited to matters stated as grounds for rejection in the notice of grounds for rejection).

６　第百二十六条第七項の規定は、前項第二号の場合に準用する。

(6) Article 126, paragraph (7) applies mutatis mutandis to the cases referred to in item (ii) of the preceding paragraph.

（要約書の補正）

(Amendment of the Abstract)

第十七条の三　特許出願人は、経済産業省令で定める期間内に限り、願書に添付した要約書について補正をすることができる。

Article 17-3 An applicant for a patent may amend the abstract attached to the written application within a period provided by Order of the Ministry of Economy, Trade and Industry.

（優先権主張書面の補正）

(Amendment of Document of Priority Claim)

第十七条の四　第四十一条第一項又は第四十三条第一項、第四十三条の二第一項（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の規定による優先権の主張をした者は、経済産業省令で定める期間内に限り、第四十一条第四項又は第四十三条第一項（第四十三条の二第二項（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る。

Article 17-4 A person that claims priority pursuant to the provisions under Article 41, paragraph (1) or Article 43, paragraph (1), Article 43-2, paragraph (1) (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)), or Article 43-3, paragraph (1) or (2) may amend the document prescribed in Article 41, paragraph (4) or Article 43, paragraph (1) (including as applied mutatis mutandis pursuant to Article 43-2, paragraph (2) (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)) and Article 43-3, paragraph (3)) only within a period provided by Order of the Ministry of Economy, Trade and Industry.

（訂正に係る明細書、特許請求の範囲又は図面の補正）

(Amendment of Corrected Descriptions, Claims, or Drawings)

第十七条の五　特許権者は、第百二十条の五第一項又は第六項の規定により指定された期間内に限り、同条第二項の訂正の請求書に添付した訂正した明細書、特許請求の範囲又は図面について補正をすることができる。

Article 17-5 (1) A patentee may amend a corrected description, claims, or drawings attached to the written request for correction pursuant to Article 120-5, paragraph (2) only within the period of time designated pursuant to Article 120-5, paragraph (1) or (6).

２　特許無効審判の被請求人は、第百三十四条第一項若しくは第二項、第百三十四条の二第五項、第百三十四条の三、第百五十三条第二項又は第百六十四条の二第二項の規定により指定された期間内に限り、第百三十四条の二第一項の訂正の請求書に添付した訂正した明細書、特許請求の範囲又は図面について補正をすることができる。

(2) The respondent in a trial for patent invalidation may amend the corrected description, claims, or drawings attached to the written request for correction as referred to in Article 134-2, paragraph (1) only within the period of time designated pursuant to Article 134, paragraph (1) or paragraph (2), Article 134-2, paragraph (5), Article 134-3, Article 153, paragraph (2), or Article 164-2, paragraph (2).

３　訂正審判の請求人は、第百五十六条第一項の規定による通知がある前（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る前）に限り、訂正審判の請求書に添付した訂正した明細書、特許請求の範囲又は図面について補正をすることができる。

(3) The petitioner in a trial for correction may amend the corrected description, claims, or drawings attached to the written request for a trial for correction, only prior to the notice under Article 156, paragraph (1) (or, if the proceedings are reopened as under Article 156, paragraph (3), prior to the notice under Article 156, paragraph (1) following this).

（手続の却下）

(Dismissal of Procedures)

第十八条　特許庁長官は、第十七条第三項の規定により手続の補正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補正をしないとき、又は特許権の設定の登録を受ける者が第百八条第一項に規定する期間内に特許料を納付しないときは、その手続を却下することができる。

Article 18 (1) The Commissioner of the Japan Patent Office may dismiss the procedures if a person ordered to make an amendment to the procedures pursuant to Article 17, paragraph (3) fails to make the amendment within the period of time the commissioner has specified pursuant to those provisions, or if the person obtaining the registration of the establishment of the patent rights fails to pay patent fees within the period of time provided for in Article 108, paragraph (1).

２　特許庁長官は、第十七条第三項の規定により第百九十五条第三項の規定による手数料の納付をすべきことを命じた特許出願人が第十七条第三項の規定により指定した期間内にその手数料の納付をしないときは、当該特許出願を却下することができる。

(2) The Commissioner of the Japan Patent Office may dismiss a patent application if the patent applicant to which the commissioner has issued an order pursuant to Article 17, paragraph (3) to pay a patent fees under Article 195, paragraph (3) fails to pay the patent fees within the period of time the commissioner has specified pursuant to Article 17, paragraph (3).

（不適法な手続の却下）

(Dismissal of Non-Compliant Procedure)

第十八条の二　特許庁長官は、不適法な手続であつて、その補正をすることができないものについては、その手続を却下するものとする。ただし、第三十八条の二第一項各号に該当する場合は、この限りでない。

Article 18-2 (1) The Commissioner of the Japan Patent Office is to dismiss a procedure that is not compliant and not amendable; provided, however, that this does not apply if the procedure falls under any of the items of Article 38-2, paragraph (1).

２　前項の規定により却下しようとするときは、手続をした者に対し、その理由を通知し、相当の期間を指定して、弁明を記載した書面（以下「弁明書」という。）を提出する機会を与えなければならない。

(2) If the Commissioner of the Japan Patent Office intends to dismiss a procedure under the preceding paragraph, the commissioner must notify the person undertaking the procedure of the grounds therefor and give the person an opportunity to submit a document stating an explanation (hereinafter referred to as a "written explanation") within an adequate specified period of time.

（願書等の提出の効力発生時期）

(Effective Time of Submission of Written Application)

第十九条　願書又はこの法律若しくはこの法律に基づく命令の規定により特許庁に提出する書類その他の物件であつてその提出の期間が定められているものを郵便又は民間事業者による信書の送達に関する法律（平成十四年法律第九十九号。以下この条において「信書便法」という。）第二条第六項に規定する一般信書便事業者若しくは同条第九項に規定する特定信書便事業者の提供する同条第二項に規定する信書便（以下「信書便」という。）の役務であつて経済産業省令で定めるものにより提出した場合において、その願書又は物件を日本郵便株式会社の営業所（郵便の業務を行うものに限る。）に差し出した日時を郵便物の受領証により証明したときはその日時に、その郵便物又は信書便法第二条第三項に規定する信書便物（以下この条において「信書便物」という。）の通信日付印により表示された日時が明瞭であるときはその日時に、その郵便物又は信書便物の通信日付印により表示された日時のうち日のみが明瞭であつて時刻が明瞭でないときは表示された日の午後十二時に、その願書又は物件は、特許庁に到達したものとみなす。

Article 19 An application, a document or any other item submitted by mail or by service of correspondence delivery as provided in Article 2, paragraph (2) of the Act on Correspondence Delivery by Private Business Operators (Act No. 99 of 2002; hereinafter referred to as the "Correspondence Delivery Act" in this Article) provided by a general correspondence delivery service provider as provided in Article 2, paragraph (6) of the Act or by a specified correspondence delivery service provider as provided in Article 2, paragraph (9) of the Act (hereinafter referred to as "correspondence delivery") that is prescribed by Order of the Ministry of Economy, Trade and Industry to the Japan Patent Office under this Act, or any order rendered under this Act, that is subject to a time limit, is deemed to have arrived at the Japan Patent Office at the date and time when such application or item is presented to a business office of Japan Post Co., Ltd. (limited to those that conduct postal services) if such date and time are proven by the receipt of the postal item, at the date and time of the date stamp on the postal item or the letter item as provided in Article 2, paragraph (3) of the Correspondence Delivery Act (hereinafter referred to as the "letter item" in this Article) if such date and time are clearly legible, or at 12:00 p.m. of the day of the date stamp on the postal item or letter item if only the day, but not the time, of the date stamp is clearly legible.

（手続の効力の承継）

(Succession of Effects of Procedures)

第二十条　特許権その他特許に関する権利についてした手続の効力は、その特許権その他特許に関する権利の承継人にも、及ぶものとする。

Article 20 The effects of the procedures involving a patent right or any right relating to a patent extend to a successor in title.

（手続の続行）

(Continuation of Procedures)

第二十一条　特許庁長官又は審判長は、特許庁に事件が係属している場合において、特許権その他特許に関する権利の移転があつたときは、特許権その他特許に関する権利の承継人に対し、その事件に関する手続を続行することができる。

Article 21 When a patent right or any right under a patent is transferred while the case involving is pending with the Japan Patent Office, the Commissioner of the Japan Patent Office or a chief administrative judge may continue the proceedings in that case with a successor in title to the patent right or other right under the patent.

（手続の中断又は中止）

(Continuance or Suspension of Procedures)

第二十二条　特許庁長官又は審判官は、決定、査定又は審決の謄本の送達後に中断した手続の受継の申立について、受継を許すかどうかの決定をしなければならない。

Article 22 (1) On a motion to substitute a party in proceedings that have become subject to a continuance following the service of a certified copy of a ruling, examiner's decision or decision on a trial or appeal, the Commissioner of the Japan Patent Office or the administrative judges must rule on whether to permit the substitution.

２　前項の決定は、文書をもつて行い、かつ、理由を附さなければならない。

(2) The ruling as referred to in the preceding paragraph must be issued in writing and the reasons for that ruling must be given.

第二十三条　特許庁長官又は審判官は、中断した審査、特許異議の申立てについての審理及び決定、審判又は再審の手続を受け継ぐべき者が受継を怠つたときは、申立てにより又は職権で、相当の期間を指定して、受継を命じなければならない。

Article 23 (1) If the person that should undertake to substitute as the party to examination, proceedings, ruling on an opposition to a granted patent, or a trial and appeal or retrial and re-appeal that has become subject to a continuance fails to do so, the Commissioner of the Japan Patent Office or the administrative judges must order the person to substitute as a party within an adequate specified period of time, upon a motion or by the commissioner's or judges' own authority.

２　特許庁長官又は審判官は、前項の規定により指定した期間内に受継がないときは、その期間の経過の日に受継があつたものとみなすことができる。

(2) If the party is not substituted within the period of time that the Commissioner of the Japan Patent Office or the administrative judge specifies pursuant to the preceding paragraph, the commissioner or the judge may deem the party to be substituted on the date on which the period of time elapses.

３　特許庁長官又は審判長は、前項の規定により受継があつたものとみなしたときは、その旨を当事者に通知しなければならない。

(3) If a party is deemed to have been substituted pursuant to the preceding paragraph, the Commissioner of the Japan Patent Office or the chief administrative judge must notify the parties thereof.

第二十四条　民事訴訟法第百二十四条（第一項第六号を除く。）、第百二十六条、第百二十七条、第百二十八条第一項、第百三十条、第百三十一条及び第百三十二条第二項（訴訟手続の中断及び中止）の規定は、審査、特許異議の申立てについての審理及び決定、審判又は再審の手続に準用する。この場合において、同法第百二十四条第二項中「訴訟代理人」とあるのは「審査、特許異議の申立てについての審理及び決定、審判又は再審の委任による代理人」と、同法第百二十七条中「裁判所」とあるのは「特許庁長官又は審判長」と、同法第百二十八条第一項及び第百三十一条中「裁判所」とあるのは「特許庁長官又は審判官」と、同法第百三十条中「裁判所」とあるのは「特許庁」と読み替えるものとする。

Article 24 The provisions of Article 124 of the Code of Civil Procedure (excluding paragraph (1), item (vi)), Articles 126 through 127, Article 128, paragraph (1), Articles 130 and 131, and Article 132, paragraph (2) (effect of continuances and suspensions of litigation proceedings) of that Code apply mutatis mutandis to a procedure for an examination, for proceedings and a ruling on an opposition to a granted patent, or for a trial and appeal, or retrial and re-appeal. In this case, the term "litigation representative" in Article 124, paragraph (2) of the Code is deemed to be replaced with "privately appointed agent entrusted with the examination, or proceedings and a ruling on an opposition to a granted patent, or a trial and appeal, or retrial and re-appeal", the term "court" in Article 127 of the Code is deemed to be replaced with "Commissioner of the Japan Patent Office or a chief administrative judge", the term "court" in Article 128, paragraph (1) and Article 131 of the Code is deemed to be replaced with "Commissioner of the Japan Patent Office or the administrative judges", and the term "court" in Article 130 of the Code is deemed to be replaced with " Japan Patent Office".

（外国人の権利の享有）

(Enjoyment of Rights by Foreign Nationals)

第二十五条　日本国内に住所又は居所（法人にあつては、営業所）を有しない外国人は、次の各号の一に該当する場合を除き、特許権その他特許に関する権利を享有することができない。

Article 25 A foreign national not domiciled or resident in Japan (or it is a corporation, without a business office in Japan) may not enjoy a patent nor rights or other rights under a patent, except in the following items:

一　その者の属する国において、日本国民に対しその国民と同一の条件により特許権その他特許に関する権利の享有を認めているとき。

(i) the country of the foreign national allows Japanese nationals the enjoyment of a patent right or other rights relating to a patent based on the same conditions as for its own nationals;

二　その者の属する国において、日本国がその国民に対し特許権その他特許に関する権利の享有を認める場合には日本国民に対しその国民と同一の条件により特許権その他特許に関する権利の享有を認めることとしているとき。

(ii) if the country of the foreign national has decided to allow Japanese nationals the enjoyment of patent rights or other rights under patents based on the same conditions as for its own nationals so long as Japan allows nationals of that country the enjoyment of patent rights or other rights under patents; or

三　条約に別段の定があるとき。

(iii) otherwise provided by a treaty.

（条約の効力）

(Effect of Treaties)

第二十六条　特許に関し条約に別段の定があるときは、その規定による。

Article 26 If specific provisions on patents are established by treaty, those provisions prevail.

（特許原簿への登録）

(Registration in the Patent Register)

第二十七条　次に掲げる事項は、特許庁に備える特許原簿に登録する。

Article 27 (1) The following matters are registered in the patent register maintained in the Japan Patent Office:

一　特許権の設定、存続期間の延長、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 patent right, extension of its term, its transfer, modification under a trust, extinction, restoration, or 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 license, its preservation, transfer, modification, extinction, and restrictions on its disposal;

三　特許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 patent right or exclusive license, the transfer of such a pledge, its modification, extinction or restrictions its disposal; and

四　仮専用実施権の設定、保存、移転、変更、消滅又は処分の制限

(iv) the establishment of a provisional exclusive license, its preservation, transfer, modification, extinction, or restriction on its disposal.

２　特許原簿は、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 patent register may be prepared, in whole or in part, on a magnetic tape (including any other storage media using a similar method that is able to record and reliably store certain matters; 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) Beyond what is provided for in this Act, the necessary matters as regards registration are prescribed by Cabinet Order.

（特許証の交付）

(Issuance of a Patent Certificate)

第二十八条　特許庁長官は、特許権の設定の登録があつたとき、第七十四条第一項の規定による請求に基づく特許権の移転の登録があつたとき、又は願書に添付した明細書、特許請求の範囲若しくは図面の訂正をすべき旨の決定若しくは審決が確定した場合において、その登録があつたときは、特許権者に対し、特許証を交付する。

Article 28 (1) The Commissioner of the Japan Patent Office issues a patent certificate to the patentee when the establishment of a patent right is registered, and issues the same if the transfer of a patent right is registered based on a request under Article 74, paragraph (1), or if a ruling or a decision on a trial or appeal to correct the description, claims, or drawings attached to the written application becomes final and binding, is registered.

２　特許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 the patent certificate is prescribed by Order of the Ministry of Economy, Trade and Industry.

第二章　特許及び特許出願

Chapter II Patents and Patent Applications

（特許の要件）

(Requirements for Patentability)

第二十九条　産業上利用することができる発明をした者は、次に掲げる発明を除き、その発明について特許を受けることができる。

Article 29 (1) A person that invents an invention with industrial applicability may obtain a patent for that invention, unless the invention is as follows:

一　特許出願前に日本国内又は外国において公然知られた発明

(i) an invention that is public knowledge within Japan or in a foreign country prior to the filing of the patent application;

二　特許出願前に日本国内又は外国において公然実施をされた発明

(ii) an invention that is publicly known to be worked within Japan or in a foreign country prior to the filing of the patent application; or

三　特許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発明又は電気通信回線を通じて公衆に利用可能となつた発明

(iii) an invention that is described in a distributed publication or made available for public use over telecommunications lines within Japan or in a foreign country prior to the filing of the patent application.

２　特許出願前にその発明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発明に基いて容易に発明をすることができたときは、その発明については、同項の規定にかかわらず、特許を受けることができない。

(2) A person may not obtain a patent if prior to the filing of the patent application, a person of ordinary skill in the art of the invention would have easily been able to make that invention based on an invention prescribed in the items of the preceding paragraph, notwithstanding the preceding paragraph.

第二十九条の二　特許出願に係る発明が当該特許出願の日前の他の特許出願又は実用新案登録出願であつて当該特許出願後に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（以下「特許掲載公報」という。）の発行若しくは出願公開又は実用新案法（昭和三十四年法律第百二十三号）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実用新案公報（以下「実用新案掲載公報」という。）の発行がされたものの願書に最初に添付した明細書、特許請求の範囲若しくは実用新案登録請求の範囲又は図面（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）に記載された発明又は考案（その発明又は考案をした者が当該特許出願に係る発明の発明者と同一の者である場合におけるその発明又は考案を除く。）と同一であるときは、その発明については、前条第一項の規定にかかわらず、特許を受けることができない。ただし、当該特許出願の時にその出願人と当該他の特許出願又は実用新案登録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 29-2 Notwithstanding Article 29, paragraph (1), a person may not obtain a patent if an invention in a patent application is identical to an invention or device described in the description, patent claims, utility model claims, or drawings (or, for application written in a foreign language as referred to in Article 36-2, paragraph (2) the foreign-language documents as referred to in Article 36-2, paragraph (1)) which originally attached to the written application for another patent application or utility model registration filed prior to the date the relevant patent application is filed: with regard to which an issue of the patent gazette giving the particulars set forth in the items of Article 66, paragraph (3) of the Patent Act (hereinafter referred to as the "gazette which the patent appears") is published pursuant to Article 66 paragraph(3), the application is published, or an issue of the utility model gazette giving the particulars set forth in the items of Article 14, paragraph (3) of the Utility Model Act (Act No. 123 of 1959) (hereinafter referred to as "gazette in which the utility model appears") is published pursuant to Article 14, paragraph (3) of that Act subsequent to the filing of the relevant application (this excludes any invention or device whose inventor is the same as the inventor of the invention in the relevant patent application); provided, however, that this does not apply if, at the time a patent application is filed, the person filing that patent application and the person filing the other application for patent or for utility model registration are the same person.

（発明の新規性の喪失の例外）

(Exception to the Loss of Novelty of Invention)

第三十条　特許を受ける権利を有する者の意に反して第二十九条第一項各号のいずれかに該当するに至つた発明は、その該当するに至つた日から一年以内にその者がした特許出願に係る発明についての同項及び同条第二項の規定の適用については、同条第一項各号のいずれかに該当するに至らなかつたものとみなす。

Article 30 (1) In applying Article 29, paragraph (1) and (2) to an invention in a patent application that a person with the right to obtain a patent files within one year from the date on which the invention, contrary to that person's intention comes to fall under one of the items of Article 29, paragraphs (1), the intention is deemed not to fall under any of those items.

２　特許を受ける権利を有する者の行為に起因して第二十九条第一項各号のいずれかに該当するに至つた発明（発明、実用新案、意匠又は商標に関する公報に掲載されたことにより同項各号のいずれかに該当するに至つたものを除く。）も、その該当するに至つた日から一年以内にその者がした特許出願に係る発明についての同項及び同条第二項の規定の適用については、前項と同様とする。

(2) The preceding paragraph also applies with respect to the of application of Article 29, paragraphs (1) and (2) to invention in a patent application that person with the right to obtain a patent files within one year after the date on which the invention, through that person's actions, comes to fall under one of the items of Article 29, paragraph (1) (excluding an invention which has come to fall under any of the items of Article 29, paragraph (1) due to being contained in a gazette relating to an invention, utility model, design, or trademark).

３　前項の規定の適用を受けようとする者は、その旨を記載した書面を特許出願と同時に特許庁長官に提出し、かつ、第二十九条第一項各号のいずれかに該当するに至つた発明が前項の規定の適用を受けることができる発明であることを証明する書面（次項において「証明書」という。）を特許出願の日から三十日以内に特許庁長官に提出しなければならない。

(3) Any person seeking to have the preceding paragraph applied must submit a document stating that fact to the Commissioner of the Japan Patent Office when filing the patent application, and, must submit to the commissioner a document evidencing that the invention that comes to fall under one of the items of Article 29, paragraph (1) is an invention to which the preceding paragraph is applicable (referred to as a "proving document" in the following paragraph), within thirty days after the date of filing of the patent application.

４　証明書を提出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証明書を提出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証明書を特許庁長官に提出することができる。

(4) If a person that is to submit a proving document prescribed in the preceding paragraph is unable to submit the proving document within the period provided in the paragraph due to reasons beyond the person's control, the person may submit the proving document to the Commissioner of the Japan Patent Office within 14 days (if the person is an overseas resident, within two months) from the date on which the reasons ceased to be applicable, but not later than six months following the passage of the period, notwithstanding the preceding paragraph.

第三十一条　削除

Article 31 Deleted

（特許を受けることができない発明）

(Unpatentable Inventions)

第三十二条　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発明については、第二十九条の規定にかかわらず、特許を受けることができない。

Article 32 An invention that is likely to disrupt public order, corrupt public morals, or harm public health may not be patented, notwithstanding Article 29.

（特許を受ける権利）

(Right to Be Granted a Patent)

第三十三条　特許を受ける権利は、移転することができる。

Article 33 (1) The right to be granted a patent may be transferred.

２　特許を受ける権利は、質権の目的とすることができない。

(2) The right to be granted a patent may not be pledged.

３　特許を受ける権利が共有に係るときは、各共有者は、他の共有者の同意を得なければ、その持分を譲渡することができない。

(3) When the right to be granted a patent is co-owned, no co-owner may transfer the co-owner's respective share without the consent of all the other co-owners.

４　特許を受ける権利が共有に係るときは、各共有者は、他の共有者の同意を得なければ、その特許を受ける権利に基づいて取得すべき特許権について、仮専用実施権を設定し、又は他人に仮通常実施権を許諾することができない。

(4) When the right to be granted a patent is co-owned, no co-owner may establish a provisional exclusive license or grant a provisional non-exclusive license on the patent right to be obtained based on the right to be granted a patent without the consent of all the other co-owners.

第三十四条　特許出願前における特許を受ける権利の承継は、その承継人が特許出願をしなければ、第三者に対抗することができない。

Article 34 (1) Succession to a right to be granted a patent prior to the filing of a patent application may not be asserted against any third party unless the successor in title files the patent application.

２　同一の者から承継した同一の特許を受ける権利について同日に二以上の特許出願があつたときは、特許出願人の協議により定めた者以外の者の承継は、第三者に対抗することができない。

(2) If two or more patent applications are filed on the same date based on the right to be granted a patent based on succession from the same person, succession by a person other than one selected by consultations between the applicants may not be asserted against a third party.

３　同一の者から承継した同一の発明及び考案についての特許を受ける権利及び実用新案登録を受ける権利について同日に特許出願及び実用新案登録出願があつたときも、前項と同様とする。

(3) The preceding paragraph applies if applications for a patent or for the registration of a utility model are filed on the same date based on the right to be granted a patent or the right to be granted a utility model registration for the same invention or device based on succession from the same person.

４　特許出願後における特許を受ける権利の承継は、相続その他の一般承継の場合を除き、特許庁長官に届け出なければ、その効力を生じない。

(4) No succession to a right to be granted a patent after the filing of the patent application is effective unless the Commissioner of the Japan Patent Office is notified, except in the case of general successions including inheritance.

５　特許を受ける権利の相続その他の一般承継があつたときは、承継人は、遅滞なく、その旨を特許庁長官に届け出なければならない。

(5) If an inheritance or other general succession to the right to be granted a patent occurs, the successor in title must notify the Commissioner of the Japan Patent Office thereof without delay.

６　同一の者から承継した同一の特許を受ける権利の承継について同日に二以上の届出があつたときは、届出をした者の協議により定めた者以外の者の届出は、その効力を生じない。

(6) If two or more notifications are filed on the same date regarding successions to the right to be granted a patent based on succession from the same person, no notification by a person other than the person selected by consultations between the persons submitting the notifications has effect.

７　第三十九条第六項及び第七項の規定は、第二項、第三項及び前項の場合に準用する。

(7) Article 39, paragraphs (6) and (7) apply mutatis mutandis to the cases prescribed in paragraphs (2), (3), and (6).

（仮専用実施権）

(Provisional Exclusive Licenses)

第三十四条の二　特許を受ける権利を有する者は、その特許を受ける権利に基づいて取得すべき特許権について、その特許出願の願書に最初に添付した明細書、特許請求の範囲又は図面に記載した事項の範囲内において、仮専用実施権を設定することができる。

Article 34-2 (1) A person that has the right to be granted a patent may establish a provisional exclusive license with regard to the patent right to be obtained based on the right to be granted a patent within the scope of the matters indicated in the description, claims, or drawings originally attached to the written application.

２　仮専用実施権に係る特許出願について特許権の設定の登録があつたときは、その特許権について、当該仮専用実施権の設定行為で定めた範囲内において、専用実施権が設定されたものとみなす。

(2) If a patent right is registered concerning a patent application that is related to a provisional exclusive license, an exclusive license to the patent is deemed to be established for the patent right within the scope specified by the act of establishing the provisional exclusive license.

３　仮専用実施権は、その特許出願に係る発明の実施の事業とともにする場合、特許を受ける権利を有する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。

(3) A provisional exclusive license may be transferred only if the business involving the working of the invention under the patent application is also transferred, the consent of a person with the right to be granted a patent or as a result of general succession including inheritance.

４　仮専用実施権者は、特許を受ける権利を有する者の承諾を得た場合に限り、その仮専用実施権に基づいて取得すべき専用実施権について、他人に仮通常実施権を許諾することができる。

(4) A provisional exclusive licensee may only grant a provisional non-exclusive license under the exclusive license to be obtained based on the provisional exclusive license to a third party only if the consent of a person that has the right to be granted a patent is obtained.

５　仮専用実施権に係る特許出願について、第四十四条第一項の規定による特許出願の分割があつたときは、当該特許出願の分割に係る新たな特許出願に係る特許を受ける権利に基づいて取得すべき特許権について、当該仮専用実施権の設定行為で定めた範囲内において、仮専用実施権が設定されたものとみなす。ただし、当該設定行為に別段の定めがあるときは、この限りでない。

(5) If a patent application to which a provisional exclusive license is linked is divided pursuant to Article 44, paragraph (1), a provisional exclusive license is deemed to have been established with regard to the patent right to be obtained based on the right to be granted a patent to which a new patent application resulting from the division of the patent application to the extent permitted by the act establishing the provisional exclusive license; provided, however, that this does not apply when otherwise provided by the act of establishing the provisional exclusive license.

６　仮専用実施権は、その特許出願について特許権の設定の登録があつたとき、その特許出願が放棄され、取り下げられ、若しくは却下されたとき又はその特許出願について拒絶をすべき旨の査定若しくは審決が確定したときは、消滅する。

(6) A provisional exclusive license is forfeited if the establishment of the patent right is registered in connection with the patent application, if the patent application is waived, withdrawn, or dismissed, or if an examiner's decision or trial decision rejecting the patent application becomes final and binding.

７　仮専用実施権者は、第四項又は次条第七項本文の規定による仮通常実施権者があるときは、これらの者の承諾を得た場合に限り、その仮専用実施権を放棄することができる。

(7) If there is a provisional non-exclusive licensee under paragraph (4) or in the main clause of paragraph (7) of the following Article, the provisional exclusive licensee may waive the provisional exclusive license only if the consent of the provisional non-exclusive licensee is obtained.

８　第三十三条第二項から第四項までの規定は、仮専用実施権に準用する。

(8) Article 33, paragraphs (2) through (4) apply mutatis mutandis to a provisional exclusive license.

（仮通常実施権）

(Provisional Non-Exclusive Licenses)

第三十四条の三　特許を受ける権利を有する者は、その特許を受ける権利に基づいて取得すべき特許権について、その特許出願の願書に最初に添付した明細書、特許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 34-3 (1) A person that has the right to be granted a patent may grant another party a provisional non-exclusive license to the patent right is to be obtained based on the right to be granted a patent within the scope of the matters indicated in the description, claims, or drawings originally attached to the written patent application.

２　前項の規定による仮通常実施権に係る特許出願について特許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、その特許権について、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) If the establishment of a patent right has been registered concerning a patent application that is related to a provisional non-exclusive license under the preceding paragraph, a non-exclusive license to the patent is deemed to be granted for the patent right to a person that has the provisional non-exclusive license to the extent permitted by the act establishing the provisional non-exclusive license.

３　前条第二項の規定により、同条第四項の規定による仮通常実施権に係る仮専用実施権について専用実施権が設定されたものとみなされたときは、当該仮通常実施権を有する者に対し、その専用実施権について、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。

(3) If an exclusive license is deemed to have been established with regard to a provisional exclusive license related to a provisional non-exclusive license under Article 34-2, paragraph (4) pursuant to Article 34-2, paragraph (2), with regard to the exclusive license, the non-exclusive license is deemed to have been granted to a person that has the provisional non-exclusive license to the extent permitted by the act establishing the provisional non-exclusive license.

４　仮通常実施権は、その特許出願に係る発明の実施の事業とともにする場合、特許を受ける権利を有する者（仮専用実施権に基づいて取得すべき専用実施権についての仮通常実施権にあつては、特許を受ける権利を有する者及び仮専用実施権者）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。

(4) A provisional non-exclusive license may be transferred only if the business involving the working of invention under the patent application is also transferred, the consent of a person that has the right to be granted a patent (in the case of a provisional non-exclusive license on the exclusive license to be obtained based on the provisional exclusive license, a person that has the right to be granted a patent and a provisional exclusive licensee) is obtained, or the transfer occurs as a result of general succession including inheritance.

５　第一項若しくは前条第四項又は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第四十一条第一項の先の出願の願書に最初に添付した明細書、特許請求の範囲若しくは実用新案登録請求の範囲又は図面（当該先の出願が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）に記載された発明に基づいて第四十一条第一項の規定による優先権の主張があつたときは、当該仮通常実施権を有する者に対し、当該優先権の主張を伴う特許出願に係る特許を受ける権利に基づいて取得すべき特許権について、当該仮通常実施権の設定行為で定めた範囲内において、仮通常実施権が許諾されたものとみなす。ただし、当該設定行為に別段の定めがあるときは、この限りでない。

(5) If a priority claim under Article 41, paragraph (1) is made based on the invention described in the description, claims, or drawings (if the earlier application is an application written in a foreign language under Article 36-2, paragraph (2), foreign-language documents provided in Article 36-2, paragraph (1)) originally attached to the written application for the earlier application as referred to in Article 41, paragraph (1) to which a provisional non-exclusive license under paragraph (1) or Article 34-2, paragraph (4), or Article 4-2, paragraph (1) of the Utility Model Act is linked, the provisional non-exclusive license is deemed to have been granted to a person that has the provisional non-exclusive license on the patent right to be obtained based on the right to be granted a patent pertaining to the patent application containing the priority claim to the extent permitted by the act establishing the provisional non-exclusive license; provided, however, that this does not apply when otherwise provided by the act of establishment.

６　仮通常実施権に係る特許出願について、第四十四条第一項の規定による特許出願の分割があつたときは、当該仮通常実施権を有する者に対し、当該特許出願の分割に係る新たな特許出願に係る特許を受ける権利に基づいて取得すべき特許権について、当該仮通常実施権の設定行為で定めた範囲内において、仮通常実施権が許諾されたものとみなす。ただし、当該設定行為に別段の定めがあるときは、この限りでない。

(6) If a patent application to which a provisional non-exclusive license is linked is divided pursuant to Article 44, paragraph (1), a provisional non-exclusive license is deemed to have been granted to a person that has the provisional non-exclusive license for the patent right to be obtained based on the right to be granted a patent under a new patent application resulting from the division of the patent application to the extent permitted by the act establishing the provisional non-exclusive license; provided, however, that this does not apply when otherwise provided by the act of establishment.

７　前条第五項本文の規定により、同項に規定する新たな特許出願に係る特許を受ける権利に基づいて取得すべき特許権についての仮専用実施権（以下この項において「新たな特許出願に係る仮専用実施権」という。）が設定されたものとみなされたときは、当該新たな特許出願に係るもとの特許出願に係る特許を受ける権利に基づいて取得すべき特許権についての仮専用実施権に基づいて取得すべき専用実施権についての仮通常実施権を有する者に対し、当該新たな特許出願に係る仮専用実施権に基づいて取得すべき専用実施権について、当該仮通常実施権の設定行為で定めた範囲内において、仮通常実施権が許諾されたものとみなす。ただし、当該設定行為に別段の定めがあるときは、この限りでない。

(7) If the provisional exclusive license to a patent right that is to be obtained based on the right to be granted a patent to which a new patent application as provided in Article 34-2, paragraph (5) pertains (hereinafter in this paragraph referred to as the "provisional exclusive license linked to the new patent application") is deemed to have been established pursuant to the main clause of Article 34-2, paragraph (5), a person with a provisional non-exclusive license under the exclusive license that was to be obtained based on the provisional exclusive license to the patent that was to be obtained based on the right to be granted the patent to which the original patent application with which that new patent application is connected pertains is deemed to have been granted, a provisional non-exclusive license under the provisional exclusive license linked to the new patent application, within the extent permitted by the act establishing the provisional non-exclusive license; provided, however, that this does not apply if otherwise specified by the act of establishment.

８　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、第四十六条第一項の規定による出願の変更があつたときは、当該仮通常実施権を有する者に対し、当該出願の変更に係る特許出願に係る特許を受ける権利に基づいて取得すべき特許権について、当該仮通常実施権の設定行為で定めた範囲内において、仮通常実施権が許諾されたものとみなす。ただし、当該設定行為に別段の定めがあるときは、この限りでない。

(8) If an application is converted pursuant to Article 46, paragraph (1) with regard to an application for utility model registration to which a provisional non-exclusive license under Article 4-2, paragraph (1) of the Utility Model Act is linked, the provisional non-exclusive license is deemed to have been granted to a person that has the provisional non-exclusive license on a patent right to be obtained based on the right to be granted a patent to which the patent application resulting from the conversion of the application to the extent permitted by the act establishing the provisional non-exclusive license; provided, however, that this does not apply when otherwise provided by the act of establishment.

９　意匠法（昭和三十四年法律第百二十五号）第五条の二第一項の規定による仮通常実施権に係る意匠登録出願について、第四十六条第二項の規定による出願の変更があつたときは、当該仮通常実施権を有する者に対し、当該出願の変更に係る特許出願に係る特許を受ける権利に基づいて取得すべき特許権について、当該仮通常実施権の設定行為で定めた範囲内において、仮通常実施権が許諾されたものとみなす。ただし、当該設定行為に別段の定めがあるときは、この限りでない。

(9) If an application is converted pursuant to Article 46, paragraph (2) with regard to an application for design registration to which a provisional non-exclusive license under Article 5-2, paragraph (1) of the Design Act (Act No.125 of 1959) is linked, the provisional non-exclusive license is deemed to have been granted to a person that has the provisional non-exclusive license with regard to a patent right to be obtained based on the right to be granted a patent to which the patent application resulting from the conversion of the application to the extent permitted by the act establishing the provisional non-exclusive license; provided, however, that this does not apply when otherwise provided by the act of establishment.

１０　仮通常実施権は、その特許出願について特許権の設定の登録があつたとき、その特許出願が放棄され、取り下げられ、若しくは却下されたとき又はその特許出願について拒絶をすべき旨の査定若しくは審決が確定したときは、消滅する。

(10) A provisional non-exclusive license is forfeited when the establishment of a patent right has been registered, the patent application has been waived, withdrawn, or declined, or an examiner's decision or decision on a trial or appeal rejecting the patent application becomes final and binding.

１１　前項に定める場合のほか、前条第四項の規定又は第七項本文の規定による仮通常実施権は、その仮専用実施権が消滅したときは、消滅する。

(11) Beyond the case provided for in the preceding paragraph, the provisional non-exclusive license under Article 34-2, paragraph (4) or the main clause of paragraph (7) is forfeited when the provisional exclusive license is forfeited.

１２　第三十三条第二項及び第三項の規定は、仮通常実施権に準用する。

(12) Article 33, paragraphs (2) and (3) apply mutatis mutandis to a provisional non-exclusive license.

（登録の効果）

(Effect of Registration)

第三十四条の四　仮専用実施権の設定、移転（相続その他の一般承継によるものを除く。）、変更、消滅（混同又は第三十四条の二第六項の規定によるものを除く。）又は処分の制限は、登録しなければ、その効力を生じない。

Article 34-4 (1) The establishment, transfer (excluding a transfer arising from general succession including inheritance), amendment, forfeiture (other than due to merger or under Article 34-2, paragraph (6)) or a restriction of disposition of a provisional exclusive license has no effect unless it is registered.

２　前項の相続その他の一般承継の場合は、遅滞なく、その旨を特許庁長官に届け出なければならない。

(2) Matters of general succession including inheritance as referred to in the preceding paragraph take place, must be notified to the Commissioner of the Japan Patent Office without delay.

（仮通常実施権の対抗力）

(Assertion of Provisional Non-Exclusive License)

第三十四条の五　仮通常実施権は、その許諾後に当該仮通常実施権に係る特許を受ける権利若しくは仮専用実施権又は当該仮通常実施権に係る特許を受ける権利に関する仮専用実施権を取得した者に対しても、その効力を有する。

Article 34-5 A provisional non-exclusive license has effect on any person that, after the grant thereof, has obtained the right to be granted a patent pertaining to the provisional non-exclusive license, or a provisional exclusive license, or a provisional exclusive license on the right to be granted a patent pertaining to the provisional non-exclusive license.

（職務発明）

(Employee Inventions)

第三十五条　使用者、法人、国又は地方公共団体（以下「使用者等」という。）は、従業者、法人の役員、国家公務員又は地方公務員（以下「従業者等」という。）がその性質上当該使用者等の業務範囲に属し、かつ、その発明をするに至つた行為がその使用者等における従業者等の現在又は過去の職務に属する発明（以下「職務発明」という。）について特許を受けたとき、又は職務発明について特許を受ける権利を承継した者がその発明について特許を受けたときは、その特許権について通常実施権を有する。

Article 35 (1) If an employee, officer of a corporation, or a national or local government (hereinafter referred to as an "employee, etc.") has obtained a patent for an invention which, by its nature, falls within the scope of the business of an employer, a corporation, or a national or local government (hereinafter referred to as an "employer, etc. ") and was achieved by an act categorized as a present or past duty of the employee, etc. performed for the employer, etc. (hereinafter referred to as "employee invention"), or if a successor to the right to be granted a patent for the employee invention has obtained a patent therefor, the employer, etc. has a non-exclusive license on the patent right.

２　従業者等がした発明については、その発明が職務発明である場合を除き、あらかじめ、使用者等に特許を受ける権利を取得させ、使用者等に特許権を承継させ、又は使用者等のため仮専用実施権若しくは専用実施権を設定することを定めた契約、勤務規則その他の定めの条項は、無効とする。

(2) In the case of an invention by an employee, etc. other than an employee invention, any provisions in any agreement, employment regulation, or any other stipulation providing in advance that the right to be granted a patent is acquired by the employer, etc., that the patent rights for any invention made by an employee, etc. are vested in the employer, etc., or that a provisional exclusive license or exclusive license for the invention is established for the employer, etc., is null and void.

３　従業者等がした職務発明については、契約、勤務規則その他の定めにおいてあらかじめ使用者等に特許を受ける権利を取得させることを定めたときは、その特許を受ける権利は、その発生した時から当該使用者等に帰属する。

(3) In the case of an employee invention by an employee, etc., when it is prescribed in any agreement, employment regulation or any other stipulation providing in advance that the right to be granted a patent for any employee invention is vested in the employer, etc., the right to be granted a patent belongs to the employer, etc. from its occurrence.

４　従業者等は、契約、勤務規則その他の定めにより職務発明について使用者等に特許を受ける権利を取得させ、使用者等に特許権を承継させ、若しくは使用者等のため専用実施権を設定したとき、又は契約、勤務規則その他の定めにより職務発明について使用者等のため仮専用実施権を設定した場合において、第三十四条の二第二項の規定により専用実施権が設定されたものとみなされたときは、相当の金銭その他の経済上の利益（次項及び第七項において「相当の利益」という。）を受ける権利を有する。

(4) If an employee, etc. in accordance with any, employment regulation, or any other stipulation, vests the right to be granted a patent and the patent right for an employee invention in the employer, etc., or establishes an exclusive license therefor for the employer, etc., or if an exclusive license is deemed to have been established pursuant to Article 34-2, paragraph (2), and if the employee, etc., in accordance with any agreement, employment regulation, or any other stipulation, establishes a provisional exclusive license therefor for the employer, etc., for an employee invention, the employee, etc. has the right to receive a reasonable amount of money or other economic benefits (referred to as "reasonable benefits" in the next paragraph and paragraph (7)).

５　契約、勤務規則その他の定めにおいて相当の利益について定める場合には、相当の利益の内容を決定するための基準の策定に際して使用者等と従業者等との間で行われる協議の状況、策定された当該基準の開示の状況、相当の利益の内容の決定について行われる従業者等からの意見の聴取の状況等を考慮して、その定めたところにより相当の利益を与えることが不合理であると認められるものであつてはならない。

(5) If the provisions of a contract, employment regulation, or any other stipulation establishes for reasonable benefits, providing reasonable benefits in accordance with those provisions must not be considered unreasonable in light of circumstances in which a negotiation between the employer, etc. and the employee, etc. has taken place in order to set standards for the determination of the reasonable benefits, the set standards have been disclosed, and the opinions of the employee, etc. on the determination of the content of the reasonable benefits have been received, and any other relevant circumstances.

６　経済産業大臣は、発明を奨励するため、産業構造審議会の意見を聴いて、前項の規定により考慮すべき状況等に関する事項について指針を定め、これを公表するものとする。

(6) In order to encourage inventions, the Minister of Economy, Trade and Industry is to establish guidelines on matters concerning circumstances, etc. to be considered under the preceding paragraph and publish them after hearing the opinion of the Industrial Structure Council.

７　相当の利益についての定めがない場合又はその定めたところにより相当の利益を与えることが第五項の規定により不合理であると認められる場合には、第四項の規定により受けるべき相当の利益の内容は、その発明により使用者等が受けるべき利益の額、その発明に関連して使用者等が行う負担、貢献及び従業者等の処遇その他の事情を考慮して定めなければならない。

(7) If there are no provisions setting forth the reasonable benefits, or if it is found pursuant to paragraph (5) that the reasonable benefits to be granted in accordance with the relevant provisions are unreasonable, the content of the reasonable benefits to receive referred to in paragraph (4) must be set in compensation of the amount of profit to be gained by the employer, etc. from the invention, the burden and contribution of the employer, etc., and how the employer, etc. treats the employee, etc. and any other circumstances connected with the invention.

（特許出願）

(Patent Applications)

第三十六条　特許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 36 (1) A person seeking a patent must submit a written application to the Commissioner of the Japan Patent Office stating the following:

一　特許出願人の氏名又は名称及び住所又は居所

(i) the name and domicile or residence of the applicant for the patent; and

二　発明者の氏名及び住所又は居所

(ii) the name and domicile or residence of the inventor.

２　願書には、明細書、特許請求の範囲、必要な図面及び要約書を添付しなければならない。

(2) A description, claims, required drawings, and abstract must be attached to the written 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) The description referred to in the preceding paragraph must state the following:

一　発明の名称

(i) the title of the invention;

二　図面の簡単な説明

(ii) A brief explanation of the drawings; and

三　発明の詳細な説明

(iii) a detailed explanation of the invention.

４　前項第三号の発明の詳細な説明の記載は、次の各号に適合するものでなければならない。

(4) The statement of the detailed explanation of the invention referred to in item (iii) of the preceding paragraph must comply with each of the following items:

一　経済産業省令で定めるところにより、その発明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たものであること。

(i) as provided by Order of the Ministry of Economy, Trade and Industry, it is clear and sufficient to enable a person ordinarily skilled in the art of the invention to work the invention; and

二　その発明に関連する文献公知発明（第二十九条第一項第三号に掲げる発明をいう。以下この号において同じ。）のうち、特許を受けようとする者が特許出願の時に知つているものがあるときは、その文献公知発明が記載された刊行物の名称その他のその文献公知発明に関する情報の所在を記載したものであること。

(ii) if the person seeking the grant of a patent has knowledge of any invention (meaning an invention as provided in Article 29, paragraph (1), item (iii), hereinafter the same applies in this item) that is connected to the person's invention and that, as of the time the person files the patent application, has become a published, publicly-known invention appears and gives the whereabouts of other information on it.

５　第二項の特許請求の範囲には、請求項に区分して、各請求項ごとに特許出願人が特許を受けようとする発明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、一の請求項に係る発明と他の請求項に係る発明とが同一である記載となることを妨げない。

(5) In claims referred to in paragraph (2), the patent applicant must state all matters that the applicant finds to be necessary for defining the invention for which the patent is sought, separately for each claim. In this case, an invention specified by a statement in one claim may be the same invention specified by a statement in another claim.

６　第二項の特許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 statement of the claims referred to in paragraph (2) must comply with each of the following items:

一　特許を受けようとする発明が発明の詳細な説明に記載したものであること。

(i) the invention for which the patent is sought is stated in the detailed explanation of the invention;

二　特許を受けようとする発明が明確であること。

(ii) the invention for which a patent 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) the statement is composed in accordance with Order of the Ministry of Economy, Trade and Industry.

７　第二項の要約書には、明細書、特許請求の範囲又は図面に記載した発明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 invention described in the description, claims, or drawings, and state any other matters specified by Order of the Ministry of Economy, Trade and Industry.

第三十六条の二　特許を受けようとする者は、前条第二項の明細書、特許請求の範囲、必要な図面及び要約書に代えて、同条第三項から第六項までの規定により明細書又は特許請求の範囲に記載すべきものとされる事項を経済産業省令で定める外国語で記載した書面及び必要な図面でこれに含まれる説明をその外国語で記載したもの（以下「外国語書面」という。）並びに同条第七項の規定により要約書に記載すべきものとされる事項をその外国語で記載した書面（以下「外国語要約書面」という。）を願書に添付することができる。

Article 36-2 (1) A person seeking the grant of a patent may, in lieu of the description, claims, required drawings and abstract referred to in paragraph (2) of the preceding Article, attach to the written application a document in a foreign language provided by Order of the Ministry of Economy, Trade and Industry, stating matters required to be stated in the description or the claims under paragraphs (3) through (6) of the Article, and required drawings containing any descriptive text in the foreign language (hereinafter referred to as a "foreign-language document"), and a document in the foreign language stating matters required to be stated in the abstract pursuant to paragraph (7) of the Article (hereinafter referred to as "foreign-language abstract").

２　前項の規定により外国語書面及び外国語要約書面を願書に添付した特許出願（以下「外国語書面出願」という。）の出願人は、その特許出願の日（第四十一条第一項の規定による優先権の主張を伴う特許出願にあつては、同項に規定する先の出願の日、第四十三条第一項、第四十三条の二第一項（第四十三条の三第三項において準用する場合を含む。）又は第四十三条の三第一項若しくは第二項の規定による優先権の主張を伴う特許出願にあつては、最初の出願若しくはパリ条約（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をいう。以下同じ。）第四条Ｃ（４）の規定により最初の出願とみなされた出願又は同条Ａ（２）の規定により最初の出願と認められた出願の日、第四十一条第一項、第四十三条第一項、第四十三条の二第一項（第四十三条の三第三項において準用する場合を含む。）又は第四十三条の三第一項若しくは第二項の規定による二以上の優先権の主張を伴う特許出願にあつては、当該優先権の主張の基礎とした出願の日のうち最先の日。第六十四条第一項において同じ。）から一年四月以内に外国語書面及び外国語要約書面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、当該外国語書面出願が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、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又は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にあつては、本文の期間の経過後であつても、その特許出願の分割、出願の変更又は実用新案登録に基づく特許出願の日から二月以内に限り、外国語書面及び外国語要約書面の日本語による翻訳文を提出することができる。

(2) The applicant for a written patent application to which foreign-language documents and a foreign-language abstract are attached pursuant to the preceding paragraph (hereinafter referred to as an "application written in a foreign language") must submit to the Commissioner of the Japan Patent Office Japanese translations of the foreign-language documents and the foreign-language abstract within one year and four months from the date of filing of the patent application (in the case of a patent application containing a priority claim under Article 41, paragraph (1), the filing date of the earlier application provided for in the paragraph; in the case of a patent application containing a priority claim under Article 43, paragraph (1), Article 43-2, paragraph (1) (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)), or Article 43-3, paragraph (1) or (2), the filing date of the earliest application, the filing date of the patent application that is deemed to be the earliest application under Article 4.C(4) of the Paris Convention (meaning the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised in Brussels on December 14, 1900, Washington on June 2, 1911, The Hague on November 6, 1925, London on June 2, 1934, Lisbon on October 31, 1958, and Stockholm on July 14, 1967; the same applies hereinafter), or the filing date of the patent application that is recognized as the earliest application under Article 4.A(2) of the Paris Convention; and in the case of a patent application containing two or more priority claims under Article 41, paragraph (1), Article 43, paragraph (1), Article 43-2, paragraph (1) (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)), or Article 43-3 paragraph (1) or (2), the earliest of the filing dates on which the priority claims are based; the same applies to Article 64, paragraph (1)); provided, however, that if the application written in a foreign language is a new patent application arising from the division of a patent application under Article 44, paragraph (1), or a patent application arising from the conversion of an application under Article 46, paragraph (1) or (2), or a patent application based on a utility model registration under Article 46-2, paragraph (1), the applicant may submit Japanese translations of the foreign-language documents and the foreign-language abstract even after the lapse of the period prescribed in the main clause, but only within two months following the division of the patent application, conversion of application, or filing of patent application based on a utility model registration.

３　特許庁長官は、前項本文に規定する期間（同項ただし書の規定により外国語書面及び外国語要約書面の翻訳文を提出することができるときは、同項ただし書に規定する期間。以下この条において同じ。）内に同項に規定する外国語書面及び外国語要約書面の翻訳文の提出がなかつたときは、外国語書面出願の出願人に対し、その旨を通知しなければならない。

(3) When the translation of foreign-language documents and the foreign- language abstract provided in the preceding paragraph has not been submitted within the period prescribed in the main clause of the paragraph (the time limit prescribed in the proviso to the paragraph if the translation of foreign-language documents and the foreign-language abstract may be submitted pursuant to the proviso to the paragraph; hereinafter the same applies in this Article), the Commissioner of the Japan Patent Office must notify the applicant of the application written in a foreign language thereof.

４　前項の規定による通知を受けた者は、経済産業省令で定める期間内に限り、第二項に規定する外国語書面及び外国語要約書面の翻訳文を特許庁長官に提出することができる。

(4) A person that has received the notice provided in the preceding paragraph may submit the translations of foreign-language documents and the foreign-language abstract provided in paragraph (2) to the Commissioner of the Japan Patent Office only within the period provided by Order of the Ministry of Economy, Trade and Industry.

５　前項に規定する期間内に外国語書面（図面を除く。）の第二項に規定する翻訳文の提出がなかつたときは、その特許出願は、同項本文に規定する期間の経過の時に取り下げられたものとみなす。

(5) When the translations of foreign-language documents (excluding drawings) provided for in paragraph (2) are not submitted within the period prescribed in paragraph (4), the patent application is deemed to have been withdrawn upon passage of the period prescribed in the main clause of the paragraph.

６　前項の規定により取り下げられたものとみなされた特許出願の出願人は、経済産業省令で定める期間内に限り、経済産業省令で定めるところにより、第二項に規定する外国語書面及び外国語要約書面の翻訳文を特許庁長官に提出することができる。ただし、故意に、第四項に規定する期間内に前項に規定する翻訳文を提出しなかつたと認められる場合は、この限りでない。

(6) The applicant of a patent application that has been deemed to have been withdrawn pursuant to the provisions of the preceding paragraph may submit translations of the foreign-language documents and the foreign-language abstract under paragraph (2) to the Commissioner of the Japan Patent Office pursuant to Order of the Ministry of Economy, Trade and Industry, only within the period provided by Order of the Ministry of Economy, Trade and Industry; provided, however, that this does not apply if the applicant is found to have intentionally failed to submit translations prescribed in the preceding paragraph within the period prescribed in paragraph (4).

７　第四項又は前項の規定により提出された翻訳文は、第二項本文に規定する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。

(7) The translation submitted under paragraph (4) or the preceding paragraph is deemed to have been submitted to the Commissioner of the Japan Patent Office at the time of expiration of the period prescribed in the main clause of paragraph (2).

８　第二項に規定する外国語書面の翻訳文は前条第二項の規定により願書に添付して提出した明細書、特許請求の範囲及び図面と、第二項に規定する外国語要約書面の翻訳文は同条第二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。

(8) The translations of foreign-language documents provided in paragraph (2) are deemed to be the description, claims, and drawings submitted with the written application pursuant to paragraph (2) of the preceding Article, and the translation of the foreign-language abstract provided for in paragraph (2) is deemed to be the abstract submitted with the written application pursuant to paragraph (2) of the preceding Article.

第三十七条　二以上の発明については、経済産業省令で定める技術的関係を有することにより発明の単一性の要件を満たす一群の発明に該当するときは、一の願書で特許出願をすることができる。

Article 37 Two or more inventions may be the subject of a single patent application in the same written application provided that these inventions are of a group of inventions recognized as fulfilling the requirements of unity of invention based on their technical relationship specified by Order of the Ministry of Economy, Trade and Industry.

（共同出願）

(Co-Applications)

第三十八条　特許を受ける権利が共有に係るときは、各共有者は、他の共有者と共同でなければ、特許出願をすることができない。

Article 38 If the right to the grant a patent is co-owned, a patent application may only be filed by all the co-owners.

（特許出願の日の認定）

(Certification of Filing Date)

第三十八条の二　特許庁長官は、特許出願が次の各号のいずれかに該当する場合を除き、特許出願に係る願書を提出した日を特許出願の日として認定しなければならない。

Article 38-2 (1) The Commissioner of the Japan Patent Office must certify the date on which a written application with regard to a patent application is submitted as the date of the filing of the patent application, except when the patent application falls under any of the following items:

一　特許を受けようとする旨の表示が明確でないと認められるとき。

(i) it is found that the indication of requesting the grant of a patent is not clear;

二　特許出願人の氏名若しくは名称の記載がなく、又はその記載が特許出願人を特定できる程度に明確でないと認められるとき。

(ii) there is no statement of the name of the applicant or it is found that the statement of the name is not sufficiently clear to specify the applicant; or

三　明細書（外国語書面出願にあつては、明細書に記載すべきものとされる事項を第三十六条の二第一項の経済産業省令で定める外国語で記載した書面。以下この条において同じ。）が添付されていないとき（次条第一項に規定する方法により特許出願をするときを除く。）。

(iii) the description (in an application written in a foreign language, the matters to be stated in the description are stated in a foreign language provided by Order of the Ministry of Economy, Trade and Industry referred to in Article 36-2, paragraph (1); hereinafter, the same applies in this Article) is not attached to the application (except when the patent application is filed by a method prescribed in paragraph (1) of the following Article).

２　特許庁長官は、特許出願が前項各号のいずれかに該当するときは、特許を受けようとする者に対し、特許出願について補完をすることができる旨を通知しなければならない。

(2) If the patent application falls under any of the items of the preceding paragraph, the Commissioner of the Japan Patent Office must notify the person requesting the grant of a patent to the effect that the patent application may be supplemented.

３　前項の規定による通知を受けた者は、経済産業省令で定める期間内に限り、その補完をすることができる。

(3) A person that has received a notice provided under the preceding paragraph may supplement the patent application only within the period provided by Order of the Ministry of Economy, Trade and Industry.

４　前項の規定により補完をするには、経済産業省令で定めるところにより、手続の補完に係る書面（以下「手続補完書」という。）を提出しなければならない。ただし、同項の規定により明細書について補完をする場合には、手続補完書の提出と同時に明細書を提出しなければならない。

(4) If supplementing a patent application pursuant to the preceding paragraph, a document with respect to the supplement (hereinafter referred to as a "written supplement") must be submitted in accordance with Order of the Ministry of Economy, Trade and Industry; provided, however, that if supplementing with regard to the description pursuant to the preceding paragraph, the description must be submitted at the same time as the submission of the written supplement.

５　第三項の規定により明細書について補完をする場合には、手続補完書の提出と同時に第三十六条第二項の必要な図面（外国語書面出願にあつては、必要な図面でこれに含まれる説明を第三十六条の二第一項の経済産業省令で定める外国語で記載したもの。以下この条において同じ。）を提出することができる。

(5) If supplementing a patent application pursuant to paragraph (3), required drawings of Article 36, paragraph (2) may be submitted at the same time as the submission of the written supplement (in the case of a written application in a foreign language, required drawings which contain any descriptive text in a foreign language provided by Order of the Ministry of Economy, Trade and Industry under Article 36-2, paragraph (1); hereinafter the same applies in this Article).

６　第二項の規定による通知を受けた者が第三項に規定する期間内にその補完をしたときは、その特許出願は、手続補完書を提出した時にしたものとみなす。この場合において、特許庁長官は、手続補完書を提出した日を特許出願の日として認定するものとする。

(6) If a patent application has been supplemented within the period under paragraph (3) by a person that has received a notice provided under paragraph (2), the patent application is deemed to have been filed at the time of submission of the written supplement. In this case, the Commissioner of the Japan Patent Office is to certify the date of filing of the patent application as the date on which the written supplement was submitted.

７　第四項ただし書の規定により提出された明細書は願書に添付して提出したものと、第五項の規定により提出された図面は願書に添付して提出したものとみなす。

(7) The description submitted pursuant to the proviso to paragraph (4) and the drawings submitted under paragraph (5) are deemed to have been submitted with the written application.

８　特許庁長官は、第二項の規定による通知を受けた者が第三項に規定する期間内にその補完をしないときは、その特許出願を却下することができる。

(8) If a person that has received a notice provided in paragraph (2) does not supplement the patent application within the period under paragraph (3), the Commissioner of the Japan Patent Office may decline the patent application.

９　特許を受けようとする者が第二項の規定による通知を受ける前に、その通知を受けた場合に執るべき手続を執つたときは、経済産業省令で定める場合を除き、当該手続は、その通知を受けたことにより執つた手続とみなす。

(9) If a person seeking the grant of a patent undertakes the procedures to be undertaken by a person upon reception of the notice under paragraph (2) prior to receiving the notice, the procedures are deemed to be undertaken by the person by receiving the notice, unless otherwise provided for by Order of the Ministry of Economy, Trade and Industry.

（先の特許出願を参照すべき旨を主張する方法による特許出願）

(Patent Application by a Method for Claiming to Refer to an Earlier Patent Application)

第三十八条の三　特許を受けようとする者は、外国語書面出願をする場合を除き、第三十六条第二項の規定にかかわらず、願書に明細書及び必要な図面を添付することなく、その者がした特許出願（外国においてしたものを含む。以下この条において「先の特許出願」という。）を参照すべき旨を主張する方法により、特許出願をすることができる。ただし、その特許出願が前条第一項第一号又は第二号に該当する場合は、この限りでない。

Article 38-3 (1) Except when filing a written-application in a foreign language, a person requesting the grant of a patent may file a patent application by a method for claiming to refer to a patent application made by the person (including one made in a foreign country, hereinafter referred to as an "earlier patent application" in this Article) without attaching a description or required drawings to the written application, notwithstanding Article 36, paragraph (2); provided, however, that this does not apply if the patent application falls under item (i) or (ii) of Article 38-2, paragraph (1).

２　前項に規定する方法により特許出願をしようとする者は、その旨及び先の特許出願に関し経済産業省令で定める事項を記載した書面を当該特許出願と同時に特許庁長官に提出しなければならない。

(2) A person filing a patent application by a method prescribed in the preceding paragraph must submit to the Commissioner of the Japan Patent Office a document stating that fact and matters provided by Order of the Ministry of Economy, Trade and Industry with regard to the earlier patent application, at the time of filing the patent application.

３　第一項に規定する方法により特許出願をした者は、経済産業省令で定める期間内に、当該特許出願に係る願書に添付して提出すべき明細書及び必要な図面並びに同項に規定する方法における主張に係る先の特許出願に関し経済産業省令で定める書類を提出しなければならない。

(3) A person that has filed a patent application by the method prescribed in paragraph (1) must submit the description and required drawings to be submitted with the written application for the patent application, and a document provided by Order of the Ministry of Economy, Trade and Industry with regard to the earlier patent application referred to using the method prescribed in the paragraph within the period specified by Order of the Ministry of Economy, Trade and Industry.

４　前項の規定により提出された明細書及び図面に記載した事項が、第一項に規定する方法における主張に係る先の特許出願の願書に添付した明細書、特許請求の範囲又は図面（当該先の特許出願が、外国語書面出願である場合にあつては外国語書面、外国においてしたものである場合にあつてはその出願に際し提出した書類であつて明細書、特許請求の範囲又は図面に相当するもの）に記載した事項の範囲内にない場合は、その特許出願は、前条第一項の規定にかかわらず、前項の規定により明細書及び図面を提出した時にしたものとみなす。

(4) If the matters stated in the description and drawings submitted pursuant to the preceding paragraph are not within the scope of the matters stated in the description, claims, or drawings attached to the written application of the earlier patent application referred to using the method prescribed in paragraph (1) (if the earlier patent application was an application written in a foreign language, foreign-language documents; if the earlier patent application was filed in a foreign country, documents which were submitted at the time of filing the application and correspond to the description, claims, or drawings), the patent application is deemed to have been filed at the time of submission of the description and drawings under the preceding paragraph, notwithstanding Article 38-2, paragraph (1).

５　第三項の規定により提出された明細書及び図面は、願書に添付して提出したものとみなす。

(5) The description and drawings submitted pursuant to paragraph (3) are deemed to be submitted with the written application.

６　前各項の規定は、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、第四十六条第一項又は第二項の規定による出願の変更に係る特許出願及び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については、適用しない。

(6) The preceding paragraphs of this Article do not apply to a new patent application arising from the division of a patent application under Article 44, paragraph (1), a patent application arising from the conversion of an application under Article 46, paragraph (1) or (2), or a patent application based on a utility model registration under Article 46-2, paragraph (1).

（明細書又は図面の一部の記載が欠けている場合の通知等）

(Notice When a Part of the Description or Drawings Lacks a Statement)

第三十八条の四　特許庁長官は、特許出願の日の認定に際して、願書に添付されている明細書又は図面（外国語書面出願にあつては、明細書に記載すべきものとされる事項を第三十六条の二第一項の経済産業省令で定める外国語で記載した書面又は必要な図面でこれに含まれる説明を同項の経済産業省令で定める外国語で記載したもの。以下この条において同じ。）について、その一部の記載が欠けていることを発見したときは、その旨を特許出願人に通知しなければならない。

Article 38-4 (1) When determining the date of filing of a patent application, if the Commissioner of the Japan Patent Office finds that a part of the description or drawings (in the case of an application written in a foreign language, a document in a foreign language provided by Order of the Ministry of Economy, Trade and Industry stating matters required to be stated in the description specified by Article 36-2, paragraph (1), and required drawings which contain descriptive text in the foreign language; hereinafter the same applies in this article) attached to the written application lacks a statement, the commissioner must notify the applicant thereof.

２　前項の規定による通知を受けた者は、経済産業省令で定める期間内に限り、明細書又は図面について補完をすることができる。

(2) A person that has received a notice provided under the preceding paragraph may supplement the description or drawings only within the period provided by Order of the Ministry of Economy, Trade and Industry.

３　前項の規定によりその補完をするには、経済産業省令で定めるところにより、明細書又は図面の補完に係る書面（以下この条及び第六十七条第三項第六号において「明細書等補完書」という。）を提出しなければならない。

(3) In order to supplement the description or drawings pursuant to the preceding paragraph, a document supplementing the description or drawings (hereinafter referred to as a "written supplement of the description or drawings" in this Article and Article 67, paragraph (3), item (vi)) must be submitted in accordance with Order of the Ministry of Economy, Trade and Industry.

４　第一項の規定による通知を受けた者が第二項に規定する期間内にその補完をしたときは、その特許出願は、第三十八条の二第一項又は第六項の規定にかかわらず、明細書等補完書を提出した時にしたものとみなす。ただし、その補完が第四十一条第一項の規定による優先権の主張又は第四十三条第一項、第四十三条の二第一項（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の規定による優先権の主張を伴う特許出願に係るものであつて、かつ、前項の規定により提出した明細書等補完書に記載した内容が経済産業省令で定める範囲内にあるときは、この限りでない。

(4) If a person that has received a notice provided under paragraph (1) supplements a patent application within the period provided in paragraph (2), notwithstanding Article 38-2, paragraph (1) or (6), the patent application is deemed to have been filed at the time of submitting the written supplement of the description or drawings; provided, however, that this does not apply if the supplement was made with regard to a patent application containing a priority claim under Article 41, paragraph (1), Article 43, paragraph (1), Article 43-2, paragraph (1) (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)), or Article 43-3, paragraph (1) or (2) and the contents stated in the written supplement of the description or drawings submitted pursuant to the preceding paragraph are within the scope provided by Order of the Ministry of Economy, Trade and Industry.

５　第二項の補完をした特許出願が、第三十八条の二第一項第一号又は第二号に該当する場合であつて、その補完に係る手続補完書を第三項の規定により明細書等補完書を提出した後に提出したときは、その特許出願は、前項の規定にかかわらず、当該手続補完書を提出した時にしたものとみなす。

(5) If a patent application supplemented referred to in paragraph (2) falls under Article 38-2, paragraph (1), item (i) or (ii), and the relevant written supplement has been submitted after the submission of the written supplement of the description or drawings pursuant to paragraph (3), the patent application is deemed to have been filed at the time of submitting that relevant written supplement, notwithstanding the preceding paragraph.

６　第二項の規定によりその補完をした明細書又は図面は、願書に添付して提出したものとみなす。

(6) The description or drawings supplemented pursuant to paragraph (2) are deemed to have been submitted with the written application.

７　第二項の補完をした者は、経済産業省令で定める期間内に限り、第三項の規定により提出した明細書等補完書を取り下げることができる。

(7) A person that has supplemented a specification referred to in paragraph (2) may withdraw the written supplement of the description or drawings submitted pursuant to paragraph (3) only within the period provided by Order of the Ministry of Economy, Trade and Industry.

８　前項の規定による明細書等補完書の取下げがあつたときは、その補完は、されなかつたものとみなす。

(8) If the written supplement of the description or drawings has been withdrawn under the preceding paragraph, the supplement is deemed to have not been made.

９　第三十八条の二第九項の規定は、第一項の規定による通知を受ける前に執つた手続に準用する。

(9) Article 38-2, paragraph (9) applies mutatis mutandis to the procedures made before receiving the notice under paragraph (1).

１０　前各項の規定は、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、第四十六条第一項又は第二項の規定による出願の変更に係る特許出願及び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については、適用しない。

(10) The preceding paragraphs of this article do not apply to a new patent application arising from the division of a patent application under Article 44, paragraph (1), a patent application arising from the conversion of an application under Article 46, paragraph (1) or (2), or a patent application based on a utility model registration under Article 46-2, paragraph (1).

（特許出願の放棄又は取下げ）

(Waiver or Withdrawal of Patent Application)

第三十八条の五　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、その特許出願を放棄し、又は取り下げることができる。

Article 38-5 If there is a person that has a provisional exclusive license on a patent application and the applicant of the patent may only waive or withdraw the patent application with the consent of that person.

（先願）

(Prior Application)

第三十九条　同一の発明について異なつた日に二以上の特許出願があつたときは、最先の特許出願人のみがその発明について特許を受けることができる。

Article 39 (1) If two or more patent applications claiming identical inventions are filed on different dates, only the applicant that filed the patent application on the earliest date may be granted a patent for the invention claimed.

２　同一の発明について同日に二以上の特許出願があつたときは、特許出願人の協議により定めた一の特許出願人のみがその発明について特許を受けることができる。協議が成立せず、又は協議をすることができないときは、いずれも、その発明について特許を受けることができない。

(2) If two or more patent applications claiming identical inventions are filed on the same date, only one applicant, selected by consultations between the applicants that filed the applications, may be granted a patent for the invention claimed. If no agreement is reached by consultations or consultations are unable to be held, none of the applicants may be granted a patent for the invention claimed.

３　特許出願に係る発明と実用新案登録出願に係る考案とが同一である場合において、その特許出願及び実用新案登録出願が異なつた日にされたものであるときは、特許出願人は、実用新案登録出願人より先に出願をした場合にのみその発明について特許を受けることができる。

(3) If the invention and the device claimed in applications for a patent and a utility model registration, respectively, are identical and the applications for a patent and a utility model registration are filed on different dates, the applicant for a patent may obtain a patent for the invention claimed, only if the application for a patent is filed prior to the application for a utility model registration.

４　特許出願に係る発明と実用新案登録出願に係る考案とが同一である場合（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（第四十四条第二項（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。）に係る発明とその実用新案登録に係る考案とが同一である場合を除く。）において、その特許出願及び実用新案登録出願が同日にされたものであるときは、出願人の協議により定めた一の出願人のみが特許又は実用新案登録を受けることができる。協議が成立せず、又は協議をすることができないときは、特許出願人は、その発明について特許を受けることができない。

(4) If the invention and the device claimed in applications for a patent and a utility model registration, respectively, are identical (excluding when an invention claimed in a patent application based on a utility model registration pursuant to Article 46-2, paragraph (1) (including a patent application that is deemed to have been filed at the time of filing of the relevant patent application Article 44, paragraph (2) (including as applied mutatis mutandis pursuant to Article 46, paragraph (6))) and a device in the utility model registration are identical) and the applications for the patent and a utility model registration are filed on the same date, only the applicants, selected by consultations between the applicants, may be granted a patent or a utility model registration. If no agreement is reached by consultations or no consultations are able to be held, the applicant for a patent may not be granted a patent for the invention claimed.

５　特許出願若しくは実用新案登録出願が放棄され、取り下げられ、若しくは却下されたとき、又は特許出願について拒絶をすべき旨の査定若しくは審決が確定したときは、その特許出願又は実用新案登録出願は、第一項から前項まで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第二項後段又は前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 an application for a patent or a utility model registration has been abandoned, withdrawn or dismissed, or the examiner's decision or decision on a trial or appeal to the effect that a patent application is to be rejected has become final and binding, the application for a patent or a utility model registration is deemed never to have been filed, for the purpose of application of paragraphs (1) through (4); provided, however, that this does not apply if the examiner's decision or decision on the trial or appeal to the effect that the patent application is to be rejected has become final and binding on the basis that the second sentence of paragraph (2) or (4) is applicable to the patent application.

６　特許庁長官は、第二項又は第四項の場合は、相当の期間を指定して、第二項又は第四項の協議をしてその結果を届け出るべき旨を出願人に命じなければならない。

(6) In the case referred to in paragraph (2) or (4), the Commissioner of the Japan Patent Office must order the applicants to hold consultations specified referred to in paragraph (2) or (4) and to report the results thereof within a reasonable specified period of time.

７　特許庁長官は、前項の規定により指定した期間内に同項の規定による届出がないときは、第二項又は第四項の協議が成立しなかつたものとみなすことができる。

(7) If a notification under the preceding paragraph is not filed within the period specified pursuant to the paragraph, the Commissioner of the Japan Patent Office may deem that no agreement referred to in paragraph (2) or (4) not to have been reached.

第四十条　削除

Article 40 Deleted

（特許出願等に基づく優先権主張）

(Priority Claim Based on a Patent Application)

第四十一条　特許を受けようとする者は、次に掲げる場合を除き、その特許出願に係る発明について、その者が特許又は実用新案登録を受ける権利を有する特許出願又は実用新案登録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、特許請求の範囲若しくは実用新案登録請求の範囲又は図面（先の出願が外国語書面出願である場合にあつては、外国語書面）に記載された発明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、その特許出願の際に、その承諾を得ている場合に限る。

Article 41 (1) A person seeking the grant of a patent may make a priority claim for an invention claimed in the patent application, based on an invention disclosed in the description or scope of claims for a patent, or scope of claims or drawings for a utility model registration (if the earlier application was an application written in a foreign language, the foreign-language documents) originally attached to the written application for an earlier application filed for a patent or utility model registration which the person has the right to obtain (hereinafter referred to as "earlier application"), except in the following cases; provided, however, that if there is a person that has a provisional exclusive license on the earlier application, a priority claim may be made only if the consent of the person is obtained at the time of filing the patent:

一　その特許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（その特許出願が故意に先の出願の日から一年以内にされなかつたものでないと認められる場合であつて、かつ、その特許出願が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されたものである場合を除く。）

(i) the patent application is not filed within one year from the date of the filing of the earlier application (excluding the case where the person is not found to have intentionally failed to file the patent application within one year from the filing date of the earlier application and the patent application is filed pursuant to Order of the Ministry of Economy, Trade and Industry within the period provided by Order of the Ministry of Economy, Trade and Industry);

二　先の出願が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、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又は実用新案法第十一条第一項において準用するこの法律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である場合

(ii) the earlier application is a new patent application arising from the division of a patent application under Article 44, paragraph (1), a patent application arising from the conversion of a patent application under Article 46, paragraph (1) or (2), a patent application based on a utility model registration under Article 46-2, paragraph (1), or a new utility model registration application arising from the division of a utility model registration application under Article 44, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1) of the Utility Model Act or a utility model registration application arising from the conversion of a utility model registration application under Article 10, paragraph (1) or (2) of the Utility Model Act;

三　先の出願が、その特許出願の際に、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 of the filing of the patent application, the earlier application has been waived, withdrawn, or dismissed;

四　先の出願について、その特許出願の際に、査定又は審決が確定している場合

(iv) at the time of the filing of the patent application, the examiner's decision or the decision on the trial or appeal for the earlier application has become final and binding; and

五　先の出願について、その特許出願の際に、実用新案法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 of the filing of the patent application, the registration establishing a utility model right under Article 14, paragraph (2) of the Utility Model Act with respect to the earlier application has been effected.

２　前項の規定による優先権の主張を伴う特許出願に係る発明のうち、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、特許請求の範囲若しくは実用新案登録請求の範囲又は図面（当該先の出願が外国語書面出願である場合にあつては、外国語書面）に記載された発明（当該先の出願が同項若しくは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第四十三条第一項、第四十三条の二第一項（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（これらの規定を同法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、特許請求の範囲若しくは実用新案登録請求の範囲又は図面に相当するものに限る。）に記載された発明を除く。）についての第二十九条、第二十九条の二本文、第三十条第一項及び第二項、第三十九条第一項から第四項まで、第六十九条第二項第二号、第七十二条、第七十九条、第八十一条、第八十二条第一項、第百四条（第六十五条第六項（第百八十四条の十第二項において準用する場合を含む。）において準用する場合を含む。）並びに第百二十六条第七項（第十七条の二第六項、第百二十条の五第九項及び第百三十四条の二第九項において準用する場合を含む。）、同法第七条第三項及び第十七条、意匠法第二十六条、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一項及び第三十三条の三第一項（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、当該特許出願は、当該先の出願の時にされたものとみなす。

(2) In applying Article 29, the main clause of Article 29-2, Article 30, paragraphs (1) and (2), Article 39, paragraphs (1) through (4), Article 69, paragraph (2), item (ii), Articles 72, 79, and 81, Article 82, paragraph (1), Article 104 (including as applied mutatis mutandis pursuant to Article 65, paragraph (6) (including as applied mutatis mutandis pursuant to Article 184-10, paragraph (2))) and Article 126, paragraph (7) (including as applied mutatis mutandis pursuant to Article 17-2, paragraph (6), Article 120-5, paragraph (9) and Article 134-2, paragraph (9)) of the Patent Act, Article 7, paragraph (3) and Article 17 of the Utility Model Act, Article 26, Article 31, paragraph (2) and Article 32, paragraph (2) of the Design Act, and Article 29, Article 33-2, paragraph (1) and Article 33-3, paragraph (1) of the Trademark Act (Act No. 127 of 1959) (including as those provisions are applied mutatis mutandis pursuant to Article 68, paragraph (3) of the Trademark Act( Act No. 127 of 1959)) to inventions claimed in a patent application containing a priority claim under the preceding paragraph, with regard to those that are indicated in the description or claims for a patent, or claims, or drawings for a utility model registration (if the earlier application was an application written in a foreign language, foreign-language documents) originally attached to the written application for the earlier application on which the priority claim is based (if the earlier application contains a priority claim under paragraph (1) or Article 8, paragraph (1) of the Utility Model Act, or Article 43, paragraph (1), Article 43-2, paragraph (1) (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)), or Article 43-3, paragraph (1) or (2) of the Patent Act (including as those provisions are applied mutatis mutandis pursuant to Article 11, paragraph (1) of the Utility Model Act), this excludes any inventions indicated in any documents (limited to those equivalent to the description, claims for a patent or utility model registration, or drawings) submitted at the time of filing of the application on which the priority claim in the earlier application is based), the patent application containing a priority claim is deemed to have been filed at the time of filing of the earlier application.,

３　第一項の規定による優先権の主張を伴う特許出願の願書に最初に添付した明細書、特許請求の範囲又は図面（外国語書面出願にあつては、外国語書面）に記載された発明のうち、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、特許請求の範囲若しくは実用新案登録請求の範囲又は図面（当該先の出願が外国語書面出願である場合にあつては、外国語書面）に記載された発明（当該先の出願が同項若しくは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第四十三条第一項、第四十三条の二第一項（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（これらの規定を同法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、特許請求の範囲若しくは実用新案登録請求の範囲又は図面に相当するものに限る。）に記載された発明を除く。）については、当該特許出願について特許掲載公報の発行又は出願公開がされた時に当該先の出願について出願公開又は実用新案掲載公報の発行がされたものとみなして、第二十九条の二本文又は同法第三条の二本文の規定を適用する。

(3) The earlier application is deemed to be published or to be published in the bulletin in which the utility model appears as the time that the relevant patent application is published in the gazette in which the patent appears or the relevant application is published, as regards the invention indicated in the description, claims, or drawings (or, if this is an application written in a foreign language, in the foreign-language documents) originally attached to the written application for a patent application containing a priority claim under paragraph (1), if the invention is also indicated in the description or claims for a patent, or claims or drawings for a utility model registration (or, if the earlier application was an application written in a foreign language, in the foreign-language documents) originally attached to the written application for the earlier application on which the priority claim is based (or, if the earlier application contains a priority claim under paragraph (1) or Article 8, paragraph (1) of the Utility Model Act, or Article 43, paragraph (1), Article 43-2, paragraph (1) (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)), or Article 43-3, paragraph (1) or (2) of the Patent Act (including as those provisions are applied mutatis mutandis pursuant to Article 11, paragraph (1) of the Utility Model Act), this excludes the inventions indicated in any documents (limited to those equivalent to the description or claims for a patent, or claims, or drawings for a utility model registration) submitted at the time of the filing of the application on which the priority claim in the earlier application is based), and the main clause of Article 29-2 of the Patent Act and the main clause of Article 3-2 of the Utility Model Act apply.

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 requesting to make a priority claim under paragraph (1) must submit to the Commissioner of the Japan Patent Office a document stating that fact and an indication of the earlier application within the period provided by Order of the Ministry of Economy, Trade and Industry.

（先の出願の取下げ等）

(Withdrawal of Earlier Application)

第四十二条　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実用新案法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 42 (1) An earlier application on which a priority claim is based under Article 41, paragraph (1) is deemed to be withdrawn when the period provided by Order of the Ministry of Economy, Trade and Industry from the filing date of the earlier application has lapsed; provided, however, that this does not apply if the earlier application has been abandoned, withdrawn or dismissed, the examiner's decision or decision on the trial or appeal for the earlier application has become final and binding, the registration establishing a utility model right under Article 14, paragraph (2) of the Utility Model Act with respect to the earlier application has been effected, or all priority claims based on the earlier application are withdrawn.

２　前条第一項の規定による優先権の主張を伴う特許出願の出願人は、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) The applicant of a patent application containing a priority claim under Article 41, paragraph (1) may not withdraw the priority claim after the period provided by Order of the Ministry of Economy, Trade and Industry from the passage of 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特許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 a patent application containing a priority claim under Article 41, paragraph (1) is withdrawn within the period provided by Order of the Ministry of Economy, Trade and Industry from the filing date of the earlier application, the priority claim is deemed to be withdrawn at the same time.

（パリ条約による優先権主張の手続）

(Priority Claim Procedures Under the Paris Convention)

第四十三条　パリ条約第四条Ｄ（１）の規定により特許出願について優先権を主張しようとする者は、その旨並びに最初に出願をし若しくは同条Ｃ（４）の規定により最初の出願とみなされた出願をし又は同条Ａ（２）の規定により最初に出願をしたものと認められたパリ条約の同盟国の国名及び出願の年月日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。

Article 43 (1) A person desiring to take advantage of the priority of a patent application pursuant to Article 4.D.(1) of the Paris Convention must submit a document to the Commissioner of the Japan Patent Office within the period provided by Order of the Ministry of the Economy, Trade and Industry, and giving the name of country of the Paris Convention Union in which the application was first filed, deemed to have first been filed pursuant to C.(4) of that Article, or found to have first been filed pursuant to A.(2) of the Article, and stating the filing date of the application.

２　前項の規定による優先権の主張をした者は、最初に出願をし、若しくはパリ条約第四条Ｃ（４）の規定により最初の出願とみなされた出願をし、若しくは同条Ａ（２）の規定により最初に出願をしたものと認められたパリ条約の同盟国の認証がある出願の年月日を記載した書面、その出願の際の書類で明細書、特許請求の範囲若しくは実用新案登録請求の範囲及び図面に相当するものの謄本又はこれらと同様な内容を有する公報若しくは証明書であつてその同盟国の政府が発行したものを次の各号に掲げる日のうち最先の日から一年四月以内に特許庁長官に提出しなければならない。

(2) A person that has made a priority claim as under the preceding paragraph must submit a document to the Commissioner of the Japan Patent Office showing the filing date of the application and bearing the certification of the country of the Paris Convention Union in which the application was first made, or found to have been first made pursuant to Article 4.C.(4) of the Paris Convention, or found to have first been made pursuant to A.(2) of the Article, as well as certified copies of documents equivalent to the description, patent claims or utility model registration claims, and drawings submitted at the time of the filing of the application, or any bulletin or certificate giving the same type of details that published by the government of that country, within one year and four months from the earliest of the following dates:

一　当該最初の出願若しくはパリ条約第四条Ｃ（４）の規定により当該最初の出願とみなされた出願又は同条Ａ（２）の規定により当該最初の出願と認められた出願の日

(i) the date of the first filing, the date of the filing that is deemed to be the first filing pursuant to Article 4.C.(4) of the Paris Convention, or the date of the filing that is found to be the first filing pursuant to A.(2) of that Article;

二　その特許出願が第四十一条第一項の規定による優先権の主張を伴う場合における当該優先権の主張の基礎とした出願の日

(ii) if the patent application contains a priority claim under Article 41, paragraph (1), the filing date of the application on which the priority claim is based; or

三　その特許出願が前項、次条第一項（第四十三条の三第三項において準用する場合を含む。）又は第四十三条の三第一項若しくは第二項の規定による他の優先権の主張を伴う場合における当該優先権の主張の基礎とした出願の日

(iii) if the patent application contains other priority claims as under the preceding paragraph, paragraph (1) of the next Article (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)), or Article 43-3, paragraph (1) or (2), the filing date of the application on which the priority claim is based.

３　第一項の規定による優先権の主張をした者は、最初の出願若しくはパリ条約第四条Ｃ（４）の規定により最初の出願とみなされた出願又は同条Ａ（２）の規定により最初の出願と認められた出願の番号を記載した書面を前項に規定する書類とともに特許庁長官に提出しなければならない。ただし、同項に規定する書類の提出前にその番号を知ることができないときは、当該書面に代えてその理由を記載した書面を提出し、かつ、その番号を知つたときは、遅滞なく、その番号を記載した書面を提出しなければならない。

(3) A person that has made a priority claim as under paragraph (1) must submit to the Commissioner of the Japan Patent Office a document specifying the filing number of the application which was first filed, is deemed to have been first filed pursuant to Article 4.C.(4) of the Paris Convention, or is recognized to have been first filed pursuant to A.(2) of the Article, beyond the documents provided in the preceding paragraph; provided, however, that if the filing number is not possible for the person to learn that filing number prior to the submission of the documents provided for in the paragraph, a document specifying the reason therefor must be submitted in lieu of the document specifying the filing number, and the document specifying the filing number must be submitted without delay once the person comes to know that number.

４　第一項の規定による優先権の主張をした者が第二項に規定する期間内に同項に規定する書類を提出しないときは、当該優先権の主張は、その効力を失う。

(4) If a person that has made a priority claim under paragraph (1) fails to submit the documents specified in paragraph (2) within the period provided therein, the priority claim is forfeited.

５　第二項に規定する書類に記載されている事項を電磁的方法（電子的方法、磁気的方法その他の人の知覚によつて認識することができない方法をいう。）によりパリ条約の同盟国の政府又は工業所有権に関する国際機関との間で交換することができる場合として経済産業省令で定める場合において、第一項の規定による優先権の主張をした者が、第二項に規定する期間内に、出願の番号その他の当該事項を交換するために必要な事項として経済産業省令で定める事項を記載した書面を特許庁長官に提出したときは、前二項の規定の適用については、第二項に規定する書類を提出したものとみなす。

(5) In applying of the preceding two paragraphs, the documents provided in paragraph (2) are deemed to be submitted in a case specified by Order of the Ministry of Economy, Trade and Industry, as one in which it is permissible for electronic or magnetic means (meaning an electronic means, a magnetic means, or any other means that is impossible to perceive through the human senses alone) to be used for exchanging the details given in the documents provided for in paragraph (2) with a country of the Paris Convention Union or an international organization involved in industrial property rights, if the person claiming priority as under paragraph (1) submits to the Commissioner of the Japan Patent Office a document stating the filing number of the application and other matters specified by Order of the Ministry of Economy, Trade and Industry as necessary for exchanging the matters, within the provided for in paragraph (2),

６　特許庁長官は、第二項に規定する期間内に同項に規定する書類又は前項に規定する書面の提出がなかつたときは、第一項の規定による優先権の主張をした者に対し、その旨を通知しなければならない。

(6) If a document prescribed in paragraph (2) or a document prescribed in the preceding paragraph has not been submitted within the period prescribed in paragraph (2), the Commissioner of the Japan Patent Office must notify the person that has made the priority claim under paragraph (1) to that effect.

７　前項の規定による通知を受けた者は、経済産業省令で定める期間内に限り、第二項に規定する書類又は第五項に規定する書面を特許庁長官に提出することができる。

(7) A person that has received a notice prescribed in the preceding paragraph may submit a document prescribed in paragraph (2) or a document prescribed in paragraph (5) to the Commissioner of the Japan Patent Office only within the period provided by Order of the Ministry of Economy, Trade and Industry.

８　第六項の規定による通知を受けた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第二項に規定する書類又は第五項に規定する書面を提出することができないときは、前項の規定にかかわらず、経済産業省令で定める期間内に、その書類又は書面を特許庁長官に提出することができる。

(8) If a person that has received a notice provided under paragraph (6) is unable to submit the documents provided in paragraph (2) or the document provided in paragraph (5) within the period provided under the preceding paragraph due to reasons beyond the person's control, notwithstanding the preceding paragraph, the person may submit to the Commissioner of the Japan Patent Office the documents within the period provided by Order of the Ministry of Economy, Trade and Industry.

９　第七項又は前項の規定により第二項に規定する書類又は第五項に規定する書面の提出があつたときは、第四項の規定は、適用しない。

(9) If the documents prescribed in paragraph (2) or the document prescribed in paragraph (5) are submitted pursuant to paragraph (7) or the preceding paragraph, paragraph (4) does not apply.

（パリ条約の例による優先権主張）

(Priority Claims as under the Paris Convention)

第四十三条の二　パリ条約第四条Ｄ（１）の規定により特許出願について優先権を主張しようとしたにもかかわらず、同条Ｃ（１）に規定する優先期間（以下この項において「優先期間」という。）内に優先権の主張を伴う特許出願をすることができなかつた者は、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その特許出願をしたときは、優先期間の経過後であつても、同条の規定の例により、その特許出願について優先権を主張することができる。ただし、故意に、優先期間内にその特許出願をしなかつたと認められる場合は、この限りでない。

Article 43-2 (1) With regard to a person that was unable to file a patent application containing a priority claim within the periods of priority pursuant to Article 4.C.(1) of the Paris Convention (hereinafter referred to in this paragraph as the "periods of priority"), despite requesting to make a priority claim pursuant to Article 4.D.(1) of the Paris Convention regarding a patent application, if the person filed the patent application pursuant to Order of the Ministry, Trade and Industry within the period provided by Order of the Ministry, Trade and Industry, the person may make a priority claim regarding the patent application under the Article, even after the lapse of the periods of priority; provided, however, that this does not apply if the person is found to have intentionally failed to file the patent application within the periods of priority.

２　前条の規定は、前項の規定により優先権を主張する場合に準用する。

(2) The preceding Article applies mutatis mutandis when a priority claim is made pursuant to the preceding paragraph.

第四十三条の三　次の表の上欄に掲げる者が同表の下欄に掲げる国においてした出願に基づく優先権は、パリ条約第四条の規定の例により、特許出願について、これを主張することができる。

Article 43-3 (1) When a priority claim is based on a patent application filed by a person specified in the left-hand column of the following table in a country specified in the corresponding right-hand column, the priority claim regarding the patent application may be made in accordance with Article 4 of the Paris Convention.

|  |  |
| --- | --- |
| 日本国民又はパリ条約の同盟国の国民（パリ条約第三条の規定により同盟国の国民とみなされる者を含む。次項において同じ。）Japanese nationals or nationals of a country of the Union of the Paris Convention (including nationals deemed to be the nationals of the country of the Union in accordance with Article 3 of the Paris Convention - hereinafter the same applies in paragraph (2)) | 世界貿易機関の加盟国Member of the World Trade Organization |
| 世界貿易機関の加盟国の国民（世界貿易機関を設立するマケラシュ協定附属書第一条３に規定する加盟国の国民をいう。次項において同じ。）Nationals of a Member of the World Trade Organization (meaning the nationals of Members provided for in paragraph 3 of Article 1 of the Annex 1C to the Marrakesh Agreement; the same applies in the next paragraph) | パリ条約の同盟国又は世界貿易機関の加盟国Country of the Union of the Paris Convention or Member of the World Trade Organization |

２　パリ条約の同盟国又は世界貿易機関の加盟国のいずれにも該当しない国（日本国民に対し、日本国と同一の条件により優先権の主張を認めることとしているものであつて、特許庁長官が指定するものに限る。以下この項において「特定国」という。）の国民がその特定国においてした出願に基づく優先権及び日本国民又はパリ条約の同盟国の国民若しくは世界貿易機関の加盟国の国民が特定国においてした出願に基づく優先権は、パリ条約第四条の規定の例により、特許出願について、これを主張することができる。

(2) The national of a country that is neither a country of the Paris Convention Union nor a member state of the World Trade Organization (limited to a country that allows Japanese nationals to make a priority claim under the same conditions as in Japan; hereinafter referred to as a "specified country" in this paragraph) may make a priority claim based on an application filed in that specified country, and a Japanese national, the national of a country of the Paris Convention Union, or the national of a member of the World Trade Organization may claim a priority for a patent application based on the application filed in a specified country, pursuant to Article 4 of the Paris Convention.

３　前二条の規定は、前二項の規定により優先権を主張する場合に準用する。

(3) The preceding two Articles apply mutatis mutandis if a priority claim is made pursuant to the preceding two paragraphs.

（特許出願の分割）

(Division of Patent Applications)

第四十四条　特許出願人は、次に掲げる場合に限り、二以上の発明を包含する特許出願の一部を一又は二以上の新たな特許出願とすることができる。

Article 44 (1) An applicant for a patent may divide a patent application containing two or more inventions into one or more new patent application, but only in the following cases:

一　願書に添付した明細書、特許請求の範囲又は図面について補正をすることができる時又は期間内にするとき。

(i) at the allowable time or within the allowable period for amendments of the description, claims, or drawings attached to the written application;

二　特許をすべき旨の査定（第百六十三条第三項において準用する第五十一条の規定による特許をすべき旨の査定及び第百六十条第一項に規定する審査に付された特許出願についての特許をすべき旨の査定を除く。）の謄本の送達があつた日から三十日以内にするとき。

(ii) within 30 days from the date on which a certified copy of an examiner's decision to the effect that a patent is to be granted (excluding an examiner's decision to the effect that a patent is to be granted as under Article 51 as applied mutatis mutandis pursuant to Article 163, paragraph (3) and an examiner's decision to the effect that a patent is to be granted with regard to a patent application that has been subject to examination as provided in Article 160, paragraph (1)) is served; and

三　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以内にするとき。

(iii) within three months from the date on which a certified copy of an examiner's initial decision to the effect that the application is to be rejected has been served.

２　前項の場合は、新たな特許出願は、もとの特許出願の時にしたものとみなす。ただし、新たな特許出願が第二十九条の二に規定する他の特許出願又は実用新案法第三条の二に規定する特許出願に該当する場合におけるこれらの規定の適用及び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。

(2) In the case referred to in the preceding paragraph, a new patent application is deemed to have been filed at the time of filing of the original patent application; provided, however, that this does not apply for the purpose of application of Article 29-2 of the Patent Act if the new patent application falls under another patent application provided for in the Article, application provided for in Article 3-2 of the Utility Model Act if the new patent application falls under a patent application provided in the Article, and application of Article 30, paragraph (3) of the Patent Act.

３　第一項に規定する新たな特許出願をする場合における第四十三条第二項（第四十三条の二第二項（前条第三項において準用する場合を含む。）及び前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、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新たな特許出願の日から三月のいずれか遅い日まで」とする。

(3) For the purpose of application of Article 43, paragraph (2) (including as applied mutatis mutandis pursuant to Article 43-2, paragraph (2) (including as applied mutatis mutandis pursuant to paragraph (3) of the preceding Article) and paragraph (3) of the preceding Article) when a new patent application is filed prescribed in paragraph (1), the phrase "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 new patent application, whichever is later".

４　第一項に規定する新たな特許出願をする場合には、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、新たな特許出願について第三十条第三項、第四十一条第四項又は第四十三条第一項及び第二項（これらの規定を第四十三条の二第二項（前条第三項において準用する場合を含む。）及び前条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、当該新たな特許出願と同時に特許庁長官に提出されたものとみなす。

(4) If a new patent application is filed as provided in paragraph (1), any statements or documents which have been submitted in relation to the original patent application and must be submitted in relation to the new patent application pursuant to Article 30, paragraph (3), Article 41, paragraph (4), or Article 43, paragraphs (1) and (2) (including as the two paragraphs are applied mutatis mutandis pursuant to Article 43-2, paragraph (2) (including as applied mutatis mutandis pursuant to paragraph (3) of the preceding Article) and paragraph (3) of the preceding Article) are deemed to have been submitted to the Commissioner of the Japan Patent Office at the same time as the new patent application.

５　第一項第二号に規定する三十日の期間は、第四条又は第百八条第三項の規定により同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。

(5) If the period prescribed in Article 108, paragraph (1) is extended pursuant to Article 4 or Article 108, paragraph (3), the 30-day period prescribed in paragraph (1), item (ii) is deemed to have been extended only by the length of that extension.

６　第一項第三号に規定する三月の期間は、第四条の規定により第百二十一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) is extended pursuant to Article 4, the three-month period prescribed in paragraph (1), item (iii) is deemed to have been extended only by the length of that extension.

７　第一項に規定する新たな特許出願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二号又は第三号に規定する期間内にその新たな特許出願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、その理由がなくなつた日から十四日（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新たな特許出願をすることができる。

(7) If the applicant for a new patent under paragraph (1) is unable to file the new patent application within the period prescribed in items (ii) and (iii) due to reasons beyond the applicant's control, notwithstanding the items, the applicant may file the new patent application within 14 days (if the applicant is an overseas resident, within two months) from the date on which the reasons ceased to be applicable, but not later than six months following the passage of the period.

第四十五条　削除

Article 45 Deleted

（出願の変更）

(Conversion of Applications)

第四十六条　実用新案登録出願人は、その実用新案登録出願を特許出願に変更することができる。ただし、その実用新案登録出願の日から三年を経過した後は、この限りでない。

Article 46 (1) An applicant of a utility model registration may convert the application into a patent application; provided, however, that this does not apply after the passage of three years from the filing date of application for utility model registration.

２　意匠登録出願人は、その意匠登録出願を特許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三年を経過した後（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以内の期間を除く。）は、この限りでない。

(2) An applicant of a design registration may convert the application into a patent application; provided, however, that this does not apply once three months have passed since the date on which the certified copy of the examiner's initial decision to the effect that the application for a design registration is to be rejected has been served or after the passage of three years from the filing date of application for design registration (excluding a period of a maximum of three months after the date on which the certified copy of the examiner's initial decision to the effect that the application for a design registration is to be rejected has been served).

３　前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この法律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。

(3) If the period provided in Article 46, paragraph (1) of the Design Act is extended pursuant to Article 4 of the Patent Act as applied mutatis mutandis pursuant to Article 68, paragraph (1) of the Design Act, the three-month period prescribed in the proviso to the preceding paragraph is deemed to be extended only by the length of that extension.

４　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、もとの出願は、取り下げたものとみなす。

(4) If an application is converted as under paragraph (1) or (2), the original application is deemed to be withdrawn.

５　第一項の規定による出願の変更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ただし書に規定する期間内にその出願の変更をすることができないとき、又は第二項の規定による出願の変更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ただし書に規定する三年の期間内にその出願の変更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、その理由がなくなつた日から十四日（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出願の変更をすることができる。

(5) If a person that converts an application under paragraph (1) or paragraph (2) is unable to convert the application within the period prescribed in the proviso to paragraph (1) or within the period of three years prescribed in the proviso to paragraph (2) due to reasons beyond the person's control, notwithstanding the proviso to paragraph (1) or the proviso to paragraph (2), the person may convert the application within 14 days (if the person is an overseas resident, within two months) from the date on which the reasons ceased to be applicable, but not later than six months following the passage of the period of time prescribed in those provisions.

６　第四十四条第二項から第四項までの規定は、第一項又は第二項の規定による出願の変更の場合に準用する。

(6) Article 44, paragraphs (2) through (4) apply mutatis mutandis to the case of conversion of an application under paragraph (1) or (2).

（実用新案登録に基づく特許出願）

(Patent Applications Based on Utility Model Registration)

第四十六条の二　実用新案権者は、次に掲げる場合を除き、経済産業省令で定めるところにより、自己の実用新案登録に基づいて特許出願をすることができる。この場合においては、その実用新案権を放棄しなければならない。

Article 46-2 (1) Except in the following cases, a person that holds a utility model right may file a patent application based on the person's own utility model registration pursuant to Order of the Ministry of Economy, Trade and Industry. In this case, the utility model right must be waived:

一　その実用新案登録に係る実用新案登録出願の日から三年を経過したとき。

(i) three years have lapsed from the filing date of the application for the utility model registration;

二　その実用新案登録に係る実用新案登録出願又はその実用新案登録について、実用新案登録出願人又は実用新案権者から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（次号において単に「実用新案技術評価」という。）の請求があつたとき。

(ii) a request for the examiner's technical opinion as provided in Article 12, paragraph (1) of the Utility Model Act with respect to the application to which the relevant utility model registration pertains or with respect to that utility model registration (in the following paragraph simply referred to as a" technical opinion about the utility model ") is filed by the applicant of the utility model registration or the utility model right holder;

三　その実用新案登録に係る実用新案登録出願又はその実用新案登録について、実用新案登録出願人又は実用新案権者でない者がした実用新案技術評価の請求に係る実用新案法第十三条第二項の規定による最初の通知を受けた日から三十日を経過したとき。

(iii) 30 days have passed since the date of receipt of an initial notice under Article 13, paragraph (2) of the Utility Model Act pertaining to a request for a utility model technical opinion on the application for the utility model registration, or on the utility model registration filed by a person that is neither the applicant of the utility model registration nor the utility model right holder; and

四　その実用新案登録について請求された実用新案法第三十七条第一項の実用新案登録無効審判について、同法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。

(iv) the period of time initially designated pursuant to Article 39, paragraph (1) of the Utility Model Act for a utility model registration invalidation trial filed against the utility model registration as referred to in Article 37, paragraph (1) of the Utility Model Act has expired.

２　前項の規定による特許出願は、その願書に添付した明細書、特許請求の範囲又は図面に記載した事項が当該特許出願の基礎とされた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の範囲内にあるものに限り、その実用新案登録に係る実用新案登録出願の時にしたものとみなす。ただし、その特許出願が第二十九条の二に規定する他の特許出願又は実用新案法第三条の二に規定する特許出願に該当する場合におけるこれらの規定の適用並びに第三十条第三項、第三十六条の二第二項ただし書及び第四十八条の三第二項の規定の適用については、この限りでない。

(2) A patent application under the preceding paragraph is deemed to have been filed at the time of filing of the application for the utility model registration, provided that matters stated in the description, claims, or drawings attached to the written application for the patent application are within the scope of the matters stated in the description claims, or drawings attached to the written application for the utility model registration application on which the patent application is based; provided, however, that this does not apply for the purpose of application of Article 29-2 of the Patent Act or Article 3-2 of the Utility Model Act if the patent application falls under another patent application under Article 29-2 of the Patent Act or a patent application under Article 3-2 of the Utility Model Act, respectively, or for the purpose of application of Article 30, paragraph (3), the proviso to 36-2, paragraph (2), and 48-3, paragraph (2).

３　第一項の規定による特許出願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又は第三号に規定する期間を経過するまでにその特許出願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、その理由がなくなつた日から十四日（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特許出願をすることができる。

(3) If an applicant for a patent under paragraph (1) is unable to file an application for the patent within the period provided in item (i) or (iii) of paragraph (1) due to reasons beyond the applicant's control, notwithstanding those items, the applicant may file the patent application within 14 days (if the applicant is an overseas resident, within two months) from the date on which the reasons ceased to be applicable, but not later than six months following the passage of the time limits under those items.

４　実用新案権者は、専用実施権者、質権者又は実用新案法第十一条第三項において準用するこの法律第三十五条第一項、実用新案法第十八条第三項において準用するこの法律第七十七条第四項若しくは実用新案法第十九条第一項の規定による通常実施権者があるときは、これらの者の承諾を得た場合に限り、第一項の規定による特許出願をすることができる。

(4) If there is an exclusive licensee or a pledgee, or a non-exclusive licensee when Article 35, paragraph (1) of the Patent Act as applied pursuant to Article 11, paragraph (3) of the Utility Model Act, under Article 77, paragraph (4) of the Patent Act as applied pursuant to Article 18, paragraph (3) of the Utility Model Act, or under Article 19, paragraph (1) of the Utility Model Act is applicable, the holder of a utility model right may only file a patent application under paragraph (1), provided that the consent of the exclusive licensee, pledgee or non-exclusive licensee is obtained.

５　第四十四条第三項及び第四項の規定は、第一項の規定による特許出願をする場合に準用する。

(5) Article 44, paragraphs (3) and (4) apply mutatis mutandis when a patent application is filed under paragraph (1).

第三章　審査

Chapter III Examinations

（審査官による審査）

(Examination by an Examiner)

第四十七条　特許庁長官は、審査官に特許出願を審査させなければならない。

Article 47 (1) The Commissioner of the Japan Patent Office must direct examiners to examine patent applications.

２　審査官の資格は、政令で定める。

(2) Qualifications for examiners are prescribed by Cabinet Order.

（審査官の除斥）

(Exclusion of Examiners)

第四十八条　第百三十九条（第六号及び第七号を除く。）の規定は、審査官について準用する。

Article 48 Article 139 (excluding items (vi) and (vii)) applies mutatis mutandis to examiners.

（特許出願の審査）

(Examination of Patent Applications)

第四十八条の二　特許出願の審査は、その特許出願についての出願審査の請求をまつて行なう。

Article 48-2 The examination of a patent application is initiated after the filing of a request for examination.

（出願審査の請求）

(Request for Examination of Application)

第四十八条の三　特許出願があつたときは、何人も、その日から三年以内に、特許庁長官にその特許出願について出願審査の請求をすることができる。

Article 48-3 (1) Once a patent application is filed, any person may file with the Commissioner of the Japan Patent Office a request for the examination of the application regarding the patent application within three years from the filing date thereof.

２　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、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又は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については、前項の期間の経過後であつても、その特許出願の分割、出願の変更又は実用新案登録に基づく特許出願の日から三十日以内に限り、出願審査の請求をすることができる。

(2) A request for examination may be filed even after the period referred to in the preceding paragraph has passed, if filed with respect to a new patent application arising from the division of a patent application under Article 44, paragraph (1), a patent application in question in the conversion of an application under Article 46, paragraphs (1) or (2), or a patent application based on a utility model registration under Article 46-2, paragraph (1), but only within 30 days after the relevant division or conversion of the patent application, or the filing of the patent application based on the utility model registration.

３　出願審査の請求は、取り下げることができない。

(3) A request for the examination of application may not be withdrawn.

４　第一項の規定により出願審査の請求をすることができる期間内に出願審査の請求がなかつたときは、この特許出願は、取り下げたものとみなす。

(4) If a request for the examination of an application is not filed within the period in which it may be filed pursuant to paragraph (1), the patent application is deemed to be withdrawn.

５　前項の規定により取り下げられたものとみなされた特許出願の出願人は、経済産業省令で定める期間内に限り、経済産業省令で定めるところにより、出願審査の請求をすることができる。ただし、故意に、第一項に規定する期間内にその特許出願について出願審査の請求をしなかつたと認められる場合は、この限りでない。

(5) The applicant of the patent application that is deemed to have been withdrawn pursuant to the preceding paragraph may file a request for examination of the application pursuant to Order of the Ministry, Trade and Industry only within the period specified by Order of the Ministry, Trade and Industry; provided, however, that this does not apply if the applicant is found to have intentionally failed to file a request for the examination of the patent application within the period prescribed in paragraph (1).

６　前項の規定によりされた出願審査の請求は、第一項に規定する期間が満了する時に特許庁長官にされたものとみなす。

(6) The request for examination of application filed pursuant to the preceding paragraph is deemed to have been filed with the Commissioner of the Japan Patent Office at the time of expiration of the period prescribed in paragraph (1).

７　前三項の規定は、第二項に規定する期間内に出願審査の請求がなかつた場合に準用する。

(7) The preceding three paragraphs apply mutatis mutandis if the request for examination of application has not been filed within the period prescribed in paragraph (2).

８　第五項（前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。）の規定により特許出願について出願審査の請求をした場合において、その特許出願について特許権の設定の登録があつたときは、その特許出願が第四項（前項において準用する場合を含む。）の規定により取り下げられたものとみなされた旨が掲載された特許公報の発行後その特許出願について第五項の規定による出願審査の請求があつた旨が掲載された特許公報の発行前に善意に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者又はその事業の準備をしている者は、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、その特許権について通常実施権を有する。

(8) If a request for the examination of a patent application is filed pursuant to paragraph (5) (including as applied mutatis mutandis in the preceding paragraph; hereinafter the same applies in this paragraph) and the establishment of a patent right for the patent application is registered, if a person has been practicing the invention or preparing to working the invention in Japan in good faith after the fact that the patent application has been deemed to be withdrawn under paragraph (4) (including as applied mutatis mutandis in the preceding paragraph) is published in the patent gazette but before the fact that the request for the examination of the patent application has been filed under paragraph (5) is published in the patent gazette, the person has a non-exclusive license on the patent right, only to the extent of the invention and the purpose of the business worked or prepared.

第四十八条の四　出願審査の請求をしようとする者は、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 48-4 To request an examination of an application, a person must submit a written request to the Commissioner of the Japan Patent Office stating the following:

一　請求人の氏名又は名称及び住所又は居所

(i) the name and domicile or residence of the petitioner; and

二　出願審査の請求に係る特許出願の表示

(ii) an identification of the patent application for which the examination is requested.

第四十八条の五　特許庁長官は、出願公開前に出願審査の請求があつたときは出願公開の際又はその後遅滞なく、出願公開後に出願審査の請求があつたときはその後遅滞なく、その旨を特許公報に掲載しなければならない。

Article 48-5 (1) If a request for the examination of an application is filed prior to the publication of the application, the Commissioner of the Japan Patent Office must publish an indication of this in the patent gazette either at the time of publication of the application or thereafter without delay, and if a request for examination is filed after the publication of the application, the commissioner must publish this in the patent gazette thereafter without delay.

２　特許庁長官は、特許出願人でない者から出願審査の請求があつたときは、その旨を特許出願人に通知しなければならない。

(2) If a request for the examination of an application is filed by a person other than the applicant for a patent, the Commissioner of the Japan Patent Office must notify the applicant of this.

（優先審査）

(Prioritized Examination)

第四十八条の六　特許庁長官は、出願公開後に特許出願人でない者が業として特許出願に係る発明を実施していると認める場合において必要があるときは、審査官にその特許出願を他の特許出願に優先して審査させることができる。

Article 48-6 If the Commissioner of the Japan Patent Office finds that a person other than the applicant is working the invention claimed in a patent application in the course of trade after the publication of the application, and it is necessary for the commissioner to do so, the commissioner may have an examiner prioritize the examination of that patent application over that of other patent applications.

（文献公知発明に係る情報の記載についての通知）

(Notifying the Applicant with Regard to Information About a Published Publicly-Known Invention)

第四十八条の七　審査官は、特許出願が第三十六条第四項第二号に規定する要件を満たしていないと認めるときは、特許出願人に対し、その旨を通知し、相当の期間を指定して、意見書を提出する機会を与えることができる。

Article 48-7 When an examiner finds that a patent application does not comply with the requirements prescribed in Article 36, paragraph (4), item (ii), the examiner may notify the applicant of the patent thereof and give the applicant an opportunity to submit a written opinion within a reasonable, specified period of time.

（拒絶の査定）

(Examiner's Decision of Rejection)

第四十九条　審査官は、特許出願が次の各号のいずれかに該当するときは、その特許出願について拒絶をすべき旨の査定をしなければならない。

Article 49 The examiner must reach an examiner's decision to the effect that a patent application is to be rejected if the patent application falls under any of the following:

一　その特許出願の願書に添付した明細書、特許請求の範囲又は図面についてした補正が第十七条の二第三項又は第四項に規定する要件を満たしていないとき。

(i) an amendment made to the description, claims, or drawings attached to the written application of the patent application does not comply with the requirements prescribed in Article 17-2, paragraph (3) or (4);

二　その特許出願に係る発明が第二十五条、第二十九条、第二十九条の二、第三十二条、第三十八条又は第三十九条第一項から第四項までの規定により特許をすることができないものであるとき。

(ii) the invention claimed in the patent application is unpatentable, pursuant to Article 25, 29, 29-2, 32, or 38 or Article 39, paragraphs (1) through (4);

三　その特許出願に係る発明が条約の規定により特許をすることができないものであるとき。

(iii) the invention claimed in the patent application is unpatentable, pursuant to the provisions of any relevant treaty;

四　その特許出願が第三十六条第四項第一号若しくは第六項又は第三十七条に規定する要件を満たしていないとき。

(iv) the patent application does not comply with the requirements prescribed in Article 36, paragraph (4), item (i), Article 36, paragraph (6), or Article 37;

五　前条の規定による通知をした場合であつて、その特許出願が明細書についての補正又は意見書の提出によつてもなお第三十六条第四項第二号に規定する要件を満たすこととならないとき。

(v) the applicant has been notified as under the preceding Article, but even after the amendment of the description or submission of the written opinion the patent application does not comply with the requirements prescribed in Article 36, paragraph (4), item (ii);

六　その特許出願が外国語書面出願である場合において、当該特許出願の願書に添付した明細書、特許請求の範囲又は図面に記載した事項が外国語書面に記載した事項の範囲内にないとき。

(vi) the patent application is an application written in a foreign language, and matters stated in the description, claims, or drawings attached to the written application are not within the scope of matters stated in foreign-language documents; or

七　その特許出願人がその発明について特許を受ける権利を有していないとき。

(vii) the applicant for the patent does not have the right to be granted a patent for the invention claimed in the application.

（拒絶理由の通知）

(Notice of the Grounds for Rejection)

第五十条　審査官は、拒絶をすべき旨の査定をしようとするときは、特許出願人に対し、拒絶の理由を通知し、相当の期間を指定して、意見書を提出する機会を与えなければならない。ただし、第十七条の二第一項第一号又は第三号に掲げる場合（同項第一号に掲げる場合にあつては、拒絶の理由の通知と併せて次条の規定による通知をした場合に限る。）において、第五十三条第一項の規定による却下の決定をするときは、この限りでない。

Article 50 Before reaching the decision to reject an application, an examiner must notify the applicant for the patent of the grounds therefor and give the applicant an opportunity to submit a written opinion within an adequate specified period of time; provided, however, that in cases as set forth in Article 17-2, paragraph (1), item (i) or (iii) (in the case set forth item (i), limited to the case where the examiner issues the notice under the following Article along with the notice of grounds for rejection), this does not apply if a ruling to dismiss as under Article 53, paragraph (1) is rendered.

（既に通知された拒絶理由と同一である旨の通知）

(Notice to the Effect That Grounds for Rejection are the Same As in a Previous Notice)

第五十条の二　審査官は、前条の規定により特許出願について拒絶の理由を通知しようとする場合において、当該拒絶の理由が、他の特許出願（当該特許出願と当該他の特許出願の少なくともいずれか一方に第四十四条第二項の規定が適用されたことにより当該特許出願と同時にされたこととなつているものに限る。）についての前条（第百五十九条第二項（第百七十四条第二項において準用する場合を含む。）及び第百六十三条第二項において準用する場合を含む。）の規定による通知（当該特許出願についての出願審査の請求前に当該特許出願の出願人がその内容を知り得る状態になかつたものを除く。）に係る拒絶の理由と同一であるときは、その旨を併せて通知しなければならない。

Article 50-2 If an examiner intends to issue a notice of grounds for rejecting a patent application pursuant to the preceding Article, and these grounds for rejection are the same as the grounds for rejection in a notice under the preceding Article (including as applied mutatis mutandis pursuant to Article 159, paragraph (2) (including as applied mutatis mutandis pursuant to Article 174, paragraph (2)) and Article 163, paragraph (2)) that involves another patent application (but only if provisions of Article 44, paragraph (2) apply to either or both of the patent applications and they are deemed to have been filed simultaneously ) (other than notice of anything that the applicant filing that patent application was not in position to know prior to the filing of a request for examination of the patent application), the examiner must also issue notice to that effect.

（特許査定）

(Examiner's Decisions)

第五十一条　審査官は、特許出願について拒絶の理由を発見しないときは、特許をすべき旨の査定をしなければならない。

Article 51 If no grounds for rejection are found with regard to a patent application, the examiner must reach a decision to grant the patent.

（査定の方式）

(Formal Requirements for Examiner's Decisions)

第五十二条　査定は、文書をもつて行い、かつ、理由を付さなければならない。

Article 52 (1) An examiner's decision must be in writing and include the grounds therefor.

２　特許庁長官は、査定があつたときは、査定の謄本を特許出願人に送達しなければならない。

(2) Once an examiner's decision is rendered, the Commissioner of the Japan Patent Office must serve a certified copy of it on the patent applicant.

（補正の却下）

(Dismissal of Amendments)

第五十三条　第十七条の二第一項第一号又は第三号に掲げる場合（同項第一号に掲げる場合にあつては、拒絶の理由の通知と併せて第五十条の二の規定による通知をした場合に限る。）において、願書に添付した明細書、特許請求の範囲又は図面についてした補正が第十七条の二第三項から第六項までの規定に違反しているものと特許をすべき旨の査定の謄本の送達前に認められたときは、審査官は、決定をもつてその補正を却下しなければならない。

Article 53 (1) In the case of Article 17-2, paragraph (1), item (i) or (iii) (in the case set forth in item (i), this is limited to the case where the examiner issues the notice under Article 50-2 along with the notice of grounds for rejection), if an amendment made to the description, claims, or drawings attached to a written application is found not to comply with Article 17-2, paragraphs (3) through (6), prior to the service of the certified copy of the examiner's decision notifying to the effect that a patent is to be granted, the examiner must dismiss the amendment by a ruling.

２　前項の規定による却下の決定は、文書をもつて行い、かつ、理由を付さなければならない。

(2) A ruling dismissing an amendment under the preceding paragraph must be made in writing and include the grounds therefor.

３　第一項の規定による却下の決定に対しては、不服を申し立てることができない。ただし、拒絶査定不服審判を請求した場合における審判においては、この限りでない。

(3) No appeal may be entered against the ruling dismissing an amendment under paragraph (1); provided, however, that this does not apply in any trial that occurs if an appeal against an examiner's decision of refusal is filed.

（訴訟との関係）

(In Relation to Litigation)

第五十四条　審査において必要があると認めるときは、特許異議の申立てについての決定若しくは審決が確定し、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 54 (1) If it is found to be necessary during an examination, the examination procedure may be suspended until a ruling on an opposition to a granted patent or a decision on a trial or appeal has become final and binding or until litigation proceedings are concluded.

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、査定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 an action is instituted or a motion for an order of provisional seizure or provisional disposition is filed, the court may, if it considers it necessary, suspend litigation proceedings until the examiner's decision becomes final and binding.

第五十五条から第六十三条まで　削除

Articles 55 through 63 Deleted

第三章の二　出願公開

Chapter III-2 Publication of Applications

（出願公開）

(Publication of Applications)

第六十四条　特許庁長官は、特許出願の日から一年六月を経過したときは、特許掲載公報の発行をしたものを除き、その特許出願について出願公開をしなければならない。次条第一項に規定する出願公開の請求があつたときも、同様とする。

Article 64 (1) Once one year and six months have passed since the filing date of a patent application, the Commissioner of the Japan Patent Office must publish the patent application, unless the gazette in which the patent appears has already been published. The same applies when a request for the publication of a patent application as provided in paragraph (1) of the following Article is filed.

２　出願公開は、次に掲げる事項を特許公報に掲載することにより行う。ただし、第四号から第六号までに掲げる事項については、当該事項を特許公報に掲載することが公の秩序又は善良の風俗を害するおそれがあると特許庁長官が認めるときは、この限りでない。

(2) The publication of a patent application is effected by stating the following matters in the patent gazette; provided, however, that this does not apply to the matters prescribed in items (iv) through (vi) if the Commissioner of the Japan Patent Office recognizes that public order and public morals are likely to be injured by stating those matters in the patent gazette:

一　特許出願人の氏名又は名称及び住所又は居所

(i) the name, and the domicile or residence of the applicant for the patent;

二　特許出願の番号及び年月日

(ii) the number and the filing date of the patent application;

三　発明者の氏名及び住所又は居所

(iii) the name, and the domicile or residence of the inventor;

四　願書に添付した明細書及び特許請求の範囲に記載した事項並びに図面の内容

(iv) the matters stated in the description, patent claims attached to the written application and the contents of the drawings attached to the application;

五　願書に添付した要約書に記載した事項

(v) the matters stated in the abstract attached to the written application;

六　外国語書面出願にあつては、外国語書面及び外国語要約書面に記載した事項

(vi) in the case of an application written in a foreign language, the matters stated in the foreign-language documents and foreign-language abstract;

七　出願公開の番号及び年月日

(vii) the number and the date of publication of the patent application; and

八　前各号に掲げるもののほか、必要な事項

(viii) other necessary matters.

３　特許庁長官は、願書に添付した要約書の記載が第三十六条第七項の規定に適合しないときその他必要があると認めるときは、前項第五号の要約書に記載した事項に代えて、自ら作成した事項を特許公報に掲載することができる。

(3) If an indication in the abstract attached to the written application does not comply with Article 36, paragraph (7), or if the Commissioner of the Japan Patent Office finds it to be otherwise necessary, the commissioner may personally prepare matters and publish them in the patent gazette, in lieu of the matters indicated in the abstract as referred to in item (v) of the preceding paragraph.

（出願公開の請求）

(Request for the Publication of a Patent Application)

第六十四条の二　特許出願人は、次に掲げる場合を除き、特許庁長官に、その特許出願について出願公開の請求をすることができる。

Article 64-2 (1) An applicant for a patent may file a request for the publication of the patent application with the Commissioner of the Japan Patent Office except in the following cases:

一　その特許出願が出願公開されている場合

(i) the patent application has already been published;

二　その特許出願が第四十三条第一項、第四十三条の二第一項（第四十三条の三第三項において準用する場合を含む。）又は第四十三条の三第一項若しくは第二項の規定による優先権の主張を伴う特許出願であつて、第四十三条第二項（第四十三条の二第二項（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。）に規定する書類及び第四十三条第五項（第四十三条の二第二項（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。）に規定する書面が特許庁長官に提出されていないものである場合

(ii) the patent application contains a priority claim as under Article 43, paragraph (1), Article 43-2, paragraph (1) (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)), or Article 43-3, paragraph (1) or (2), documents relating thereto prescribed in Article 43, paragraph (2) (including as applied mutatis mutandis pursuant to Article 43-2, paragraph (2) (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)) and Article 43-3, paragraph (3)), and documents relating thereto prescribed in Article 43, paragraph (5) (including as applied mutatis mutandis pursuant to Article 43-2, paragraph (2) (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)) and 43-3, paragraph (3)) have not been submitted to the Commissioner of the Japan Patent Office; and

三　その特許出願が外国語書面出願であつて第三十六条の二第二項に規定する外国語書面の翻訳文が特許庁長官に提出されていないものである場合

(iii) the patent application is an application written in a foreign language and translations of the foreign-language documents prescribed in Article 36-2, paragraph (2) have not been submitted to the Commissioner of the Japan Patent Office.

２　出願公開の請求は、取り下げることができない。

(2) A request for the publication of a patent application may not be withdrawn.

第六十四条の三　出願公開の請求をしようとする特許出願人は、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 64-3 To request the publication of a patent application, the patent applicant must submit a written request to the Commissioner of the Japan Patent Office stating the following:

一　請求人の氏名又は名称及び住所又は居所

(i) the name and domicile or residence of the petitioner; and

二　出願公開の請求に係る特許出願の表示

(ii) an identification of the patent application subject to the request to publication.

（出願公開の効果等）

(Effect of the Publication of Applications)

第六十五条　特許出願人は、出願公開があつた後に特許出願に係る発明の内容を記載した書面を提示して警告をしたときは、その警告後特許権の設定の登録前に業としてその発明を実施した者に対し、その発明が特許発明である場合にその実施に対し受けるべき金銭の額に相当する額の補償金の支払を請求することができる。当該警告をしない場合においても、出願公開がされた特許出願に係る発明であることを知つて特許権の設定の登録前に業としてその発明を実施した者に対しては、同様とする。

Article 65 (1) If the patent applicant issues a written warning giving the details of the invention in the patent application after that patent application is published, the applicant may file a claim for compensation against a person that works the invention in the course of trade after being so warned and prior to the registration of establishment of the patent right with a claim amount that corresponds to the amount of money that the applicant would be entitled to receive for the working of the invention if it were a patented invention. The same applies in respect of a claim against a person that knowingly and in the course of trade works an invention claimed in a published patent application, prior to the registration of the patent, even if no such warning is issued.

２　前項の規定による請求権は、特許権の設定の登録があつた後でなければ、行使することができない。

(2) The claim under the preceding paragraph may not be exercised until the establishment of the patent right is registered.

３　特許出願人は、その仮専用実施権者又は仮通常実施権者が、その設定行為で定めた範囲内において当該特許出願に係る発明を実施した場合については、第一項に規定する補償金の支払を請求することができない。

(3) If a provisional exclusive licensee or a provisional non-exclusive licensee works the invention in the patent application to the extent permitted by the act establishing a license, the applicant for the patent may not claim for compensation as prescribed in paragraph (1).

４　第一項の規定による請求権の行使は、特許権の行使を妨げない。

(4) The exercise of the right to claim compensation under paragraph (1) does not preclude the exercise of the patent right.

５　出願公開後に特許出願が放棄され、取り下げられ、若しくは却下されたとき、特許出願について拒絶をすべき旨の査定若しくは審決が確定したとき、第百十二条第六項の規定により特許権が初めから存在しなかつたものとみなされたとき（更に第百十二条の二第二項の規定により特許権が初めから存在していたものとみなされたときを除く。）、第百十四条第二項の取消決定が確定したとき、又は第百二十五条ただし書の場合を除き特許を無効にすべき旨の審決が確定したときは、第一項の請求権は、初めから生じなかつたものとみなす。

(5) If a patent application is abandoned, withdrawn, or dismissed after the publication of the patent application; if the examiner's decision or a decision on the trial or appeal rejecting the patent application becomes final and binding; if the patent right is deemed never to have existed at all pursuant to Article 112, paragraph (6) (unless it is found that the patent right is deemed to have existed from the beginning pursuant to Article 112-2, paragraph (2)); if a revocation decision as referred to in Article 114, paragraph (2) becomes final and binding; or, if with the exception of cases falling as referred to in the proviso to Article 125, a decision on an appeal to the effect that the patent is to be invalidated becomes final and binding, the right to claim referred to in paragraph (1) is deemed never to have arisen .

６　第百一条、第百四条から第百四条の三まで、第百五条から第百五条の二の十二まで、第百五条の四から第百五条の七まで及び第百六十八条第三項から第六項まで並びに民法（明治二十九年法律第八十九号）第七百十九条及び第七百二十四条（不法行為）の規定は、第一項の規定による請求権を行使する場合に準用する。この場合において、当該請求権を有する者が特許権の設定の登録前に当該特許出願に係る発明の実施の事実及びその実施をした者を知つたときは、同条第一号中「被害者又はその法定代理人が損害及び加害者を知った時」とあるのは、「特許権の設定の登録の日」と読み替えるものとする。

(6) Articles 101, 104 through104-3, 105 through 105-2-12, and 105-4 through 105-7, Article 168, paragraphs (3) through (6) of this Act, and Articles 719 and 724 (Torts) of the Civil Code (Act No. 89 of 1896) apply mutatis mutandis to the exercise of the right to claim compensation under paragraph (1). In this case, if a person having the right to make that claim learns of the fact that the invention claimed in the patent application is being worked and learns the identity of the person working the invention prior to the registration establishing a patent right, the phrase "when the victim or legal representative thereof comes to know the damage and the identity of the perpetrator" in Article 724 (i) of the Civil Code is deemed to be replaced with " the day the establishment of the patent right is registered".

第四章　特許権

Chapter IV Patent Rights

第一節　特許権

Section 1 Patent Rights

（特許権の設定の登録）

(Registration of Establishment of a Patent Right)

第六十六条　特許権は、設定の登録により発生する。

Article 66 (1) A patent right comes into effect through registration of its establishment.

２　第百七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特許料の納付又はその納付の免除若しくは猶予があつたときは、特許権の設定の登録をする。

(2) Establishment of a patent right is registered once all of the annual patent fees under Article 107, paragraph (1) are paid for the first year to the third year or once an exemption or grace period is granted for the payment of the same.

３　前項の登録があつたときは、次に掲げる事項を特許公報に掲載しなければならない。ただし、第五号に掲げる事項については、その特許出願について出願公開がされているときは、この限りでない。

(3) Once the registration referred to in the preceding paragraph has been made, the following matters must be published in the patent gazette; provided, however, that this does not apply to the matters set forth in paragraph (v) if the patent application has already been published:

一　特許権者の氏名又は名称及び住所又は居所

(i) the name, and the domicile or residence of the patentee;

二　特許出願の番号及び年月日

(ii) the number and the filing date of the patent application;

三　発明者の氏名及び住所又は居所

(iii) the name, and the domicile or residence of the inventor;

四　願書に添付した明細書及び特許請求の範囲に記載した事項並びに図面の内容

(iv) the matters stated in the description and claims attached to the written application and the contents of the drawings attached to the written application;

五　願書に添付した要約書に記載した事項

(v) the matters stated in the abstract attached to the written application;

六　特許番号及び設定の登録の年月日

(vi) the patent number and the date of registration of its establishment; and

七　前各号に掲げるもののほか、必要な事項

(vii) other necessary matters.

４　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特許公報に掲載する場合に準用する。

(4) Article 64, paragraph (3) applies mutatis mutandis when the matters stated in the abstract which are referred to in Article 64, paragraph (3), item (v) are published in the patent gazette pursuant to the preceding paragraph.

（存続期間）

(Patent Term)

第六十七条　特許権の存続期間は、特許出願の日から二十年をもつて終了する。

Article 67 (1) The term of a patent right expires after a period of 20 years from the filing date of the patent application.

２　前項に規定する存続期間は、特許権の設定の登録が特許出願の日から起算して五年を経過した日又は出願審査の請求があつた日から起算して三年を経過した日のいずれか遅い日（以下「基準日」という。）以後にされたときは、延長登録の出願により延長することができる。

(2) The patent term provided for in the preceding paragraph may be extended through the filing of an application to register an extension if the establishment of a patent right is registered on or after the date on which five years have passed since the date of filing of the patent application, or the date on which three years have passed since the date of filing of a request for examination of the application, whichever is later (hereinafter referred to as the "base date").

３　前項の規定により延長することができる期間は、基準日から特許権の設定の登録の日までの期間に相当する期間から、次の各号に掲げる期間を合算した期間（これらの期間のうち重複する期間がある場合には、当該重複する期間を合算した期間を除いた期間）に相当する期間を控除した期間（以下「延長可能期間」という。）を超えない範囲内の期間とする。

(3) The period which may be extended pursuant to the preceding paragraph (hereinafter referred to as the "permissible length for the extension") may not exceed the period calculated by deducting a period equivalent to the total of the periods listed in the following items (excluding overlapping periods among these periods, if there are any) from a period equivalent to the period from the base date until the date of registration of establishment of the patent right:

一　その特許出願に係るこの法律（第三十九条第六項及び第五十条を除く。）、実用新案法若しくは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）又はこれらの法律に基づく命令の規定による通知又は命令（特許庁長官又は審査官が行うものに限る。）があつた場合において当該通知又は命令を受けた場合に執るべき手続が執られたときにおける当該通知又は命令があつた日から当該執るべき手続が執られた日までの期間

(i) if a notice or order under the provisions of this Act (excluding Article 39, paragraph (6) and Article 50), the Utility Model Act, or the Act on Special Provisions for Procedures Related to Industrial Property Rights (Act No. 30 of 1990), or a notice or order under the provisions of orders under these Acts (limited to that issued by the Commissioner of the Japan Patent Office or the examiner) has been issued with regard to the patent application, and the procedure to be undertaken upon receiving the notice or order is undertaken: the period from the date on which the notice or order has been issued until the date on which the procedure is undertaken;

二　その特許出願に係るこの法律又はこの法律に基づく命令（次号、第五号及び第十号において「特許法令」という。）の規定による手続を執るべき期間の延長があつた場合における当該手続を執るべき期間が経過した日から当該手続をした日までの期間

(ii) if the period for undertaking the procedure under the provisions of this Act or orders under this Act (hereinafter referred to as the "Patent Act or related orders" in the following item, item (v) and item (x)) has been extended for the patent application: the period running from the date after the final day in the period for undertaking the procedure to the date on which the procedure was undertaken;

三　その特許出願に係る特許法令の規定による手続であつて当該手続を執るべき期間の定めがあるものについて特許法令の規定により出願人が当該手続を執るべき期間の経過後であつても当該手続を執ることができる場合において当該手続をしたときにおける当該手続を執るべき期間が経過した日から当該手続をした日までの期間

(iii) if the procedure under the provisions of the Patent Act or related orders concerning the patent application for which the period for undertaking the procedure is specified may be undertaken even after the expiration of the period by which the applicant should undertake the procedure pursuant to the provisions of the Patent Act or related orders, and the procedure is undertaken: the period from the date on which the period for undertaking the procedure has expired until the day on which the procedure is undertaken;

四　その特許出願に係るこの法律若しくは工業所有権に関する手続等の特例に関する法律又はこれらの法律に基づく命令（第八号及び第九号において「特許法関係法令」という。）の規定による処分又は通知について出願人の申出その他の行為により当該処分又は通知を保留した場合における当該申出その他の行為があつた日から当該処分又は通知を保留する理由がなくなつた日までの期間

(iv) if a disposition or notice under the provisions of this Act or the Act on Special Provisions for Procedures Related to Industrial Property Rights or the provisions of orders under these laws (referred to as the "Patent Act and related laws and regulations" in items (viii) and (ix)) is put on hold due to the applicant's request or any other act: the period running from the date on which the request or any other act is made until the date on which the grounds for putting the disposition or notice on hold cease to exist;

五　その特許出願に係る特許法令の規定による特許料又は手数料の納付について当該特許料又は手数料の軽減若しくは免除又は納付の猶予の決定があつた場合における当該軽減若しくは免除又は納付の猶予に係る申請があつた日から当該決定があつた日までの期間

(v) if a decision to reduce, exempt, or grant a deferment of payment for the relevant patent fee or other fee was reached regarding the payment of a patent fee or other fee under the provisions of the Patent Act or related orders in connection with the patent application: the period running from the date on which the application for the reduction, exemption, or deferment of payment was filed to the date on which the decision was reached;

六　その特許出願に係る第三十八条の四第七項の規定による明細書等補完書の取下げがあつた場合における当該明細書等補完書が同条第三項の規定により提出された日から同条第七項の規定により当該明細書等補完書が取り下げられた日までの期間

(vi) if a written supplement of the description or drawings under Article 38-4 (7) was withdrawn with regard to the patent application: the period from the date on which the written supplement of the description or drawings was submitted pursuant to paragraph (3) of the Article until the day on which the written supplement of the description or drawings was withdrawn pursuant to paragraph (7) of the Article;

七　その特許出願に係る拒絶査定不服審判の請求があつた場合における次のイからハまでに掲げる区分に応じて当該イからハまでに定める期間

(vii) if an appeal against an examiner's decision of refusal was filed related to the patent application: the period specified in (a) through (c) below corresponding to the categories set forth therein:

イ　第百五十九条第三項（第百七十四条第二項において準用する場合を含む。）において準用する第五十一条の規定による特許をすべき旨の審決があつた場合　拒絶をすべき旨の査定の謄本の送達があつた日から当該審決の謄本の送達があつた日までの期間

(a) if an appeal decision to the effect that a patent is to be granted under Article 51 as applied mutatis mutandis pursuant to Article 159, paragraph (3) (including as applied mutatis mutandis pursuant to Article 174, paragraph (2)) is made: the period running from the date on which a certified copy of the examiner's decision of refusal was served until the date on which a certified copy of the appeal decision is served;

ロ　第百六十条第一項（第百七十四条第二項において準用する場合を含む。）の規定による更に審査に付すべき旨の審決があつた場合　拒絶をすべき旨の査定の謄本の送達があつた日から当該審決の謄本の送達があつた日までの期間

(b) if an appeal decision to order further examination under Article 160, paragraph (1) (including as applied mutatis mutandis pursuant to Article 174, paragraph (2)) is made: the period running from the date on which the certified copy of the examiner's decision of refusal was served until the date on which the certified copy of the appeal decision was served; and

ハ　第百六十三条第三項において準用する第五十一条の規定による特許をすべき旨の査定があつた場合　拒絶をすべき旨の査定の謄本の送達があつた日から当該特許をすべき旨の査定の謄本の送達があつた日までの期間

(c) if an examiner's decision to the effect that a patent is to be granted under Article 51 as applied mutatis mutandis pursuant to Article 163, paragraph (3) is made: the period from the date on which the certified copy of the examiner's decision of refusal was served until the date on which the certified copy of the examiner's decision to the effect that a patent is to be granted was served;

八　その特許出願に係る特許法関係法令の規定による処分について行政不服審査法（平成二十六年法律第六十八号）の規定による審査請求に対する裁決が確定した場合における当該審査請求の日から当該裁決の謄本の送達があつた日までの期間

(viii) if a determination for a request for review filed under the provisions of the Administrative Complaint Review Act (Act No. 68 of 2014) became final and binding with regard to a disposition under the Patent Act and related laws and regulations concerning the patent application: the period running from the date of filing of the request for review until the date on which the certified copy of the determination was served;

九　その特許出願に係る特許法関係法令の規定による処分について行政事件訴訟法（昭和三十七年法律第百三十九号）の規定による訴えの判決が確定した場合における当該訴えの提起の日から当該訴えの判決が確定した日までの期間

(ix) if a judgment on an action filed under the provisions of the Administrative Case Litigation Act (Act No. 139 of 1962) became final and binding with regard to a disposition under the Patent Act and related laws and regulations concerning the patent application: the period running from the date of filing of the action until the date on which the judgment on the action became final and binding; and

十　その特許出願に係る特許法令の規定による手続が中断し、又は中止した場合における当該手続が中断し、又は中止した期間

(x) if the procedure under the provisions of the Patent Act or related orders concerning the patent application was suspended or terminated: the period during which the procedure was suspended or terminated.

４　第一項に規定する存続期間（第二項の規定により延長されたときは、その延長の期間を加えたもの。第六十七条の五第三項ただし書、第六十八条の二及び第百七条第一項において同じ。）は、その特許発明の実施について安全性の確保等を目的とする法律の規定による許可その他の処分であつて当該処分の目的、手続等からみて当該処分を的確に行うには相当の期間を要するものとして政令で定めるものを受けることが必要であるために、その特許発明の実施をすることができない期間があつたときは、五年を限度として、延長登録の出願により延長することができる。

(4) If there was a period during which the patented invention could not be worked because approval prescribed by relevant Acts that are intended to ensure safety, etc. or any other disposition designated by Cabinet Order as requiring considerable time for its proper execution in light of its purpose, procedures, etc., was necessary to be obtained for the working of the patented invention, the duration prescribed in paragraph (1) (if it is extended pursuant to paragraph (2), including the period of extension; the same applies in the proviso to Article 67-5, paragraph (3), Article 68-2, and Article 107, paragraph (1)) may be extended, upon the filing an application to register an extension of the duration, for a maximum of 5 years.

（存続期間の延長登録）

(Registration of Patent Term Extension)

第六十七条の二　前条第二項の延長登録の出願をしようとする者は、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 67-2 (1) A person filing an application to register an extension under paragraph (2) of the preceding Article must submit a written application to the Commissioner of the Japan Patent Office stating the following:

一　出願人の氏名又は名称及び住所又は居所

(i) the name, and the domicile or residence of the applicant;

二　特許番号

(ii) the patent number;

三　延長を求める期間

(iii) the period for which the extension is requested;

四　特許出願の番号及び年月日

(iv) the number and the filing date of the patent application; and

五　出願審査の請求があつた年月日

(v) the date on which the request for examination of the application was filed.

２　前項の願書には、経済産業省令で定めるところにより、同項第三号に掲げる期間の算定の根拠を記載した書面を添付しなければならない。

(2) The written application under the preceding paragraph must be accompanied by documents stating the basis for the calculation of the period set forth in item (iii) of the paragraph as provided by Order of the Ministry of Economy, Trade and Industry.

３　前条第二項の延長登録の出願は、特許権の設定の登録の日から三月（出願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当該期間内に出願をすることができないときは、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）を経過する日までの期間（当該期間が九月を超えるときは、九月））以内にしなければならない。ただし、同条第一項に規定する存続期間の満了後は、することができない。

(3) The application to register an extension under paragraph (2) of the preceding Article must be filed within the period of three months (if a person filing the application is unable to file the application within that period due to reasons beyond the person's control: within 14 days (in the case of an overseas resident, within two months) from the date on which the reasons ceased to be applicable (if the period exceeds nine months: within nine months)) from the date of registration of establishment of the patent right; provided, however, that the application may not be filed after the passage of the period prescribed in paragraph (1) of the Article.

４　特許権が共有に係るときは、各共有者は、他の共有者と共同でなければ、前条第二項の延長登録の出願をすることができない。

(4) If a patent right is co-owned, none of the co-owners may file an application to register an extension under paragraph (2) of the preceding Article unless jointly with all the other co-owners.

５　前条第二項の延長登録の出願があつたときは、同条第一項に規定する存続期間は、延長されたものとみなす。ただし、その出願について拒絶をすべき旨の査定が確定し、又は次条第三項の延長登録があつたときは、この限りでない。

(5) If an application to register an extension under paragraph (2) of the preceding Article has been filed, the patent term provided for in paragraph (1) of the Article is deemed to have been extended; provided, however, that this does not apply once the examiner's decision to the effect that the application is to be refused has become final and binding or once the registration of extension under paragraph (3) of the following Article has been made.

６　前条第二項の延長登録の出願があつたときは、第一項各号に掲げる事項を特許公報に掲載しなければならない。

(6) If an application to register an extension under paragraph (2) of the preceding Article is filed, matters listed in the items of paragraph (1) must be published in the patent gazette.

第六十七条の三　審査官は、第六十七条第二項の延長登録の出願が次の各号のいずれかに該当するときは、その出願について拒絶をすべき旨の査定をしなければならない。

Article 67-3 (1) If an application to register an extension under Article 67, paragraph (2) falls under any of the following items, the examiner must render an examiner's decision to the effect that the application is to be refused:

一　その特許権の設定の登録が基準日以後にされていないとき。

(i) if the establishment of the patent right was not registered on or after the base date;

二　その延長を求める期間がその特許権の存続期間に係る延長可能期間を超えているとき。

(ii) if the requested term of extension exceeds the permissible length for the extension of the term of those patent rights;

三　その出願をした者が当該特許権者でないとき。

(iii) if the person filing the application is not the patentee; and

四　その出願が前条第四項に規定する要件を満たしていないとき。

(iv) if the application does not meet the requirements under paragraph (4) of the preceding Article.

２　審査官は、第六十七条第二項の延長登録の出願について拒絶の理由を発見しないときは、延長登録をすべき旨の査定をしなければならない。

(2) If no reasons for refusal are found for the application to register an extension under Article 67, paragraph (2), the examiner must render an examiner's decision to the effect that the extension is to be registered.

３　前項の査定があつたときは、延長登録をする。

(3) If the examiner's decision under the preceding paragraph is rendered, the extension is to be registered.

４　前項の延長登録があつたときは、次に掲げる事項を特許公報に掲載しなければならない。

(4) Where the registration of extension under the preceding paragraph is made, the following matters shall be published in the patent gazette:

一　特許権者の氏名又は名称及び住所又は居所

(i) the name and domicile or residence of the patentee;

二　特許番号

(ii) the patent number;

三　第六十七条第二項の延長登録の出願の番号及び年月日

(iii) the number and the filing date of the application to register an extension under Article 67 paragraph (2);

四　延長登録の年月日

(iv) the date of the registration of extension;

五　延長の期間

(v) the period of extension;

六　特許出願の番号及び年月日

(vi) the number and the filing date of the patent application; and

七　出願審査の請求があつた年月日

(vii) the date on which a request for examination of the application was filed.

第六十七条の四　第四十七条第一項、第五十条、第五十二条及び第百三十九条（第七号を除く。）の規定は、第六十七条第二項の延長登録の出願の審査について準用する。この場合において、第百三十九条第六号中「不服を申し立てられた」とあるのは、「第六十七条第二項の延長登録の出願があつた特許権に係る特許出願の」と読み替えるものとする。

Article 67-4 Article 47, paragraph (1), Article 50, Article 52, and Article 139 (excluding item (vii)) apply mutatis mutandis to the examination of an application to register an extension under Article 67, paragraph (2). In this case, the term "which is being appealed" in Article 139, paragraph (6) is deemed to be replaced with "on the patent application regarding the patent right for which an application to register an extension under Article 67, paragraph (2) is filed".

第六十七条の五　第六十七条第四項の延長登録の出願をしようとする者は、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 67-5 (1) A person seeking to file an application to register an extension under Article 67, paragraph (4) must submit an application to the Commissioner of the Japan Patent Office stating the following:

一　出願人の氏名又は名称及び住所又は居所

(i) the name, and the domicile or residence of the applicant;

二　特許番号

(ii) the patent number;

三　延長を求める期間（五年以下の期間に限る。）

(iii) the period for which the extension is requested (not exceeding 5 years); and

四　第六十七条第四項の政令で定める処分の内容

(iv) the details of the disposition designated by Cabinet Order as referred to in Article 67, paragraph (4).

２　前項の願書には、経済産業省令で定めるところにより、延長の理由を記載した資料を添付しなければならない。

(2) A written application as referred to in the preceding paragraph must be accompanied by materials specifying the grounds for the extension, pursuant to Order of the Ministry of Economy, Trade and Industry.

３　第六十七条第四項の延長登録の出願は、同項の政令で定める処分を受けた日から政令で定める期間内にしなければならない。ただし、同条第一項に規定する存続期間の満了後は、することができない。

(3) An application to register an extension under Article 67, paragraph (4) must be filed within the period prescribed by Cabinet Order after the issuance of Cabinet Order- specified disposition as referred to in Article 67, paragraph (4); provided, however, that the written application may not be filed after the passage of the term of patent prescribed in Article 67, paragraph (1).

４　第六十七条の二第四項から第六項までの規定は、第六十七条第四項の延長登録の出願について準用する。この場合において、第六十七条の二第五項ただし書中「次条第三項」とあるのは「第六十七条の七第三項」と、同条第六項中「第一項各号」とあるのは「第六十七条の五第一項各号」と読み替えるものとする。

(4) Article 67-2, paragraphs (4) through (6) apply mutatis mutandis to an application to register an extension under Article 67, paragraph (4). In this case, the term "paragraph (3) of the following Article" in the proviso to Article 67-2, paragraph (5) is deemed to be replaced with "Article 67-7, paragraph (3)", and the term "items of paragraph (1)" in Article 67-2, paragraph (6) is deemed to be replaced with "items of Article 67-5, paragraph (1)".

第六十七条の六　第六十七条第四項の延長登録の出願をしようとする者は、同条第一項に規定する存続期間の満了前六月の前日までに同条第四項の政令で定める処分を受けることができないと見込まれるときは、次に掲げる事項を記載した書面をその日までに特許庁長官に提出しなければならない。

Article 67-6 (1) If it is anticipated that it will not be possible to obtain the disposition provided for by Cabinet Order that is referred to in Article 67, paragraph (4) by 6 months and one day before the expiration of the patent term under Article 67, paragraph (1), a person seeking to file an application to register an extension as referred to in Article 67, paragraph (4) must submit a document stating the following to the Commissioner of the Japan Patent Office by that day:

一　出願をしようとする者の氏名又は名称及び住所又は居所

(i) the name, and domicile or residence of the person filing the application;

二　特許番号

(ii) the patent number; and

三　第六十七条第四項の政令で定める処分

(iii) the disposition provided for by Cabinet Order as referred to in Article 67, paragraph (4).

２　前項の規定により提出すべき書面を提出しないときは、第六十七条第一項に規定する存続期間の満了前六月以後に同条第四項の延長登録の出願をすることができない。

(2) Unless the document that must be submitted pursuant to the preceding paragraph is submitted, an application to register an extension under Article 67, paragraph (4) may not be filed after six months or less before the expiration of the term of the patent right as prescribed in Article 67, paragraph (1).

３　第一項に規定する書面が提出されたときは、同項各号に掲げる事項を特許公報に掲載しなければならない。

(3) Once the document as provided in paragraph (1) is submitted, the matters set forth in each item of the paragraph must be published in the patent gazette.

４　第一項の規定により同項に規定する書面を提出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に規定する日までにその書面を提出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、一月）以内で同項に規定する日の後二月以内にその書面を特許庁長官に提出することができる。

(4) If a person that submits a document pursuant to paragraph (1) is unable to submit the document within the period provided in the paragraph due to reasons beyond the person's control, the person may submit the document within 14 days (if the person is an overseas resident, within one month) from the date on which the reasons ceased to be applicable, but not later than two months following the date prescribed in the paragraph, notwithstanding the provisions of the paragraph.

第六十七条の七　審査官は、第六十七条第四項の延長登録の出願が次の各号のいずれかに該当するときは、その出願について拒絶をすべき旨の査定をしなければならない。

Article 67-7 (1) If an application to register an extension under Article 67, paragraph (4) falls under any of the following items, the examiner must issue a decision to the effect that the application is to be rejected:

一　その特許発明の実施に第六十七条第四項の政令で定める処分を受けることが必要であつたとは認められないとき。

(i) it is not found to be necessary to receive the disposition designated by Cabinet Order as referred to in Article 67, paragraph (4) for the working of the patented invention;

二　その特許権者又はその特許権についての専用実施権若しくは通常実施権を有する者が第六十七条第四項の政令で定める処分を受けていないとき。

(ii) the patentee, or the person with the exclusive license or a non-exclusive license to the patent has not received the disposition designated by Cabinet Order as referred to in Article 67, paragraph (4);

三　その延長を求める期間がその特許発明の実施をすることができなかつた期間を超えているとき。

(iii) the requested length of the extension exceeds the period during which it was not possible to work the patent invention;

四　その出願をした者が当該特許権者でないとき。

(iv) the person filing the application is not the patentee; or

五　その出願が第六十七条の五第四項において準用する第六十七条の二第四項に規定する要件を満たしていないとき。

(v) the application does not meet the requirements stipulated in Article 67-2, paragraph (4), as applied mutatis mutandis pursuant to Article 67-5, paragraph (4).

２　審査官は、第六十七条第四項の延長登録の出願について拒絶の理由を発見しないときは、延長登録をすべき旨の査定をしなければならない。

(2) If no grounds for rejection are found for the application to register an extension under Article 67, paragraph (4), the examiner must reach a decision to the effect that the extension is to be registered.

３　前項の査定があつたときは、延長登録をする。

(3) When an examiner's decision under the preceding paragraph is rendered, the extension is registered.

４　前項の延長登録があつたときは、次に掲げる事項を特許公報に掲載しなければならない。

(4) When a registration of extension as referred to in the preceding paragraph is made, the following matters must be published in the patent gazette:

一　特許権者の氏名又は名称及び住所又は居所

(i) the name and the domicile or residence of the patentee;

二　特許番号

(ii) the patent number;

三　第六十七条第四項の延長登録の出願の番号及び年月日

(iii) the number and filing date of the application to register a patent term extension under Article 67, paragraph (4);

四　延長登録の年月日

(iv) the date of the registration of the extension;

五　延長の期間

(v) the length of the extension; and

六　第六十七条第四項の政令で定める処分の内容

(vi) the contents of the disposition designated by Cabinet Order as referred to in Article 67, paragraph (4).

第六十七条の八　第六十七条の四前段の規定は、第六十七条第四項の延長登録の出願の審査について準用する。この場合において、第六十七条の四前段中「第七号」とあるのは、「第六号及び第七号」と読み替えるものとする。

Article 67-8 The first sentence of Article 67-4 applies mutatis mutandis to the examination of an application to register an extension under Article 67, paragraph (4). In this case, the term "item (vii)" in the first sentence of Article 67-4 is to be deemed to be replaced with "items (vi) and (vii)".

（特許権の効力）

(Effect of Patent Rights)

第六十八条　特許権者は、業として特許発明の実施をする権利を専有する。ただし、その特許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特許発明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 68 The patentee has an exclusive right to work the patented invention in the course of trade; provided, however, that if the patentee grants an exclusive license to the patent, this does not apply within the scope of the exclusive licensee's exclusive right to work the patented invention.

（第六十七条第四項の規定により存続期間が延長された場合の特許権の効力）

(Effect of Patent Rights When the Patent Term Is Extended Pursuant to Article 67, paragraph (4))

第六十八条の二　第六十七条第四項の規定により同条第一項に規定する存続期間が延長された場合（第六十七条の五第四項において準用する第六十七条の二第五項本文の規定により延長されたものとみなされた場合を含む。）の当該特許権の効力は、その延長登録の理由となつた第六十七条第四項の政令で定める処分の対象となつた物（その処分においてその物の使用される特定の用途が定められている場合にあつては、当該用途に使用されるその物）についての当該特許発明の実施以外の行為には、及ばない。

Article 68-2 If the duration prescribed in Article 67 (1) is extended pursuant to Article 67, paragraph (4) (including the case where the duration is deemed to have been extended pursuant to the main clause of Article 67-2, paragraph (5) as applied mutatis mutandis pursuant to Article 67-5, paragraph (4)), the effectiveness of the patent right does not extend to any act other than the working of the patented invention for the product which was the subject of the disposition designated by Cabinet Order under Article 67, paragraph (4) which constituted the reason for the registration of extension (when the specific usage of the product is prescribed by the disposition, the product used for that usage).

（特許権の効力が及ばない範囲）

(Limitations of Patent Right)

第六十九条　特許権の効力は、試験又は研究のためにする特許発明の実施には、及ばない。

Article 69 (1) A patent right is not effective against the working of the patented invention for experimental or research purposes.

２　特許権の効力は、次に掲げる物には、及ばない。

(2) A patent right is not effective against the following products:

一　単に日本国内を通過するに過ぎない船舶若しくは航空機又はこれらに使用する機械、器具、装置その他の物

(i) vessels or aircraft merely passing through Japan, or machines, apparatus, equipment, or other products used in them; and

二　特許出願の時から日本国内にある物

(ii) products present in Japan prior to the filing of the patent application.

３　二以上の医薬（人の病気の診断、治療、処置又は予防のため使用する物をいう。以下この項において同じ。）を混合することにより製造されるべき医薬の発明又は二以上の医薬を混合して医薬を製造する方法の発明に係る特許権の効力は、医師又は歯科医師の処方せんにより調剤する行為及び医師又は歯科医師の処方せんにより調剤する医薬には、及ばない。

(3) A patent right for a medical invention (medicine meaning a product used in the diagnosis, therapy, treatment, or prevention of human diseases; hereinafter the same applies in this paragraph) that is to be manufactured by two or more medicines being mixed together or for the invention of a process by which a medicine is manufactured by two or more medicines being mixed together has no effect against the act of preparation of a medicine as per a physician's or dentist's prescription or against medicine prepared as per a physician's or a dentist's prescription.

（特許発明の技術的範囲）

(Technical Scope of Patented Invention)

第七十条　特許発明の技術的範囲は、願書に添付した特許請求の範囲の記載に基づいて定めなければならない。

Article 70 (1) The technical scope of a patented invention must be determined based upon the statements in the claims attached to the written application.

２　前項の場合においては、願書に添付した明細書の記載及び図面を考慮して、特許請求の範囲に記載された用語の意義を解釈するものとする。

(2) In the case referred to in the preceding paragraph, the meanings of terms used in the claims are to be interpreted in consideration of the statements in the description and drawings attached to the written application.

３　前二項の場合においては、願書に添付した要約書の記載を考慮してはならない。

(3) In the case referred to in the preceding two paragraphs, statements in the abstract attached to the written application must not be taken into consideration.

第七十一条　特許発明の技術的範囲については、特許庁に対し、判定を求めることができる。

Article 71 (1) A request may be made to the Japan Patent Office for an advisory opinion on the technical scope of a patented invention.

２　特許庁長官は、前項の規定による求があつたときは、三名の審判官を指定して、その判定をさせなければならない。

(2) If a request under the preceding paragraph is filed, the Commissioner of the Japan Patent Office must designate three administrative judges to provide an advisory opinion on the requested matter.

３　第百三十一条第一項、第百三十一条の二第一項本文、第百三十二条第一項及び第二項、第百三十三条、第百三十三条の二、第百三十四条第一項、第三項及び第四項、第百三十五条、第百三十六条第一項及び第二項、第百三十七条第二項、第百三十八条、第百三十九条（第六号及び第七号を除く。）、第百四十条から第百四十四条まで、第百四十四条の二第一項及び第三項から第五項まで、第百四十五条第二項から第七項まで、第百四十六条、第百四十七条第一項及び第二項、第百五十条第一項から第五項まで、第百五十一条から第百五十四条まで、第百五十五条第一項、第百五十七条並びに第百六十九条第三項、第四項及び第六項の規定は、第一項の判定について準用する。この場合において、第百三十五条中「審決」とあるのは「決定」と、第百四十五条第二項中「前項に規定する審判以外の審判」とあるのは「判定の審理」と、同条第五項ただし書中「公の秩序又は善良の風俗を害するおそれがあるとき」とあるのは「審判長が必要があると認めるとき」と、第百五十一条中「第百四十七条」とあるのは「第百四十七条第一項及び第二項」と、第百五十五条第一項中「審決が確定するまで」とあるのは「判定の謄本が送達されるまで」と読み替えるものとする。

(3) Article 131, paragraph (1), the main clause of Article 131-2, paragraph (1), Article 132, paragraphs (1) and (2), Articles 133 and 133-2, Article 134, paragraphs (1), (3), and (4), Article 135, Article 136, paragraphs (1) and (2), Article 137, paragraph (2), Articles 138, 139 (excluding item (vi) and (vii)), 140 through 144, Article 144-2, paragraphs (1) and (3) through (5), Article 145, paragraphs (2) through (7), Article 146, Article 147, paragraphs (1) and (2), Article 150, paragraphs (1) through (5), Articles 151 through 154, Article 155, paragraph (1), Article 157, and Article 169, paragraphs (3), (4), and (6) apply mutatis mutandis to the advisory opinion referred to in paragraph (1). In this case, the term "decision on the trial or appeal" in Article 135 is deemed to be replaced with "ruling", the phrase "A trial or appeal, other than one provided for in the preceding paragraph , in Article 145, paragraph (2) is deemed to be replaced with "Proceedings for advisory opinion," the term "open proceedings is likely to disrupt the public order or morality" in the proviso to Article 145, paragraph (5) is deemed to be replaced with "a chief administrative judge finds it necessary", the term "Article 147" in Article 151 is deemed to be replaced with "Article 147, paragraphs (1) and (2) ," and the phrase "up until such time as the decision on the trial or appeal becomes final and binding" in Article 155, paragraph (1) is deemed to be replaced with "up until the certified copy of the advisory opinion is served."

４　前項において読み替えて準用する第百三十五条の規定による決定に対しては、不服を申し立てることができない。

(4) No appeal may be filed against the ruling under Article 135 to be applied mutatis mutandis following the deemed replacement of terms pursuant to the preceding paragraph.

第七十一条の二　特許庁長官は、裁判所から特許発明の技術的範囲について鑑定の嘱託があつたときは、三名の審判官を指定して、その鑑定をさせなければならない。

Article 71-2 (1) If the Commissioner of the Japan Patent Office is commissioned by the court for the provision of an expert opinion on the technical scope of a patented invention, the commissioner must appoint three administrative judges and direct them to provide an expert opinion on the requested matter.

２　第百三十六条第一項及び第二項、第百三十七条第二項並びに第百三十八条の規定は、前項の鑑定の嘱託に準用する。

(2) Article 136, paragraphs (1) and (2), Article 137, paragraph (2), and Article 138 apply mutatis mutandis to the commissioning of the provision of an expert opinion as referred to in the preceding paragraph.

（他人の特許発明等との関係）

(Relationship to Patented Inventions of Another Party)

第七十二条　特許権者、専用実施権者又は通常実施権者は、その特許発明がその特許出願の日前の出願に係る他人の特許発明、登録実用新案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、又はその特許権がその特許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、業としてその特許発明の実施をすることができない。

Article 72 If a patented invention uses another person's patented invention, registered utility model, registered design, or design similar thereto for which an application was filed prior to the date of filing of the patent application, or if the patent right is in conflict with another person's design right or trademark right for which an application was filed prior to the date of filing of the patent application, the patentee, exclusive licensee, or non-exclusive licensee may not work the patented invention in the course of trade.

（共有に係る特許権）

(Co-Owned Patent Rights)

第七十三条　特許権が共有に係るときは、各共有者は、他の共有者の同意を得なければ、その持分を譲渡し、又はその持分を目的として質権を設定することができない。

Article 73 (1) If a patent right is jointly owned, no co-owner may transfer or establish a right of pledge on the co-owner's own share without the consent of the other co-owners.

２　特許権が共有に係るときは、各共有者は、契約で別段の定をした場合を除き、他の共有者の同意を得ないでその特許発明の実施をすることができる。

(2) If a patent right is co-owned, unless otherwise agreed upon in a contract, each of the co-owners of the patent right may work the patented invention without the consent of any other co-owner.

３　特許権が共有に係るときは、各共有者は、他の共有者の同意を得なければ、その特許権について専用実施権を設定し、又は他人に通常実施権を許諾することができない。

(3) If a patent right is co-owned, no co-owner may establish an exclusive license or grant a non-exclusive license on the patent right to any third party without the consent of the other co-owners.

（特許権の移転の特例）

(Special Provisions on the Transfer of a Patent Right)

第七十四条　特許が第百二十三条第一項第二号に規定する要件に該当するとき（その特許が第三十八条の規定に違反してされたときに限る。）又は同項第六号に規定する要件に該当するときは、当該特許に係る発明について特許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、その特許権者に対し、当該特許権の移転を請求することができる。

Article 74 (1) If a patent falls under the requirements prescribed in Article 123, paragraph (1), item (ii) (but only if the patent is obtained in violation of Article 38) or the requirements prescribed in item (vi) of that paragraph, the person that has the right to be granted the patent for the invention pertaining to the patent may request that the patentee transfer the patent right as provided by Order of the Ministry of Economy, Trade and Industry.

２　前項の規定による請求に基づく特許権の移転の登録があつたときは、その特許権は、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。当該特許権に係る発明についての第六十五条第一項又は第百八十四条の十第一項の規定による請求権についても、同様とする。

(2) If the transfer of a patent right is registered based on the request under the preceding paragraph, the patent right is deemed to have belonged to the person that has had this registered from the beginning. The same applies to the right to claim compensation under Article 65, paragraph (1) or Article 184-10, paragraph (1) for the invention so patented.

３　共有に係る特許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、前条第一項の規定は、適用しない。

(3) Paragraph (1) of the preceding Article does not apply when the share of a co-owned patent right is transferred based on the request under paragraph (1).

第七十五条　削除

Article 75 Deleted

（相続人がない場合の特許権の消滅）

(Lapse of a Patent Right in Absence of an Heir)

第七十六条　特許権は、民法第九百五十二条第二項の期間内に相続人である権利を主張する者がないときは、消滅する。

Article 76 A patent right is forfeited when no person asserts the right to it as an heir within the period referred to in Article 952, paragraph (2) of the Civil Code.

（専用実施権）

(Exclusive Licenses)

第七十七条　特許権者は、その特許権について専用実施権を設定することができる。

Article 77 (1) The patentee may grant an exclusive license to the patent right.

２　専用実施権者は、設定行為で定めた範囲内において、業としてその特許発明の実施をする権利を専有する。

(2) The exclusive licensee has an exclusive right to work the patented invention in the course of trade to the extent specified by the act establishing that license.

３　専用実施権は、実施の事業とともにする場合、特許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。

(3) An exclusive license may be transferred only if the business linked to the working of the relevant invention is also transferred, with the consent of the patentee, or as a result of general succession including inheritance.

４　専用実施権者は、特許権者の承諾を得た場合に限り、その専用実施権について質権を設定し、又は他人に通常実施権を許諾することができる。

(4) An exclusive licensee may establish a right of pledge or grant a non-exclusive license under that exclusive license to a third party only with the consent of the patentee.

５　第七十三条の規定は、専用実施権に準用する。

(5) Article 73 applies mutatis mutandis to exclusive license.

（通常実施権）

(Non-Exclusive Licenses)

第七十八条　特許権者は、その特許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 78 (1) The patentee may grant another party a non-exclusive license to the patent right.

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、業としてその特許発明の実施をする権利を有する。

(2) A non-exclusive licensee has a right to work the patented invention in the course of trade to the extent prescribed in this Act or specified by the act establishing the license.

（先使用による通常実施権）

(Non-Exclusive License Based on Prior Use)

第七十九条　特許出願に係る発明の内容を知らないで自らその発明をし、又は特許出願に係る発明の内容を知らないでその発明をした者から知得して、特許出願の際現に日本国内においてその発明の実施である事業をしている者又はその事業の準備をしている者は、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、その特許出願に係る特許権について通常実施権を有する。

Article 79 A person that, without knowing the details of the invention described in a patent application personally makes an identical invention or that learns of such an invention from a person that, without knowing the details of the invention described in a patent application, personally makes an identical invention; and that is engaging or preparing to engage in business that involves the working of the invention in Japan at the time of the patent application is filed, has a non-exclusive license under the patent right, but only within the extent of the invention that the person is working or preparing to work and within the purview of the business purpose.

（特許権の移転の登録前の実施による通常実施権）

(Non-exclusive License Based on the Working of an Invention Prior to the Registration of Transfer of a Patent Right)

第七十九条の二　第七十四条第一項の規定による請求に基づく特許権の移転の登録の際現にその特許権、その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していた者であつて、その特許権の移転の登録前に、特許が第百二十三条第一項第二号に規定する要件に該当すること（その特許が第三十八条の規定に違反してされたときに限る。）又は同項第六号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、その特許権について通常実施権を有する。

Article 79-2 (1) If, before the transfer of a patent right is registered, the person holding that patent at the time of its transfer is registered based on a request under Article 74, paragraph (1) or a person holding an exclusive license under the patent right, or a non-exclusive license under the patent right, or under the exclusive license at the time of its transfer is registered based on a request pursuant to Article 74, paragraph (1) has been engaging or preparing to engage in business that involves the working of the invention in Japan, without knowing that the patent falls under the requirements prescribed in Article 123, paragraph (1), item (ii) (but only if the patent was obtained in violation of Article 38) or the requirements provided in item (vi) of the paragraph, the person has a non-exclusive license under the patent right only within the extent of the invention that the person has been working or preparing to work and within the purview of that business purpose.

２　当該特許権者は、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) The patentee has the right to receive reasonable compensation from a person that holds a non-exclusive license pursuant to the preceding paragraph.

（無効審判の請求登録前の実施による通常実施権）

(Non-Exclusive License Based on the Working of the Invention Prior to Registration of a Request for a Trial for Invalidation)

第八十条　次の各号のいずれかに該当する者であつて、特許無効審判の請求の登録前に、特許が第百二十三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特許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 80 (1) If, before a request for a trial for patent invalidation is registered, a person falling under any of 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 any of the items of Article 123, paragraph (1), that person has a non-exclusive license under the invalidated patent right or under the exclusive license existing that exists at the time of its invalidation, only within the extent of the invention that the person has been working or preparing to work and within the purview of that business purpose:

一　同一の発明についての二以上の特許のうち、その一を無効にした場合における原特許権者

(i) the original patentee, if one of the two or more patents granted for the same invention is invalidated;

二　特許を無効にして同一の発明について正当権利者に特許をした場合における原特許権者

(ii) the original patentee, if, after a patent is invalidated, a patent is granted to the person that is entitled to obtain a patent for the same invention; or

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) in the cases referred to in items (i) and (ii), a person that, at the time of the registration of the request for a trial for patent invalidation, has an exclusive license under the patent right to be invalidated, or a non-exclusive license under the patent right or exclusive license on the patent right.

２　当該特許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) The patentee or the exclusive licensee is entitled to receive reasonable compensation from a person holding a non-exclusive license pursuant to the preceding paragraph.

（意匠権の存続期間満了後の通常実施権）

(Non-Exclusive License After the Expiration of the Term of a Design Right)

第八十一条　特許出願の日前又はこれと同日の意匠登録出願に係る意匠権がその特許出願に係る特許権と抵触する場合において、その意匠権の存続期間が満了したときは、その原意匠権者は、原意匠権の範囲内において、当該特許権又はその意匠権の存続期間の満了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 81 If a design right connected with an application for a design registration which is filed on or before the filing date of a patent application is in conflict with the patent right that the patent application is for, upon the passage of the term of the design right, the original holder of the design right has a non-exclusive license under the patent right or under the exclusive license that exists at the time of the passage of the term of the design right, within the scope of the original design right.

第八十二条　特許出願の日前又はこれと同日の意匠登録出願に係る意匠権がその特許出願に係る特許権と抵触する場合において、その意匠権の存続期間が満了したときは、その満了の際現にその意匠権についての専用実施権又はその意匠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は、原権利の範囲内において、当該特許権又はその意匠権の存続期間の満了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 82 (1) If a design right connected with an application for a design registration which is filed on or before the filing date of a patent application is in conflict with the patent right that the patent application is for, once the term of the design right expires, any person that has an exclusive license on the design right, or a non-exclusive license on that design right or on an exclusive license on that design right at the time the term of the design right expires, has a non-exclusive license under the patent right or under any exclusive license that exists at the time the term of the design right expires, within the scope of the original right.

２　当該特許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) The patentee or the exclusive licensee is entitled to receive reasonable compensation from a person holding a non-exclusive license pursuant to the preceding paragraph.

（不実施の場合の通常実施権の設定の裁定）

(Award Granting a Non-Exclusive License If an Invention Is Not Worked)

第八十三条　特許発明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、その特許発明の実施をしようとする者は、特許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、その特許発明に係る特許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 83 (1) If a patented invention has not been properly and continuously worked for three years or longer in Japan, a person intending to work the patented invention may request the patentee or exclusive licensee to hold discussions toward an agreement to grant the person a non-exclusive license; provided, however, that this does not apply unless four years have passed since the filing date of the patent application for the patented invention.

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、その特許発明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 no agreement is reached by discussions or no discussions toward such an agreement are able to be held as referred to in the preceding paragraph, the person intending to work the patented invention may request the Commissioner of the Japan Patent Office to grant an award.

（答弁書の提出）

(Submission of a Written Answer)

第八十四条　特許庁長官は、前条第二項の裁定の請求があつたときは、請求書の副本をその請求に係る特許権者又は専用実施権者その他その特許に関し登録した権利を有する者に送達し、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 84 When a request for an award is filed as referred to in Article 83, paragraph (2), the Commissioner of the Japan Patent Office must serve a duplicate of the written request on the patentee or exclusive licensee that the request concerns, and any other person with a registered right under the patent, and give that person an opportunity to submit a written answer within a reasonable, specified period of time.

（通常実施権者の意見の陳述）

(Statement of Opinions of Non-Exclusive Licensees)

第八十四条の二　第八十三条第二項の裁定の請求があつたときは、その特許に関し通常実施権を有する者は、前条に規定する期間内に限り、その裁定の請求について意見を述べることができる。

Article 84-2 If a request for the award is filed as referred to in Article 83, paragraph (2), a person with a non-exclusive license under the patent may state an opinion about the request for the award within the period providing for in the preceding Article.

（審議会の意見の聴取等）

(Hearing of Opinions of a Council)

第八十五条　特許庁長官は、第八十三条第二項の裁定をしようとするときは、審議会等（国家行政組織法（昭和二十三年法律第百二十号）第八条に規定する機関をいう。）で政令で定めるものの意見を聴かなければならない。

Article 85 (1) Before rendering an award as referred to in Article 83, paragraph (2), the Commissioner of the Japan Patent Office must hear the opinions of the council or other body (meaning organs provided for in Article 8 of the National Government Organization Act (Act No. 120 of 1948)) that is provided for by Cabinet Order.

２　特許庁長官は、その特許発明の実施が適当にされていないことについて正当な理由があるときは、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。

(2) If there is a justifiable reason that the patented invention has not been properly worked, the Commissioner of the Japan Patent Office may not award a non-exclusive license.

（裁定の方式）

(Formal Requirements for Awards)

第八十六条　第八十三条第二項の裁定は、文書をもつて行い、かつ、理由を附さなければならない。

Article 86 (1) The award referred to in Article 83, paragraph (2) must be rendered in writing and the reasons for that award must be given.

２　通常実施権を設定すべき旨の裁定においては、次に掲げる事項を定めなければならない。

(2) The following matters must be determined in an award of a non-exclusive license:

一　通常実施権を設定すべき範囲

(i) the scope of the non-exclusive license being granted; and

二　対価の額並びにその支払の方法及び時期

(ii) the amount of consideration, and the method and time for its payment thereof.

（裁定の謄本の送達）

(Service of a Certified Copy of an Award)

第八十七条　特許庁長官は、第八十三条第二項の裁定をしたときは、裁定の謄本を当事者、当事者以外の者であつてその特許に関し登録した権利を有するもの及び第八十四条の二の規定により意見を述べた通常実施権者に送達しなければならない。

Article 87 (1) Upon rendering an award as referred to in Article 83, paragraph (2), the Commissioner of the Japan Patent Office must serve a certified copy of the award on the parties, on non-parties with registered rights under the patent, and on non-exclusive licensees that have stated opinions pursuant to Article 84-2.

２　当事者に対し前項の規定により通常実施権を設定すべき旨の裁定の謄本の送達があつたときは、裁定で定めるところにより、当事者間に協議が成立したものとみなす。

(2) Once a certified copy of the award granting the non-exclusive license is served on the parties pursuant to the preceding paragraph, an agreement as prescribed in the award is deemed to have been reached between the parties.

（対価の供託）

(Deposit of Consideration)

第八十八条　第八十六条第二項第二号の対価を支払うべき者は、次に掲げる場合は、その対価を供託しなければならない。

Article 88 A person that is required to pay the consideration referred to in Article 86, paragraph (2), item (ii) must deposit that consideration in the following cases:

一　対価の弁済の提供をした場合において、その対価を受けるべき者がその受領を拒んだとき。

(i) the person required to pay the consideration has paid it but the person entitled to consideration refuses to receive it;

二　その対価を受けるべき者がこれを受領することができないとき。

(ii) the person entitled to the consideration is unable to receive it;

三　その対価について第百八十三条第一項の訴えの提起があつたとき。

(iii) an action with respect to the consideration is instituted under Article 183, paragraph (1); or

四　当該特許権又は専用実施権を目的とする質権が設定されているとき。ただし、質権者の承諾を得たときは、この限りでない。

(iv) a right of pledge is established on the patent right or the exclusive license; provided, however, that this does not apply if the consent of the pledgee is obtained.

（裁定の失効）

(Forfeiture of an Award)

第八十九条　通常実施権の設定を受けようとする者が第八十三条第二項の裁定で定める支払の時期までに対価（対価を定期に又は分割して支払うべきときは、その最初に支払うべき分）の支払又は供託をしないときは、通常実施権を設定すべき旨の裁定は、その効力を失う。

Article 89 If a person seeking a non-exclusive license fails to pay or deposit consideration (or if the consideration is to be paid periodically or by installments, fails to pay the first installment) by the due date for payment fixed in the award referred to in Article 83, paragraph (2), the award to the effect that a non-exclusive license is to be granted loses its effect.

（裁定の取消し）

(Rescission of an Award)

第九十条　特許庁長官は、第八十三条第二項の規定により通常実施権を設定すべき旨の裁定をした後に、裁定の理由の消滅その他の事由により当該裁定を維持することが適当でなくなつたとき、又は通常実施権の設定を受けた者が適当にその特許発明の実施をしないときは、利害関係人の請求により又は職権で、裁定を取り消すことができる。

Article 90 (1) If: after the Commissioner of the Japan Patent Office awards a non-exclusive license pursuant to Article 83, paragraph (2), it becomes inappropriate to preserve the award because the grounds for awarding it have ceased to exist or for any other reason, or the person that was granted the non-exclusive license does not properly work the patented invention, the Commissioner may rescind that award at the request of an interested person or by the Commissioner's own authority.

２　第八十四条、第八十四条の二、第八十五条第一項、第八十六条第一項及び第八十七条第一項の規定は前項の規定による裁定の取消しに、第八十五条第二項の規定は通常実施権の設定を受けた者が適当にその特許発明の実施をしない場合の前項の規定による裁定の取消しに準用する。

(2) Articles 84 and 84-2, Article 85, paragraph (1), Article 86, paragraph (1), and Article 87, paragraph (1) apply mutatis mutandis to the rescission of an award as under the preceding paragraph and Article 85, paragraph (2) applies mutatis mutandis to the rescission of an award under the preceding paragraph when the person that was granted the non-exclusive license does not properly work the patented invention.

第九十一条　前条第一項の規定による裁定の取消があつたときは、通常実施権は、その後消滅する。

Article 91 A non-exclusive license is forfeited if a ruling is rescinded as under Article 90, paragraph (1).

（裁定についての不服の理由の制限）

(Restriction on the Grounds for Objection to an Award)

第九十一条の二　第八十三条第二項の規定による裁定についての行政不服審査法の規定による審査請求においては、その裁定で定める対価についての不服をその裁定についての不服の理由とすることができない。

Article 91-2 Dissatisfaction with the consideration determined in an award under Article 83, paragraph (2) may not be used as grounds for protest in a request for administrative review under the provisions of the Administrative Complaint Review Act concerning that award.

（自己の特許発明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 That Person's Own Patented Invention)

第九十二条　特許権者又は専用実施権者は、その特許発明が第七十二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特許発明の実施をするための通常実施権又は実用新案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 92 (1) If a patented invention falls under one of the cases provided for in Article 72, the patentee or exclusive licensee may request the other person that is referred to in that Article to hold discussions toward an agreement to grant the patentee or licensee a non-exclusive license to work that person's patented invention or to hold discussions toward an agreement to grant the patentee or licensee a non-exclusive license under the utility model right or the design right.

２　前項の協議を求められた第七十二条の他人は、その協議を求めた特許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実用新案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特許発明の範囲内において、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) The other person that is referred to in Article 72 that is requested to hold discussions toward the agreement referred to in the preceding paragraph may request the patentee or 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 patented invention that the patentee or exclusive licensee intend to work as a result of the person's agreement to grant a non-exclusive license under the relevant patent right, utility model right, or design right.

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、特許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 referred to in paragraph (1) is not reached or if discussions toward such an agreement cannot held, the patentee or the exclusive licensee may file a request to be awarded a non-exclusive license by the Commissioner of the Japan Patent Office.

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、第七十二条の他人は、第七項において準用する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 and a request for the award referred to in the preceding paragraph is filed, the other person that is referred to in Article 72 may file a request to be awarded a non-exclusive license by the Commissioner of the Japan Patent Office, but only within the period that the commissioner has designated for the person to submit a written answer, pursuant to Article 84 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七十二条の他人又は特許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 the case as referred to in paragraph (3) or (4), the Commissioner of the Japan Patent Office may not render an award granting a non-exclusive license if granting a non-exclusive license would be unreasonably prejudicial to interests of the other person that is referred to in Article 72, the patentee 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) Other than in the case as prescribed in the preceding paragraph, if the Commissioner of the Japan Patent Office does not render an award granting a non-exclusive license pursuant to a request for the award referred to in paragraph (3), the commissioner may not render an award granting a non-exclusive license in a case as referred to in paragraph (4).

７　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前条までの規定は、第三項又は第四項の裁定に準用する。

(7) Articles 84 and 84-2, Article 85, paragraph (1), and Articles 86 through the preceding Article 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）

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

第九十三条　特許発明の実施が公共の利益のため特に必要であるときは、その特許発明の実施をしようとする者は、特許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 93 (1) If the working of a patented invention is particularly necessary to the public interest, a person intending to work the patented invention may request the patentee or the 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、その特許発明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 if discussion toward such an agreement cannot be held, the person intending to work the patented invention may request the Minister of Economy, Trade and Industry to grant an award.

３　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の規定は、前項の裁定に準用する。

(3) Articles 84 and 84-2, Article 85, paragraph (1), and Articles 86 through 91-2 apply mutatis mutandis to the award referred to in the preceding paragraph.

（通常実施権の移転等）

(Transfer of a Non-Exclusive License)

第九十四条　通常実施権は、第八十三条第二項、第九十二条第三項若しくは第四項若しくは前条第二項、実用新案法第二十二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、特許権者（専用実施権についての通常実施権にあつては、特許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 94 (1) Except for a non-exclusive license granted by an award as referred to in Article 83, paragraph (2), Article 92, paragraph (3) or (4), or Article 93, paragraph (2) of the Patent Act, Article 22, paragraph (3) of the Utility Model Act, or Article 33, paragraph (3) of the Design Act, a non-exclusive license may be transferred only if business involving the working of the relevant invention is also transferred, the consent of the patentee (in the case of a non-exclusive license under exclusive license, the patentee and the exclusive licensee) is obtained, or as a result of general succession including inheritance.

２　通常実施権者は、第八十三条第二項、第九十二条第三項若しくは第四項若しくは前条第二項、実用新案法第二十二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、特許権者（専用実施権についての通常実施権にあつては、特許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) Except for a non-exclusive license granted by an award as referred to in Article 83, paragraph (2), Article 92, paragraph (3) or (4), or Article 93, paragraph (2) of the Patent Act, Article 22, paragraph (3) of the Utility Model Act, or Article 33, paragraph (3) of the Design Act, a non-exclusive licensee may establish a right of pledge on the non-exclusive right only when the consent of the patentee (or, if it is a non-exclusive license under exclusive license, the patentee and the exclusive licensee) is obtained.

３　第八十三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 83, paragraph (2), or Article 93, paragraph (2) may be transferred only if the business linked to the working of the relevant invention is also transferred.

４　第九十二条第三項、実用新案法第二十二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特許権、実用新案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、その特許権、実用新案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 92, paragraph (3) of the Patent Act, Article 22, paragraph (3) of the Utility Model Act, or Article 33, paragraph (3) of the Design Act, is transferred if the patent right, utility model right, or design right of the non-exclusive licensee under which the non-exclusive license is licensed is transferred together with the business linked to the working of the invention; and is forfeited if the patent right, utility model right, or design right is transferred or forfeited independently of the business linked to the working of the invention.

５　第九十二条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特許権、実用新案権又は意匠権に従つて移転し、その特許権、実用新案権又は意匠権が消滅したときは消滅する。

(5) A non-exclusive license under the award referred to in Article 92, paragraph (4) is transferred together with the patent right, utility model right, or design right under which the non-exclusive licensee is licensed, and is forfeited if the patent right, utility model right, or design right is forfeited.

６　第七十三条第一項の規定は、通常実施権に準用する。

(6) Article 73, paragraph (1) applies mutatis mutandis to a non-exclusive license.

（質権）

(Right of Pledge)

第九十五条　特許権、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、当該特許発明の実施をすることができない。

Article 95 Unless otherwise stipulated by contract, if a right of pledge is established on a patent right, exclusive license or non-exclusive license, the pledgee may not work the patented invention.

第九十六条　特許権、専用実施権又は通常実施権を目的とする質権は、特許権、専用実施権若しくは通常実施権の対価又は特許発明の実施に対しその特許権者若しくは専用実施権者が受けるべき金銭その他の物に対しても、行うことができる。ただし、その払渡又は引渡前に差押をしなければならない。

Article 96 A right of pledge on a patent right, exclusive license or non-exclusive license may be exercised against any consideration to be paid for the patent right, exclusive license or non-exclusive license or any money or goods to be received by the patentee or the exclusive licensee for the working of the patented invention; provided, however, that the pledgee must attach the consideration, money, or goods prior to their payment or delivery.

（特許権等の放棄）

(Waiver of Patent Rights)

第九十七条　特許権者は、専用実施権者又は質権者があるときは、これらの者の承諾を得た場合に限り、その特許権を放棄することができる。

Article 97 (1) If there is an exclusive licensee or a pledgee, the patentee may waive the patent right, only with the consent of those persons.

２　専用実施権者は、質権者又は第七十七条第四項の規定による通常実施権者があるときは、これらの者の承諾を得た場合に限り、その専用実施権を放棄することができる。

(2) If there is a pledgee, or a non-exclusive licensee as under Article 77, paragraph (4), the exclusive licensee may waive the exclusive license, only if the consent of the pledgee or non-exclusive licensee has been obtained.

３　通常実施権者は、質権者があるときは、その承諾を得た場合に限り、その通常実施権を放棄することができる。

(3) If there is a pledgee, a non-exclusive licensee may waive the non-exclusive license, only if the consent of the pledgee has been obtained.

（登録の効果）

(Effect of Registration)

第九十八条　次に掲げる事項は、登録しなければ、その効力を生じない。

Article 98 (1) The following matters do not become effective if they are not registered:

一　特許権の移転（相続その他の一般承継によるものを除く。）、信託による変更、放棄による消滅又は処分の制限

(i) the transfer of a patent (other than due to inheritance or other general succession), its modification under a trust, lapse due to waiver, or restriction on its disposal;

二　専用実施権の設定、移転（相続その他の一般承継によるものを除く。）、変更、消滅（混同又は特許権の消滅によるものを除く。）又は処分の制限

(ii) the grant, of an exclusive license, its transfer (other than due inheritance or other general succession), modification, forfeiture (other than due to merger or to lapse of the patent right), or a restriction on its disposal; and

三　特許権又は専用実施権を目的とする質権の設定、移転（相続その他の一般承継によるものを除く。）、変更、消滅（混同又は担保する債権の消滅によるものを除く。）又は処分の制限

(iii) the grant of a pledge on a patent or exclusive license, the transfer of such a pledge (other than due to inheritance or other general succession), its modification, forfeiture (other than due to merger or the extinguishment of the claim secured thereby, or a restriction on its disposal.

２　前項各号の相続その他の一般承継の場合は、遅滞なく、その旨を特許庁長官に届け出なければならない。

(2) If general succession including inheritance as referred to in one of the items of the preceding paragraph takes place, notification of this must be filed with the Commissioner of the Japan Patent Office without delay.

（通常実施権の対抗力）

(Perfection of a Non-exclusive License)

第九十九条　通常実施権は、その発生後にその特許権若しくは専用実施権又はその特許権についての専用実施権を取得した者に対しても、その効力を有する。

Article 99 A non-exclusive license is valid against a person that subsequently acquires the patent or the exclusive licensee, or acquires an exclusive license under the patent right.

第二節　権利侵害

Section 2 Infringement of Rights

（差止請求権）

(Right to Demand an Injunction)

第百条　特許権者又は専用実施権者は、自己の特許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 100 (1) A patentee or exclusive licensee may file a claim against a person that infringes or is likely to infringe the patent right or exclusive license for the cessation or prevention of the infringement.

２　特許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（物を生産する方法の特許発明にあつては、侵害の行為により生じた物を含む。第百二条第一項において同じ。）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 preceding paragraph, the patentee or exclusive licensee may demand measures necessary for the prevention of infringement, including the disposal of products constituting the act of infringement (if the patented invention is a process by which a product is produced, this includes articles produced through infringement; the same applies in Article 102, paragraph (1)) and the removal of equipment used to infringe.

（侵害とみなす行為）

(Acts Deemed to Constitute Infringement)

第百一条　次に掲げる行為は、当該特許権又は専用実施権を侵害するものとみなす。

Article 101 The following acts are deemed to constitute infringement of a patent right or violation of an exclusive license:

一　特許が物の発明についてされている場合において、業として、その物の生産にのみ用いる物の生産、譲渡等若しくは輸入又は譲渡等の申出をする行為

(i) if a patent has been granted for an invention that is a product, the act of producing, transferring, etc., importing or offering to transfer, etc., in the course of trade, any article whose only use is to produce that product;

二　特許が物の発明についてされている場合において、その物の生産に用いる物（日本国内において広く一般に流通しているものを除く。）であつてその発明による課題の解決に不可欠なものにつき、その発明が特許発明であること及びその物がその発明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) if a patent has been granted for an invention that is a product, the act of producing, transferring, etc., importing or offering to transfer, etc., in the course of trade, any article (excluding one that is widely distributed within Japan) that is used in the production of the product and is essential to the invention's solution to the problem, with knowledge that the invention is a patented invention and that the article is used for the working of the invention;

三　特許が物の発明についてされている場合において、その物を業としての譲渡等又は輸出のために所持する行為

(iii) if a patent has been granted on an invention that is a product, the act of possessing the product for the purpose of transferring, etc. or exporting it in the course of trade;

四　特許が方法の発明についてされている場合において、業として、その方法の使用にのみ用いる物の生産、譲渡等若しくは輸入又は譲渡等の申出をする行為

(iv) if a patent has been granted for an invention that is a product, the act of producing, transferring etc., importing or offering to transfer, etc., in the course of trade, any article whose only use is in that process;

五　特許が方法の発明についてされている場合において、その方法の使用に用いる物（日本国内において広く一般に流通しているものを除く。）であつてその発明による課題の解決に不可欠なものにつき、その発明が特許発明であること及びその物がその発明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

(v) if a patent has been granted for an invention that is a product, the act of producing, transferring, etc., importing or offering to transfer, etc., in the course of trade, any article (excluding one that is widely distributed within Japan) that is used in that process and that is essential to the invention's solution of the problem, with knowledge that the invention is a patented invention and that the article is used in the working of the invention; and

六　特許が物を生産する方法の発明についてされている場合において、その方法により生産した物を業としての譲渡等又は輸出のために所持する行為

(vi) if a patent has been granted for an invention that is a process for producing a product, the act of possessing the product produced by that process for the purpose of transferring, etc. or exporting it in the course of trade.

（損害の額の推定等）

(Presumption of the Value of Damage)

第百二条　特許権者又は専用実施権者が故意又は過失により自己の特許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を譲渡したときは、次の各号に掲げる額の合計額を、特許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。

Article 102 (1) If a patentee or an exclusive licensee files a claims against an infringer for compensation for damage sustained as a result of the intentional or negligent infringement of the patent right or exclusive license, and the infringer has transferred articles that constitute the act of infringement, the amount of damage sustained by the patentee or the exclusive licensee may be presumed to be the total of the amounts written in each of the following items.

一　特許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の単位数量当たりの利益の額に、自己の特許権又は専用実施権を侵害した者が譲渡した物の数量（次号において「譲渡数量」という。）のうち当該特許権者又は専用実施権者の実施の能力に応じた数量（同号において「実施相応数量」という。）を超えない部分（その全部又は一部に相当する数量を当該特許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（同号において「特定数量」という。）を控除した数量）を乗じて得た額

(i) the amount arrived at when the amount of profit per unit for the articles that the patentee or exclusive licensee would have been able to sell if the infringement had not taken place is multiplied by that part of the quantity of articles that the person infringing the patent right or exclusive license has transferred (referred to as the "quantity transferred" in the following item) which does not exceed the quantity covered by the patentee's or exclusive licensee's ability to work the patented invention (referred to as the "workable quantity" in the same item) (if there are circumstances that render the patentee or the exclusive licensee unable to sell a quantity of products equivalent to all or part of the workable quantity, the workable quantity less the quantity not sellable due to those circumstances (referred to as the "specified quantity" in the same item));

二　譲渡数量のうち実施相応数量を超える数量又は特定数量がある場合（特許権者又は専用実施権者が、当該特許権者の特許権についての専用実施権の設定若しくは通常実施権の許諾又は当該専用実施権者の専用実施権についての通常実施権の許諾をし得たと認められない場合を除く。）におけるこれらの数量に応じた当該特許権又は専用実施権に係る特許発明の実施に対し受けるべき金銭の額に相当する額

(ii) an amount equivalent to the amount of money that is to be received in exchange for the working of the patented invention under the patent right or exclusive license, for any quantity exceeding the workable quantity which is part of the quantity transferred, or for any specified quantity which is part of the quantity transferred (unless it is not found that the patentee would have been able to establish an exclusive license or grant a non-exclusive license under the patentee's patent rights, or that exclusive licensee would have been able to grant a non-exclusive license under the exclusive licensee's exclusive license).

２　特許権者又は専用実施権者が故意又は過失により自己の特許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、特許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 patentee or exclusive licensee files a claim for compensation for damage that the patentee or licensee personally incurs due to infringement against a person that intentionally or due to negligence, infringes the patent right or violates the exclusive license, and the infringer has profited from the infringement, the amount of that profit is presumed to be the value of damage incurred by the patentee or exclusive licensee.

３　特許権者又は専用実施権者は、故意又は過失により自己の特許権又は専用実施権を侵害した者に対し、その特許発明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) The patentee or exclusive licensee may fix the value of the damages that the patentee or exclusive licensee has personally incurred as being equivalent to the amount of money the patentee or exclusive licensee would have been entitled to receive for the working of the patented invention, and may claim compensation for this against a person that, intentionally or due to negligence, infringes the patent right or violates the exclusive license.

４　裁判所は、第一項第二号及び前項に規定する特許発明の実施に対し受けるべき金銭の額に相当する額を認定するに当たつては、特許権者又は専用実施権者が、自己の特許権又は専用実施権に係る特許発明の実施の対価について、当該特許権又は専用実施権の侵害があつたことを前提として当該特許権又は専用実施権を侵害した者との間で合意をするとしたならば、当該特許権者又は専用実施権者が得ることとなるその対価を考慮することができる。

(4) When a court determines the amount equivalent to the amount of money to be received for the working of the patented invention provided in paragraph (1), item (ii) and the preceding paragraph, the court may take into account the consideration that the patentee or the exclusive licensee would hypothetically obtain if they reached an agreement with the infringer concerning the consideration for the working of the patented invention that is covered by their patent right or exclusive license, based on the premise that the patent right or exclusive license had been infringed.

５　第三項の規定は、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、特許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。

(5) The provisions of paragraph (3) do not preclude any claim to compensation for damages in excess of the amount provided for therein. In this case, the court may consider the absence of intent or gross negligence by the person that has infringed the patent right or violated the exclusive license in fixing the amount of damages.

（過失の推定）

(Presumption of Negligence)

第百三条　他人の特許権又は専用実施権を侵害した者は、その侵害の行為について過失があつたものと推定する。

Article 103 A person that infringes another person's patent right or violates another person's exclusive license is presumed to be negligent in having infringed or violated it.

（生産方法の推定）

(Presumption of Production Process)

第百四条　物を生産する方法の発明について特許がされている場合において、その物が特許出願前に日本国内において公然知られた物でないときは、その物と同一の物は、その方法により生産したものと推定する。

Article 104 If a patent is granted on an invention that is a process for producing a product and the product was not publicly known in Japan prior to the filing of the patent application, any article identical to that product is presumed to have been produced using the patented process.

（具体的態様の明示義務）

(Obligation to Clarify Specific Circumstances)

第百四条の二　特許権又は専用実施権の侵害に係る訴訟において、特許権者又は専用実施権者が侵害の行為を組成したものとして主張する物又は方法の具体的態様を否認するときは、相手方は、自己の行為の具体的態様を明らかにしなければならない。ただし、相手方において明らかにすることができない相当の理由があるときは、この限りでない。

Article 104-2 In litigation involving the infringement of a patent right or violation of an exclusive license, if the adverse party denies the specific circumstances of the product or process that the patentee or exclusive licensee asserts to constitute the act of infringement, the adverse party must clarify the specific circumstances of the adverse party's own action; provided, however, that this does not apply if there are reasonable grounds for the adverse party not being able to clarify these circumstances.

（特許権者等の権利行使の制限）

(Restriction on Exercise of Rights by the Patentee)

第百四条の三　特許権又は専用実施権の侵害に係る訴訟において、当該特許が特許無効審判により又は当該特許権の存続期間の延長登録が延長登録無効審判により無効にされるべきものと認められるときは、特許権者又は専用実施権者は、相手方に対しその権利を行使することができない。

Article 104-3 (1) In litigation involving the infringement of a patent right or the violation of an exclusive license, if it is found that the patent should be invalidated through a trial for patent invalidation or that the registration of patent term extension should be invalidated through a trial for invalidation concerning the registration of a patent term extension, the rights of the patentee or exclusive licensee may not be exercised against the adverse party.

２　前項の規定による攻撃又は防御の方法については、これが審理を不当に遅延させることを目的として提出されたものと認められるときは、裁判所は、申立てにより又は職権で、却下の決定をすることができる。

(2) If an allegation or evidence as under the preceding paragraph is found to have been submitted for the purpose of unreasonably delaying the proceedings, the court: upon a motion or by its own authority, may rule to dismiss it.

３　第百二十三条第二項の規定は、当該特許に係る発明について特許無効審判を請求することができる者以外の者が第一項の規定による攻撃又は防御の方法を提出することを妨げない。

(3) The provisions of Article 123, paragraph (2) does not preclude a person other than a person that may file a request for a trial for patent invalidation on the patented invention from submitting an allegation or evidence under paragraph (1).

（主張の制限）

(Limitation on Assertions)

第百四条の四　特許権若しくは専用実施権の侵害又は第六十五条第一項若しくは第百八十四条の十第一項に規定する補償金の支払の請求に係る訴訟の終局判決が確定した後に、次に掲げる決定又は審決が確定したときは、当該訴訟の当事者であつた者は、当該終局判決に対する再審の訴え（当該訴訟を本案とする仮差押命令事件の債権者に対する損害賠償の請求を目的とする訴え並びに当該訴訟を本案とする仮処分命令事件の債権者に対する損害賠償及び不当利得返還の請求を目的とする訴えを含む。）において、当該決定又は審決が確定したことを主張することができない。

Article 104-4 If one of the following rulings or decisions upon trial or appeal has become final and binding after a final judgment becomes final and binding in litigation involving the infringement of a patent right or an exclusive license or in litigation involving a claim for the payment of compensation as provided in Article 65, paragraph (1) or Article 184-10, paragraph (1), a person that was a party to the litigation may not assert that the ruling or decision on trial or appeal has become final and binding in an action for a retrial against the final judgment (including in any action claiming compensation for damages against the obligee in the case involving a provisional seizure order in which the litigation is the principal matter at issue, or in any action claiming compensation for damages and the restitution for unjust enrichment against an obligee in a case involving a provisional disposition order in which that litigation is the principal matter at issue):

一　当該特許を取り消すべき旨の決定又は無効にすべき旨の審決

(i) a ruling to the effect that the patent is to be revoked or a trial decision to the effect that the patent is to be invalidated;

二　当該特許権の存続期間の延長登録を無効にすべき旨の審決

(ii) a trial decision invalidating the registration of the patent term extension;

三　当該特許の願書に添付した明細書、特許請求の範囲又は図面の訂正をすべき旨の決定又は審決であつて政令で定めるもの

(iii) a ruling or a decision on the trial or appeal as provided by Cabinet Order correcting the description, claims, or drawings attached to the written application for the patent.

（書類の提出等）

(Submission of Documents)

第百五条　裁判所は、特許権又は専用実施権の侵害に係る訴訟においては、当事者の申立てにより、当事者に対し、当該侵害行為について立証するため、又は当該侵害の行為による損害の計算をするため必要な書類の提出を命ずることができる。ただし、その書類の所持者においてその提出を拒むことについて正当な理由があるときは、この限りでない。

Article 105 (1) In litigation involving the infringement of a patent right or an exclusive license, the court, at the motion of a party, may order a party to submit documents that are needed to prove the infringement or to calculate the damage caused by the infringement; provided, however, that this does not apply if the person in possession of the document has legitimate grounds for refusing to submit them.

２　裁判所は、前項本文の申立てに係る書類が同項本文の書類に該当するかどうか又は同項ただし書に規定する正当な理由があるかどうかの判断をするため必要があると認めるときは、書類の所持者にその提示をさせることができる。この場合においては、何人も、その提示された書類の開示を求めることができない。

(2) If the court finds it necessary to do so in order to determine whether a document that is subject to a motion under the main clause of the preceding paragraph constitutes a document as referred to in the main clause of paragraph or in order to determine whether a person has legitimate grounds as provided in the proviso to paragraph, the court may have the person in possession of the document present document. In this case, no person is entitled to seek the disclosure of the document that has been presented.

３　裁判所は、前項の場合において、第一項本文の申立てに係る書類が同項本文の書類に該当するかどうか又は同項ただし書に規定する正当な理由があるかどうかについて前項後段の書類を開示してその意見を聴くことが必要であると認めるときは、当事者等（当事者（法人である場合にあつては、その代表者）又は当事者の代理人（訴訟代理人及び補佐人を除く。）、使用人その他の従業者をいう。以下同じ。）、訴訟代理人又は補佐人に対し、当該書類を開示することができる。

(3) In a case as referred to in the preceding paragraph, if the court finds that it is necessary to disclose a document referred to in the second sentence of the preceding paragraph and hear opinions as to whether a document that is subject to a motion under the main clause of paragraph (1) constitutes a document as referred to in the main clause of paragraph or as to whether a person has legitimate reason as provided in the proviso to the paragraph, the court may disclose the documents to a party, etc. (meaning a party (or, if a party is a corporation, its representative) or a party's agent (other than a litigation representative or assistant in court) or employee or other such worker; the same applies hereinafter), to a litigation representative, or to an assistant in court.

４　裁判所は、第二項の場合において、同項後段の書類を開示して専門的な知見に基づく説明を聴くことが必要であると認めるときは、当事者の同意を得て、専門委員（民事訴訟法第一編第五章第二節第一款に規定する専門委員をいう。第百五条の二の六第四項において同じ。）に対し、当該書類を開示することができる。

(4) In a case as referred to in paragraph (2), if the court finds that it is necessary to disclose a document as referred to in the second sentence of paragraph (2) and hear an explanation based on expert knowledge, the court may disclose the document to a technical advisor (meaning a technical advisor as provided in Part I, Chapter V, Section 2, Subsection 1 of the Code of Civil Procedure; the same applies in 105-2-6, paragraph (4)) with the consent of the party.

５　前各項の規定は、特許権又は専用実施権の侵害に係る訴訟における当該侵害行為について立証するため必要な検証の目的の提示について準用する。

(5) The preceding paragraphs apply mutatis mutandis to the presentation of the object of an inspection that is necessary for proving the relevant infringement in litigation involving the infringement of a patent right or exclusive license.

（査証人に対する査証の命令）

(Issuing an Investigation Order to an Investigator)

第百五条の二　裁判所は、特許権又は専用実施権の侵害に係る訴訟においては、当事者の申立てにより、立証されるべき事実の有無を判断するため、相手方が所持し、又は管理する書類又は装置その他の物（以下「書類等」という。）について、確認、作動、計測、実験その他の措置をとることによる証拠の収集が必要であると認められる場合において、特許権又は専用実施権を相手方が侵害したことを疑うに足りる相当な理由があると認められ、かつ、申立人が自ら又は他の手段によつては、当該証拠の収集を行うことができないと見込まれるときは、相手方の意見を聴いて、査証人に対し、査証を命ずることができる。ただし、当該証拠の収集に要すべき時間又は査証を受けるべき当事者の負担が不相当なものとなることその他の事情により、相当でないと認めるときは、この限りでない。

Article 105-2 (1) At the motion of a party, in litigation involving the infringement of a patent right or exclusive license, in order for the court to determine whether the facts that must be proven have or have not occurred, if it is found that it is necessary to collect evidence by verifying, activating, measuring, running experiments, or taking other such measures with a document, device, or other such item (hereinafter referred to as a "document, device, or analogous item") that the other party owns or manages; and if there are found to be adequate grounds to suspect that the other party has infringed the patent or exclusive license and it is expected that the movant will not be able to collect that evidence themselves or through other means, the court, after hearing the opinion of the other party, may order an investigator to conduct an investigation; provided, however, that this does not apply if it is found to be inappropriate to do so because the time required to collect the evidence or the burden on the party to be investigated would be unreasonable or due to other such circumstances.

２　査証の申立ては、次に掲げる事項を記載した書面でしなければならない。

(2) A motion for an investigation must be made using a document stating the following:

一　特許権又は専用実施権を相手方が侵害したことを疑うに足りる相当な理由があると認められるべき事由

(i) the reason why there is sufficient grounds to suspect the other party has infringed the patent right or the exclusive license;

二　査証の対象とすべき書類等を特定するに足りる事項及び書類等の所在地

(ii) information sufficient to identify the documents, devices, or analogous items that would be subjected to the investigation, and the locations of those documents, devices, or analogous items;

三　立証されるべき事実及びこれと査証により得られる証拠との関係

(iii) the facts that must be proven and the relationship between them and the evidence that will be obtained through the investigation;

四　申立人が自ら又は他の手段によつては、前号に規定する証拠の収集を行うことができない理由

(iv) the reason why the movant is unable to collect the evidence provided for in the preceding item by themselves or through other means;

五　第百五条の二の四第二項の裁判所の許可を受けようとする場合にあつては、当該許可に係る措置及びその必要性

(v) if the movant is seeking the permission of the court that is referred to in Article 105-2-4, paragraph (2), the measures for which permission is sought and the necessity of those measures .

３　裁判所は、第一項の規定による命令をした後において、同項ただし書に規定する事情により査証をすることが相当でないと認められるに至つたときは、その命令を取り消すことができる。

(3) The court may cancel the order if it is deemed that it is not appropriate to conduct an investigation for reasons set forth in the proviso of paragraph (1) after having made an order pursuant to the provisions in paragraph (1).

４　査証の命令の申立てについての決定に対しては、即時抗告をすることができる。

(4) An immediate appeal may be filed against a decision on a motion for an investigation order.

（査証人の指定等）

(Designating an investigator; related matters)

第百五条の二の二　査証は、査証人がする。

Article 105-2-2 (1) An investigation is conducted by an investigator.

２　査証人は、裁判所が指定する。

(2) The investigator is designated by the court.

３　裁判所は、円滑に査証をするために必要と認められるときは、当事者の申立てにより、執行官に対し、査証人が査証をするに際して必要な援助をすることを命ずることができる。

(3) The court may order an enforcement officer to provide the necessary assistance for the investigator at the motion of a party when it is deemed necessary for a more efficient investigation.

（忌避）

(Challenge)

第百五条の二の三　査証人について誠実に査証をすることを妨げるべき事情があるときは、当事者は、その査証人が査証をする前に、これを忌避することができる。査証人が査証をした場合であつても、その後に、忌避の原因が生じ、又は当事者がその原因があることを知つたときは、同様とする。

Article 105-2-3 (1) If there are circumstances in which an investigator is involved that could prevent them from investigating in good faith, a party may challenge the investigator before that investigator conducts the investigation. The same applies even after the investigator has conducted the investigation, if either grounds for a challenge arise or a party comes to know of the existence of grounds for a challenge after the investigation.

２　民事訴訟法第二百十四条第二項から第四項までの規定は、前項の忌避の申立て及びこれに対する決定について準用する。この場合において、同条第二項中「受訴裁判所、受命裁判官又は受託裁判官」とあるのは、「裁判所」と読み替えるものとする。

(2) . The provisions of Articles 214, paragraphs (2) through (4) of the Code of Civil Procedure apply mutatis mutandis to a motion for a challenge under the preceding paragraph and the decision on such a motion. In this case the phrase "the court in charge of the case, an authorized judge, or a commissioned judge" in paragraph (2) of that Article is deemed to be replaced with "the court".

（査証）

(Investigation)

第百五条の二の四　査証人は、第百五条の二第一項の規定による命令が発せられたときは、査証をし、その結果についての報告書（以下「査証報告書」という。）を作成し、これを裁判所に提出しなければならない。

Article 105-2-4 (1) . When an order under the provisions of Article 105-2, paragraph (1) has been issued, an investigator must conduct an investigation, prepare a written report on the results (hereinafter referred to as an "investigation report"), and submit this to the court.

２　査証人は、査証をするに際し、査証の対象とすべき書類等が所在する査証を受ける当事者の工場、事務所その他の場所（次項及び次条において「工場等」という。）に立ち入り、又は査証を受ける当事者に対し、質問をし、若しくは書類等の提示を求めることができるほか、装置の作動、計測、実験その他査証のために必要な措置として裁判所の許可を受けた措置をとることができる。

(2) When conducting an investigation, an investigator may enter a factory, office of business, or other such place (referred to as "factory or other such place" in the following paragraph and the following Article) of the party being investigated where a document, device, or analogous item that the investigation is to cover is located, or may question the party being investigated or ask the party to present a document, device, or analogous item; and may additionally activate devices, take measurements, run experiments, and take any other measures permitted by the court as measures that are necessary to the investigation.

３　執行官は、第百五条の二の二第三項の必要な援助をするに際し、査証の対象とすべき書類等が所在する査証を受ける当事者の工場等に立ち入り、又は査証を受ける当事者に対し、査証人を補助するため、質問をし、若しくは書類等の提示を求めることができる。

(3) When providing the needed assistance referred to in Article 105-2-2, paragraph (3), an enforcement officer may enter the factory or other such place of the party being investigated where a document, device, or analogous item that the investigation is to cover is located, or, in order to help the investigator, may question the party being investigated or ask the party to present a document, device, or analogous item.

４　前二項の場合において、査証を受ける当事者は、査証人及び執行官に対し、査証に必要な協力をしなければならない。

(4) In a case as referred to in the preceding two paragraphs, the party being investigated must provide the investigator and enforcement officer with the cooperation necessary to the investigation.

（査証を受ける当事者が工場等への立入りを拒む場合等の効果）

(Consequences If a Party Being Investigated Refuses Entry into the Factory or Other Such Place and in Other Such Cases)

第百五条の二の五　査証を受ける当事者が前条第二項の規定による査証人の工場等への立入りの要求若しくは質問若しくは書類等の提示の要求又は装置の作動、計測、実験その他査証のために必要な措置として裁判所の許可を受けた措置の要求に対し、正当な理由なくこれらに応じないときは、裁判所は、立証されるべき事実に関する申立人の主張を真実と認めることができる。

Article 105-2-5 If, without legitimate grounds, a party being investigated fails to comply with the following actions under the provisions of paragraph (2) of the preceding Article: an investigator's demand to enter a factory or other such place; an investigator's questioning or demand to present the document, device, or analogous item; or an investigator's demand to activate a device, take a measurement, run an experiment, or take other measures permitted by the court as measures that are necessary to the investigation, the court may find that the movant's claims regarding the facts that must be proven are true.

（査証報告書の写しの送達等）

(Service of a Copy of the Investigation Report; Related Matters)

第百五条の二の六　裁判所は、査証報告書が提出されたときは、その写しを、査証を受けた当事者に送達しなければならない。

Article 105-2-6 (1) When an investigation report has been submitted, the court must serve a copy on the party that was investigated.

２　査証を受けた当事者は、査証報告書の写しの送達を受けた日から二週間以内に、査証報告書の全部又は一部を申立人に開示しないことを申し立てることができる。

(2) The party that was investigated may request to not have all or part of the investigation report disclosed to the movant, within two weeks from the date on which the party has received a copy of the investigation report.

３　裁判所は、前項の規定による申立てがあつた場合において、正当な理由があると認めるときは、決定で、査証報告書の全部又は一部を申立人に開示しないこととすることができる。

(3) If a motion under the preceding paragraph has been filed and the court finds there to be just cause, the court may issue a ruling establishing that it will not disclose all or part of the investigation report to the movant.

４　裁判所は、前項に規定する正当な理由があるかどうかについて査証報告書の全部又は一部を開示してその意見を聴くことが必要であると認めるときは、当事者等、訴訟代理人、補佐人又は専門委員に対し、査証報告書の全部又は一部を開示することができる。ただし、当事者等、補佐人又は専門委員に対し、査証報告書の全部又は一部を開示するときは、あらかじめ査証を受けた当事者の同意を得なければならない。

(4) If the court finds it to be necessary to disclose all or part of an investigation report and hear the opinion of a party or other such person, litigation representative, assistant in court, or technical adviser as to whether the just cause provided for in the preceding paragraph is present, it may disclose all or part of the investigation report to that person; provided, however, that before the court discloses all or part of the investigation report to a party or other such person, assistant in court, or technical advisor, it must first obtain the consent of the party that was investigated.

５　第二項の規定による申立てを却下する決定及び第三項の査証報告書の全部又は一部を開示しないこととする決定に対しては、即時抗告をすることができる。

(5) An immediate appeal may be filed against a ruling dismissing a motion under the provisions of paragraph (2) and against a ruling establishing that the court will not disclose all or part of the investigation report as referred to in paragraph (3).

（査証報告書の閲覧等）

(Inspection of the Investigation Report; Related Matters)

第百五条の二の七　申立人及び査証を受けた当事者は、前条第二項に規定する期間内に査証を受けた当事者の申立てがなかつたとき、又は同項の規定による申立てについての裁判が確定したときは、裁判所書記官に対し、同条第三項の規定により全部を開示しないこととされた場合を除き、査証報告書（同項の規定により一部を開示しないこととされた場合にあつては、当該一部の記載を除く。）の閲覧若しくは謄写又はその正本、謄本若しくは抄本の交付を請求することができる。

Article 105-2-7 (1) Unless it has been established pursuant to the provisions of paragraph (3) of the preceding Article that the court will not disclose all of the investigation report, if the party that was investigated has not filed the motion provided for in paragraph (2) of that Article within the period provided for in that paragraph, or if the judicial decision on a motion under the provisions of that paragraph has become final and binding, the movant or the party that was investigated may file a request with the court clerk to inspect or copy the investigation report, or to be issued the original, a certified copy or extract of the investigation report (excluding, if applicable, any part that it has been established pursuant to the provisions of paragraph (3) of the preceding Article that the court will not disclose).

２　前項に規定する場合のほか、何人も、その提出された査証報告書の閲覧若しくは謄写、その正本、謄本若しくは抄本の交付又はその複製を求めることができない。

(2) Beyond as provided in the preceding paragraph, no one may request to inspect or copy, to be issued the original or certified copy or extract of, or to duplicate an investigation report that has been submitted.

３　民事訴訟法第九十一条第四項及び第五項の規定は、第一項に規定する査証報告書について準用する。この場合において、同条第四項中「前項」とあるのは「特許法第百五条の二の七第一項」と、「当事者又は利害関係を疎明した第三者」とあるのは「申立人又は査証を受けた当事者」と読み替えるものとする。

(3) The provisions of Article 91, paragraphs (4) and (5) of the Code of Civil Procedure apply mutatis mutandis to an investigation report as provided in paragraph (1). In this case, the phrase "the preceding paragraph" in paragraph (4) of that Article is deemed to be replaced with "Article 105-2-7, paragraph (1) of the Patent Act", and the phrase "a party to the case or a third party that makes a prima facie showing of interest in these objects" is deemed to be replaced with the phrase "the movant or the party that was investigated".

（査証人の証言拒絶権）

(Investigator's Right to Refuse Testimony)

第百五条の二の八　査証人又は査証人であつた者が査証に関して知得した秘密に関する事項について証人として尋問を受ける場合には、その証言を拒むことができる。

Article 105-2-8 (1) If a current or former investigator is examined as a witness regarding a confidential matter learned in connection with an investigation, they may refuse to testify about that matter.

２　民事訴訟法第百九十七条第二項の規定は、前項の場合に準用する。

(2) The provision of Article 197, paragraph (2) of the Civil Procedure Code apply mutatis mutandis to the case of the preceding paragraph.

（査証人の旅費等）

(Travel and Other Expenses of the Investigator)

第百五条の二の九　査証人に関する旅費、日当及び宿泊料並びに査証料及び査証に必要な費用については、その性質に反しない限り、民事訴訟費用等に関する法律（昭和四十六年法律第四十号）中これらに関する規定の例による。

Article 105-2-9 The travel expenses, daily allowances, and lodging fees associated with an investigator, as well as investigation fees and costs required for investigations, are handled based on the provisions related to these things that appear in the Act on the Costs of Civil Proceedings (Act No. 40 of 1971), to the extent that this is not contrary to their nature.

（最高裁判所規則への委任）

(Delegation to the Supreme Court Rules)

第百五条の二の十　この法律に定めるもののほか、第百五条の二から前条までの規定の実施に関し必要な事項は、最高裁判所規則で定める。

Article 105-2-10 Beyond what is provided for in this Act, the Supreme Court Rules prescribe the necessary matters connected with the implementation of the provisions in Article 105-2 through the preceding Article.

（第三者の意見）

(Opinions of Third Parties)

第百五条の二の十一　民事訴訟法第六条第一項各号に定める裁判所は、特許権又は専用実施権の侵害に係る訴訟の第一審において、当事者の申立てにより、必要があると認めるときは、他の当事者の意見を聴いて、広く一般に対し、当該事件に関するこの法律の適用その他の必要な事項について、相当の期間を定めて、意見を記載した書面の提出を求めることができる。

Article 105-2-11 (1) At the motion of a party, if the court specified in each item of Article 6, paragraph (1) of the Code of Civil Procedure finds it to be necessary in the first instance of litigation involving the infringement of a patent right or violation of an exclusive license, the court may hear the other party's opinion, and may specify a reasonable period and seek from the general public the submission of documents stating their opinions regarding the application of this Act or regarding any other necessary matters relating to the case.

２　民事訴訟法第六条第一項各号に定める裁判所が第一審としてした特許権又は専用実施権の侵害に係る訴訟についての終局判決に対する控訴が提起された東京高等裁判所は、当該控訴に係る訴訟において、当事者の申立てにより、必要があると認めるときは、他の当事者の意見を聴いて、広く一般に対し、当該事件に関するこの法律の適用その他の必要な事項について、相当の期間を定めて、意見を記載した書面の提出を求めることができる。

(2) If an appeal is filed with the Tokyo High Court against a final judgment on the litigation involving the infringement of a patent right or violation of an exclusive license which has been made by the court set forth in the items of Article 6, paragraph (1) of the Code of Civil Procedure as the court of prior instance, and the Tokyo High Court, at the motion of a party, finds it to be necessary in the litigation to which the appeal pertains, the Tokyo High Court hear the other party's opinion, and may specify a reasonable period and seek from the general public the submission of documents stating their opinions regarding the application of this Act or regarding any other necessary matters relating to the case.

３　当事者は、裁判所書記官に対し、前二項の規定により提出された書面の閲覧若しくは謄写又はその正本、謄本若しくは抄本の交付を請求することができる。

(3) A party may file a request with the court clerk to inspect or copy the documents submitted pursuant to the preceding two paragraphs, or to be issued the original, certified copy, or extract thereof.

４　民事訴訟法第九十一条第五項の規定は、第一項及び第二項の規定により提出された書面の閲覧及び謄写について準用する。

(4) Article 91, paragraph (5) of the Code of Civil Procedure apply mutatis mutandis to the inspection and copying of documents submitted pursuant to paragraphs (1) and (2).

（損害計算のための鑑定）

(Expert Opinion for Calculation of Damages)

第百五条の二の十二　特許権又は専用実施権の侵害に係る訴訟において、当事者の申立てにより、裁判所が当該侵害の行為による損害の計算をするため必要な事項について鑑定を命じたときは、当事者は、鑑定人に対し、当該鑑定をするため必要な事項について説明しなければならない。

Article 105-2-12 In litigation involving the infringement of a patent right or violation of exclusive license, at the motion of a party, if the court orders an expert opinion in order to calculate the damages from the act of infringement, the parties must explain to the expert witness the details that need to be explained in order for the expert witness to give an expert opinion.

（相当な損害額の認定）

(Approval of Reasonable Amount as the Value of Damages)

第百五条の三　特許権又は専用実施権の侵害に係る訴訟において、損害が生じたことが認められる場合において、損害額を立証するために必要な事実を立証することが当該事実の性質上極めて困難であるときは、裁判所は、口頭弁論の全趣旨及び証拠調べの結果に基づき、相当な損害額を認定することができる。

Article 105-3 In litigation involving the infringement of a patent right or violation of an exclusive license, if damages are found to have been incurred, but it is extremely difficult to prove the facts that need to be proved in order to prove the value of damages, due to the nature of the facts, the court may approve a reasonable amount as the value of damages, based on the overall import of oral arguments and the results of the examination of evidence.

（秘密保持命令）

(Confidentiality Protective Orders)

第百五条の四　裁判所は、特許権又は専用実施権の侵害に係る訴訟において、その当事者が保有する営業秘密（不正競争防止法（平成五年法律第四十七号）第二条第六項に規定する営業秘密をいう。以下同じ。）について、次に掲げる事由のいずれにも該当することにつき疎明があつた場合には、当事者の申立てにより、決定で、当事者等、訴訟代理人又は補佐人に対し、当該営業秘密を当該訴訟の追行の目的以外の目的で使用し、又は当該営業秘密に係るこの項の規定による命令を受けた者以外の者に開示してはならない旨を命ずることができる。ただし、その申立ての時までに当事者等、訴訟代理人又は補佐人が第一号に規定する準備書面の閲読又は同号に規定する証拠の取調べ若しくは開示以外の方法により当該営業秘密を取得し、又は保有していた場合は、この限りでない。

Article 105-4 (1) In litigation involving the infringement of a patent right or violation of an exclusive license, if a prima-facie showing is made that proprietary trade secrets (meaning trade secrets provided in Article 2, paragraph (6) of the Unfair Competition Prevention Act (Act No. 47 of 1993); the same applies hereinafter) of the party in question falls under both of the following circumstances, at the motion of the party, the court may issue a ruling ordering the relevant party or other such person, litigation representative, and assistant in court use the trade secrets for any purpose other than conducting the litigation in question, and not to disclose the trade secrets to any person other than one that is subject to an order as under this paragraph in respect of the trade secrets; provided, however, that this does not apply if a party or other such person, litigation representative, or assistant in court acquires or gains possession of the trade secrets before that motion is filed, by means other than perusal of the brief provided for in item (i) or the examination or disclosure of evidence as provided in that item:

一　既に提出され若しくは提出されるべき準備書面に当事者の保有する営業秘密が記載され、又は既に取り調べられ若しくは取り調べられるべき証拠（第百五条第三項の規定により開示された書類、第百五条の二の四第一項の規定により提出された査証報告書の全部若しくは一部又は第百五条の七第四項の規定により開示された書面を含む。）の内容に当事者の保有する営業秘密が含まれること。

(i) proprietary trade secrets of the party are detailed in a brief that has already been submitted or that is to be submitted, or the trade secrets are included in evidence that has already been examined or that is to be examined (including documents disclosed pursuant to Article 105, paragraph (3), all or part of the investigation report submitted under Article 105-2-4, paragraph (1), or documents disclosed under Article 105-7, paragraph (4)); and

二　前号の営業秘密が当該訴訟の追行の目的以外の目的で使用され、又は当該営業秘密が開示されることにより、当該営業秘密に基づく当事者の事業活動に支障を生ずるおそれがあり、これを防止するため当該営業秘密の使用又は開示を制限する必要があること。

(ii) the use of the trade secrets as referred to in the preceding item for a purpose other than conducting the litigation in question, or the disclosure of the trade secrets, would be likely to hinder the business activities of the party that are based on the trade secrets, and it is necessary to restrict their use or disclosure in order to prevent such hindrance.

２　前項の規定による命令（以下「秘密保持命令」という。）の申立ては、次に掲げる事項を記載した書面でしなければならない。

(2) A motion for an order as referred to in the preceding paragraph (hereinafter referred to as a "confidentiality protective order") must be made in writing specifying the following matters:

一　秘密保持命令を受けるべき者

(i) the persons that would be subject to the confidentiality protective order;

二　秘密保持命令の対象となるべき営業秘密を特定するに足りる事実

(ii) facts sufficient to identify the trade secrets that would be protected by the confidentiality protective order; and

三　前項各号に掲げる事由に該当する事実

(iii) facts falling under the category of circumstances set forth in the items in the preceding paragraph.

３　秘密保持命令が発せられた場合には、その決定書を秘密保持命令を受けた者に送達しなければならない。

(3) If a confidentiality protective order is issued, the written ruling must be served on any person that has become subject to the confidentiality protective order.

４　秘密保持命令は、秘密保持命令を受けた者に対する決定書の送達がされた時から、効力を生ずる。

(4) A confidentiality protective order takes effect as of the time that the written ruling is served on the person subject to the confidentiality protective order.

５　秘密保持命令の申立てを却下した裁判に対しては、即時抗告をすることができる。

(5) An immediate appeal against a ruling may be filed against a judicial decision to dismiss a motion for confidentiality protective order.

（秘密保持命令の取消し）

(Vacating a Confidentiality Protective Order)

第百五条の五　秘密保持命令の申立てをした者又は秘密保持命令を受けた者は、訴訟記録の存する裁判所（訴訟記録の存する裁判所がない場合にあつては、秘密保持命令を発した裁判所）に対し、前条第一項に規定する要件を欠くこと又はこれを欠くに至つたことを理由として、秘密保持命令の取消しの申立てをすることができる。

Article 105-5 (1) A person that files a motion for confidentiality protective order or that becomes subject to a confidentiality protective order may file a motion to vacate that confidentiality protective order with the court that has the case record on file (or, if no court has the case record on file, with the court issuing the confidentiality protective order) on the grounds that the requirements provided in Article 105-4, paragraph (1) have not been met or have come to no longer be met.

２　秘密保持命令の取消しの申立てについての裁判があつた場合には、その決定書をその申立てをした者及び相手方に送達しなければならない。

(2) Once a judicial decision is reached on a motion to vacate a confidentiality protective order, the written ruling must be served on the person that filed the motion and on the adverse party.

３　秘密保持命令の取消しの申立てについての裁判に対しては、即時抗告をすることができる。

(3) An immediate appeal against a ruling may be filed against a judicial decision on a motion to vacate a confidentiality protective order.

４　秘密保持命令を取り消す裁判は、確定しなければその効力を生じない。

(4) A judicial decision to vacate a confidentiality protective order does not come into effect unless it becomes final and binding.

５　裁判所は、秘密保持命令を取り消す裁判をした場合において、秘密保持命令の取消しの申立てをした者又は相手方以外に当該秘密保持命令が発せられた訴訟において当該営業秘密に係る秘密保持命令を受けている者があるときは、その者に対し、直ちに、秘密保持命令を取り消す裁判をした旨を通知しなければならない。

(5) If the court reaches a judicial decision to vacate a confidentiality protective order and any person other than the person filing the motion to vacate the confidentiality protective order and the adverse party was subject to the confidentiality protective order on the trade secrets in the litigation in which that confidentiality protective order was issued, the court must immediately notify that person that it has reached a judicial decision to vacate the confidentiality protective order.

（訴訟記録の閲覧等の請求の通知等）

(Notice of a Request to Inspect a Case Record)

第百五条の六　秘密保持命令が発せられた訴訟（すべての秘密保持命令が取り消された訴訟を除く。）に係る訴訟記録につき、民事訴訟法第九十二条第一項の決定があつた場合において、当事者から同項に規定する秘密記載部分の閲覧等の請求があり、かつ、その請求の手続を行つた者が当該訴訟において秘密保持命令を受けていない者であるときは、裁判所書記官は、同項の申立てをした当事者（その請求をした者を除く。第三項において同じ。）に対し、その請求後直ちに、その請求があつた旨を通知しなければならない。

Article 105-6 (1) If the ruling referred to in Article 92, paragraph (1) of the Code of Civil Procedure has been issued with respect to the case record in litigation in which a confidentiality protective order has been issued (excluding litigation in which all confidentiality protective orders have been vacated) and a party not subject to a confidentiality protective order in that litigation files a request to inspect or review a part of the case record that holds the confidential information referred to in that Article, immediately after the request is filed, the court clerk must notify the party that filed the motion referred to in that paragraph (restricting access to the record) that such a request has been filed (unless the person that filed that motion is also the person filing the request, the same applies in paragraph (3)).

２　前項の場合において、裁判所書記官は、同項の請求があつた日から二週間を経過する日までの間（その請求の手続を行つた者に対する秘密保持命令の申立てがその日までにされた場合にあつては、その申立てについての裁判が確定するまでの間）、その請求の手続を行つた者に同項の秘密記載部分の閲覧等をさせてはならない。

(2) In the case as referred to in the preceding paragraph, the court clerk must not allow the person filing the request to inspect or review the part of the case record that holds confidential information as referred to in Article 92, paragraph (1) of the Code of Civil Procedure until after two weeks have elapsed since the date that the request referred to in the confidentiality protective order in the paragraph (or, if during those two weeks, a motion for a confidentiality protective order is filed against the person that filed the request, the court clerk must not allow the filer to inspect that part of the case record before the judicial decision on the motion becomes final and binding).

３　前二項の規定は、第一項の請求をした者に同項の秘密記載部分の閲覧等をさせることについて民事訴訟法第九十二条第一項の申立てをした当事者のすべての同意があるときは、適用しない。

(3) The preceding two paragraphs do not apply if all the parties concerned that have filed the motion referred to in Article 92, paragraph (1) of the Code of Civil Procedure agree to allow the person filing request referred to in paragraph (1) to inspect or review the parts of the case record that hold confidential information.

（当事者尋問等の公開停止）

(Suspension of Open Examination of Parties)

第百五条の七　特許権又は専用実施権の侵害に係る訴訟における当事者等が、その侵害の有無についての判断の基礎となる事項であつて当事者の保有する営業秘密に該当するものについて、当事者本人若しくは法定代理人又は証人として尋問を受ける場合においては、裁判所は、裁判官の全員一致により、その当事者等が公開の法廷で当該事項について陳述をすることにより当該営業秘密に基づく当事者の事業活動に著しい支障を生ずることが明らかであることから当該事項について十分な陳述をすることができず、かつ、当該陳述を欠くことにより他の証拠のみによつては当該事項を判断の基礎とすべき特許権又は専用実施権の侵害の有無についての適正な裁判をすることができないと認めるときは、決定で、当該事項の尋問を公開しないで行うことができる。

Article 105-7 (1) If a party or other such person in litigation involving the infringement of a patent right or violation of an exclusive license is to be questioned as a direct party to the case, legal representative or witness, with regard to matters that will form the basis for the determining whether or not the infringement or violation has occurred but that falls under the category of proprietary trade secrets of a party, and if, with the unanimous accord of all judges, the court finds that the party or other such person will be unable to offer sufficient statements about the matters due to the significant harm that would clearly befall those of the party or other such person, the business activities that are based on the trade secrets as a result of the party or other such person offering a statement about the matter in open court and that in the absence of such a statement and based on other evidence alone the court cannot reach a proper judicial decision as to whether the patent has determination of whether the exclusive license has been violated, since the court's determination of whether this has occurred needs to be based on the matter the court may rule not to conduct the questioning with regard to the matter in open court, and conduct that questioning in camera.

２　裁判所は、前項の決定をするに当たつては、あらかじめ、当事者等の意見を聴かなければならない。

(2) The court must hear the opinions of the party or other such person before issuing the ruling referred to in the preceding paragraph.

３　裁判所は、前項の場合において、必要があると認めるときは、当事者等にその陳述すべき事項の要領を記載した書面の提示をさせることができる。この場合においては、何人も、その提示された書面の開示を求めることができない。

(3) In a case as referred to in the preceding paragraph, if the court finds it to be necessary, it may have a party or other such person present a document giving the gist of the matters with regard to which the party or other such person would offer a statement. In this case, no person may request the disclosure of a document so presented.

４　裁判所は、前項後段の書面を開示してその意見を聴くことが必要であると認めるときは、当事者等、訴訟代理人又は補佐人に対し、当該書面を開示することができる。

(4) If the court finds it to be necessary to disclose a document as referred to in the second sentence of the preceding paragraph, so as to hear the opinion of a party or other such person, litigation representative, or assistant in court, the court may disclose the document to the person.

５　裁判所は、第一項の規定により当該事項の尋問を公開しないで行うときは、公衆を退廷させる前に、その旨を理由とともに言い渡さなければならない。当該事項の尋問が終了したときは、再び公衆を入廷させなければならない。

(5) If questioning with regard to certain matters is to be held in camera pursuant to paragraph (1), the court must so declare and indicate its reasons for doing so prior to having the public leave the courtroom. Upon completion of questioning with regard to those matters, the court must allow the public to re-enter the courtroom.

（信用回復の措置）

(Measures to Restore Credibility)

第百六条　故意又は過失により特許権又は専用実施権を侵害したことにより特許権者又は専用実施権者の業務上の信用を害した者に対しては、裁判所は、特許権者又は専用実施権者の請求により、損害の賠償に代え、又は損害の賠償とともに、特許権者又は専用実施権者の業務上の信用を回復するのに必要な措置を命ずることができる。

Article 106 At the request of the patentee or exclusive licensee, the court may order a person that has harmed the business credibility of the patentee or exclusive licensee by intentionally or negligently infringing upon the patent right or violating the exclusive license to take measures necessary to restore the business credibility of the patentee or exclusive licensee in lieu of or beyond compensation for damages.

第三節　特許料

Section 3 Patent Fees

（特許料）

(Patent Fees)

第百七条　特許権の設定の登録を受ける者又は特許権者は、特許料として、特許権の設定の登録の日から第六十七条第一項に規定する存続期間（同条第四項の規定により延長されたときは、その延長の期間を加えたもの）の満了までの各年について、一件ごとに、六万千六百円を超えない範囲内で政令で定める額に一請求項につき四千八百円を超えない範囲内で政令で定める額を加えた額を納付しなければならない。

Article 107 (1) The person that obtains registration of establishing a patent right or a patentee must pay the amount specified by Cabinet Order not exceeding 61,600 yen plus the amount specified by Cabinet Order not exceeding 4,800 yen per claim, for each patent registration and in each year from the date of the registration establishing the patent right to expiration of the term prescribed in Article 67, paragraph (1) (and, if the term is extended pursuant to Article 67, paragraph (4), in each year of the additional period):

２　前項の規定は、国に属する特許権には、適用しない。

(2) The preceding paragraph does not apply to patent rights belonging to the State.

３　第一項の特許料は、特許権が国又は第百九条若しくは第百九条の二の規定若しくは他の法令の規定による特許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特許料の金額（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 patent right held under co-ownership with the State or a person entitled to receive a reduction in or exemption from patent fees as under Article 109, or Article 109-2, or other laws and regulations (hereinafter referred to as a "reduction or exemption" in this paragraph), and the co-owner's shares have been agreed upon, the amount of the patent fee provided for in paragraph (1) is the sum total calculated by first multiplying, for each co-owner other than the State, the applicable patent fees provided for in paragraph (1) (for a person receiving a reduction or exemption, this means the patent fee after 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 must be paid by the persons other than the State.

４　前項の規定により算定した特許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) If the amount of patent fees as calculated pursuant to the preceding paragraph is not a multiple of ten yen, the amount of that patent fee is rounded down to the nearest multiple of ten yen.

５　第一項の特許料の納付は、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 patent 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 cash payment may be made.

（特許料の納付期限）

(Due Date for the Payment of Patent Fees)

第百八条　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特許料は、特許をすべき旨の査定又は審決の謄本の送達があつた日から三十日以内に一時に納付しなければならない。

Article 108 (1) The patent fees for all years from the first to the third year as under Article 107, paragraph (1) must be paid in a lump sum within 30 days after the date on which a certified copy of the examiner's decision or the decision on a trial or appeal to the effect that the patent is to be granted has been served.

２　前条第一項の規定による第四年以後の各年分の特許料は、前年以前に納付しなければならない。ただし、特許権の存続期間の延長登録をすべき旨の査定又は審決の謄本の送達があつた日（以下この項において「謄本送達日」という。）がその延長登録がないとした場合における特許権の存続期間の満了の日の属する年の末日から起算して前三十日目に当たる日以後であるときは、その年の次の年から謄本送達日の属する年（謄本送達日から謄本送達日の属する年の末日までの日数が三十日に満たないときは、謄本送達日の属する年の次の年）までの各年分の特許料は、謄本送達日から三十日以内に一時に納付しなければならない。

(2) The annual patent fee for each of the fourth and subsequent years as under Article 107, paragraph (1) must be paid by the end of the previous year; provided, however, that if the date of service of a certified copy of an examiner's decision or decision on the trial or appeal to register the extension of the term of a patent right (hereinafter referred to in this paragraph as the "certified copy service date") is on or after the day that marks thirty days before the end of the year in which the term of the patent right will expire if the extension is not registered, the annual patent fees for each of the years from the year that follows this to the year in which the certified copy service date falls (or, if the time from the certified copy service date to the last day of the year in which the certified copy service date falls is shorter than 30 days, the year following the year in which the certified copy service date falls) must be paid in a lump sum within 30 days after the certified copy service date.

３　特許庁長官は、特許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) The Commissioner of the Japan Patent Office may extend the period prescribed in paragraph (1) by up to 30 days, at the request of a person that is to pay patent fees.

４　特許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第一項に規定する期間（前項の規定による期間の延長があつたときは、延長後の期間）内にその特許料を納付することができないときは、第一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特許料を納付することができる。

(4) If a person that pays patent fees, is unable to pay the patent fees within the period of time (when the period has been extended under the preceding paragraph, the period after being extended) provided in paragraph (1), due to reasons beyond the person's control, the person may pay the patent fees within 14 days (if the person is an overseas resident, within two months) from the date on which the reasons ceased to be applicable, but not later than six months following the passage of the period, notwithstanding paragraph (1).

（特許料の減免又は猶予）

(Reduction, Exemption or Deferment of Patent Fees)

第百九条　特許庁長官は、特許権の設定の登録を受ける者又は特許権者であつて資力を考慮して政令で定める要件に該当する者が、特許料を納付することが困難であると認めるときは、政令で定めるところにより、第百七条第一項の規定により納付すべき特許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 109 If the Commissioner of the Japan Patent Office finds that a person obtaining registration of establishing a patent right, or a patentee meeting the requirements that Cabinet Order specifies in consideration of financial resources, is having difficulty paying a patent fee, pursuant to the provisions of Cabinet Order, the commissioner may reduce, exempt, or grant a deferment for the payment of the patent fee that is to be paid pursuant to the provisions of Article 107, paragraph (1).

第百九条の二　特許庁長官は、特許権の設定の登録を受ける者又は特許権者であつて、中小企業者、試験研究機関等その他の資力、研究開発及び技術開発を行う能力、産業の発達に対する寄与の程度等を総合的に考慮して政令で定める者に対しては、政令で定めるところにより、第百七条第一項の規定により納付すべき特許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 109-2 (1) Pursuant to the provisions of Cabinet Order, the Commissioner of the Japan Patent Office may reduce, exempt, or grant a deferment for the payment of the patent fee that is to be paid pursuant to the provisions of Article 107, paragraph (1) for a person that obtains the registration establishing a patent right or a patentee, who is provided by Cabinet Order, comprehensively considering the financial resources, ability of research and development or technical development, and the degree of their contribution to industrial development and other factors of a small and medium-sized enterprise, research and development institute, etc., or other person or entity.

２　前項の「中小企業者」とは、次の各号のいずれかに該当する者をいう。

(2) The term "small and medium-sized enterprise" as used in the preceding paragraph means a person that falls under any of the following items:

一　資本金の額又は出資の総額が三億円以下の会社並びに常時使用する従業員の数が三百人以下の会社及び個人であつて、製造業、建設業、運輸業その他の業種（次号から第四号までに掲げる業種及び第五号の政令で定める業種を除く。）に属する事業を主たる事業として営むもの

(i) a company having an amount of stated capital or total amount of capital contributions of not more than 300 million yen or a company or individual hiring not more than 300 full-time employees, where the principal business thereof is manufacturing, construction, transportation or any other type of business (excluding the types of business listed in the following item through item (iv) and the type of business specified by Cabinet Order under item (v));

二　資本金の額又は出資の総額が一億円以下の会社並びに常時使用する従業員の数が百人以下の会社及び個人であつて、卸売業（第五号の政令で定める業種を除く。）に属する事業を主たる事業として営むもの

(ii) a company having an amount of stated capital or total amount of capital contributions of not more than 100 million yen or a company or individual hiring not more than 100 full-time employees, where the principal business thereof is wholesale business (excluding the type of business specified by Cabinet Order under item (v));

三　資本金の額又は出資の総額が五千万円以下の会社並びに常時使用する従業員の数が百人以下の会社及び個人であつて、サービス業（第五号の政令で定める業種を除く。）に属する事業を主たる事業として営むもの

(iii) a company having an amount of stated capital or total amount of capital contributions of not more than 50 million yen or a company or individual hiring not more than 100 full-time employees, where the principal business thereof is service business (excluding the type of business specified by Cabinet Order under item (v));

四　資本金の額又は出資の総額が五千万円以下の会社並びに常時使用する従業員の数が五十人以下の会社及び個人であつて、小売業（次号の政令で定める業種を除く。）に属する事業を主たる事業として営むもの

(iv) a company having an amount of stated capital or total amount of capital contributions of not more than 50 million yen or a company or individual hiring not more than 50 full-time employees, where the principal business thereof is retail business (excluding the type of business specified by Cabinet Order under item (v));

五　資本金の額又は出資の総額がその業種ごとに政令で定める金額以下の会社並びに常時使用する従業員の数がその業種ごとに政令で定める数以下の会社及び個人であつて、その政令で定める業種に属する事業を主たる事業として営むもの

(v) a company having an amount of stated capital or total amount of capital contributions which does not exceed the amount specified by Cabinet Order for each type of business or a company or individual hiring a number of full-time employees which does not exceed the number specified by Cabinet Order for each type of business, where the principal business thereof is a business that falls under the type of business specified by Cabinet Order;

六　企業組合

(vi) an enterprise cooperative;

七　協業組合

(vii) a cooperative partnership;

八　事業協同組合、事業協同小組合、商工組合、協同組合連合会その他の特別の法律により設立された組合及びその連合会であつて、政令で定めるもの

(viii) an association incorporated under special laws and a federation of such associations, such as a business cooperative, small business cooperative, commercial and industrial partnership, and federation of cooperatives specified by Cabinet Order; and

九　特定非営利活動法人（特定非営利活動促進法（平成十年法律第七号）第二条第二項に規定する特定非営利活動法人をいう。）であつて、常時使用する従業員の数が三百人（小売業を主たる事業とする事業者については五十人、卸売業又はサービス業を主たる事業とする事業者については百人）以下のもの

(ix) a corporation engaging in specified non-profit activities (meaning a corporation engaging in specified non-profit activities provided in Article 2, paragraph (2) of the Act on Promotion of Specified Non-profit Activities (Act No. 7 of 1998), which hires not more than 300 full-time employees (or not more than 50 full-time employees in the case of a corporation engaging in the retail business as the principal business; or not more than 100 full-time employees in the case of a corporation engaging in the wholesale business or service business as the principal business).

３　第一項の「試験研究機関等」とは、次の各号のいずれかに該当する者をいう。

(3) The term "research and development institute, etc." as used in paragraph (1) means a person that falls under any of the following items:

一　学校教育法（昭和二十二年法律第二十六号）第一条に規定する大学（次号において「大学」という。）の学長、副学長、学部長、教授、准教授、助教、講師、助手若しくはその他の職員のうち専ら研究に従事する者、同条に規定する高等専門学校（同号及び第四号において「高等専門学校」という。）の校長、教授、准教授、助教、講師、助手若しくはその他の職員のうち専ら研究に従事する者又は国立大学法人法（平成十五年法律第百十二号）第二条第三項に規定する大学共同利用機関法人（次号において「大学共同利用機関法人」という。）の長若しくはその職員のうち専ら研究に従事する者

(i) the president, vice president, dean, professor, associate professor, assistant professor, lecturer, assistant, or any other employee who exclusively engages in research of a university provided in Article 1 of the School Education Act (Act No. 26 of 1947) (hereinafter referred to as a "university" in the following item); the president, vice president, dean, professor, associate professor, assistant professor, lecturer, or assistant, or any other employee who exclusively engages in research of a college of technology provided in that Article (referred to as a "college of technology" in the following item and item (iv)); or the head of an inter-university research institute provided in Article 2, paragraph (3) of the National University Corporation Act (Act No. 112 of 2003) (referred to as an "inter-university research institute" in the following item) or any other inter-university research institute employee who exclusively engages in research;

二　大学若しくは高等専門学校を設置する者又は大学共同利用機関法人

(ii) a person that establishes a university or college of technology, or an inter-university research institute;

三　大学等における技術に関する研究成果の民間事業者への移転の促進に関する法律（平成十年法律第五十二号）第五条第二項に規定する承認事業者

(iii) an accredited organization as provided in Article 5, paragraph (2) of the Act to Facilitate Technology Transfer from Universities to the Private Sector (Act No. 52 of 1998);

四　独立行政法人（独立行政法人通則法（平成十一年法律第百三号）第二条第一項に規定する独立行政法人をいう。）であつて、試験研究に関する業務を行うもの（次号において「試験研究独立行政法人」という。）のうち高等専門学校を設置する者以外のものとして政令で定めるもの

(iv) an incorporated administrative agency (meaning an incorporated administrative agency provided in Article 2, paragraph (1) of the Act on General Rules for Incorporated Administrative Agencies (Act No. 103 of 1999)) that carries out research and development activities (referred to as a "research incorporated administrative agency" in the following item), which is specified by Cabinet Order as not being one that establishes a college of technology;

五　試験研究独立行政法人であつて政令で定めるもの（以下この号において「特定試験研究独立行政法人」という。）における技術に関する研究成果について、当該研究成果に係る特定試験研究独立行政法人が保有する特許権又は特許を受ける権利の譲渡を受け、当該特許権又は当該特許を受ける権利に基づいて取得した特許権についての譲渡、専用実施権の設定その他の行為により、当該研究成果の活用を行おうとする民間事業者に対し移転する事業を行う者

(v) In terms of the results of technology research arising at the research incorporated administrative agencies specified by Cabinet Order (hereinafter referred to as "specified research and development IAA" in this item), a person that is in the business of acquiring patent rights and rights to obtain patents owned by the specified research and development IAA, that relate to the results of technology research, and then transferring those research results to private businesses seeking to make use of them, by transferring those patent rights that the person acquires based on patent rights and rights to obtain patents, by establishing exclusive licenses, or by taking other such actions;

六　公設試験研究機関（地方公共団体に置かれる試験所、研究所その他の機関（学校教育法第二条第二項に規定する公立学校を除く。）であつて、試験研究に関する業務を行うものをいう。）を設置する者

(vi) a person that establishes a public research and development institute (meaning a laboratory, research institute, or other such organization that is established by a local government (excluding a public school provided in Article 2, paragraph (2) of the School Education Act) and that carries out research and development activities); and

七　試験研究地方独立行政法人（地方独立行政法人（地方独立行政法人法（平成十五年法律第百十八号）第二条第一項に規定する地方独立行政法人をいう。）のうち同法第六十八条第一項に規定する公立大学法人以外のものであつて、試験研究に関する業務を行うものをいう。）

(vii) a local incorporated administrative agency for research and development (meaning a local incorporated administrative agency (meaning a local administrative incorporated agency provided for in Article 2, paragraph (1) of the Local Incorporated Administrative Agency Act (Act No. 118 of 2003)), which does not fall within the category of a public university corporation provided for in Article 68, paragraph (1) of that Act, and which carries out research and development activities).

（特許料を納付すべき者以外の者による特許料の納付）

(Payment of Patent Fees by a Person Other Than Those Required to Pay Patent Fees)

第百十条　利害関係人その他の特許料を納付すべき者以外の者は、納付すべき者の意に反しても、特許料を納付することができる。

Article 110 (1) An interested person or any other such person not constituting the person required to pay a patent fee may pay a patent fee even if this is against the will of the person required to pay the patent fee.

２　前項の規定により特許料を納付した者は、納付すべき者が現に利益を受ける限度においてその費用の償還を請求することができる。

(2) A person that has paid the patent fees pursuant to the preceding paragraph may claim reimbursement of the expenses arising therefrom to the extent of the actual benefit obtained by the person that is required to pay the patent fees.

（既納の特許料の返還）

(Refunding of Patent Fees)

第百十一条　既納の特許料は、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 111 (1) The following patent fees are refunded upon the request of the person that paid them:

一　過誤納の特許料

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

二　第百十四条第二項の取消決定又は特許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特許料

(ii) annual patent fees for each year following the year in which a revocation decision under Article 114, paragraph (2) or a decision on a trial or appeal to invalidate the patent becomes final and binding; and

三　特許権の存続期間の延長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特許料（当該延長登録がないとした場合における存続期間の満了の日の属する年の翌年以後のものに限る。）

(iii) annual patent fees for the year following the year in which a decision on a trial or appeal to the effect that the registration of patent term extension is to be invalidated became final and binding, and subsequent years (limited to those for the year following the year in which the term of a patent right would have expired if the extension had not been registered, and subsequent years).

２　前項の規定による特許料の返還は、同項第一号の特許料については納付した日から一年、同項第二号及び第三号の特許料については第百十四条第二項の取消決定又は審決が確定した日から六月を経過した後は、請求することができない。

(2) A request for a refund of patent fees as under the preceding paragraph may not be filed once one year has passed since the date the patent fees referred to in item (i) of that paragraph were paid or once six months from the date on which a revocation decision referred to in Article 114, paragraph (2) or a decision on a trial or appeal became final and binding in the case of patent fees referred to in items (ii) and (iii) of that paragraph.

３　第一項の規定による特許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) If a person that files a request for a refund of patent fees under paragraph (1) is unable to file the request within the period provided for in the paragraph, due to reasons beyond the person's control, the person may file the request within 14 days (if the person is an overseas resident, within two months) from the date on which the reasons ceased to be applicable, but not later than six months following the passage of the period, notwithstanding paragraph (1).

（特許料の追納）

(Late Payment of Patent Fees)

第百十二条　特許権者は、第百八条第二項に規定する期間又は第百九条若しくは第百九条の二の規定による納付の猶予後の期間内に特許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特許料を追納することができる。

Article 112 (1) If a patentee is unable to pay a patent fee within the time frame provided for in Article 108, paragraph (2) or within the time frame for deferred payment as under Article 109 or Article 109-2, the patentee may make a late payment of the patent fees even after that time frame, if this is done within six months after the end of the relevant time frame.

２　前項の規定により特許料を追納する特許権者は、第百七条第一項の規定により納付すべき特許料のほか、その特許料と同額の割増特許料を納付しなければならない。ただし、当該特許権者がその責めに帰することができない理由により第百八条第二項に規定する期間又は第百九条若しくは第百九条の二の規定による納付の猶予後の期間内にその特許料を納付することができないときは、その割増特許料を納付することを要しない。

(2) A patentee making a late payment for the patent fees pursuant to the preceding paragraph must pay a patent surcharge in the same amount as a patent fee, beyond the patent fees to be paid pursuant to Article 107, paragraph (1); provided, however, that if the patentee is unable to pay the patent fee within the time frame provided for in Article 108, paragraph (2) or within the time frame for deferred payment as under Article 109 or Article 109-2 due to reasons beyond the patentee's control, the patentee is not required to pay the patent surcharge.

３　前項の割増特許料の納付は、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 the patent surcharge as 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, that if stipulated by Order of the Ministry of Economy, Trade and Industry, a cash payment thereof may be made pursuant to Order of the Ministry of Economy, Trade and Industry.

４　特許権者が第一項の規定により特許料を追納することができる期間内に、第百八条第二項本文に規定する期間内に納付すべきであつた特許料及び第二項の規定により納付すべき割増特許料を納付しないときは、その特許権は、同条第二項本文に規定する期間の経過の時に遡つて消滅したものとみなす。

(4) If a patentee fails to pay patent fees that were due and payable within the time frame provided for in the main clause of Article 108, paragraph (2) and the patent surcharge that is to be paid pursuant to paragraph (2) within the time frame during which the patentee is permitted to make a late payment for patent fees pursuant to paragraph (1), the patent right is deemed to have been lapsed retroactively at the end of the time frame provided for in the main clause of Article 108, paragraph (2).

５　特許権者が第一項の規定により特許料を追納することができる期間内に第百八条第二項ただし書に規定する特許料及び第二項の規定により納付すべき割増特許料を納付しないときは、その特許権は、当該延長登録がないとした場合における特許権の存続期間の満了の日の属する年の経過の時に遡つて消滅したものとみなす。

(5) If a patentee fails to pay the patent fees provided for in the proviso to Article 108, paragraph (2) and the patent surcharge that is to be paid pursuant to paragraph (2), within the time frame during which the patent is permitted to make a late payment for patent fee pursuant to paragraph (1), the patent right is deemed to have been lapsed retroactive at the end of the year in which the term of the patent right would have expired if the extension had not been registered.

６　特許権者が第一項の規定により特許料を追納することができる期間内に第百九条又は第百九条の二の規定により納付が猶予された特許料及び第二項の規定により納付すべき割増特許料を納付しないときは、その特許権は、初めから存在しなかつたものとみなす。

(6) If a patentee fails to pay patent fees whose payment has been deferred pursuant to Article 109 or Article 109-2 and the patent surcharge that is to be paid pursuant to paragraph (2), within the time frame during which the patentee is permitted to make a late payment for patent fees pursuant to paragraph (1), the patent right is deemed never to have existed.

（特許料の追納による特許権の回復）

(Restoration of Patent Right by Late Payment of Patent Fees)

第百十二条の二　前条第四項若しくは第五項の規定により消滅したものとみなされた特許権又は同条第六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特許権の原特許権者は、経済産業省令で定める期間内に限り、経済産業省令で定めるところにより、同条第四項から第六項までに規定する特許料及び割増特許料を追納することができる。ただし、故意に、同条第一項の規定により特許料を追納することができる期間内にその特許料及び割増特許料を納付しなかつたと認められる場合は、この限りでない。

Article 112-2 (1) The original patentee of the patent right that is deemed to have been forfeited pursuant to Article 112, paragraph (4) or (5), or that is deemed never to have existed pursuant to Article 112, paragraph (6) may make a late payment of the patent fees and the patent surcharge provided for in Article 112, paragraphs (4) through (6) pursuant to Order of the Ministry of Economy, Trade and Industry only within the time frame provided by Order of the Ministry of Economy, Trade and Industry; provided, however, that this does not apply if the original patentee is found to have intentionally failed to pay the patent fees and the patent surcharge within the time frame during which the patentee is permitted to make a late payment for the patent fees pursuant to Article 112, paragraph (1).

２　前項の規定による特許料及び割増特許料の追納があつたときは、その特許権は、第百八条第二項本文に規定する期間の経過の時若しくは存続期間の満了の日の属する年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 patent fees and a patent surcharge are paid as under the preceding paragraph, the patent right is deemed to have continued retroactive at the time that the time frame ended as provided in the main clause of Article 108, paragraph (2) or at the end of the year including the day of the expiration of the patent term, or is deemed to have existed from the beginning.

（回復した特許権の効力の制限）

(Restriction on Effect of Restored Patent Right)

第百十二条の三　前条第二項の規定により特許権が回復した場合において、その特許が物の発明についてされているときは、その特許権の効力は、第百十二条第一項の規定により特許料を追納することができる期間の経過後特許権の回復の登録前に輸入し、又は日本国内において生産し、若しくは取得した当該物には、及ばない。

Article 112-3 (1) If a patent right is restored pursuant to paragraph (2) of the preceding Article, and the patent was granted on an invention that is a product, the patent right has no effect against articles imported into or, produced or acquired within Japan after the end of the time frame during which the patentee is permitted to make a late payment for patent fees pursuant to Article 112, paragraph (1) and before the restoration of the patent right is registered.

２　前条第二項の規定により回復した特許権の効力は、第百十二条第一項の規定により特許料を追納することができる期間の経過後特許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 patent restored pursuant to paragraph (2) of the preceding Article has no effect against the following actions performed after the end of the time frame during which the patentee is permitted to make a late payment for patent fees pursuant to Article 112, paragraph (1) and before the restoration of the patent right is registered:

一　当該発明の実施

(i) the working of the invention;

二　特許が物の発明についてされている場合において、その物の生産に用いる物の生産、譲渡等若しくは輸入又は譲渡等の申出をした行為

(ii) if a patent was granted on an invention that is a product, producing, transferring, etc., or importing, or offering for transfer, etc. any article used in the production of the product; and

三　特許が物の発明についてされている場合において、その物を譲渡等又は輸出のために所持した行為

(iii) if the patent was granted on an invention that is a product, possessing the product for the purpose of transferring, etc., or exporting it;

四　特許が方法の発明についてされている場合において、その方法の使用に用いる物の生産、譲渡等若しくは輸入又は譲渡等の申出をした行為

(iv) if the patent was granted on an invention that is a process, producing, transferring, etc., importing, or offering for transfer, etc. of an article used in that process; and

五　特許が物を生産する方法の発明についてされている場合において、その方法により生産した物を譲渡等又は輸出のために所持した行為

(v) if a patent was granted on an invention that is a process for producing a product, possessing the product produced by that process for the purpose of transferring, etc. or exporting it.

第五章　特許異議の申立て

Chapter V Opposition to a Granted Patent

（特許異議の申立て）

(Filing of an Opposition to a Granted Patent)

第百十三条　何人も、特許掲載公報の発行の日から六月以内に限り、特許庁長官に、特許が次の各号のいずれかに該当することを理由として特許異議の申立てをすることができる。この場合において、二以上の請求項に係る特許については、請求項ごとに特許異議の申立てをすることができる。

Article 113 Any person may file with the Commissioner of the Japan Patent Office an opposition to a granted patent on the grounds that a patent falls under any of the following items, no later than six months from the publication of a gazette containing the patent, and if a patent has two or more claims in this case, an opposition to a granted patent may be filed for each claim:

一　その特許が第十七条の二第三項に規定する要件を満たしていない補正をした特許出願（外国語書面出願を除く。）に対してされたこと。

(i) the patent has been granted on a patent application (excluding an application written in a foreign language) with an amendment that does not comply with the requirements provided in Article 17-2, paragraph (3);

二　その特許が第二十五条、第二十九条、第二十九条の二、第三十二条又は第三十九条第一項から第四項までの規定に違反してされたこと。

(ii) the patent has been granted in violation of Articles 25, 29, 29-2, or 32, or Article 39, paragraphs (1) through (4);

三　その特許が条約に違反してされたこと。

(iii) the patent has been granted in violation of a treaty;

四　その特許が第三十六条第四項第一号又は第六項（第四号を除く。）に規定する要件を満たしていない特許出願に対してされたこと。

(iv) the patent has been granted on a patent application not complying with the requirements provided in Article 36, paragraph (4), item (i) or, paragraph (6) (excluding item (iv) of that paragraph); or

五　外国語書面出願に係る特許の願書に添付した明細書、特許請求の範囲又は図面に記載した事項が外国語書面に記載した事項の範囲内にないこと。

(v) matters stated in the description, claims, or drawings attached to the application written in a foreign language are not within the scope of matters stated in foreign-language documents.

（決定）

(Ruling)

第百十四条　特許異議の申立てについての審理及び決定は、三人又は五人の審判官の合議体が行う。

Article 114 (1) Proceedings and a ruling on an opposition to a granted patent are conducted by a panel consisting of three or five administrative judges.

２　審判官は、特許異議の申立てに係る特許が前条各号のいずれかに該当すると認めるときは、その特許を取り消すべき旨の決定（以下「取消決定」という。）をしなければならない。

(2) The administrative judges must make a ruling that a patent related to an opposition to a granted patent is to be revoked (hereinafter referred to as a "revocation decision") if they recognize that the patent falls under any of the items of the preceding Article.

３　取消決定が確定したときは、その特許権は、初めから存在しなかつたものとみなす。

(3) If a revocation decision has become final and binding, the patent right is deemed never to have existed.

４　審判官は、特許異議の申立てに係る特許が前条各号のいずれかに該当すると認めないときは、その特許を維持すべき旨の決定をしなければならない。

(4) The administrative judges must make a ruling that a patent related to an opposition to a granted patent is to be maintained if they do not recognize that the patent falls under any of the items of the preceding Article.

５　前項の決定に対しては、不服を申し立てることができない。

(5) No appeal may be entered against the ruling in the preceding paragraph.

（申立ての方式等）

(Formal Requirements for Filing)

第百十五条　特許異議の申立てをする者は、次に掲げる事項を記載した特許異議申立書を特許庁長官に提出しなければならない。

Article 115 (1) A person that files an opposition to a granted patent must submit to the Commissioner of the Japan Patent Office a written opposition to a granted patent stating the following matters:

一　特許異議申立人及び代理人の氏名又は名称及び住所又は居所

(i) the name, and domicile or residence of the person filing an opposition to a granted patent and the patent opponent's representative;

二　特許異議の申立てに係る特許の表示

(ii) an indication of the patent related to the opposition to a granted patent; and

三　特許異議の申立ての理由及び必要な証拠の表示

(iii) an indication of the grounds and the necessary evidence for the opposition to a granted patent.

２　前項の規定により提出した特許異議申立書の補正は、その要旨を変更するものであつてはならない。ただし、第百十三条に規定する期間が経過する時又は第百二十条の五第一項の規定による通知がある時のいずれか早い時までにした前項第三号に掲げる事項についてする補正は、この限りでない。

(2) An amendment of the written opposition to a granted patent filed under the preceding paragraph must not change the gist of the statement; provided, however, that this does not apply if the amendment falls under any of the matters provided in item (iii) of the preceding paragraph and is made by the earlier of the date on which the period provided for in Article 113 expires or the date on which a notice under Article 120-5, paragraph (1) is received.

３　審判長は、特許異議申立書の副本を特許権者に送付しなければならない。

(3) A chief administrative judge must send a duplicate of the written opposition to a granted patent to the patentee.

４　第百二十三条第四項の規定は、特許異議の申立てがあつた場合に準用する。

(4) Article 123, paragraph (4) applies mutatis mutandis to the case if an opposition to a granted patent is filed.

（審判官の指定等）

(Designation of Administrative Judges)

第百十六条　第百三十六条第二項及び第百三十七条から第百四十四条までの規定は、第百十四条第一項の合議体及びこれを構成する審判官に準用する。

Article 116 Article 136, paragraph (2) and Articles 137 through 144 apply mutatis mutandis to a panel provided in Article 114, paragraph (1) and the administrative judges that are the members of the panel.

（審判書記官）

(Trial and Appeal Clerks)

第百十七条　特許庁長官は、各特許異議申立事件について審判書記官を指定しなければならない。

Article 117 (1) The Commissioner of the Japan Patent Office must designate a trial or appeal clerk for each case of an opposition to a granted patent.

２　第百四十四条の二第三項から第五項までの規定は、前項の審判書記官に準用する。

(2) Article 144-2, paragraphs (3) through (5) apply mutatis mutandis to the trial or appeal clerk of the preceding paragraph.

（審理の方式等）

(Procedure of Proceedings)

第百十八条　特許異議の申立てについての審理は、書面審理による。

Article 118 (1) The proceedings with regard to an opposition to a granted patent are conducted by documentary proceedings.

２　共有に係る特許権の特許権者の一人について、特許異議の申立てについての審理及び決定の手続の中断又は中止の原因があるときは、その中断又は中止は、共有者全員についてその効力を生ずる。

(2) If there are grounds for continuance or suspension of procedures of proceedings and a ruling on an opposition to a granted patent, with regard to one of the patentees of a co-owned patent right, the continuance or suspension has effect on all of the co-owners.

（参加）

(Intervention)

第百十九条　特許権についての権利を有する者その他特許権に関し利害関係を有する者は、特許異議の申立てについての決定があるまでは、特許権者を補助するため、その審理に参加することができる。

Article 119 (1) A person that has a right on a patent right and all other persons with an interest in the patent right may intervene in the proceedings on an opposition to a granted patent to assist the patentee until a ruling on the motion is rendered.

２　第百四十八条第四項及び第五項並びに第百四十九条の規定は、前項の規定による参加人に準用する。

(2) Article 148, paragraphs (4) and (5), and Article 149 apply mutatis mutandis to the intervenors under the preceding paragraph.

（証拠調べ及び証拠保全）

(Examination and Preservation of Evidence)

第百二十条　第百五十条及び第百五十一条の規定は、特許異議の申立てについての審理における証拠調べ及び証拠保全に準用する。

Article 120 Articles 150 and 151 apply mutatis mutandis to the examination and preservation of evidence in the proceedings on an opposition to a granted patent.

（職権による審理）

(Proceedings by the Trial Examiner's Own Authority)

第百二十条の二　特許異議の申立てについての審理においては、特許権者、特許異議申立人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。

Article 120-2 (1) Any grounds not pleaded by a patentee, a person filing an opposition, or an intervenor may be examined in proceedings on an opposition to a granted patent.

２　特許異議の申立てについての審理においては、特許異議の申立てがされていない請求項については、審理することができない。

(2) No claim to which an opposition to a granted patent is not filed may be examined in the proceedings on an opposition to a granted patent.

（申立ての併合又は分離）

(Joint or Separate Conduct of Motions)

第百二十条の三　同一の特許権に係る二以上の特許異議の申立てについては、その審理は、特別の事情がある場合を除き、併合するものとする。

Article 120-3 (1) If there are two or more motions of an opposition to a granted patent related to the same patent right, the proceedings are to be jointly conducted, except if special circumstances exist.

２　前項の規定により審理を併合したときは、更にその審理の分離をすることができる。

(2) Proceedings that have been jointly conducted pursuant to the preceding paragraph may later be separately conducted.

（申立ての取下げ）

(Withdrawal of a Motion)

第百二十条の四　特許異議の申立ては、次条第一項の規定による通知があつた後は、取り下げることができない。

Article 120-4 (1) An opposition to a granted patent may not be withdrawn after the notice under paragraph (1) of the next Article has been given.

２　第百五十五条第三項の規定は、特許異議の申立ての取下げに準用する。

(2) Article 155, paragraph (3) applies mutatis mutandis to the withdrawal of an opposition to a granted patent.

（意見書の提出等）

(Submission of a Written Opinion)

第百二十条の五　審判長は、取消決定をしようとするときは、特許権者及び参加人に対し、特許の取消しの理由を通知し、相当の期間を指定して、意見書を提出する機会を与えなければならない。

Article 120-5 (1) If a chief administrative judge intends to render a revocation decision, the judge must notify the patentee and the intervenors of the grounds therefor and give them an opportunity to submit a written opinion within a reasonable, specified period of time.

２　特許権者は、前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、特許請求の範囲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。

(2) The patentee may file a request for a correction of the description, claims, or drawings attached to the written application only within the period of time designated in accordance with the preceding paragraph; provided, however, that the correction is limited to the following purposes:

一　特許請求の範囲の減縮

(i) restriction of the claims;

二　誤記又は誤訳の訂正

(ii) correction of errors or mistranslations;

三　明瞭でない記載の釈明

(iii) explanation 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 another statement of claims to a statement which does not cite the other statement of claims.

３　二以上の請求項に係る願書に添付した特許請求の範囲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、特許異議の申立てが請求項ごとにされた場合にあつては、請求項ごとに同項の訂正の請求をしなければならない。

(3) If claims attached to a written application covering two or more claims are being corrected, a request for correction may be filed in the preceding paragraph for each claim; provided, however, that if an opposition to a granted patent has been filed for each claim, a request for correction must be filed for each claim.

４　前項の場合において、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。

(4) In the case of the preceding paragraph, if the claims include one or more groups of claims which are related because a statement of one claim is cited by another claim or have any other relationship provided by Order of the Ministry of Economy, Trade and Industry (hereinafter referred to as a "group of claims"), a request must be filed for each group of claims.

５　審判長は、第一項の規定により指定した期間内に第二項の訂正の請求があつたときは、第一項の規定により通知した特許の取消しの理由を記載した書面並びに訂正の請求書及びこれに添付された訂正した明細書、特許請求の範囲又は図面の副本を特許異議申立人に送付し、相当の期間を指定して、意見書を提出する機会を与えなければならない。ただし、特許異議申立人から意見書の提出を希望しない旨の申出があるとき、又は特許異議申立人に意見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。

(5) If a request for correction has been filed pursuant to paragraph (2) within a period of time designated under paragraph (1), a chief administrative judge must send to the person filing an opposition to a patent document stating the grounds for revoking a patent of which notification was made pursuant to paragraph (1) and a duplicate of the written request for correction as well as a duplicate of the corrected description, claims, or drawings attached to the duplicate of the written request, and give the opponent an opportunity to submit a written opinion within a reasonable, specified period of time; provided, however, this does not apply if the person filing an opposition does not wish to submit a written opinion, or special circumstances exist under which it is recognized that it is not necessary to give an opportunity to the opponent to submit a written opinion.

６　審判長は、第二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百二十六条第五項から第七項までの規定に適合しないときは、特許権者及び参加人にその理由を通知し、相当の期間を指定して、意見書を提出する機会を与えなければならない。

(6) If a request for correction under paragraph (2) does not correspond to one of the purposes provided in the proviso to the paragraph or does not comply with paragraphs (5) through (7) of Article 126 to be applied mutatis mutandis in paragraph (9), a chief administrative judge must notify the patentee and intervenors of the reasons therefor and give them an opportunity to submit a written opinion within a reasonable, specified period of time.

７　第二項の訂正の請求がされた場合において、その特許異議申立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。

(7) If a request for correction as referred to in paragraph (2) is made, if another request for correction has been previously made in the case of an opposition to a granted patent, the previous request is deemed to have been withdrawn.

８　第二項の訂正の請求は、同項の訂正の請求書に添付された訂正した明細書、特許請求の範囲又は図面について第十七条の五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、第二項の訂正の請求を第三項又は第四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。

(8) The request for correction as referred to in paragraph (2) may be withdrawn only within the period of time during which the amendment under Article 17-5, paragraph (1) may be made with regard to the corrected description, claims, or drawings attached to the written request for correction in the paragraph. In this case, if a request for correction in paragraph (2) has been filed for each claim or each group of claims pursuant to paragraph (3) or (4), all those requests must be withdrawn.

９　第百二十六条第四項から第七項まで、第百二十七条、第百二十八条、第百三十一条第一項、第三項及び第四項、第百三十一条の二第一項、第百三十二条第三項及び第四項並びに第百三十三条第一項、第三項及び第四項の規定は、第二項の場合に準用する。この場合において、第百二十六条第七項中「第一項ただし書第一号又は第二号」とあるのは、「特許異議の申立てがされていない請求項に係る第一項ただし書第一号又は第二号」と読み替えるものとする。

(9) Article 126, paragraphs (4) through (7), Articles 127 and 128, Article 131, paragraphs (1), (3), and (4), Article 131-2, paragraph (1), Article 132, paragraphs (3) and (4), and Article 133, paragraphs (1), (3), and (4) apply mutatis mutandis to the case of paragraph (2). In this case, the term "item (i) or (ii) of the proviso to paragraph (1)" in Article 126, paragraph (7) is deemed to be replaced with "item (i) or (ii) of the proviso to paragraph (1) pertaining to a claim for which an opposition to a granted patent is not filed".

（決定の方式）

(Formality Requirements of Ruling)

第百二十条の六　特許異議の申立てについての決定は、次に掲げる事項を記載した文書をもつて行わなければならない。

Article 120-6 (1) A ruling on a motion of an opposition to a granted patent must be rendered in writing stating the following matters:

一　特許異議申立事件の番号

(i) the number of the case of the opposition to a granted patent;

二　特許権者、特許異議申立人及び参加人並びに代理人の氏名又は名称及び住所又は居所

(ii) the name, and domicile or residence of the patentee, the patent opponent, intervenor and their representatives;

三　決定に係る特許の表示

(iii) an indication of the patent related to the ruling;

四　決定の結論及び理由

(iv) the conclusion of and grounds for the ruling; and

五　決定の年月日

(v) the date of the ruling.

２　特許庁長官は、決定があつたときは、決定の謄本を特許権者、特許異議申立人、参加人及び特許異議の申立てについての審理に参加を申請してその申請を拒否された者に送達しなければならない。

(2) If a ruling has been rendered, the Commissioner of the Japan Patent Office must serve a certified copy of the ruling on the patentee, the patent opponent, intervenors, and a person whose application for intervention has been rejected.

（決定の確定範囲）

(Scope of Final and Binding Ruling)

第百二十条の七　特許異議の申立てについての決定は、特許異議申立事件ごとに確定する。ただし、次の各号に掲げる場合には、それぞれ当該各号に定めるところにより確定する。

Article 120-7 A ruling on an opposition to a granted patent becomes final and binding for each case of opposition to a granted patent; provided, however, that in the cases listed in the following items, the ruling becomes final and binding as provided in the corresponding item:

一　請求項ごとに特許異議の申立てがされた場合であつて、一群の請求項ごとに第百二十条の五第二項の訂正の請求がされた場合　当該一群の請求項ごと

(i) if an opposition to a granted patent has been filed for each claim and a request for correction has been filed as referred to in Article 120-5, paragraph (2) for each group of claims: for each group of claims; and

二　請求項ごとに特許異議の申立てがされた場合であつて、前号に掲げる場合以外の場合　当該請求項ごと

(ii) if an opposition to a granted patent has been filed for each claim and a case other than that which listed in the preceding item: for each claim

（審判の規定等の準用）

(Application Mutatis Mutandis of Provisions Regarding Trials and Appeals)

第百二十条の八　第百三十三条、第百三十三条の二、第百三十四条第四項、第百三十五条、第百五十二条、第百六十八条、第百六十九条第三項から第六項まで及び第百七十条の規定は、特許異議の申立てについての審理及び決定に準用する。

Article 120-8 (1) Articles 133 and 133-2, Article 134, paragraph (4), Articles 135, 152, and 168, Article 169, paragraphs (3) through (6), and Article 170 apply mutatis mutandis to proceedings and a ruling on an opposition to a granted patent.

２　第百十四条第五項の規定は、前項において準用する第百三十五条の規定による決定に準用する。

(2) Article 114, paragraph (5) applies mutatis mutandis to a ruling under Article 135 as applied mutatis mutandis as referred to in the preceding paragraph.

第六章　審判

Chapter VI Trials and Appeals

（拒絶査定不服審判）

(Appeal Against Examiner's Decision of Refusal)

第百二十一条　拒絶をすべき旨の査定を受けた者は、その査定に不服があるときは、その査定の謄本の送達があつた日から三月以内に拒絶査定不服審判を請求することができる。

Article 121 (1) A person that is subject to an examiner's decision to the effect that an application is to be refused, and that is dissatisfied with this decision may file an appeal against the examiner's decision of refusal within three months after the date that the certified copy of the examiner's decision is served.

２　拒絶査定不服審判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。

(2) If a person filing an appeal against an examiner's decision of refusal has been unable to file it within the period prescribed in the preceding paragraph due to reasons beyond the person's control, the person may file an appeal within 14 days (or within two months, if the person is an overseas resident) after the date on which those reasons cease to exist, but no later than six months after the end of the aforementioned period, notwithstanding the preceding paragraph.

第百二十二条　削除

Article 122 Deleted

（特許無効審判）

(Trial for Patent Invalidation)

第百二十三条　特許が次の各号のいずれかに該当するときは、その特許を無効にすることについて特許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 123 (1) If a patent falls under any of the following items, a request for a trial for patent invalidation may be filed. If the request involves two or more claims in this case, it may be filed on a claim-by-claim basis:

一　その特許が第十七条の二第三項に規定する要件を満たしていない補正をした特許出願（外国語書面出願を除く。）に対してされたとき。

(i) the patent has been granted on a patent application (excluding an application written in a foreign language) with an amendment that does not comply with the requirements stipulated in Article 17-2, paragraph (3);

二　その特許が第二十五条、第二十九条、第二十九条の二、第三十二条、第三十八条又は第三十九条第一項から第四項までの規定に違反してされたとき（その特許が第三十八条の規定に違反してされた場合にあつては、第七十四条第一項の規定による請求に基づき、その特許に係る特許権の移転の登録があつたときを除く。）。

(ii) the patent has been granted in violation of Articles 25, 29, 29-2, 32, or 38, or Article 39, paragraphs (1) through (4) (if the patent has been obtained in violation of Article 38, excluding if the transfer of a patent right under the patent has been registered based on a request under Article 74, paragraph (1));

三　その特許が条約に違反してされたとき。

(iii) the patent has been granted in violation of a treaty;

四　その特許が第三十六条第四項第一号又は第六項（第四号を除く。）に規定する要件を満たしていない特許出願に対してされたとき。

(iv) the patent has been granted on a patent application not complying with the requirements stipulated in Article 36, paragraph (4), item (i) or paragraph (6) (excluding item (iv) of the paragraph);

五　外国語書面出願に係る特許の願書に添付した明細書、特許請求の範囲又は図面に記載した事項が外国語書面に記載した事項の範囲内にないとき。

(v) the matters stated in the description, claims, or drawings attached to the application written in a foreign language are not within the scope of matters stated in foreign-language documents;

六　その特許がその発明について特許を受ける権利を有しない者の特許出願に対してされたとき（第七十四条第一項の規定による請求に基づき、その特許に係る特許権の移転の登録があつたときを除く。）。

(vi) the patent has been granted on a patent application filed by a person that does not have the right to be granted a patent for the invention (excluding when the transfer of a patent right under the patent has been registered based on a request under Article 74, paragraph (1));

七　特許がされた後において、その特許権者が第二十五条の規定により特許権を享有することができない者になつたとき、又はその特許が条約に違反することとなつたとき。

(vii) after being granted a patent, the patentee comes to fall under a category of person that is not permitted the enjoyment of a patent right pursuant to Article 25, or the patent comes to violate a treaty after being granted; or

八　その特許の願書に添付した明細書、特許請求の範囲又は図面の訂正が第百二十六条第一項ただし書若しくは第五項から第七項まで（第百二十条の五第九項又は第百三十四条の二第九項において準用する場合を含む。）、第百二十条の五第二項ただし書又は第百三十四条の二第一項ただし書の規定に違反してされたとき。

(viii) the correction of the description, claims, or drawings attached to the written application for the patent have been obtained in violation of the proviso to Article 126, paragraph (1), and paragraphs (5) through (7) (including as applied mutatis mutandis pursuant to Article 120-5, paragraph (9) or Article 134-2, paragraph (9)), the proviso to Article 120-5, paragraph (2) or the proviso to Article 134-2, paragraph (1).

２　特許無効審判は、利害関係人（前項第二号（特許が第三十八条の規定に違反してされたときに限る。）又は同項第六号に該当することを理由として特許無効審判を請求する場合にあつては、特許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) A request for a trial for patent invalidation may be filed only by an interested person (if a request for a trial for patent invalidation is filed on the grounds that the patent falls under item (ii) of the preceding paragraph (limited to a case in which the patent is obtained in violation of Article 38) or item (vi) of the paragraph, a person that has the right to be granted the patent).

３　特許無効審判は、特許権の消滅後においても、請求することができる。

(3) A request for a trial for patent invalidation may be filed even after the lapse of the patent right.

４　審判長は、特許無効審判の請求があつたときは、その旨を当該特許権についての専用実施権者その他その特許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) When a request for a trial for patent invalidation has been filed, a chief administrative judge must notify any exclusive licensee under the patent right and notify any other persons with registered rights under the patent of the same.

第百二十四条　削除

Article 124 Deleted

第百二十五条　特許を無効にすべき旨の審決が確定したときは、特許権は、初めから存在しなかつたものとみなす。ただし、特許が第百二十三条第一項第七号に該当する場合において、その特許を無効にすべき旨の審決が確定したときは、特許権は、その特許が同号に該当するに至つた時から存在しなかつたものとみなす。

Article 125 Once a trial decision to the effect that a patent is to be invalidated has become final and binding, the patent right is deemed never to have existed; provided, however, that if a patent falls under Article 123, paragraph (1), item (vii) and a trial decision to the effect that the patent is to be invalidated has become final and binding, the patent right is deemed not to have existed beginning from the time that item first became applicable to the patent.

（延長登録無効審判）

(Trial for Invalidation Concerning the Registration of a Patent Term Extension)

第百二十五条の二　第六十七条の三第三項の延長登録が次の各号のいずれかに該当するときは、その延長登録を無効にすることについて延長登録無効審判を請求することができる。

Article 125-2 (1) A request for a trial for invalidation concerning the registration of a patent term extension may be filed if the registration of extension under Article 67-3, paragraph (3) falls under any of the following:

一　その延長登録が基準日以後にされていない場合の出願に対してされたとき。

(i) the registration of the extension is made in response to an application filed before the base date;

二　その延長登録により延長された期間がその特許権の存続期間に係る延長可能期間を超えているとき。

(ii) the period by which the extending registration has extended the patent term exceeds the permissible length for the extension of the term of the patent rights;

三　その延長登録が当該特許権者でない者の出願に対してされたとき。

(iii) the registration of extension is made in response to an application filed by a person that is not the patentee; and

四　その延長登録が第六十七条の二第四項に規定する要件を満たしていない出願に対してされたとき。

(iv) the registration of the extension is made in response to an application which does not meet the requirements prescribed in Article 67-2, paragraph (4).

２　前項の延長登録無効審判は、利害関係人に限り請求することができる。

(2) A request for a trial for invalidation concerning the registration of a patent term extension as referred to in the preceding paragraph may be filed only by an interested person.

３　第百二十三条第三項及び第四項の規定は、第一項の規定による延長登録無効審判の請求について準用する。

(3) Article 123, paragraphs (3) and (4) apply mutatis mutandis to a request for a trial for invalidation concerning the registration of a patent term extension as referred to in paragraph (1).

４　第六十七条の三第三項の延長登録を無効にすべき旨の審決が確定したときは、その延長登録による特許権の存続期間の延長は、初めからされなかつたものとみなす。ただし、延長登録が第一項第二号に該当する場合において、その特許権の存続期間に係る延長可能期間を超える期間の延長登録を無効にすべき旨の審決が確定したときは、当該超える期間について、その延長がされなかつたものとみなす。

(4) When a trial decision to the effect that the registration of extension as referred to Article 67-3, paragraph (3) is to be invalidated has become final and binding, the extension of the term of the patent right resulting from the registration of the extension is deemed never to have occurred; provided, however, that if the registration of extension falls under paragraph (1), item (ii) and a trial decision to the effect that the registration of extension for the period that exceeds the permissible length for the extension of the patent right is to be invalidated has become final and binding, the extension is deemed not to have occurred .

５　前項本文の規定により初めからされなかつたものとみなされた延長登録による特許権の存続期間の延長に係る当該延長の期間又は同項ただし書の規定により延長がされなかつたものとみなされた期間内にされた第六十七条第四項の延長登録の出願が特許庁に係属しているときは、当該出願は、取り下げられたものとみなす。

(5) Any application to register an extension as referred to in Article 67, paragraph (4) that was filed within the period by which the term of patent rights was extended based on a registration of extension that has been deemed never to have been made, pursuant to the main clause of the preceding paragraph, or that was filed within the period for which, pursuant to the proviso to that paragraph, the extension has been deemed not to have occurred, and that is pending before the Japan Patent Office, is deemed to have been withdrawn.

６　第四項本文の規定により初めからされなかつたものとみなされた延長登録による特許権の存続期間の延長に係る当該延長の期間又は同項ただし書の規定により延長がされなかつたものとみなされた期間内にされた第六十七条第四項の延長登録の出願に係る第六十七条の七第三項の延長登録がされているときは、当該延長登録による特許権の存続期間の延長は、初めからされなかつたものとみなす。

(6) If an extending registration as referred to in Article 67-7, paragraph (3) has been made in connection with an application to register an extension as referred to in Article 67, paragraph (4) that was filed within the period by which the term of patent rights was extended based on a registration of extension that has been deemed never to have been made, pursuant to the main clause of paragraph (4), or that was filed within the period for which the extension has been deemed not to have occurred, pursuant to the proviso to the paragraph, the extension of the term of the patent rights resulting from the registration of extension is deemed never to have occurred .

第百二十五条の三　第六十七条の七第三項の延長登録が次の各号のいずれかに該当するときは、その延長登録を無効にすることについて延長登録無効審判を請求することができる。

Article 125-3 (1) A request for a trial for invalidation concerning the registration of a patent term extension may be filed if the registration of extension as referred to in Article 67-7, paragraph (3) falls under any of the following:

一　その延長登録がその特許発明の実施に第六十七条第四項の政令で定める処分を受けることが必要であつたとは認められない場合の出願に対してされたとき。

(i) the registration of extension has been made in response to an application that has been filed in a case in which it is not found that the person needed to obtain the disposition provided by Cabinet Order as referred to in Article 67, paragraph (4) in order to work the patented invention;

二　その延長登録が、その特許権者又はその特許権についての専用実施権若しくは通常実施権を有する者が第六十七条第四項の政令で定める処分を受けていない場合の出願に対してされたとき。

(ii) the registration of extension has been made in response to an application that has been filed in a case in which the patentee or an exclusive licensee or a non-exclusive licensee of the patent right has not obtained the disposition provided by Cabinet Order as referred to in Article 67, paragraph (4);

三　その延長登録により延長された期間がその特許発明の実施をすることができなかつた期間を超えているとき。

(iii) the period by which the registration of extension has extended the patent term exceeds the period during which the patented invention could not be worked;

四　その延長登録が当該特許権者でない者の出願に対してされたとき。

(iv) the registration of extension has been made in response to an application filed by a person that is not the patentee; and

五　その延長登録が第六十七条の五第四項において準用する第六十七条の二第四項に規定する要件を満たしていない出願に対してされたとき。

(v) the registration of extension has been made in response to an application not complying with the requirements as provided in Article 67-2, paragraph (4) as applied mutatis mutandis pursuant to Article 67-5, paragraph (4).

２　前条第二項及び第三項の規定は、前項の規定による延長登録無効審判の請求について準用する。

(2) Paragraphs (2) and (3) of the preceding Article apply mutatis mutandis to a request for invalidation trial of the registration of extension under the preceding paragraph.

３　第六十七条の七第三項の延長登録を無効にすべき旨の審決が確定したときは、その延長登録による特許権の存続期間の延長は、初めからされなかつたものとみなす。ただし、延長登録が第一項第三号に該当する場合において、その特許発明の実施をすることができなかつた期間を超える期間の延長登録を無効にすべき旨の審決が確定したときは、当該超える期間について、その延長がされなかつたものとみなす。

(3) Once a trial decision to the effect that the invalidating a registration of the extension as referred to in Article 67-7, paragraph (3) is to be invalidated has become final and binding, the extension of the term of the patent rights resulting from that registration of extension is deemed never to have occurred; provided, however, that if the registration of the extension falls under paragraph (1), item (iii) and a trial decision to the effect that invalidating the registration the extension for the period that exceeds the period during which the patented invention could not be worked has become final and binding, the extension is deemed not to have occurred for that excess period.

（訂正審判）

(Trials for Correction)

第百二十六条　特許権者は、願書に添付した明細書、特許請求の範囲又は図面の訂正をすることについて訂正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。

Article 126 (1) The patentee may file a request for a trial for correction for correcting the description, claims, or drawings attached to the written application; provided, however, that a correction is limited to the following:

一　特許請求の範囲の減縮

(i) restriction of the claims;

二　誤記又は誤訳の訂正

(ii) correction of errors or mistranslations;

三　明瞭でない記載の釈明

(iii) explanation 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) rewriting a statement of claims that cites another statement of claims to a statement that does not cite the other statement of claims.

２　訂正審判は、特許異議の申立て又は特許無効審判が特許庁に係属した時からその決定又は審決（請求項ごとに申立て又は請求がされた場合にあつては、その全ての決定又は審決）が確定するまでの間は、請求することができない。

(2) A request for a trial for correction may not be filed between the time that an opposition to a granted patent or a trial for patent invalidation becomes pending before the Japan Patent Office and the time that ruling on the opposition or the trial decision (meaning all the rulings on the opposition or trial decisions if a request is filed on a claim-by-claim basis) becomes final and binding.

３　二以上の請求項に係る願書に添付した特許請求の範囲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。

(3) If claims attached to a written application covering two or more claims are being corrected, a request for a correction trial under paragraph (1) may be filed on a claim-by-claim basis. In this case, if there is a group of claims in the relevant claim, a request must be filed for each group of claims.

４　願書に添付した明細書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) If the description or drawings attached to a written application are being corrected and the person seeks to file the request for a correction trial under paragraph (1) on a claim-by-claim basis, the request must be filed with respect to all claims involved in the correction of the description or drawings (or, if a request under paragraph (1) is filed for each group of claims pursuant to the second clause of the preceding paragraph, with respect to the whole of any groups of claims that includes a claim involving in the correction of the description or drawings).

５　第一項の明細書、特許請求の範囲又は図面の訂正は、願書に添付した明細書、特許請求の範囲又は図面（同項ただし書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、特許請求の範囲又は図面（外国語書面出願に係る特許にあつては、外国語書面））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 a description, claims, or drawings as referred to in paragraph (1) must remain within the scope of the matters disclosed in the description, claims, or drawings attached to a written application (in the case of a correction for the purpose provided in item (ii) of the proviso to paragraph (1), the description, claims and drawings originally attached to the written application (or in the case of a patent linked to an application written in a foreign language, foreign-language documents)).

６　第一項の明細書、特許請求の範囲又は図面の訂正は、実質上特許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。

(6) The correction of the description, claims, or drawings as referred to in paragraph (1) must not substantially enlarge or alter the claims.

７　第一項ただし書第一号又は第二号に掲げる事項を目的とする訂正は、訂正後における特許請求の範囲に記載されている事項により特定される発明が特許出願の際独立して特許を受けることができるものでなければならない。

(7) Corrections for any of the purposes set forth in item (i) or (ii) of the proviso to paragraph (1), must be such as would allow the invention defined by what is described in the corrected claims to be patented independently upon the filing of the patent application.

８　訂正審判は、特許権の消滅後においても、請求することができる。ただし、特許が取消決定により取り消され、又は特許無効審判により無効にされた後は、この限りでない。

(8) A request for a trial for correction may be filed even after the lapse of the patent right; provided, however, that this does not apply after the patent has been revoked by a revocation decision or invalidated by a trial for patent invalidation.

第百二十七条　特許権者は、専用実施権者又は質権者があるときは、これらの者の承諾を得た場合に限り、訂正審判を請求することができる。

Article 127 If there is an exclusive licensee or a pledgee, the patentee may file a request for a trial for correction only with the consent of those persons.

第百二十八条　願書に添付した明細書、特許請求の範囲又は図面の訂正をすべき旨の審決が確定したときは、その訂正後における明細書、特許請求の範囲又は図面により特許出願、出願公開、特許をすべき旨の査定又は審決及び特許権の設定の登録がされたものとみなす。

Article 128 Once a trial decision to the effect that the description, claims, or drawings attached to a written application are to be corrected has become final and binding, the filing of the patent application, the publication of the patent application, the examiner's decision or the decision on the trial or appeal to the effect that the patent is to be granted, or the registration of the establishment of a patent right is deemed to have been made based on the corrected description, claims, or drawings.

第百二十九条及び第百三十条　削除

Articles 129 and 130 Deleted

（審判請求の方式）

(Formality Requirements for Request for Trial or Appeal)

第百三十一条　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 131 (1) A person filing a request for trial or appeal must submit a written request stating the following to the Commissioner of the Japan 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 name, and the domicile or residence of the party and the agent thereof;

二　審判事件の表示

(ii) an indication of the trial or appeal case; and

三　請求の趣旨及びその理由

(iii) the object and grounds of the request.

２　特許無効審判を請求する場合における前項第三号に掲げる請求の理由は、特許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) When a request for a trial for patent invalidation is filed, the grounds for the request that are set forth in item (iii) of the preceding paragraph must concretely identify the facts that are the basis invalidating the patent and must state the relationship of each fact that needs to be proved to the evidence.

３　訂正審判を請求する場合における第一項第三号に掲げる請求の趣旨及びその理由は、経済産業省令で定めるところにより記載したものでなければならない。

(3) When a request for a trial for correction is filed, the object and grounds of the request that are set forth in paragraph (1), item (iii) must be stated as provided by Order of the Ministry of Economy, Trade and Industry.

４　訂正審判を請求するときは、請求書に訂正した明細書、特許請求の範囲又は図面を添付しなければならない。

(4) When a request for a trial for correction is filed, the corrected description, claims, or drawings must be attached to the written request.

（審判請求書の補正）

(Amendment of Request for a Trial or Appeal)

第百三十一条の二　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、当該補正が次の各号のいずれかに該当するときは、この限りでない。

Article 131-2 (1) The amendment of a written request submitted pursuant to paragraph (1) of the preceding Article must not be such as changes the gist of the request; provided, however, that this does not apply if the amendment falls under any of the following items:

一　特許無効審判以外の審判を請求する場合における前条第一項第三号に掲げる請求の理由についてされるとき。

(i) the amendment is made with respect to the grounds for the request set forth in paragraph (1), item (iii) of the preceding Article in the course of filing a request for a trial or appeal other than a trial for patent invalidation;

二　次項の規定による審判長の許可があつたものであるとき。

(ii) the amendment is allowed by a chief administrative judge under the following paragraph; or

三　第百三十三条第一項（第百二十条の五第九項及び第百三十四条の二第九項において準用する場合を含む。）の規定により、当該請求書について補正をすべきことを命じられた場合において、当該命じられた事項についてされるとき。

(iii) an order has been issued to amend the written request pursuant to Article 133, paragraph (1) (including as applied mutatis mutandis pursuant to Article 120-5, paragraph (9) and Article 134-2, paragraph (9)) and the amendment is made with respect to the matter so ordered

２　審判長は、特許無効審判を請求する場合における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 a request for a trial for patent invalidation is filed and an amendment of the grounds for the request set forth in paragraph (1), item (iii) of the preceding Article changes the gist of those grounds, the chief administrative judge may rule to allow the amendment upon finding there to clearly be no risk that the amendment will unreasonably delay the trial proceedings and that the circumstances fall under one of the following items:

一　当該特許無効審判において第百三十四条の二第一項の訂正の請求があり、その訂正の請求により請求の理由を補正する必要が生じたこと。

(i) a request for correction as referred to in Article 134-2, paragraph (1) has been filed during the trial for patent invalidation and that request for correction has made it necessary to amend the grounds for the request; or

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 were reasonable grounds other than what is set forth in the preceding item for the grounds for the request as amended not having been included in the written request at the time the request for a trial was filed, and the respondent has agreed 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第百三十四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、これをすることができない。

(3) The approval of the amendment as referred to in the preceding paragraph may not be made if the written amendment of proceedings for that amendment is submitted prior to the service of a duplicate of the written request under Article 134, 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 entered against the ruling as referred to in paragraph (2) or inaction.

（共同審判）

(Joint Trial or Appeal)

第百三十二条　同一の特許権について特許無効審判又は延長登録無効審判を請求する者が二人以上あるときは、これらの者は、共同して審判を請求することができる。

Article 132 (1) If there are two or more persons filing a request for a trial for patent invalidation or a trial for invalidation concerning the registration of a patent term extension in respect of the same patent right, these persons may jointly file the request for the trial.

２　共有に係る特許権について特許権者に対し審判を請求するときは、共有者の全員を被請求人として請求しなければならない。

(2) If a request for trial or appeal is filed against a patentee that jointly owns the patent right, the request must be filed with all of the co-owners as respondents.

３　特許権又は特許を受ける権利の共有者がその共有に係る権利について審判を請求するときは、共有者の全員が共同して請求しなければならない。

(3) If a request for trial or appeal is filed by a co-owner of a patent right or a right to be granted a patent in respect of the right under co-ownership must be jointly filed by all of the co-owners.

４　第一項若しくは前項の規定により審判を請求した者又は第二項の規定により審判を請求された者の一人について、審判手続の中断又は中止の原因があるときは、その中断又は中止は、全員についてその効力を生ずる。

(4) If there are grounds for continuance or suspension of trial or appeal proceedings in respect of one of the persons that have filed a request for trial or appeal pursuant to paragraph (1) or (3) or in respect of one of the persons on the responding side of a request for trial or appeal filed pursuant to paragraph (2), the continuance or suspension is valid against all of them.

（方式に違反した場合の決定による却下）

(Dismissal by Ruling in the Case of Non-Compliance with Formality Requirements)

第百三十三条　審判長は、請求書が第百三十一条の規定に違反しているときは、請求人に対し、相当の期間を指定して、請求書について補正をすべきことを命じなければならない。

Article 133 (1) If a written request does not comply with Article 131, a chief administrative judge must order the petitioner to amend the written request within a reasonable, specified period of time.

２　審判長は、前項に規定する場合を除き、審判事件に係る手続について、次の各号の一に該当するときは、相当の期間を指定して、その補正をすべきことを命ずることができる。

(2) Other than in a case as provided in the preceding paragraph, the chief administrative judge may order an amendment to be made with respect to a procedure involved in the case under trial or appeal within a reasonable specified period of time if the procedure falls under in any of the following cases:

一　手続が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) the procedure does not comply with Article 7, paragraphs (1) through (3) or Article 9;

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) the procedure does not comply with formality requirements specified by this Act or an order that is based on this Act; or

三　手続について第百九十五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。

(iii) the fee for a procedure that is to be paid pursuant to Article 195, paragraph (1) or (2) has not been paid;

３　審判長は、前二項の規定により、審判事件に係る手続について、そ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、又はその補正が第百三十一条の二第一項の規定に違反するときは、決定をもつてその手続を却下することができる。

(3) The chief administrative judge may, by a ruling, dismiss a procedure involved in a case under trial or appeal if the person that the judge orders, pursuant to the preceding two paragraphs, to make an amendment with respect to that procedure fails to make the amendment within the period of time the judge has specified pursuant to those paragraphs, or if the amendment violates the provisions of Article 131-2, paragraph (1).

４　前項の決定は、文書をもつて行い、かつ、理由を付さなければならない。

(4) The ruling as referred to in the preceding paragraph must be issued in writing and the reasons for that ruling must be given.

（不適法な手続の却下）

(Dismissal of Unlawful Procedures)

第百三十三条の二　審判長は、審判事件に係る手続（審判の請求を除く。）において、不適法な手続であつてその補正をすることができないものについては、決定をもつてその手続を却下することができる。

Article 133-2 (1) A chief administrative judge may, by a ruling, dismiss any procedures that are not lawful and not amendable among the procedures pertaining to a trial or appeal case (excluding a request for trial or appeal).

２　前項の規定により却下しようとするときは、手続をした者に対し、その理由を通知し、相当の期間を指定して、弁明書を提出する機会を与えなければならない。

(2) Before a chief administrative judge intends to dismiss a procedure under the preceding paragraph, the judge must notify the person that undertook the procedures of the reasons for dismissing it and give the person an opportunity to submit a written explanation within an adequate specified period of time.

３　第一項の決定は、文書をもつて行い、かつ、理由を付さなければならない。

(3) A ruling as referred to in paragraph (1) must be issued in writing and the reasons for that ruling must be given.

（答弁書の提出等）

(Submission of a Written Answer)

第百三十四条　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 134 (1) Once a request for trial or appeal has been filed, a chief administrative judge must serve a duplicate of the written request on the respondent and give the respondent an opportunity to submit a written answer within an adequate specified period of time.

２　審判長は、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 a chief administrative judge allows the amendment of a written request pursuant to Article 131-2, paragraph (2), the judge must serve a duplicate of the written amendment form for that amendment on the respondent, and must give the respondent an opportunity to submit a written answer within an adequate specified period of time; provided, however, that this does not apply if there are special circumstances in occurrence in which it is recognized not to be necessary to give the respondent the opportunity to submit a written answer.

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) Once the chief administrative judge accepts a written answer as referred to in paragraph (1) or the main clause of the preceding paragraph, the judge must serve a duplicate thereof on the petitioner.

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 interrogate the parties and any intervenors with regard to a trial or appeal.

（特許無効審判における訂正の請求）

(Request for Correction During Trial for Patent Invalidation)

第百三十四条の二　特許無効審判の被請求人は、前条第一項若しくは第二項、次条、第百五十三条第二項又は第百六十四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、特許請求の範囲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 134-2 (1) The respondent in a trial for patent invalidation may file a request for a correction of the description, claims, or drawings attached to the written application only within a period of time that is specified pursuant to paragraph (1) or (2) of the preceding Article, the following Article, Article 153, paragraph (2), or Article 164-2, paragraph (2); provided, however, that the correction is limited to any one of the following purposes:

一　特許請求の範囲の減縮

(i) restriction of the claims;

二　誤記又は誤訳の訂正

(ii) correction of errors or mistranslations;

三　明瞭でない記載の釈明

(iii) explanation 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) rewriting a statement of claims that cites another statement of claims to a statement of claims that does not cite the other statement of claims.

２　二以上の請求項に係る願書に添付した特許請求の範囲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、特許無効審判が請求項ごとに請求された場合にあつては、請求項ごとに同項の訂正の請求をしなければならない。

(2) If claims attached to a written application covering two or more claims are being corrected, the request for correction referred to in the preceding paragraph may be filed on a claim-by-claim basis; provided, however, that if a request for a trial for patent invalidation has been filed on a claim-by-claim basis, the request for correction referred to in that paragraph must be filed on a claim-by-claim basis.

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。

(3) In the case referred to in the preceding paragraph, when there is a group of claims among the two or more claims, the request must be filed on a set-by-set basis.

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、特許請求の範囲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) Once a chief administrative judge accepts a written request for correction as referred to in paragraph (1) and the corrected description, claims, or drawings attached to the request, the judge must serve a duplicate thereof on the petitioner.

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百二十六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) An administrative judge may examine grounds that have not been pleaded by a party to a case or an intervenor in looking at whether a request for correction as referred to in paragraph (1) fails to be for a purpose set forth in one of the items of the proviso to the paragraph, or in looking at whether it fails to conform to the provisions of Article 126, paragraphs (5) through (7) as applied mutatis mutandis pursuant to paragraph (9) after the deemed replacement of terms. In this case, if the chief administrative judge does not allow the request for correction because of such grounds, the judge must notify the parties to the case and the intervenors of the results of the examination and give them an opportunity to state their opinions within an adequate specified period of time.

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) If a request for correction as referred to in paragraph (1) is filed and another request for correction has been filed previously in the relevant case under trial, the previous request is deemed to be 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、特許請求の範囲又は図面について第十七条の五第二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) A request for correction as referred to in paragraph (1) may be withdrawn only within the period of time during which an amendment as referred to in Article 17-5, paragraph (2) may be made with regard to the corrected description, claims, or drawings attached to the written request for correction referred to in that paragraph. In this case, if the request for correction as referred to in paragraph (1) has been filed on a claim-by-claim basis or a set-by-set basis pursuant to paragraph (2) or (3), all those requests must be withdrawn.

８　第百五十五条第三項の規定により特許無効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、特許無効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同項の訂正の請求は、全て取り下げられたものとみなす。

(8) If a request for a trial for patent invalidation has been withdrawn for each claim pursuant to Article 155, paragraph (3), the request for correction as referred to in paragraph (1) is deemed to be withdrawn on a claim-by-claim basis, and if all requests in the case under a trial for patent invalidation are withdrawn, all the requests for correction as referred to in the paragraph in the case under trial are deemed to be withdrawn.

９　第百二十六条第四項から第八項まで、第百二十七条、第百二十八条、第百三十一条第一項、第三項及び第四項、第百三十一条の二第一項、第百三十二条第三項及び第四項並びに第百三十三条第一項、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、第百二十六条第七項中「第一項ただし書第一号又は第二号」とあるのは、「特許無効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又は第二号」と読み替えるものとする。

(9) Article 126, paragraphs (4) through (8), Articles 127 and 128, Article 131, paragraphs (1), (3), and (4), Article 131-2, paragraph (1), Article 132, paragraphs (3) and (4), and Article 133, paragraphs (1), (3), and (4) apply mutatis mutandis to the case referred to in paragraph (1). In this case, the term "item (i) or (ii) of the proviso to paragraph (1)" in Article 126, paragraph (7) is deemed to be replaced with "item (i) or (ii) of the proviso to paragraph (1) in connection with a claim in respect of which a request for a trial for patent invalidation is not 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 When Rescission Judgment is Rendered)

第百三十四条の三　審判長は、特許無効審判の審決（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、特許請求の範囲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。

Article 134-3 If a judgment rescinding a trial decision in a trial for patent invalidation (limited to a trial decision concluding that there are no grounds for requesting a trial) as under Article 181, paragraph (1) becomes final and binding, and the proceedings under paragraph (2) of the Article are initiated, the chief administrative judge may specify to the respondent an adequate period of time for filing a request for the correction of the description, claims, or drawings attached to the written application, but only if the respondent files a petition to do so within one week from the date that the judgment becomes final and binding.

（不適法な審判請求の審決による却下）

(Dismissal of Unlawful Request for Trial or Appeal by Decision on Trial or Appeal)

第百三十五条　不適法な審判の請求であつて、その補正をすることができないものについては、被請求人に答弁書を提出する機会を与えないで、審決をもつてこれを却下することができる。

Article 135 An unlawful request for trial or appeal that is not amendable may be dismissed by a decision on the trial or appeal without the respondent being given an opportunity to submit a written answer.

（審判の合議制）

(Panel System for Trial and Appeal)

第百三十六条　審判は、三人又は五人の審判官の合議体が行う。

Article 136 (1) A trial or appeal is conducted by a panel consisting of either three or five administrative judges.

２　前項の合議体の合議は、過半数により決する。

(2) A panel as referred to in the preceding paragraph reaches its decisions by a majority vote.

３　審判官の資格は、政令で定める。

(3) Administrative judge qualifications are specified by Cabinet Order.

（審判官の指定）

(Designation of Administrative Judges)

第百三十七条　特許庁長官は、各審判事件（第百六十二条の規定により審査官がその請求を審査する審判事件にあつては、第百六十四条第三項の規定による報告があつたものに限る。）について前条第一項の合議体を構成すべき審判官を指定しなければならない。

Article 137 (1) The Commissioner of the Japan Patent Office must designate the administrative judges that make up the panel referred to paragraph (1) of the preceding Article for each case under trial or appeal (for a case under trial or appeal in respect of filing that is examined by an examiner pursuant to Article 162, this it is limited to the case where a report under Article 164, paragraph (3) has been submitted).

２　特許庁長官は、前項の規定により指定した審判官のうち審判に関与することに故障がある者があるときは、その指定を解いて他の審判官をもつてこれを補充しなければならない。

(2) If one of the administrative judges designated pursuant to the preceding paragraph is unable to participate in the trial or appeal, the Commissioner of the Japan Patent Office must dissolve that designation and appoint another administrative judge to fill the vacancy.

（審判長）

(Chief Administrative Judge)

第百三十八条　特許庁長官は、前条第一項の規定により指定した審判官のうち一人を審判長として指定しなければならない。

Article 138 (1) The Commissioner of the Japan Patent Office must designate one of the administrative judges designated under paragraph (1) of the preceding Article as the chief administrative judge.

２　審判長は、その審判事件に関する事務を総理する。

(2) The chief administrative judge presides over affairs relating to trial or appeal cases.

（審判官の除斥）

(Exclusion of Administrative Judges)

第百三十九条　審判官は、次の各号のいずれかに該当するときは、その職務の執行から除斥される。

Article 139 An administrative judge is excluded from acting as judge in the following cases:

一　審判官又はその配偶者若しくは配偶者であつた者が事件の当事者、参加人若しくは特許異議申立人であるとき、又はあつたとき。

(i) the administrative judge or the judge's spouse or former spouse is or was formerly a party to the case , an intervenor, or a patent opponent in the case;

二　審判官が事件の当事者、参加人若しくは特許異議申立人の四親等内の血族、三親等内の姻族若しくは同居の親族であるとき、又はあつたとき。

(ii) the administrative judge is or was a relative by blood within the fourth degree of kinship, a relative by affinity within the third degree of kinship. or a cohabitating relative of a party to the case , an intervenor, or a patent opponent in the case;

三　審判官が事件の当事者、参加人又は特許異議申立人の後見人、後見監督人、保佐人、保佐監督人、補助人又は補助監督人であるとき。

(iii) the administrative judge is a guardian, a guardian supervisor, a curator, a curator supervisor, an assistant, or an assistant supervisor of a party to the case, an intervenor, or a patent opponent in the case;

四　審判官が事件について証人又は鑑定人となつたとき。

(iv) the administrative judge becomes a witness or an expert witness in the case;

五　審判官が事件について当事者、参加人若しくは特許異議申立人の代理人であるとき、又はあつたとき。

(v) the administrative judge is or was formerly the agent of a party to the case, an intervenor, or a patent opponent in the case;

六　審判官が事件について不服を申し立てられた査定に審査官として関与したとき。

(vi) the administrative judge was involved, as the examiner, in the case connected to the appeal that has been filed against the examiner's decision; or

七　審判官が第六十七条第二項の延長登録の出願に係る事件についてその特許権に係る特許出願の審査においてその査定に審査官として関与したとき。

(vii) if the administrative judge handling a case involving an application to register an extension as referred to in Article 67, paragraph (2) was involved, as the examiner, in the examination of the patent application regarding the patent right connected to the case;

八　審判官が事件について直接の利害関係を有するとき。

(viii) the administrative judge has a direct interest in the case.

第百四十条　前条に規定する除斥の原因があるときは、当事者又は参加人は、除斥の申立をすることができる。

Article 140 If there are any grounds for exclusion as referred to in the preceding Article, a party or an intervenor may file a motion to disqualify.

（審判官の忌避）

(Challenging against the Administrative Judge)

第百四十一条　審判官について審判の公正を妨げるべき事情があるときは、当事者又は参加人は、これを忌避することができる。

Article 141 (1) If there are circumstances involving an administrative judge that could prejudice the fairness of proceedings of a trial or appeal, a party or an intervenor may challenge the administrative judge.

２　当事者又は参加人は、事件について審判官に対し書面又は口頭をもつて陳述をした後は、審判官を忌避することができない。ただし、忌避の原因があることを知らなかつたとき、又は忌避の原因がその後に生じたときは、この限りでない。

(2) A party or an intervenor may not challenge an administrative judge after giving a written or oral statement regarding the case to the administrative judge; provided, however, that this does not apply if the party or the intervenor is not aware of the grounds for challenge at that time or if the grounds for challenge occur thereafter.

（除斥又は忌避の申立の方式）

(Formality Requirements for a Motion to Exclude or Challenge)

第百四十二条　除斥又は忌避の申立をする者は、その原因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。ただし、口頭審理においては、口頭をもつてすることができる。

Article 142 (1) A person filing a motion to exclude or challenge must submit a document to the Commissioner of the Japan Patent Office stating the grounds therefor; provided, however, that in oral proceedings this motion may be made orally.

２　除斥又は忌避の原因は、前項の申立をした日から三日以内に疎明しなければならない。前条第二項ただし書の事実も、同様とする。

(2) A prima facie showing of grounds for disqualification or for the challenge must be made within three days from the motion as referred to in the preceding paragraph is filed. The same applies with respect to the facts referred to in the proviso to Article 141, paragraph (2).

（除斥又は忌避の申立についての決定）

(Ruling on a Motion to Exclude or Challenge)

第百四十三条　除斥又は忌避の申立があつたときは、その申立に係る審判官以外の審判官が審判により決定をする。ただし、その申立に係る審判官は、意見を述べることができる。

Article 143 (1) If a motion to exclude or challenge is filed, the administrative judges other than the administrative judge named in the motion try that motion and issue a ruling; provided, however, that the judge named in the motion may present an opinion.

２　前項の決定は、文書をもつて行い、かつ、理由を附さなければならない。

(2) A ruling as referred to in the preceding paragraph must be issued in writing and the reasons for that ruling must be given.

３　第一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。

(3) No appeal may be entered against the ruling as referred to in paragraph (1) or inaction thereof.

第百四十四条　除斥又は忌避の申立があつたときは、その申立についての決定があるまで審判手続を中止しなければならない。ただし、急速を要する行為については、この限りでない。

Article 144 If a motion to exclude or challenge is filed, trial and appeal proceedings must be suspended until the ruling on the motion is issued; provided, however, that this does not apply when urgent action is necessary.

（審判書記官）

(Trial and Appeal Clerks)

第百四十四条の二　特許庁長官は、各審判事件（第百六十二条の規定により審査官がその請求を審査する審判事件にあつては、第百六十四条第三項の規定による報告があつたものに限る。）について審判書記官を指定しなければならない。

Article 144-2 (1) The Commissioner of the Japan Patent Office must designate a clerk for each trial or appeal case (for a case under trial in respect of a filing that is examined by an examiner pursuant to Article 162, this is limited to the case where a report under Article 164, paragraph (3) has been submitted).

２　審判書記官の資格は、政令で定める。

(2) Qualifications of trial and appeal clerks are provided by Cabinet Order

３　特許庁長官は、第一項の規定により指定した審判書記官が審判に関与することに故障があるときは、その指定を解いて他の審判書記官を指定しなければならない。

(3) If a trial or appeal clerk designated pursuant to paragraph (1) is unable to participate in the trial or appeal, the Commissioner of the Japan Patent Office must dissolve that designation and designate another trial or appeal clerk.

４　審判書記官は、審判事件に関し、調書の作成及び送達に関する事務を行うほか、審判長の命を受けて、その他の事務を行う。

(4) The trial or appeal clerk undertakes affairs in respect of record preparation and service of process for the trial or appeal record and, at the order of a chief administrative judge, undertakes any affairs for that case.

５　第百三十九条（第六号及び第七号を除く。）及び第百四十条から前条までの規定は、審判書記官について準用する。この場合において、除斥又は忌避の申立てに係る審判書記官は、除斥又は忌避についての審判に関与することができない。

(5) Articles 139 (excluding items (vi) and (vii)) and 140 through 144 apply mutatis mutandis to a trial and appeal clerk. In this case, the trial or appeal clerk named in the motion to exclude or challenge may not participate in the trial as regards to the exclusion or challenge.

（審判における審理の方式）

(Formal Requirement for Trial and Appeal Proceedings)

第百四十五条　特許無効審判及び延長登録無効審判は、口頭審理による。ただし、審判長は、当事者若しくは参加人の申立てにより又は職権で、書面審理によるものとすることができる。

Article 145 (1) A trial for patent invalidation or a trial for invalidation concerning the registration of a patent term extension is conducted through oral proceedings; provided, however, that a chief administrative judge may decide to conduct the trial through written proceedings, at the motion of a party or intervenor or by the judge's own authority.

２　前項に規定する審判以外の審判は、書面審理による。ただし、審判長は、当事者の申立により又は職権で、口頭審理によるものとすることができる。

(2) A trial or appeal, other than one provided for in the preceding paragraph is conducted through written proceedings; provided, however, that a chief administrative judge may decide to conduct such a trial or appeal through oral proceedings, at the motion of a party or by the judge's own authority.

３　審判長は、第一項又は前項ただし書の規定により口頭審理による審判をするときは、その期日及び場所を定め、当事者及び参加人に対し、期日の呼出しを行わなければならない。

(3) If a trial or appeal is conducted through oral proceedings pursuant to paragraph (1) or the proviso to the preceding paragraph, the chief administrative judge must set the date and the place for the trial or appeal and summon the parties and the intervenors to appear on that date.

４　民事訴訟法第九十四条（期日の呼出し）の規定は、前項の期日の呼出しに準用する。

(4) Article 94 of the Code of Civil Procedure (Summons to Appear on a Court Date) applies mutatis mutandis to a summons to appear on a trial or appeal date as referred to in the preceding paragraph.

５　第一項又は第二項ただし書の規定による口頭審理は、公開して行う。ただし、公の秩序又は善良の風俗を害するおそれがあるときは、この限りでない。

(5) The oral proceedings under paragraph (1) and the proviso to paragraph (2) are open to the public; provided, however, that this does not apply if open proceedings is likely to disrupt the public order and public morals.

６　審判長は、当事者若しくは参加人の申立てにより又は職権で、経済産業省令で定めるところにより、審判官及び審判書記官並びに当事者及び参加人が映像と音声の送受信により相手の状態を相互に認識しながら通話をすることができる方法によつて、第三項の期日における手続を行うことができる。

(6) At the motion of a party or intervener or by the chief administrative judge's own authority, the chief administrative judge may conduct proceedings on the date for the trial or appeal referred to in paragraph (3) in a way that enables the administrative judges and the trial or appeal clerk, and the parties and the interveners to communicate with one another, with an awareness of each other's condition, through audio and visual transmissions, pursuant to Order of the Ministry of Economy, Trade and Industry.

７　第三項の期日に出頭しないで前項の手続に関与した当事者及び参加人は、その期日に出頭したものとみなす。

(7) The parties and interveners who have participated in the proceedings referred to in the preceding paragraph without appearing on the date referred to in paragraph (3) are deemed to have appeared on that date for the trial.

第百四十六条　民事訴訟法第百五十四条（通訳人の立会い等）の規定は、審判に準用する。

Article 146 Article 154 of the Code of Civil Procedure (Presence of Interpreters) applies mutatis mutandis to a trial or appeal.

（調書）

(Records)

第百四十七条　第百四十五条第一項又は第二項ただし書の規定による口頭審理による審判については、審判書記官は、期日ごとに審理の要旨その他必要な事項を記載した調書を作成しなければならない。

Article 147 (1) For oral proceedings under paragraph (1) or the proviso to paragraph (2) of Article 145, the trial or appeal clerk must prepare a trial or appeal record giving the gist of the proceedings and all other necessary details on each trial or appeal date.

２　審判書記官は、前項の調書の作成又は変更に関して審判長の命令を受けた場合において、その作成又は変更を正当でないと認めるときは、自己の意見を書き添えることができる。

(2) If a trial or appeal clerk is issued an order by the chief administrative judge with regard to the preparation or modification of a trial or appeal record referred to in the preceding paragraph but finds such preparation or modification to be inappropriate, the clerk may make a note of their opinion in the record.

３　民事訴訟法第百六十条第二項及び第三項（口頭弁論調書）の規定は、第一項の調書に準用する。

(3) Article 160, paragraphs (2) and (3) of the Code of Civil Procedure (Statement of Oral Arguments) apply mutatis mutandis to the trial or appeal record referred to in paragraph (1).

（参加）

(Intervention)

第百四十八条　第百三十二条第一項の規定により審判を請求することができる者は、審理の終結に至るまでは、請求人としてその審判に参加することができる。

Article 148 (1) A person that may file a request for a trial pursuant to Article 132, paragraph (1) may intervene in the trial as a petitioner up until such time as the proceedings reach a conclusion.

２　前項の規定による参加人は、被参加人がその審判の請求を取り下げた後においても、審判手続を続行することができる。

(2) An intervenor as under the preceding paragraph may continue to pursue the trial proceedings even after the original party withdraws the request for that trial.

３　審判の結果について利害関係を有する者は、審理の終結に至るまでは、当事者の一方を補助するためその審判に参加することができる。

(3) A person with an interest in the results of a trial or appeal may intervene in the trial to assist one of the original parties up until such time as the proceedings reach a conclusion.

４　前項の規定による参加人は、一切の審判手続をすることができる。

(4) An intervenor as under the preceding paragraph may act in respect of all trial proceedings.

５　第一項又は第三項の規定による参加人について審判手続の中断又は中止の原因があるときは、その中断又は中止は、被参加人についても、その効力を生ずる。

(5) If there are grounds for continuance or suspension of trial or appeal proceedings in respect of an intervenor as under paragraph (1) or (3), the continuance or suspension is valid against the original parties.

第百四十九条　参加を申請する者は、参加申請書を審判長に提出しなければならない。

Article 149 (1) A person applying to intervene must submit an application for intervention to a chief administrative judge.

２　審判長は、参加の申請があつたときは、参加申請書の副本を当事者及び参加人に送達し、相当の期間を指定して、意見を述べる機会を与えなければならない。

(2) If an application for intervention is filed, the chief administrative judge must serve a duplicate of the application for intervention on the original parties and any intervenors and give them an opportunity to present their opinions within an adequate, specified period of time.

３　参加の申請があつたときは、その申請をした者が参加しようとする審判の審判官が審判により決定をする。

(3) If an application for intervention is filed, the administrative judges for the trial or appeal in which the applicant intends to intervene issue a ruling on the application.

４　前項の決定は、文書をもつて行い、かつ、理由を附さなければならない。

(4) The ruling as referred to in the preceding paragraph must be issued in writing and reasons for that ruling must be given.

５　第三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。

(5) No appeal may be entered against the ruling as referred to in paragraph (3) or inaction thereof.

（証拠調及び証拠保全）

(Examination and Preservation of Evidence)

第百五十条　審判に関しては、当事者若しくは参加人の申立により又は職権で、証拠調をすることができる。

Article 150 (1) Evidence may be examined in a trial or appeal, at the motion of a party or an intervenor, or on the judge's own authority.

２　審判に関しては、審判請求前は利害関係人の申立により、審判の係属中は当事者若しくは参加人の申立により又は職権で、証拠保全をすることができる。

(2) Evidence may be preserved for trial or appeal, either at the motion of an interested person prior to the filing of a request for a trial or appeal, or at the motion of a party or an intervenor, or on the judge's own authority once the trial or appeal is pending.

３　前項の規定による審判請求前の申立は、特許庁長官に対してしなければならない。

(3) A motion prior to the filing of a request for a trial or appeal as under the preceding paragraph must be filed with the Commissioner of the Japan Patent Office.

４　特許庁長官は、第二項の規定による審判請求前の申立てがあつたときは、証拠保全に関与すべき審判官及び審判書記官を指定する。

(4) If a motion is filed prior to the filing of a request for a trial or appeal as under paragraph (2), the Commissioner of the Japan Patent Office must designate the administrative judge and trial or appeal clerk that are to be in charge of preserving the evidence.

５　審判長は、第一項又は第二項の規定により職権で証拠調又は証拠保全をしたときは、そ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) If evidence is examined or preserved pursuant to paragraph (1) or (2), by the judge's own authority, the chief administrative judge must notify the parties and intervenors of the results thereof and give them an opportunity to present their opinions within a reasonable, specified period of time.

６　第一項又は第二項の証拠調又は証拠保全は、当該事務を取り扱うべき地の地方裁判所又は簡易裁判所に嘱託することができる。

(6) The examination or preservation of evidence referred to in paragraph (1) or (2) may be entrusted to the district court or summary court with jurisdiction over the affairs.

第百五十一条　第百四十五条第六項及び第七項並びに第百四十七条並びに民事訴訟法第九十三条第一項（期日の指定）、第九十四条（期日の呼出し）、第百七十九条から第百八十一条まで、第百八十三条から第百八十六条まで、第百八十八条、第百九十条、第百九十一条、第百九十五条から第百九十八条まで、第百九十九条第一項、第二百一条から第二百四条まで、第二百六条、第二百七条、第二百十条から第二百十三条まで、第二百十四条第一項から第三項まで、第二百十五条から第二百二十二条まで、第二百二十三条第一項から第六項まで、第二百二十六条から第二百二十八条まで、第二百二十九条第一項から第三項まで、第二百三十一条、第二百三十二条第一項、第二百三十三条、第二百三十四条、第二百三十六条から第二百三十八条まで、第二百四十条から第二百四十二条まで（証拠）及び第二百七十八条（尋問等に代わる書面の提出）の規定は、前条の規定による証拠調べ又は証拠保全に準用する。この場合において、同法第百七十九条中「裁判所において当事者が自白した事実及び顕著な事実」とあるのは「顕著な事実」と、同法第二百四条及び第二百十五条の三中「最高裁判所規則」とあるのは「経済産業省令」と読み替えるものとする。

Article 151 Article 145, paragraphs (6) and (7), Article 147 of this Act and Article 93, paragraph (1) (Designation of Court Dates), Article 94 (Summons to Appear on a Court Date), Articles 179 through 181, 183 through 186, 188, 190, 191, and 195 through 198, Article 199, paragraph (1), Articles 201 through 204, 206, 207, and 210 through 213, Article 214, paragraphs (1) through (3), Articles 215 through 222, Article 223, paragraphs (1) through (6), Articles 226 through 228, Articles 229, paragraphs (1) through (3), Article 231, Article 232, paragraph (1), Articles 233, 234, 236 through 238, and 240 through 242 (Evidence), and Article 278 (Submission of Documents in Lieu of Examination) of the Code of Civil Procedure apply mutatis mutandis to the examination and preservation of evidence under the preceding Article. In this case, the term "facts admitted by a party in court and obvious facts" in Article 179 of the Code of Civil Procedure is deemed to be replaced with "obvious facts", and the term "the Rules of the Supreme Court" in Article 204 and 215-3 of the Code is deemed to be replaced with "Order of the Ministry of Economy, Trade and Industry".

（職権による審理）

(Proceedings by Chief Administrative Judge's Own Authority)

第百五十二条　審判長は、当事者又は参加人が法定若しくは指定の期間内に手続をせず、又は第百四十五条第三項の規定により定めるところに従つて出頭しないときであつても、審判手続を進行することができる。

Article 152 The chief administrative judge may proceed with trial or appeal procedures, even if a party or intervenor fails to undertake a required procedure within the statutory or specified period of time and even if the person fails to appear pursuant to the provisions of Article 145, paragraph (3).

第百五十三条　審判においては、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。

Article 153 (1) Grounds not pleaded by a party or intervenor may also be examined in a trial or appeal.

２　審判長は、前項の規定により当事者又は参加人が申し立てない理由について審理したときは、その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。

(2) If grounds not pleaded by a party or intervenor are examined pursuant to the preceding paragraph, the chief administrative judge must notify the parties and the intervenors of the result thereof and give them an opportunity to present opinions within a reasonable, specified period of time.

３　審判においては、請求人が申し立てない請求の趣旨については、審理することができない。

(3) No object of claim not claimed by the petitioner may be examined in a trial or appeal.

（審理の併合又は分離）

(Consolidation or Separation of Proceedings)

第百五十四条　当事者の双方又は一方が同一である二以上の審判については、その審理の併合をすることができる。

Article 154 (1) When one or both parties to two or more trials or appeals are identical, the proceedings may be consolidated.

２　前項の規定により審理の併合をしたときは、さらにその審理の分離をすることができる。

(2) Proceedings that are consolidated pursuant to the preceding paragraph may later be separated.

（審判の請求の取下げ）

(Withdrawal of Request for Trial or Appeal)

第百五十五条　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 155 (1) A request for a trial or appeal may be withdrawn up until such time as the decision on the trial or appeal becomes final and binding.

２　審判の請求は、第百三十四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) A request for a trial or appeal may not be withdrawn without the consent of the adverse party, once the written answer referred to in Article 134, paragraph (1) has been submitted.

３　二以上の請求項に係る特許の二以上の請求項について特許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。

(3) If a request for a trial for patent invalidation is filed in respect of two or more claims in a patent that has two or more claims, that request may be withdrawn on a claim-by-claim basis.

４　請求項ごとに又は一群の請求項ごとに訂正審判を請求したときは、その請求の取下げは、その全ての請求について行わなければならない。

(4) If a request for a trial for correction has been filed on claim-by-claim basis or group-by-group basis, any withdrawal of the request must constitute the withdrawal of all requests.

（審理の終結の通知）

(Notice of the Conclusion of Proceedings)

第百五十六条　審判長は、特許無効審判以外の審判においては、事件が審決をするのに熟したときは、審理の終結を当事者及び参加人に通知しなければならない。

Article 156 (1) When a case reaches the point at which a decision on the trial or appeal can be rendered in a trial other than a trial for patent invalidation, the chief administrative judge must notify the parties and intervenors of the conclusion of the proceedings.

２　審判長は、特許無効審判においては、事件が審決をするのに熟した場合であつて第百六十四条の二第一項の審決の予告をしないとき、又は同項の審決の予告をした場合であつて同条第二項の規定により指定した期間内に被請求人が第百三十四条の二第一項の訂正の請求若しくは第十七条の五第二項の補正をしないときは、審理の終結を当事者及び参加人に通知しなければならない。

(2) When a trial for patent invalidation case reaches the point at which a trial decision can be rendered, and an advance notice of a trial decision as referred to in Article 164-2, paragraph (1) is not given or when an advance notice of a trial decision as referred to in Article 164-2, paragraph (1) has been given but the respondent does not file a request for correction as referred to in Article 134-2, paragraph (1) or make an amendment as referred to in Article 17-5, paragraph (2) within the period of time that has been specified pursuant to Article 164-2, paragraph (2), the chief administrative judge must notify the parties and intervenors of the conclusion of the proceedings.

３　審判長は、必要があるときは、前二項の規定による通知をした後であつても、当事者若しくは参加人の申立てにより又は職権で、審理の再開をすることができる。

(3) A chief administrative judge may resume proceedings, upon a motion of a party or intervenor, or by the judge's own authority, when necessary, even after the notice has been given under the preceding two paragraphs.

４　審決は、第一項又は第二項の規定による通知を発した日から二十日以内にしなければならない。ただし、事件が複雑であるとき、その他やむを得ない理由があるときは、この限りでない。

(4) A trial decision must be rendered within 20 days from the date on which the notice under paragraph (1) or (2) is issued; provided, however, that this does not apply if the case is complex or there are unavoidable reasons for not doing so.

（審決）

(Trial or Appeal Decisions)

第百五十七条　審決があつたときは、審判は、終了する。

Article 157 (1) When a decision on a trial or appeal is rendered, the trial or appeal is concluded.

２　審決は、次に掲げる事項を記載した文書をもつて行わなければならない。

(2) A decision on a trial or appeal must be rendered in writing stating the following matters:

一　審判の番号

(i) the trial or appeal number;

二　当事者及び参加人並びに代理人の氏名又は名称及び住所又は居所

(ii) the name, and domicile or residence of each of the parties, intervenors, and agents;

三　審判事件の表示

(iii) the identification of the trial or appeal case;

四　審決の結論及び理由

(iv) the conclusion of and reasons for the decision on the trial or appeal; and

五　審決の年月日

(v) the date of the decision on the trial or appeal.

３　特許庁長官は、審決があつたときは、審決の謄本を当事者、参加人及び審判に参加を申請してその申請を拒否された者に送達しなければならない。

(3) When a decision on a trial or appeal is rendered, the Commissioner of the Japan Patent Office must serve a certified copy of the decision on the parties, intervenors, and person whose application to intervene has been rejected.

（拒絶査定不服審判における特則）

(Special Provisions Regarding Appeals Against Examiner's Decision of Refusal)

第百五十八条　審査においてした手続は、拒絶査定不服審判においても、その効力を有する。

Article 158 A procedure undertaken during an examiner's examination is also valid during an appeal against an examiner's decision of refusal.

第百五十九条　第五十三条の規定は、拒絶査定不服審判に準用する。この場合において、第五十三条第一項中「第十七条の二第一項第一号又は第三号」とあるのは「第十七条の二第一項第一号、第三号又は第四号」と、「補正が」とあるのは「補正（同項第一号又は第三号に掲げる場合にあつては、拒絶査定不服審判の請求前にしたものを除く。）が」と読み替えるものとする。

Article 159 (1) Article 53 applies mutatis mutandis to an appeal against an examiner's decision of refusal. In this case, the term "Article 17-2, paragraph (1), item (i) or (iii)" in Article 53, paragraph (1) is deemed to be replaced with "Article 17-2, paragraph (1), item (i), (iii), or (iv)", and the term "an amendment" in Article 53, paragraph (1) is deemed to be replaced with "an amendment (in the case of Article 17-2, paragraph (1), item (i) or (iii), excluding any amendment made prior to the filing of an appeal against an examiner's decision of refusal)".

２　第五十条及び第五十条の二の規定は、拒絶査定不服審判において査定の理由と異なる拒絶の理由を発見した場合に準用する。この場合において、第五十条ただし書中「第十七条の二第一項第一号又は第三号に掲げる場合（同項第一号に掲げる場合にあつては、拒絶の理由の通知と併せて次条の規定による通知をした場合に限る。）」とあるのは、「第十七条の二第一項第一号（拒絶の理由の通知と併せて次条の規定による通知をした場合に限るものとし、拒絶査定不服審判の請求前に補正をしたときを除く。）、第三号（拒絶査定不服審判の請求前に補正をしたときを除く。）又は第四号に掲げる場合」と読み替えるものとする。

(2) Article 50 and Article 50-2 apply mutatis mutandis when any of the reasons for rejection found in an appeal against an examiner's decision of refusal are different from the reasons for the examiner's decision. In this case, the term "in cases as set forth in Article 17-2, paragraph (1), item (i) or (iii) (in the case of item (i), limited to the case where the examiner issues the notice under the following Article together with the notice of grounds for refusal)" in the proviso to Article 50 is deemed to be replaced with "in cases set forth in Article 17-2, paragraph (1), item (i) (limited to the case where the examiner issues the notice under the following Article together with the notice of grounds for refusal, and excluding a case in which the applicant makes an amendment prior to filing of an appeal against an examiner's decision of refusal), item (iii) (excluding a case in which the applicant makes an amendment prior to filing of an appeal against an examiner's decision of refusal) or item (iv)".

３　第五十一条、第六十七条の三第二項から第四項まで及び第六十七条の七第二項から第四項までの規定は、拒絶査定不服審判の請求を理由があるとする場合における当該審判について準用する。

(3) Articles 51, Article 67-3, paragraphs (2) through (4) and Article 67-7, paragraphs (2) through (4) apply mutatis mutandis to an appeal if there are found to be reasonable grounds to file an appeal against an examiner's decision of refusal.

第百六十条　拒絶査定不服審判において査定を取り消すときは、さらに審査に付すべき旨の審決をすることができる。

Article 160 (1) If the examiner's decision is rescinded in an appeal against an examiner's decision of refusal, an appeal decision ordering a further examination may be issued.

２　前項の審決があつた場合における判断は、その事件について審査官を拘束する。

(2) The determination in an appeal decision as referred to in the preceding paragraph is binding upon the examiner with respect to the case.

３　第一項の審決をするときは、前条第三項の規定は、適用しない。

(3) Article 159, paragraph (3) does not apply if an appeal decision as referred to in paragraph (1) is rendered.

第百六十一条　第百三十四条第一項から第三項まで、第百三十四条の二、第百三十四条の三、第百四十八条及び第百四十九条の規定は、拒絶査定不服審判には、適用しない。

Article 161 Article 134, paragraphs (1) through (3), and Articles 134-2, 134-3, 148 and 149 do not apply to an appeal against an examiner's decision of refusal.

第百六十二条　特許庁長官は、拒絶査定不服審判の請求があつた場合において、その請求と同時にその請求に係る特許出願の願書に添付した明細書、特許請求の範囲又は図面について補正があつたときは、審査官にその請求を審査させなければならない。

Article 162 If an appeal is filed against an examiner's decision of refusal is requested and, at the same time that the appeal is filed, an amendment is made to the description, claims, or drawings attached to the written application in the patent application to which the request pertains, the Commissioner of the Japan Patent Office must have an examiner examine the filing.

第百六十三条　第四十八条、第五十三条及び第五十四条の規定は、前条の規定による審査に準用する。この場合において、第五十三条第一項中「第十七条の二第一項第一号又は第三号」とあるのは「第十七条の二第一項第一号、第三号又は第四号」と、「補正が」とあるのは「補正（同項第一号又は第三号に掲げる場合にあつては、拒絶査定不服審判の請求前にしたものを除く。）が」と読み替えるものとする。

Article 163 (1) Articles 48, 53, and 54 apply mutatis mutandis to an examination under the preceding Article. In this case, the term "Article 17-2, paragraph (1), item (i) or (iii)" in Article 53, paragraph (1) is deemed to be replaced with "Article 17-2, paragraph (1), item (i), (iii), or (iv)" and the term "an amendment" in Article 53, paragraph (1) is deemed to be replaced with "an amendment (in the case set forth in item (i) or (iii), excluding an amendment made prior to the filing of the appeal against an examiner's decision of refusal)".

２　第五十条及び第五十条の二の規定は、前条の規定による審査において審判の請求に係る査定の理由と異なる拒絶の理由を発見した場合に準用する。この場合において、第五十条ただし書中「第十七条の二第一項第一号又は第三号に掲げる場合（同項第一号に掲げる場合にあつては、拒絶の理由の通知と併せて次条の規定による通知をした場合に限る。）」とあるのは、「第十七条の二第一項第一号（拒絶の理由の通知と併せて次条の規定による通知をした場合に限るものとし、拒絶査定不服審判の請求前に補正をしたときを除く。）、第三号（拒絶査定不服審判の請求前に補正をしたときを除く。）又は第四号に掲げる場合」と読み替えるものとする。

(2) Articles 50 and 50-2 apply mutatis mutandis if any of the reasons for refusal are found that differ from the reason for the examiner's decision is discovered in the appeal during an examination under the preceding Article. In this case, the term "in cases as set forth in Article 17-2, paragraph (1), item (i) or (iii) (in the case set forth in item (i), limited to the case where the examiner issues the notice under the following Article together with the notice of reasons for refusal)" in the proviso to Article 50 is deemed to be replaced with "in cases set forth in Article 17-2, paragraph (1), item (i) (limited to the case where the examiner issues the notice under the following Article together with the notice of the reasons for refusal, and excluding a case in which the applicant makes an amendment prior to the filing of an appeal against an examiner's decision of refusal), item (iii) (excluding a case in which the applicant makes an amendment prior to the filing of an appeal against an examiner's decision of refusal) or item (iv)".

３　第五十一条及び第五十二条の規定は、前条の規定による審査において審判の請求を理由があるとする場合に準用する。

(3) Articles 51 and 52 apply mutatis mutandis if there are found to be grounds for appeal during examination under the preceding Article.

第百六十四条　審査官は、第百六十二条の規定による審査において特許をすべき旨の査定をするときは、審判の請求に係る拒絶をすべき旨の査定を取り消さなければならない。

Article 164 (1) In an examination under Article 162, if the examiner reaches the decision to the effect that a patent is to be granted, the examiner must rescind the examiner's decision to refuse the application that was the basis of the appeal.

２　審査官は、前項に規定する場合を除き、前条第一項において準用する第五十三条第一項の規定による却下の決定をしてはならない。

(2) Except in a case as provided in the preceding paragraph, an examiner must not render a ruling dismissing an amendment under Article 53, paragraph (1) as applied mutatis mutandis pursuant to Article 163, paragraph (1).

３　審査官は、第一項に規定する場合を除き、当該審判の請求について査定をすることなくその審査の結果を特許庁長官に報告しなければならない。

(3) Except in a case as provided in paragraph (1), an examiner must report the results of the examination to the Commissioner of the Japan Patent Office without reaching a decision on the filing of the appeal.

（特許無効審判における特則）

(Special Provisions on Trial for Patent Invalidation)

第百六十四条の二　審判長は、特許無効審判の事件が審決をするのに熟した場合において、審判の請求に理由があると認めるときその他の経済産業省令で定めるときは、審決の予告を当事者及び参加人にしなければならない。

Article 164-2 (1) When a case in a trial for patent invalidation reaches the point at which a trial decision can be rendered, if the chief administrative judge finds there to be reasonable grounds for the request for the trial and if otherwise provided by Order of the Ministry of Economy, Trade and Industry, the judge must give the parties and intervenors advance notice of the trial decision.

２　審判長は、前項の審決の予告をするときは、被請求人に対し、願書に添付した明細書、特許請求の範囲又は図面の訂正を請求するための相当の期間を指定しなければならない。

(2) When a chief administrative judge gives advance notice of a trial decision as referred to in the preceding paragraph, the judge must specify an adequate period of time for the respondent to file a request for correction of the description, claims, or drawings attached to the written application.

３　第百五十七条第二項の規定は、第一項の審決の予告に準用する。

(3) Article 157, paragraph (2) applies mutatis mutandis to the advance notice of a trial decision that is referred to in paragraph (1).

（訂正審判における特則）

(Special Provisions on Trials for Correction)

第百六十五条　審判長は、訂正審判の請求が第百二十六条第一項ただし書各号に掲げる事項を目的とせず、又は同条第五項から第七項までの規定に適合しないときは、請求人にその理由を通知し、相当の期間を指定して、意見書を提出する機会を与えなければならない。

Article 165 If the purpose of a trial for correction is not one of those set forth in the proviso to Article 126, paragraph (1) or the correction does not comply with Article 126, paragraphs (5) through (7), the chief administrative judge must notify the petitioner of the reasons therefor and give the petitioner an opportunity to submit a written opinion within an adequate, specified period of time.

第百六十六条　第百三十四条第一項から第三項まで、第百三十四条の二、第百三十四条の三、第百四十八条及び第百四十九条の規定は、訂正審判には、適用しない。

Article 166 Article 134, paragraphs (1) through (3), and Articles 134-2, 134-3, 148 and 149 do not apply to a trial for correction.

（審決の効力）

(Effect of a Trial Decision)

第百六十七条　特許無効審判又は延長登録無効審判の審決が確定したときは、当事者及び参加人は、同一の事実及び同一の証拠に基づいてその審判を請求することができない。

Article 167 Once the trial decision in a trial for patent invalidation or a trial decision in a trial for invalidation concerning the registration of a patent term extension has become final and binding, neither the parties nor intervenors may file a request for either such kind of trial on the basis of the same facts or evidence.

（審決の確定範囲）

(Scope of Final and Binding Decision Trial or Appeal)

第百六十七条の二　審決は、審判事件ごとに確定する。ただし、次の各号に掲げる場合には、それぞれ当該各号に定めるところにより確定する。

Article 167-2 A decision on a trial or appeal becomes final and binding on a trial or appeal case basis; provided, however, that, in a case as set forth in one of the following items, the decision on the trial or appeal becomes final and binding as provided in the corresponding items:

一　請求項ごとに特許無効審判の請求がされた場合であつて、一群の請求項ごとに第百三十四条の二第一項の訂正の請求がされた場合　当該一群の請求項ごと

(i) a request for a trial for patent invalidation has been filed on a claim-by-claim basis and a request for correction as referred to in Article 134-2, paragraph (1) is filed on a set-by-set basis: on a set-by-set basis;

二　一群の請求項ごとに訂正審判の請求がされた場合　当該一群の請求項ごと

(ii) a request for a trial for correction is filed on a set-by-set basis: on a set-by-set basis; and

三　請求項ごとに審判の請求がされた場合であつて、第一号に掲げる場合以外の場合　当該請求項ごと

(iii) a request for a trial or appeal is filed on a claim-by-claim basis other than as set forth in item (i): on a claim-by-claim basis.

（訴訟との関係）

(Connection with Litigation)

第百六十八条　審判において必要があると認めるときは、特許異議の申立てについての決定若しく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 168 (1) If it is found to be necessary during a trial or appeal, the trial or appeal proceedings may be suspended until the ruling on an opposition to a granted patent or the decision from another trial or appeal becomes final and binding or until 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 an action has been instituted or a motion has been filed for an order of provisional seizure or an order of provisional disposition and the court finds it to be necessary, the court may suspend litigation proceedings until the decision on the trial or appeal becomes final and binding.

３　裁判所は、特許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) If an action is instituted with respect to infringement of a patent right or violation of an exclusive license, the court is to notify the Commissioner of the Japan Patent Office of this. The same applies once the 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、その特許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 Japan Patent Office is notified as provided in the preceding paragraph, the commissioner is to notify the court of whether a request for a trial or appeal has been filed with the Japan Patent Office with regard to that patent right. The same applies if the Japan Patent Office issues a ruling dismissing the written request for the trial or appeal, if it renders a decision on the trial or appeal in such a trial or appeal, or if the request for such a trial or appeal is withdrawn.

５　裁判所は、前項の規定によりその特許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百四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 court is notified pursuant to the preceding paragraph that a request for a trial or appeal with regard to the relevant patent right, and if a document stating a method of allegation or evidence under Article 104-3, paragraph (1) has already been submitted in the litigation prior to the notice or the document is submitted for the first time after the notice, the court must notify the Commissioner of the Japan Patent Office of that fact.

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 Japan Patent Office is notified as provided in the preceding paragraph, the commissioner may request the court to send copies of any record of the litigation which the administrative judges consider necessary for the trial or appeal.

（審判における費用の負担）

(Bearing of Costs of a Trial or Appeal)

第百六十九条　特許無効審判及び延長登録無効審判に関する費用の負担は、審判が審決により終了するときはその審決をもつて、審判が審決によらないで終了するときは審判による決定をもつて、職権で、定めなければならない。

Article 169 (1) The burden of costs connected with a trial for patent invalidation or trial for invalidation concerning registration of a patent term extension must be decided by the court's own authority by a trial decision if the trial ends by a trial decision or by a ruling during the trial if the trial ends otherwise.

２　民事訴訟法第六十一条から第六十六条まで、第六十九条第一項及び第二項、第七十条並びに第七十一条第二項（訴訟費用の負担）の規定は、前項に規定する審判に関する費用に準用する。この場合において、同法第七十一条第二項中「最高裁判所規則」とあるのは、「経済産業省令」と読み替えるものとする。

(2) Articles 61 through 66, Article 69, paragraphs (1) and (2), Article 70, and Article 71, paragraph (2) of the Code of Civil Procedure (Bearing of Court Costs) apply mutatis mutandis to costs of a trial provided for in the preceding paragraph. In this case, the term "the Rules of the Supreme Court" in Article 71, paragraph (2) of the Code is deemed to be replaced with "Order of the Ministry of Economy, Trade and Industry".

３　拒絶査定不服審判及び訂正審判に関する費用は、請求人の負担とする。

(3) The costs of an appeal against an examiner's decision of refusal or a trial for correction are borne by the petitioner.

４　民事訴訟法第六十五条（共同訴訟の場合の負担）の規定は、前項の規定により請求人が負担する費用に準用する。

(4) Article 65 of the Code of Civil Procedure (Burden of Costs in Joint Litigation) applies mutatis mutandis to the costs to be borne by the petitioner pursuant to the preceding paragraph.

５　審判に関する費用の額は、請求により、審決又は決定が確定した後に特許庁長官が決定をする。

(5) The amount of costs in connection with a trial or appeal is determined by the Commissioner of the Japan Patent Office upon request, after the decision or ruling on the trial or appeal has become final and binding.

６　審判に関する費用の範囲、額及び納付並びに審判における手続上の行為をするために必要な給付については、その性質に反しない限り、民事訴訟費用等に関する法律中これらに関する規定（第二章第一節及び第三節に定める部分を除く。）の例による。

(6) The scope, the amount, and the payment of the costs in connection with a trial or appeal, and the payment required for undertaking a procedural act in a trial or appeal are governed by the relevant provisions of the Act on Costs of Civil Procedure (excluding provisions in Chapter II, Sections 1 and 3 of the Act) unless this is contrary to their nature.

（費用の額の決定の執行力）

(Enforceability of Rulings on the Amount of Costs)

第百七十条　審判に関する費用の額についての確定した決定は、執行力のある債務名義と同一の効力を有する。

Article 170 A final and binding ruling on the amount of costs for a trial or appeal has the same effect as that of an enforceable title of obligation.

第七章　再審

Chapter VII Retrials

（再審の請求）

(Request for a Retrial)

第百七十一条　確定した取消決定及び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 171 (1) A party or an intervenor may file a request for a retrial against a final and binding revocation decision and a final and binding trial decision.

２　民事訴訟法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) Article 338, paragraphs (1) and (2), and Article 339 (grounds for retrial) of the Code of Civil Procedure apply mutatis mutandis to a request for a retrial as referred to in the preceding paragraph.

第百七十二条　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つ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 172 (1) If the petitioner and a respondent in a trial or appeal have conspired to bring about a decision on the trial or appeal with the aim of harming the rights or interests of a third party, the third party may file a request for a retrial to overturn the final and binding 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 request for a retrial as referred to in the preceding paragraph must be filed against the petitioner and the respondent from the trial or appeal as joint respondents.

（再審の請求期間）

(Period for Request for Retrial)

第百七十三条　再審は、請求人が取消決定又は審決が確定した後再審の理由を知つた日から三十日以内に請求しなければならない。

Article 173 (1) A request for a retrial must be filed within 30 days from the date on which the petitioner becomes aware of the grounds for the retrial after the revocation decision or the decision on the trial or appeal becomes final and binding.

２　再審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。

(2) If a person filing a request for a retrial is unable to file the request within the period provided for in the preceding paragraph due to reasons beyond the person's control, notwithstanding the paragraph, the person may file the request within 14 days (if the person is an overseas resident, within two months) after the date on which those reasons cease to exist, but not later than six months after the end of the aforementioned period.

３　請求人が法律の規定に従つて代理されなかつたことを理由として再審を請求するときは、第一項に規定する期間は、請求人又はその法定代理人が送達により取消決定又は審決があつたことを知つた日の翌日から起算する。

(3) If a request for a retrial is filed on the grounds that the petitioner was not represented in accordance with the provisions of law, the period provided for in paragraph (1) is counted from the day following that on which the petitioner or the legal representative is served and thereby learns that the revocation decision or the trial decision has been rendered.

４　取消決定又は審決が確定した日から三年を経過した後は、再審を請求することができない。

(4) A request for a retrial may not be filed once three years have passed since the date that the revocation decision or the trial decision became final and binding.

５　再審の理由が取消決定又は審決が確定した後に生じたときは、前項に規定する期間は、その理由が発生した日の翌日から起算する。

(5) If grounds for a retrial arise after the revocation decision or the trial decision becomes final and binding, the period provided for in the preceding paragraph is counted from the day following that on which the grounds first arise.

６　第一項及び第四項の規定は、当該審決が前にされた確定審決と抵触することを理由とする再審の請求には、適用しない。

(6) Paragraphs (1) and (4) do not apply to a request for a retrial filed on the grounds that the trial decision is in conflict with a final and binding trial decision previously rendered.

（審判の規定等の準用）

(Application Mutatis Mutandis of Provisions on Trials and Appeals)

第百七十四条　第百十四条、第百十六条から第百二十条の二まで、第百二十条の五から第百二十条の八まで、第百三十一条第一項、第百三十一条の二第一項本文、第百三十二条第三項、第百五十四条、第百五十五条第一項及び第三項並びに第百五十六条第一項、第三項及び第四項の規定は、確定した取消決定に対する再審に準用する。

Article 174 (1) Articles 114, 116 through 120-2, and 120-5 through 120-8, Article 131, paragraph (1), the main clause of Article 131-2, paragraph (1), Article 132, paragraph (3), Article 154, Article 155, paragraphs (1) and (3), and Article 156, paragraphs (1), (3), and (4) apply mutatis mutandis to a retrial following a final and binding revocation decision.

２　第百三十一条第一項、第百三十一条の二第一項本文、第百三十二条第三項及び第四項、第百三十三条、第百三十三条の二、第百三十四条第四項、第百三十五条から第百四十七条まで、第百五十条から第百五十二条まで、第百五十五条第一項、第百五十六条第一項、第三項及び第四項、第百五十七条から第百六十条まで、第百六十七条の二本文、第百六十八条、第百六十九条第三項から第六項まで並びに第百七十条の規定は、拒絶査定不服審判の確定審決に対する再審に準用する。

(2) Article 131, paragraph (1), the main clause of Article 131-2, paragraph (1), Article 132, paragraphs (3) and (4), Articles 133 and 133-2, Article 134, paragraph (4), Articles 135 through 147 and 150 through 152, Article 155, paragraph (1), Article 156, paragraphs (1), (3), and (4), Articles 157 through 160, the main clause of Article 167-2, Article 168, Article 169, paragraphs (3) through (6), and Article 170 apply mutatis mutandis to a retrial following a final and binding appeal decision from an appeal against an examiner's decision of refusal.

３　第百三十一条第一項、第百三十一条の二第一項本文、第百三十二条第一項、第二項及び第四項、第百三十三条、第百三十三条の二、第百三十四条第一項、第三項及び第四項、第百三十五条から第百五十二条まで、第百五十四条、第百五十五条第一項から第三項まで、第百五十六条第一項、第三項及び第四項、第百五十七条、第百六十七条から第百六十八条まで、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、特許無効審判又は延長登録無効審判の確定審決に対する再審に準用する。

(3) Article 131, paragraph (1), the main clause of Article 131-2, paragraph (1), Article 132, paragraphs (1), (2), and (4), Articles 133 and 133-2, Article 134, paragraphs (1), (3), and (4), Articles 135 through 152, Article 154, Article 155, paragraphs (1) through (3), Article 156, paragraphs (1), (3), and (4), Articles 157, 167, and 168, Article 169, paragraphs (1), (2), (5), and (6), and Article 170 apply mutatis mutandis to a retrial following the final and binding trial decision from an trial for patent invalidation or from a trial for invalidation of registration of a patent term extension.

４　第百三十一条第一項及び第四項、第百三十一条の二第一項本文、第百三十二条第三項及び第四項、第百三十三条、第百三十三条の二、第百三十四条第四項、第百三十五条から第百四十七条まで、第百五十条から第百五十二条まで、第百五十五条第一項及び第四項、第百五十六条第一項、第三項及び第四項、第百五十七条、第百六十五条、第百六十七条の二、第百六十八条、第百六十九条第三項から第六項まで並びに第百七十条の規定は、訂正審判の確定審決に対する再審に準用する。

(4) Articles 131, paragraphs (1) and (4), the main clause of Article 131-2, paragraph (1), Article 132, paragraphs (3) and (4), Articles 133 and 133-2, Article 134, paragraph (4), Articles 135 through 147 and 150 through152, Article 155, paragraphs (1) and (4), Article 156, paragraphs (1), (3), and (4), Articles 157, 165, 167-2, and 168, Article 169, paragraph (3) through (6), and Article 170 apply mutatis mutandis to a retrial following the final and binding trial decision from a trial for correction.

５　民事訴訟法第三百四十八条第一項（審理の範囲）の規定は、再審に準用する。

(5) Article 348, paragraph (1) of the Code of Civil Procedure (Scope of Proceedings) applies mutatis mutandis to a retrial.

（再審により回復した特許権の効力の制限）

(Restriction on the Effect of Patent Right Restored by Retrial)

第百七十五条　取り消し、若しくは無効にした特許に係る特許権若しくは無効にした存続期間の延長登録に係る特許権が再審により回復した場合又は拒絶をすべき旨の審決があつた特許出願若しくは特許権の存続期間の延長登録の出願について再審により特許権の設定の登録若しくは特許権の存続期間を延長した旨の登録があつた場合において、その特許が物の発明についてされているときは、特許権の効力は、当該取消決定又は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生産し、若しくは取得した当該物には、及ばない。

Article 175 (1) If patent rights under a revoked or invalidated patent or patent rights under an invalidated registration of patent term extension are restored on retrial, or if the establishment of patent rights or the patent term extension with respect to a patent application or an application for registration of patent term extension that was rejected in a trial decision has been registered by a retrial, when the patent was granted on an invention that is a product, the effect of the patent rights does not extend to any relevant product imported into or produced or acquired in Japan in good faith after the decision to revoke or the trial decision becomes final and binding but before the registration of the request for a retrial.

２　取り消し、若しくは無効にした特許に係る特許権若しくは無効にした存続期間の延長登録に係る特許権が再審により回復したとき、又は拒絶をすべき旨の審決があつた特許出願若しくは特許権の存続期間の延長登録の出願について再審により特許権の設定の登録若しくは特許権の存続期間を延長した旨の登録があつたときは、特許権の効力は、当該取消決定又は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 patent rights under a revoked or invalidated patent or patent rights under an invalidated registration of patent term extension are restored on retrial, or if the establishment of patent rights or the patent term extension is registered on retrial in connection with a patent application or an application for registration of patent term extension that was rejected in a trial decision, the effect of the patent rights does not extend to the following actions as performed after the decision to revoke or the trial decision becomes final and binding but before the registration of the request for a retrial:

一　当該発明の善意の実施

(i) the working of the invention in good faith;

二　特許が物の発明についてされている場合において、善意に、その物の生産に用いる物の生産、譲渡等若しくは輸入又は譲渡等の申出をした行為

(ii) if the patent was granted on an invention that is a product, producing, transferring, etc., importing or offering to transfer, etc. any article used in the production of the product in good faith;

三　特許が物の発明についてされている場合において、善意に、その物を譲渡等又は輸出のために所持した行為

(iii) if a patent was granted on an invention that is a product, possessing the product for the purpose of transferring, etc. or exporting it in good faith;

四　特許が方法の発明についてされている場合において、善意に、その方法の使用に用いる物の生産、譲渡等若しくは輸入又は譲渡等の申出をした行為

(iv) if the patent was granted on an invention that is a process, producing, transferring, etc., importing or offering to transfer, etc. any article used in that process in good faith; and

五　特許が物を生産する方法の発明についてされている場合において、善意に、その方法により生産した物を譲渡等又は輸出のために所持した行為

(v) if the patent was granted on an invention that is a process for producing a product, possessing the product produced by the process for the purpose of transferring, etc. or exporting it in good faith.

第百七十六条　取り消し、若しくは無効にした特許に係る特許権若しくは無効にした存続期間の延長登録に係る特許権が再審により回復したとき、又は拒絶をすべき旨の審決があつた特許出願若しくは特許権の存続期間の延長登録の出願について再審により特許権の設定の登録若しくは特許権の存続期間を延長した旨の登録があつたときは、当該取消決定又は審決が確定した後再審の請求の登録前に善意に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者又はその事業の準備をしている者は、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、その特許権について通常実施権を有する。

Article 176 If patent rights under a revoked or invalidated patent or patent rights under an invalidated registration of patent term extension are restored on retrial, or if the establishment of patent rights or the patent term extension is registered on retrial in connection with a patent application or an application to register a patent term extension that was rejected in a trial decision and a person has been engaging or preparing to engage in business that involves the working the invention in Japan in good faith, after the revocation decision or the trial decision becomes final and binding and before the registration of the request for a retrial, the person has a non-exclusive license under those patent rights, but only within the scope of the invention that the person is working or preparing to work and within the purview of that business purpose.

第百七十七条　削除

Article 177 Deleted

第八章　訴訟

Chapter VIII Litigation

（審決等に対する訴え）

(Actions Against Decisions on a Trial or Appeal)

第百七十八条　取消決定又は審決に対する訴え及び特許異議申立書、審判若しくは再審の請求書又は第百二十条の五第二項若しくは第百三十四条の二第一項の訂正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 178 (1) The Tokyo High Court has exclusive jurisdiction over any action against a revocation decision or a decision on a trial or appeal, a ruling to dismiss a written request for an opposition to a granted patent, a trial or appeal, or a retrial or a written request for correction as referred to in Article 120-5, paragraph (2) or Article 134-2, paragraph (1).

２　前項の訴えは、当事者、参加人又は当該特許異議の申立てについての審理、審判若しくは再審に参加を申請してその申請を拒否された者に限り、提起することができる。

(2) An action as referred to in the preceding paragraph may be instituted only by a party in the case, an intervenor, or a person whose application to intervene in the proceedings of the opposition to a granted patent, in the trial or appeal, or in the retrial is rejected.

３　第一項の訴えは、審決又は決定の謄本の送達があつた日から三十日を経過した後は、提起することができない。

(3) An action as referred to in paragraph (1) may not be instituted once thirty days have passed since the date that a certified copy of the decision on a trial or appeal, or the ruling was served.

４　前項の期間は、不変期間とする。

(4) The time frame referred to in the preceding paragraph is inalterable.

５　審判長は、遠隔又は交通不便の地にある者のため、職権で、前項の不変期間については附加期間を定めることができる。

(5) The chief administrative judge may establish an additional time frame to add to the inalterable time frame referred to in the preceding paragraph for a person in a distant location or an area with transportation difficulties by the judge's own authority.

６　審判を請求することができる事項に関する訴えは、審決に対するものでなければ、提起することができない。

(6) An action involving a matter with regard to which a request for a trial or appeal can be filed may only be instituted as an action seeking to overturn a decision on a trial or appeal.

（被告適格）

(The Proper Defendant)

第百七十九条　前条第一項の訴えにおいては、特許庁長官を被告としなければならない。ただし、特許無効審判若しくは延長登録無効審判又はこれらの審判の確定審決に対する第百七十一条第一項の再審の審決に対するものにあつては、その審判又は再審の請求人又は被請求人を被告としなければならない。

Article 179 In an action as referred to in Article 178, paragraph (1), the Commissioner of the Japan Patent Office must be made the defendant; provided, however, that in an action in which a party seeks to overturn the trial decision from a trial for patent invalidation, or a trial for invalidation concerning registration of a patent term extension, or from a retrial as referred to in Article 171, paragraph (1) following the final and binding trial decision in a relevant trial, the petitioner or the respondent from the trial or retrial must be made the defendant.

（出訴の通知等）

(Notice of the Filing of Action)

第百八十条　裁判所は、前条ただし書に規定する訴えの提起があつたときは、遅滞なく、その旨を特許庁長官に通知しなければならない。

Article 180 (1) If an action provided for in the proviso to the preceding Article is instituted, the court must notify the Commissioner of the Japan Patent Office thereof without delay.

２　裁判所は、前項の場合において、訴えが請求項ごとに請求された特許無効審判又はその審判の確定審決に対する再審の審決に対するものであるときは、当該訴えに係る請求項を特定するために必要な書類を特許庁長官に送付しなければならない。

(2) In a case as referred to in the preceding paragraph, if the action seeks to overturn the trial decision from a trial for patent invalidation that was requested on a claim-by-claim basis or to overturn the trial decision in a retrial following the final and binding trial decision from that trial for patent invalidation, the court must send the necessary documents for identifying claims involved in the action to the Commissioner of the Japan Patent Office.

（審決取消訴訟における特許庁長官の意見）

(Opinion of the Commissioner of the Japan Patent Office in Litigation Rescinding a Decision on a Trial or Appeal)

第百八十条の二　裁判所は、第百七十九条ただし書に規定する訴えの提起があつたときは、特許庁長官に対し、当該事件に関するこの法律の適用その他の必要な事項について、意見を求めることができる。

Article 180-2 (1) If an action provided for in the proviso to Article 179 is instituted, the court may seek the opinion of the Commissioner of the Japan Patent Office regarding the application of this Act or regarding any other necessary matters relating to the case.

２　特許庁長官は、第百七十九条ただし書に規定する訴えの提起があつたときは、裁判所の許可を得て、裁判所に対し、当該事件に関するこの法律の適用その他の必要な事項について、意見を述べることができる。

(2) If an action provided for in the proviso to Article 179 is instituted, upon the court's permission, the Commissioner of the Japan Patent Office may express an opinion to the court regarding the application of this Act or regarding any other necessary matters relating to the case.

３　特許庁長官は、特許庁の職員でその指定する者に前二項の意見を述べさせることができる。

(3) The Commissioner of the Japan Patent Office may designate a Japan Patent Office official to express the commissioner's opinions as referred to in the preceding two paragraphs.

（審決又は決定の取消し）

(Rescission of a Decision on a Trial or Appeal, or Ruling)

第百八十一条　裁判所は、第百七十八条第一項の訴えの提起があつた場合において、当該請求を理由があると認めるときは、当該審決又は決定を取り消さなければならない。

Article 181 (1) If the court finds grounds for the request in an action instituted as referred to in Article 178, paragraph (1), it must rescind the decision on a trial or appeal, or ruling.

２　審判官は、前項の規定による審決又は決定の取消しの判決が確定したときは、更に審理を行い、審決又は決定をしなければならない。この場合において、審決又は決定の取消しの判決が、第百二十条の五第二項又は第百三十四条の二第一項の訂正の請求がされた一群の請求項のうち一部の請求項について確定したときは、審判官は、審理を行うに際し、当該一群の請求項のうちその他の請求項についての審決又は決定を取り消さなければならない。

(2) Once the court's decision rescinding a decision on a trial or appeal, or ruling, under the preceding paragraph has become final and binding, the administrative judges must carry out further proceedings and issue a decision on a trial or appeal, or ruling. In this case, if the court's decision rescinding the decision on a trial or appeal, or the ruling, becomes final and binding with regard to a part of the claims in a claim set for which a request for correction as referred to in Article 120-5, paragraph (2) or Article 134-2, paragraph (1) has been filed, in carrying out the proceedings, the administrative judges must rescind the decision on a trial or appeal, or the ruling, on the other claims in the claim set.

（裁判の正本等の送付）

(Sending of the Original of the Judicial Decision)

第百八十二条　裁判所は、第百七十九条ただし書に規定する訴えについて次の各号に掲げる場合には、遅滞なく、それぞれ当該各号に定める書類を特許庁長官に送付しなければならない。

Article 182 In the cases listed in the following items with respect to an action under the proviso to Article 179, without delay, the court must send the document as provided in the corresponding item to the Commissioner of the Japan Patent Office:

一　裁判により訴訟手続が完結した場合　各審級の裁判の正本

(i) if the court procedures have been concluded by a judicial decision: the original of the judgment rendered by the court of each instance; and

二　裁判によらないで訴訟手続が完結した場合　訴訟手続が完結した訴えに係る請求項を特定するために必要な書類

(ii) if the court procedures have been concluded by a means other than a judicial decision: the documents necessary for identifying claims pertaining to that action.

（合議体の構成）

(Composition of a Panel)

第百八十二条の二　第百七十八条第一項の訴えに係る事件については、五人の裁判官の合議体で審理及び裁判をする旨の決定をその合議体ですることができる。

Article 182-2 With respect to an action as referred to in Article 178, paragraph (1), the ruling that proceedings and judicial decision are to be rendered by a panel consisting of five judges may be made if so determined by the panel.

（対価の額についての訴え）

(Action Protesting the Amount of Consideration)

第百八十三条　第八十三条第二項、第九十二条第三項若しくは第四項又は第九十三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 183 (1) If a person that has received an award as referred to in Article 83, paragraph (2), Article 92, paragraph (3) or (4), or Article 93, paragraph (2) is not satisfied with the amount of the consideration determined in the award, the person may institute an action demanding an increase or decrease in that amount.

２　前項の訴えは、裁定の謄本の送達があつた日から六月を経過した後は、提起することができない。

(2) An action as referred to in the preceding paragraph may not be instituted once six months have passed since the date that a certified copy of the award was served.

（被告適格）

(The Proper Defendant)

第百八十四条　前条第一項の訴えにおいては、次に掲げる者を被告としなければならない。

Article 184 In an action as referred to in Article 183, paragraph (1), the following persons must be made the defendant:

一　第八十三条第二項、第九十二条第四項又は第九十三条第二項の裁定については、通常実施権者又は特許権者若しくは専用実施権者

(i) in an action against an award as referred to in Article 83, paragraph (2), Article 92, paragraph (4), or Article 93, paragraph (2), the non-exclusive licensee, patentee or exclusive licensee; and

二　第九十二条第三項の裁定については、通常実施権者又は第七十二条の他人

(ii) in an action against an award as referred to in Article 92, paragraph (3), the non-exclusive licensee or the other person referred to in Article 72.

第百八十四条の二　削除

Article 184-2 Deleted

第九章　特許協力条約に基づく国際出願に係る特例

Chapter IX Special Provisions for International Applications Under the Patent Cooperation Treaty

（国際出願による特許出願）

(The Filing of the Patent Application through an International Application)

第百八十四条の三　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）（ｉｉ）の指定国に日本国を含むもの（特許出願に係るものに限る。）は、その国際出願日にされた特許出願とみなす。

Article 184-3 (1) An international application (limited to a patent application) to which an international filing date is accorded under Article 11 (1) or (2)(b), or Article 14 (2) of the Patent Cooperation Treaty Done at Washington on June 19, 1970 (hereinafter referred to as "the treaty" in this Chapter), which specifies Japan as a designated state as referred to in Article 4 (1)(ii) of the treaty is deemed to be a patent application that was filed on the international filing date.

２　前項の規定により特許出願とみなされた国際出願（以下「国際特許出願」という。）については、第四十三条（第四十三条の二第二項（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。）の規定は、適用しない。

(2) Article 43 (including as applied mutatis mutandis pursuant to Article 43-2, paragraph (2) (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)) and Article 43-3, paragraph (3)) does not apply to an international application that is deemed to be a patent application pursuant to the preceding paragraph (hereinafter referred to as an "international patent application").

（外国語でされた国際特許出願の翻訳文）

(Translations of International Patent Application Filed in a Foreign Language)

第百八十四条の四　外国語でされた国際特許出願（以下「外国語特許出願」という。）の出願人は、条約第二条（ｘｉ）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特許出願（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 184-4 (1) An applicant filing an international patent application in a foreign language (hereinafter referred to as a "foreign-language patent application") 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 abstract, provided for in Article 3 (2) of the treaty, as they stand on the international filing date provided for in (1) of the preceding Article (hereinafter referred to as the "international filing date") to the Commissioner of the Japan Patent Office, within two years and six months (hereinafter referred to as the "exception period for submitting national documents") from the priority date referred to in Article 2 (xi) of the Treaty (hereinafter referred to as the "priority date"); provided, however, that an applicant filing a foreign-language patent application that has submitted documents provided for in paragraph (1) of the following Article between two months before the expiration of the period for submitting national documents and the end date of that time limit (excluding when the translations have been submitted prior to the submission of those documents) may submit the translations within two months from the date of submission of those documents (hereinafter referred to as the "special time limit for submitting translations").

２　前項の場合において、外国語特許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 the case as referred to in the preceding paragraph, if the applicant filing the foreign-language patent application makes an amendment under Article 19 (1) of the Treaty, the applicant may, in lieu of submitting a translation of scope of the claims as provided in the preceding paragraph, 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特許出願にあつては、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、その国際特許出願は、取り下げられたものとみなす。

(3) If the translation of a description provided for in paragraph (1) and the translation of the claims provided in the preceding two paragraphs (hereinafter referred to as "translation of the description or drawings") are not submitted within the exception period for submitting national documents (in the case of a foreign-language patent application 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 patent application 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特許出願の出願人は、経済産業省令で定める期間内に限り、経済産業省令で定めるところにより、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。ただし、故意に、国内書面提出期間内に当該明細書等翻訳文を提出しなかつたと認められる場合は、この限りでない。

(4) The applicant filing an international patent application that is deemed to be withdrawn pursuant to the preceding paragraph may submit the translation of the description or drawings and translations of the drawings and abstracts provided for in paragraph (1) to the Commissioner of the Japan Patent Office pursuant to Order of the Ministry of Economy, Trade and Industry only within the period provided by Order of the Ministry of Economy, Trade and Industry; provided, however, that this does not apply if the applicant is found to have intentionally failed to submit the translation of the description or drawings within the period 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 pursuant to the preceding paragraph are deemed to have been submitted to the Commissioner of the Japan Patent Office at the time of expiration of the period for the submitting national documents.

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出願人が出願審査の請求をするときは、その請求の時。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 an amendment under Article 19 (1) of the Treaty is made, an applicant submitting a 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 period for the submitting national documents expires (if the applicant requests examination of the application within the period for submitting national documents, the time of the request; hereinafter referred to as the "standard time for national processing").

７　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 main clause of Article 184-7, paragraph (3) applies 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）

(Submission of Documents and Order to Amend Procedures)

第百八十四条の五　国際特許出願の出願人は、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 184-5 (1) An applicant filing an international patent application must submit a document to the Commissioner of the Japan Patent Office within the period for submitting national documents, stating the following:

一　出願人の氏名又は名称及び住所又は居所

(i) the name, and the domicile or residence of the applicant;

二　発明者の氏名及び住所又は居所

(ii) the name, and the domicile or residence of the inventor; 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) matters provided by Order of the Ministry of Economy, Trade and Industry, including the international application number.

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) The Commissioner of the Japan Patent Office may order an amendment to be made with respect to a procedure within an adequate specified period of time in the following cases:

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 preceding paragraph is not submitted within the period for submitting national documents;

二　前項の規定による手続が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 preceding paragraph does not comply with Article 7, paragraphs (1) through (3) or Article 9;

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 preceding paragraph does not comply with formal requirements specified by 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特許出願にあつては、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 paragraph (1) of the preceding Article is not submitted within the period for submitting national documents (or, if the application is a foreign-language patent application as referred to in the proviso to paragraph (1) of the preceding Article, within the exception period for submitting translations); and

五　第百九十五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。

(v) a fee that is to be paid pursuant to Article 195, paragraph (2) is not paid within the period for submitting national documents.

３　特許庁長官は、前項の規定により手続の補正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補正をしないときは、当該国際特許出願を却下することができる。

(3) If a person that the Commissioner of the Japan Patent Office has ordered to make the amendment with respect to a procedure to the preceding paragraph does not make the amendment within the period of time the Commissioner specifies pursuant to that paragraph, the Commissioner may dismiss the international patent application.

（国際出願に係る願書、明細書等の効力等）

(Effect of the Request or Description or drawings in an International Application)

第百八十四条の六　国際特許出願に係る国際出願日における願書は、第三十六条第一項の規定により提出した願書とみなす。

Article 184-6 (1) The written application for an international patent application as of the international application date is deemed to be a written application submitted pursuant to Article 36, paragraph (1).

２　日本語でされた国際特許出願（以下「日本語特許出願」という。）に係る国際出願日における明細書及び外国語特許出願に係る国際出願日における明細書の翻訳文は第三十六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、日本語特許出願に係る国際出願日における請求の範囲及び外国語特許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特許請求の範囲と、日本語特許出願に係る国際出願日における図面並びに外国語特許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、日本語特許出願に係る要約及び外国語特許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 an international patent application filed in the Japanese (hereinafter referred to as a "Japanese-language patent application") or the translation of the description, as of the international filing date of a foreign-language patent application is deemed to be the description submitted with the written application pursuant to Article 36, paragraph (2); the claims, as of the international filing date, of a Japanese-language patent application or the translation of the claims, as of the international filing date, of a foreign-language patent application are deemed to be the claims submitted with the written application pursuant to Article 36, paragraph (2); the drawings, as of the international filing date, of a Japanese-language patent application or the drawings, as of the international filing date, of a foreign-language patent application (other than the descriptive text in the drawings) and a translation of the descriptive text in those drawings as of that date are deemed to be drawings submitted with the written application pursuant to Article 36, paragraph (2); and the abstract of a Japanese-language patent application or a translation of the abstract of a foreign-language patent application is deemed to be the abstract submitted with the written application pursuant to that paragraph.

３　第百八十四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三十六条第二項の規定により願書に添付して提出した特許請求の範囲とみなす。

(3) If a translation of claims amended under Article 19 (1) of the Treaty is submitted pursuant to Article 184-4, paragraph (2) or (6), notwithstanding the preceding paragraph, the translation of the amended claims is deemed to be the claims submitted with the written application pursuant to Article 36, paragraph (2).

（日本語特許出願に係る条約第十九条に基づく補正）

(Amendments Based on Article 19 of the Treaty to a Japanese-Language Patent Application)

第百八十四条の七　日本語特許出願の出願人は、条約第十九条（１）の規定に基づく補正をしたときは、国内処理基準時の属する日までに、同条（１）の規定に基づき提出された補正書の写しを特許庁長官に提出しなければならない。

Article 184-7 (1) If an applicant of a Japanese-language patent application has made an amendment under Article 19 (1) of the Treaty, the applicant must submit a copy of the written amendment submitted under Article 19 (1) to the Commissioner of the Japan Patent Office on or before the date on which the standard time for national processing falls.

２　前項の規定により補正書の写しが提出されたときは、その補正書の写しにより、願書に添付した特許請求の範囲について第十七条の二第一項の規定による補正がされたものとみなす。ただし、条約第二十条の規定に基づき前項に規定する期間内に補正書が特許庁に送達されたときは、その補正書により、補正がされたものとみなす。

(2) If a copy of a written amendment is submitted pursuant to the preceding paragraph, the amendment under Article 17-2, paragraph (1) is deemed to have been made to the claims accompanying the request based on the copy of the written amendment; provided, however, that if the written amendment is communicated to the Japan Patent Office under Article 20 of the Treaty within the period provided for in the preceding paragraph, the amendment is deemed to have been made based on the written amendment.

３　第一項に規定する期間内に日本語特許出願の出願人により同項に規定する手続がされなかつたときは、条約第十九条（１）の規定に基づく補正は、されなかつたものとみなす。ただし、前項ただし書に規定するときは、この限りでない。

(3) If the procedure provided for in paragraph (1) is not undertaken by an applicant filing a Japanese-language patent application within the period provided for in paragraph (1), the amendment under Article 19 (1) of the Treaty is deemed not to have been made; provided, however, that this does not apply as provided in the proviso to the preceding paragraph.

（条約第三十四条に基づく補正）

(Amendment Under Article 34 of the Treaty)

第百八十四条の八　国際特許出願の出願人は、条約第三十四条（２）（ｂ）の規定に基づく補正をしたときは、国内処理基準時の属する日までに、日本語特許出願に係る補正にあつては同条（２）（ｂ）の規定に基づき提出された補正書の写しを、外国語特許出願に係る補正にあつては当該補正書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。

Article 184-8 (1) After making an amendment under Article 34 (2)(b) of the Treaty, if that amendment concerns a Japanese-language patent application, the applicant filing the international patent application, must submit a copy of the written amendment submitted under Article 34 (2)(b) to the Commissioner of the Japan Patent Office, and if the amendment concerns a foreign-language patent application, the applicant must submit a Japanese translation of the written amendment to the commissioner, by the date on which the standard time for national processing falls.

２　前項の規定により補正書の写し又は補正書の翻訳文が提出されたときは、その補正書の写し又は補正書の翻訳文により、願書に添付した明細書、特許請求の範囲又は図面について第十七条の二第一項の規定による補正がされたものとみなす。ただし、日本語特許出願に係る補正につき条約第三十六条（３）（ａ）の規定に基づき前項に規定する期間内に補正書が特許庁に送達されたときは、その補正書により、補正がされたものとみなす。

(2) If a copy of a written amendment or a translation of a written amendment is submitted pursuant to the preceding paragraph, the amendment under Article 17-2, paragraph (1) is deemed to have been made to the description, claims, or drawings attached to the written application based on the copy of the written amendment or the translation of the written amendment; provided, however, that if a written amendment to a Japanese-language patent application is served to the Japan Patent Office as under Article 36 (3)(a) of the Treaty within the period provided for in the preceding paragraph, the amendment is deemed to have been made based on the written amendment.

３　第一項に規定する期間内に国際特許出願の出願人により同項に規定する手続がされなかつたときは、条約第三十四条（２）（ｂ）の規定に基づく補正は、されなかつたものとみなす。ただし、前項ただし書に規定するときは、この限りでない。

(3) If the procedure provided for in paragraph (1) is not undertaken by an applicant filing an international patent application within the period provided for in paragraph (1), the amendment under Article 34 (2)(b) of the Treaty is deemed not to have been made; provided, however, that this does not apply as provided in the proviso to the preceding paragraph.

４　第二項の規定により外国語特許出願に係る願書に添付した明細書、特許請求の範囲又は図面について第十七条の二第一項の規定による補正がされたものとみなされたときは、その補正は同条第二項の誤訳訂正書を提出してされたものとみなす。

(4) If pursuant to paragraph (2), the amendment under Article 17-2, paragraph (1) is deemed to have been made to the description, claims, or drawings attached to a written application in a foreign-language patent application, that amendment is deemed to have been made through the submission of a mistranslation correction form as referred to in Article 17-2, paragraph (2).

（国内公表等）

(National Publication)

第百八十四条の九　特許庁長官は、第百八十四条の四第一項又は第四項の規定により翻訳文が提出された外国語特許出願について、特許掲載公報の発行をしたものを除き、国内書面提出期間（同条第一項ただし書の外国語特許出願にあつては、翻訳文提出特例期間。以下この項において同じ。）の経過後（国内書面提出期間内に出願人から出願審査の請求があつた国際特許出願であつて条約第二十一条に規定する国際公開（以下「国際公開」という。）がされているものについては出願審査の請求の後、第百八十四条の四第四項の規定により明細書等翻訳文が提出された外国語特許出願については当該明細書等翻訳文の提出の後）、遅滞なく、国内公表をしなければならない。

Article 184-9 (1) Unless the application in question is a foreign-language patent application in respect of which gazette in which the patent appears has already been published, the Commissioner of the Japan Patent Office must effect the national publication of the foreign-language patent application for which a translation has been submitted pursuant to Article 184-4, paragraph (1) or (4) without delay after the end of the period for submitting national documents (or, for a foreign-language patent application as referred to in the proviso to Article 184-4, paragraph (1), without delay after the end of the exception period for submitting translations; hereinafter the same applies in this paragraph) (or, for an international patent application that the applicant has requested be examined within the period for submitting national documents and for which the international publication provided for in Article 21 of the Treaty (hereinafter referred to as "international publication") has been effected, without delay after the request for the examination of the patent application; and a foreign-language patent application for which a translation of the description or drawings has been submitted pursuant to Article 184-4, paragraph (4) without delay, after the translation of the description or drawings is submitted).

２　国内公表は、次に掲げる事項を特許公報に掲載することにより行う。

(2) National publication is effected through the publication of the following matters in the patent gazette:

一　出願人の氏名又は名称及び住所又は居所

(i) the name, and the domicile or residence of the applicant;

二　特許出願の番号

(ii) the filing number of the application;

三　国際出願日

(iii) the international filing date;

四　発明者の氏名及び住所又は居所

(iv) the name, and the domicile or residence of the inventor;

五　第百八十四条の四第一項に規定する明細書及び図面の中の説明の翻訳文に記載した事項、同項に規定する請求の範囲の翻訳文（同条第二項に規定する翻訳文が提出された場合にあつては、当該翻訳文）及び同条第六項に規定する翻訳文に記載した事項、図面（図面の中の説明を除く。）の内容並びに要約の翻訳文に記載した事項（特許公報に掲載することが公の秩序又は善良の風俗を害するおそれがあると特許庁長官が認めるものを除く。）

(v) the matters stated in the translations of the description and the descriptive text in the drawings provided in Article 184-4, paragraph (1); the matters stated in the translation of the claims as provided in the paragraph (or, if a translation has been submitted pursuant to paragraph (2) of the Article, that translation); the matters stated in the translation provided for in paragraph (6) of the Article; the contents of the drawings (other than the descriptive text in the drawings); and the matters stated in the translation of the abstract (excluding matters whose publication in the patent gazette the Commissioner of the Japan Patent Office finds could disrupt public order or corrupt public morality);

六　国内公表の番号及び年月日

(vi) the number and the date of the national publication; and

七　前各号に掲げるもののほか、必要な事項

(vii) necessary matters beyond what is set forth in the preceding items.

３　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の翻訳文に記載した事項を特許公報に掲載する場合に準用する。

(3) Article 64, paragraph (3) applies mutatis mutandis if the matter stated in the translation of the abstract as referred to in item (v) of the preceding paragraph are published in the patent gazette pursuant to the preceding paragraph.

４　第六十四条の規定は、国際特許出願には、適用しない。

(4) Article 64 does not apply to an international patent application.

５　国際特許出願については、第四十八条の五第一項、第四十八条の六、第六十六条第三項ただし書、第百二十八条、第百八十六条第一項第一号及び第三号並びに第百九十三条第二項第一号、第二号、第七号及び第十号中「出願公開」とあるのは、日本語特許出願にあつては「第百八十四条の九第一項の国際公開」と、外国語特許出願にあつては「第百八十四条の九第一項の国内公表」とする。

(5) The term "the publication of the application" in Article 48-5, paragraph (1), Article 48-6, the proviso to Article 66, paragraph (3), Article 128, Article 186, paragraph (1), items (i) and (iii), and Article 193, paragraph (2), items (i), (ii), (vii), and (x) is deemed to be replaced with "international publication as referred to in Article 184-9, paragraph (1)" if an international patent application is a Japanese-language patent application, and is deemed to be replaced with "national publication as referred to in Article 184-9, paragraph (1)" if an international patent application is a foreign-language patent application.

６　外国語特許出願に係る証明等の請求については、第百八十六条第一項第一号中「又は第六十七条の五第二項の資料」とあるのは「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三条（２）に規定する国際出願の願書、明細書、請求の範囲、図面若しくは要約（特許権の設定の登録がされた国際特許出願に係るもの又は国際公開がされたものを除く。）」とする。

(6) If a request for a certificate, etc. concerns a foreign-language patent application, the phrase "or the materials referred to in Article 67-2, paragraph (5)" in Article 186, paragraph (1), item (i) is deemed to be replaced with "or a written application, a description, claims, drawings, or abstract in an international application provided for in Article 3 (2) of the Patent Cooperation Treaty Done at Washington on June 19, 1970 (excluding those in an international patent application for which the establishment of patent rights has been registered, or those in respect of which international publication has been effected)".

７　国際特許出願に関し特許公報に掲載すべき事項については、第百九十三条第二項第三号中「出願公開後における」とあるのは、「国際公開がされた国際特許出願に係る」とする。

(7) With respect to the matters that must be published in the patent gazette concerning an international patent application, the phrase "after the publication of the patent applications" in Article 193, paragraph (2), item (iii) is deemed to be replaced with "with regard to an international patent application, in respect of which international publication has been effected".

（国際公開及び国内公表の効果等）

(Effects of International Publication and National Publication)

第百八十四条の十　国際特許出願の出願人は、日本語特許出願については国際公開があつた後に、外国語特許出願については国内公表があつた後に、国際特許出願に係る発明の内容を記載した書面を提示して警告をしたときは、その警告後特許権の設定の登録前に業としてその発明を実施した者に対し、その発明が特許発明である場合にその実施に対し受けるべき金銭の額に相当する額の補償金の支払を請求することができる。当該警告をしない場合においても、日本語特許出願については国際公開がされた国際特許出願に係る発明であることを知つて特許権の設定の登録前に、外国語特許出願については国内公表がされた国際特許出願に係る発明であることを知つて特許権の設定の登録前に、業としてその発明を実施した者に対しては、同様とする。

Article 184-10 (1) If an applicant filing an international patent application issues written warning giving the details of the invention that is the subject of the international patent application after the international publication of a Japanese-language patent application, or after the national publication of a foreign-language patent application, the applicant may file a claim compensation against a person that works the invention in the course of trade after being warned and prior to the registration of establishment of the patent rights, with a claim amount that corresponds to amount of money the applicant would be entitled to receive for the working of the invention if it were patented invention. The same applies to a claim against a person that knowingly, in the course of trade, and prior to the registration of establishment of the patent rights, works an invention connected with a Japanese-language patent application that has been claimed in an internationally published international patent application; or against a person that knowingly, in the course of trade, and prior to the registration of establishment of the patent rights, works an invention connected with a foreign-language patent application that has been claimed in a nationally published international patent application.

２　第六十五条第二項から第六項までの規定は、前項の規定により請求権を行使する場合に準用する。

(2) Paragraphs (2) through (6) of Article 65 apply mutatis mutandis to the exercise of a claim pursuant to the preceding paragraph.

（在外者の特許管理人の特例）

(Special Provisions on Patent Administrators for Overseas Residents)

第百八十四条の十一　在外者である国際特許出願の出願人は、国内処理基準時までは、第八条第一項の規定にかかわらず、特許管理人によらないで手続をすることができる。

Article 184-11 (1) Notwithstanding Article 8, paragraph (1), prior to the standard time for national processing, a person filing an international patent application that is an overseas resident may undertake a procedures without recourse to a patent administrator.

２　前項に規定する者は、国内処理基準時の属する日後経済産業省令で定める期間内に、特許管理人を選任して特許庁長官に届け出なければならない。

(2) A person as prescribed in the preceding paragraph must appoint a patent administrator and notify the Commissioner of the Japan Patent Office of that fact at or after the standard time for national processing within the period specified by Order of the Ministry of Economy, Trade and Industry.

３　特許庁長官は、前項に規定する期間内に特許管理人の選任の届出がなかつたときは、第一項に規定する者に対し、その旨を通知しなければならない。

(3) If a person prescribed in paragraph (1) has not provided notification of appointment of a patent administrator within the period provided in the preceding paragraph, the Commissioner of the Japan Patent Office must notify the person of that fact.

４　前項の規定による通知を受けた者は、経済産業省令で定める期間内に限り、特許管理人を選任して特許庁長官に届け出ることができる。

(4) A person that has received a notice provided under the preceding paragraph may appoint a patent administrator and notify the Commissioner of the Japan Patent Office of that fact only within the period provided by Order of the Ministry of Economy, Trade and Industry.

５　前項に規定する期間内に特許管理人の選任の届出がなかつたときは、その国際特許出願は、取り下げたものとみなす。

(5) If no notification regarding the appointment of a patent administrator is filed within the period provided for in the preceding paragraph, the international patent application is deemed to be withdrawn.

６　前項の規定により取り下げたものとみなされた国際特許出願の出願人は、経済産業省令で定める期間内に限り、経済産業省令で定めるところにより、特許管理人を選任して特許庁長官に届け出ることができる。ただし、故意に、第四項に規定する期間内に特許管理人の選任の届出をしなかつたと認められる場合は、この限りでない。

(6) The applicant of an international patent application which has been deemed to have been withdrawn pursuant to the preceding paragraph may appoint a patent administrator and notify the Commissioner of the Japan Patent Office of that fact pursuant to Order of the Ministry of Economy, Trade and Industry only within the period prescribed by Order of the Ministry of Economy, Trade and Industry; provided, however, that this does not apply if the applicant is found to have intentionally failed to file a notification of appointment of a patent administrator within the period prescribed in paragraph (4).

７　第四項又は前項の規定によりされた届出は、第二項に規定する期間が満了する時にされた届出とみなす。

(7) The notification made pursuant to paragraph (4) or the preceding paragraph is deemed to be a notification made at the time of expiration of the period provided in paragraph (2).

８　第一項に規定する者が、特許管理人により第百八十四条の四第四項の規定による手続をしたときは、第二項から前項までの規定は、適用しない。

(8) If a person as provided in paragraph (1) undertakes a procedure under Article 184-4, paragraph (4) through a patent administrator, the provisions of paragraphs (2) through (7) do not apply.

（補正の特例）

(Special Provisions on Amendments)

第百八十四条の十二　日本語特許出願については第百八十四条の五第一項の規定による手続をし、かつ、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、外国語特許出願については第百八十四条の四第一項又は第四項及び第百八十四条の五第一項の規定による手続をし、かつ、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であつて国内処理基準時を経過した後でなければ、第十七条第一項本文の規定にかかわらず、手続の補正（第百八十四条の七第二項及び第百八十四条の八第二項に規定する補正を除く。）をすることができない。

Article 184-12 (1) Notwithstanding the main clause of Article 17, paragraph (1), an amendment in respect of a procedure (other than an amendment as provided in Article 184-7, paragraph (2) and Article 184-8, paragraph (2)) may not be made in connection with a Japanese-language patent application unless it is after the procedure under Article 184-5, paragraph (1) has been undertaken and after the fee that is to be paid pursuant to Article 195, paragraph (2) has been paid; nor may such an amendment be made in connection with a foreign-language patent application, unless it is after the procedures under Article 184-4, paragraphs (1) or (4), under Article 184-5, paragraph (1) have been undertaken, after the fee to be paid pursuant to Article 195, paragraph (2) is paid, and after the standard time for national processing has lapsed.

２　外国語特許出願に係る明細書、特許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、第十七条の二第二項中「第三十六条の二第二項の外国語書面出願」とあるのは「第百八十四条の四第一項の外国語特許出願」と、同条第三項中「願書に最初に添付した明細書、特許請求の範囲又は図面（第三十六条の二第二項の外国語書面出願にあつては、同条第八項の規定により明細書、特許請求の範囲及び図面とみなされた同条第二項に規定する外国語書面の翻訳文（誤訳訂正書を提出して明細書、特許請求の範囲又は図面について補正をした場合にあつては、翻訳文又は当該補正後の明細書、特許請求の範囲若しくは図面）。第三十四条の二第一項及び第三十四条の三第一項において同じ。）」とあるのは「第百八十四条の四第一項の国際出願日（以下この項において「国際出願日」という。）における第百八十四条の三第二項の国際特許出願（以下この項において「国際特許出願」という。）の明細書若しくは図面（図面の中の説明に限る。）の第百八十四条の四第一項の翻訳文、国際出願日における国際特許出願の請求の範囲の同項の翻訳文（同条第二項又は第六項の規定により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にあつては、当該翻訳文）又は国際出願日における国際特許出願の図面（図面の中の説明を除く。）（以下この項において「翻訳文等」という。）（誤訳訂正書を提出して明細書、特許請求の範囲又は図面について補正をした場合にあつては、翻訳文等又は当該補正後の明細書、特許請求の範囲若しくは図面）」とする。

(2) With respect to the allowable scope of amendment to the description, claims, or drawings of a foreign-language patent application, the phrase "an application written in a foreign language provided in Article 36-2, paragraph (2)" in Article 17-2, paragraph (2) is deemed to be replaced with "a foreign-language patent application as referred to in Article 184-4, paragraph (1)"; the phrase "the description, claims, or drawings that originally attached to the written application (if the application is a foreign-language application as referred to in Article 36-2, paragraph (2), matter indicated in the translation of foreign-language documents as provided in Article 36-2, paragraph (2) that is deemed to constitute the description, claims, and drawings under Article 36-2, paragraph (8) (or if the description, claims, or drawings have been amended through the submission of a mistranslation correction form, matter indicated in the translation or the amended description, claims, or drawings); the same applies in Article 34-2, paragraph (1) and Article 34-3, paragraph (1))" in Article 17-2, paragraph (3) is deemed to be replaced with "a translation as referred to in Article 184-4, paragraph (1) of the description and drawings (limited to the descriptive text in the drawings) as of the international filing date as referred to in Article 184-4, paragraph (1) (hereinafter referred to as an "international filing date" in this paragraph), in an international patent application as referred to in Article 184-3, paragraph (2) (hereinafter referred to as the "international patent application" in this paragraph), a translation as referred to in Article 184-4, paragraph (1) of the claims of an international application date, in an international patent application (or if a translation of the claims amended under Article 19 (1) of the Patent Cooperation Treaty Done at Washington on June 19, 1970, has been submitted pursuant to Article 184-4, paragraph (2) or (6), that translation); or the drawings (excluding the descriptive text in the drawings) as of international application date, in an international patent application (hereinafter referred to as a "translations, etc." in this paragraph) (or if an amendment to the description, claims, or drawings has been made through the submission of a mistranslation correction form, the translations, etc. and the amended description, claims, or drawings)".

（特許原簿への登録の特例）

(Special Provisions for Registration in the Patent Register)

第百八十四条の十二の二　日本語特許出願については第百八十四条の五第一項の規定による手続をし、かつ、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、外国語特許出願については第百八十四条の四第一項又は第四項及び第百八十四条の五第一項の規定による手続をし、かつ、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であつて国内処理基準時を経過した後でなければ、第二十七条第一項第四号の規定にかかわらず、仮専用実施権の登録を受けることができない。

Article 184-12-2 Notwithstanding Article 27, paragraph (1), item (iv), a provisional exclusive license may not be registered in connection with a Japanese-language patent application until after the procedures under Article 184-5, paragraph (1) has been undertaken and the fee that is to be paid pursuant to Article 195, paragraph (2) has been paid; nor may a provisional exclusive license be registered in connection with a foreign-language patent application until after the procedures under Article 184-4, paragraphs (1) or (4), or Article 184-5, paragraph (1) have been undertaken, the fee that is to be paid pursuant to Article 195, paragraph (2) has been paid, and, standard time for national processing has passed.

（特許要件の特例）

(Special Provisions on Patentability)

第百八十四条の十三　第二十九条の二に規定する他の特許出願又は実用新案登録出願が国際特許出願又は実用新案法第四十八条の三第二項の国際実用新案登録出願である場合における第二十九条の二の規定の適用については、同条中「他の特許出願又は実用新案登録出願であつて」とあるのは「他の特許出願又は実用新案登録出願（第百八十四条の四第三項又は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第百八十四条の四第一項の外国語特許出願又は同法第四十八条の四第一項の外国語実用新案登録出願を除く。）であつて」と、「出願公開又は」とあるのは「出願公開、」と、「発行が」とあるのは「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、「願書に最初に添付した明細書、特許請求の範囲若しくは実用新案登録請求の範囲又は図面」とあるのは「第百八十四条の四第一項又は実用新案法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 184-13 In applying Article 29-2 to a case in which the other patent application or the application to register a utility model provided for in Article 29-2 is an international patent application or an international application to register a utility model referred to in Article 48-3, paragraph (2) of the Utility Model Act, in Article 29-2 of this Act, the phrase "in another patent application or in an application to register a utility model" is deemed to be replaced with "in another patent application or in an application to utility model registration application (other than a foreign-language patent application as referred to in Article 184-4, paragraph (1) or utility model registration application in a foreign language as referred to in Article 48-4, paragraph (1) of the Utility Model Act which is deemed to have been withdrawn pursuant to Article 184-4, paragraph (3) of this Act or Article 48-4, paragraph (3) of the Utility Model Act)", the phrase "the patent application is published, or" is deemed to be replaced with "the patent application is published", the phrase "is published pursuant to Article 14, paragraph (3) of that Act subsequent to the filing of the relevant application," is deemed to be replaced with "is published pursuant to Article 14, paragraph (3) of that Act subsequent to the filing of the relevant application, or international publication is effected as provided in Article 21 of the Patent Cooperation Treaty Done at Washington on June 19, 1970", and the phrase "in the description, claims for a patent, or in the claims or drawings for a utility model registration (or, for a foreign language as referred to in Article 36-2, paragraph (2), in the foreign-language documents referred to in Article 36-2, paragraph (1)) which originally attached to the written application" is deemed to be replaced with "in the description, claims, or drawings in the international application (or, for an application written in a foreign language as referred to in Article 36-2, paragraph (2), in the foreign-language documents referred to in Article 36-2, paragraph (1)) as of the international application date referred to in Article 184-4, paragraph (1) of this Act or Article 48-4, paragraph (1) of the Utility Model Act".

（発明の新規性の喪失の例外の特例）

(Special Provisions on Exception to Loss of Novelty of Invention)

第百八十四条の十四　第三十条第二項の規定の適用を受けようとする国際特許出願の出願人は、その旨を記載した書面及び第二十九条第一項各号のいずれかに該当するに至つた発明が第三十条第二項の規定の適用を受けることができる発明であることを証明する書面を、同条第三項の規定にかかわらず、国内処理基準時の属する日後経済産業省令で定める期間内に特許庁長官に提出することができる。

Article 184-14 Notwithstanding Article 30, paragraph (3), after the standard time for national processing but within the period specified by Order of the Ministry of Economy, Trade and Industry, a person filing an international patent application and seeking to apply Article 30, paragraph (2) may submit a document to the Commissioner of the Japan Patent Office, stating this, as well as a document evidencing that the invention is one that has come to fall under one of the items of Article 29, paragraph (1) and to which Article 30, paragraph (2) can be applied.

（特許出願等に基づく優先権主張の特例）

(Special Provisions on Priority Claim Based on a Patent Application)

第百八十四条の十五　国際特許出願については、第四十一条第一項ただし書及び第四項並びに第四十二条第二項の規定は、適用しない。

Article 184-15 (1) The proviso to Article 41, paragraph (1), and Article 41, paragraph (4) and Article 42, paragraph (2) do not apply to an international patent application.

２　日本語特許出願についての第四十一条第三項の規定の適用については、同項中「又は出願公開」とあるのは、「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」とする。

(2) In applying Article 41, paragraph (3) to a Japanese-language patent application, the phrase "or the publication of the application" in the Article is deemed to be replaced with "or the international publication is effected as prescribed in Article 21 of the Patent Cooperation Treaty Done at Washington on June 19, 1970".

３　外国語特許出願についての第四十一条第三項の規定の適用については、同項中「特許出願の願書に最初に添付した明細書、特許請求の範囲又は図面」とあるのは「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、「又は出願公開」とあるのは「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」とする。

(3) In applying Article 41, paragraph (3) for a foreign-language patent application, the phrase "in the description, claims, or drawings (in the case of an application written in a foreign language, foreign-language documents) originally attached to a written application for a patent application" in the Article is deemed to be replaced with "in the description, claims, or drawings (in the case of an application written in a foreign language, foreign-language documents) in the international application, as of the international filing date referred to in Article 184-4 (1)", and the phrase "or the publication of the application" is deemed to be replaced with "or the international publication is effected as prescribed in Article 21 of the Patent Cooperation Treaty Done at Washington on June 19, 1970".

４　第四十一条第一項の先の出願が国際特許出願又は実用新案法第四十八条の三第二項の国際実用新案登録出願である場合における第四十一条第一項から第三項まで及び第四十二条第一項の規定の適用については、第四十一条第一項及び第二項中「願書に最初に添付した明細書、特許請求の範囲若しくは実用新案登録請求の範囲又は図面」とあるのは「第百八十四条の四第一項又は実用新案法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、同項中「同項」とあるのは「前項」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、特許請求の範囲若しくは実用新案登録請求の範囲又は図面」とあるのは「先の出願の第百八十四条の四第一項又は実用新案法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、「同項」とあるのは「第一項」と、「について出願公開」とあるのは「について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、第四十二条第一項中「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「第百八十四条の四第六項若しくは実用新案法第四十八条の四第六項の国内処理基準時又は第百八十四条の四第一項若しくは同法第四十八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 Article 41, paragraphs (1) through (3), and Article 42, paragraph (1), to a case in which an earlier application as referred to in Article 41, paragraph (1) of this Act is an international patent application or an international application to register a utility model as referred to in Article 48-3, paragraph (2) of the Utility Model Act, the phrase "in the description or claims for a patent, utility model registration, or drawings originally attached to the written application" in Article 41, paragraphs (1) and (2) is deemed to be replaced with "in the description, claims, or drawings in the international application, as of the international filing date referred to in Article 184-4, paragraph (1) of this Act or Article 48-4, paragraph (1) of the Utility Model Act"; the phrase "paragraph (1) is deemed to be replaced with "the preceding paragraph" in Article 41, paragraph (2); the phrase "in the description, patent claim, utility model registration claims, or drawings originally attached to the written application of the earlier application" in Article 41, paragraph (3) is deemed to be replaced with "in the description, claim, or drawings in the international application as of the international application date referred to in Article 184-4, paragraph (1) of this Act or Article 48-4, paragraph (1) of the Utility Model Act, in respect of the earlier application"; the phrase "paragraph (1)" is "paragraph (1)"; the phrase "application is deemed to be published " in Article 41, paragraph (3) is deemed to be replaced with "the international publication as prescribed in Article 21 of the Patent Cooperation Treaty Done at Washington on June 19, 1970", and the phrase "once the period provided by Order of the Ministry of Economy, Trade and Industry have passed since the filing date" in Article 42, paragraph (1) is deemed to be replaced with "at the standard time for national processing referred to in Article 184-4, paragraph (6) of this Act or Article 48-4, paragraph (6) of the Utility Model Act or once the period provided by Order of the Ministry of Economy, Trade and Industry have passed since the international application date referred to in Article 184-4, paragraph (1) of this Act or Article 48-4, paragraph (1) of the Utility Model Act, whichever is later".

（出願の変更の特例）

(Special Provisions on the Conversion of Application)

第百八十四条の十六　実用新案法第四十八条の三第一項又は第四十八条の十六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の特許出願への変更については、同法第四十八条の五第四項の日本語実用新案登録出願にあつては同条第一項、同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つては同項又は同条第四項及び同法第四十八条の五第一項の規定による手続をし、かつ、同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（同法第四十八条の十六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。

Article 184-16 If an international application that is deemed, pursuant to Article 48-3, paragraph (1) or 48-16, paragraph (4) of the Utility Model Act, to be an application to register a utility model is a Japanese-language application to register a utility model as referred to in Article 48-5, paragraph (4) of that Act, it may not be converted into a patent application until after the procedure under Article 48-5, paragraph (1) of that Act has been undertaken; if such an international application is a foreign-language application to register a utility model as referred to in Article 48-4, paragraphs (1) of that Act, it may not be converted into a patent application until after the procedure under Article 48-4, paragraph (1) or (4), or Article 48-5, paragraph (1) of the Act has been undertaken; and in any case, it may not be converted into a patent application until after any fee that is to be paid pursuant to Article 54, paragraph (2) of that Act has been paid (or, if the international application is deemed to be an application to register a utility model pursuant to Article 48-16, paragraph (4) of the Act, until after the ruling provided in the paragraph).

（出願審査の請求の時期の制限）

(Limitation on Period for Request for Examination of an Application)

第百八十四条の十七　国際特許出願の出願人は、日本語特許出願にあつては第百八十四条の五第一項、外国語特許出願にあつては第百八十四条の四第一項又は第四項及び第百八十四条の五第一項の規定による手続をし、かつ、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、国際特許出願の出願人以外の者は、国内書面提出期間（第百八十四条の四第一項ただし書の外国語特許出願にあつては、翻訳文提出特例期間）の経過後でなければ、国際特許出願についての出願審査の請求をすることができない。

Article 184-17 The applicant filing an international patent application may not request for an examination of an Japanese-language patent application until after undertaking the procedure under Article 184-5, paragraph (1); may not request for an examination for a foreign-language patent application until after undertaking the procedures under Article 184-4, paragraphs (1) or (4), or Article 184-5, paragraph (1); and may not request for the examination of any international patent application and until after paying any fee that is to be paid pursuant to Article 195, paragraph (2); and a person other than the applicant filing the international patent application may not request for the examination of that international patent application until after the end of the period for submitting national documents (or, if a foreign-language patent application as referred to in the proviso to Article 184-4, paragraph (1), until after the end of the exception period for submitting translation).

（拒絶理由等の特例）

(Special Provisions on the Grounds for Rejection)

第百八十四条の十八　外国語特許出願に係る拒絶の査定、特許異議の申立て及び特許無効審判については、第四十九条第六号、第百十三条第一号及び第五号並びに第百二十三条第一項第一号及び第五号中「外国語書面出願」とあるのは「第百八十四条の四第一項の外国語特許出願」と、第四十九条第六号、第百十三条第五号及び第百二十三条第一項第五号中「外国語書面に」とあるのは「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に」とする。

Article 184-18 In respect of an examiner's rejection, an opposition to a granted patent, or a trial for patent invalidation, as concerns a foreign-language patent application, the term "application written in a foreign language" in Article 49, item (vi), Article 113, items (i) and (v), and Article 123, paragraph (1), items (i) and (v) is deemed to be replaced with "foreign-language patent application referred to in Article 184-4, paragraph (1)", and the term "in foreign-language documents" in Article 49, item (vi), Article 113, item (v), and Article 123, paragraph (1), item (v) 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 184-4, paragraph (1)."

（訂正の特例）

(Special Provisions on Corrections)

第百八十四条の十九　外国語特許出願に係る第百二十条の五第二項及び第百三十四条の二第一項の規定による訂正及び訂正審判の請求については、第百二十六条第五項中「外国語書面出願」とあるのは「第百八十四条の四第一項の外国語特許出願」と、「外国語書面）」とあるのは「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 184-19 In respect of a request for a trial for correction as referred to in Article 120-5, paragraph (2) and Article 134-2, paragraph (1) and a request for a correction trial as concerns a foreign-language patent application, the term "application written in a foreign language" in Article 126, paragraph (5) is deemed to be replaced with "application written in a foreign language referred to in Article 184-4, paragraph (1)" and the term "foreign-language documents)" 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 184-4, paragraph (1))."

（決定により特許出願とみなされる国際出願）

(An International Application Deemed a Patent Application by Decision)

第百八十四条の二十　条約第二条（ｖｉｉ）の国際出願の出願人は、条約第四条（１）（ｉｉ）の指定国に日本国を含む国際出願（特許出願に係るものに限る。）につき条約第二条（ｘｖ）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（ｘｉｘ）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 184-20 (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 the receiving Office as 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 connection with an international application (limited to a patent application 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 Japan Patent Office pursuant to Order of the Ministry of Economy, Trade and Industry and within the period specified by Order of the Ministry of Economy, Trade and Industry, to make the decision provided for in Article 25 (2)(a) of the Treaty.

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 filed in a foreign language must submit Japanese translations of the description, claims, drawings (limited to the descriptive text in the drawings), abstract, and other international application documents specified by Order of the Ministry of Economy, Trade and Industry to the Commissioner of the Japan 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 receiving the petition as referred to in paragraph (1), the Commissioner of the Japan Patent Office must decide whether the rejection, declaration or finding to which the petition was justified in light of the provisions of the Treaty and the Regulations based 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特許出願とみなす。

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

５　前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の出願公開については、第六十四条第一項中「特許出願の日」とあるのは「第百八十四条の四第一項の優先日」と、同条第二項第六号中「外国語書面出願」とあるのは「外国語でされた国際出願」と、「外国語書面及び外国語要約書面」とあるのは「第百八十四条の二十第四項に規定する国際出願日となつたものと認められる日における国際出願の明細書、請求の範囲、図面及び要約」とする。

(5) In respect of the publication of an international application that is deemed to be a patent application pursuant to the preceding paragraph, the phrase "the filing date of a patent application" in Article 64, paragraph (1) is deemed to be replaced with "the priority date under Article 184-4, paragraph (1)", the terms "application written in a foreign language" and "foreign-language documents and foreign-language abstract" in Article 64, paragraph (2), item (vi) are deemed to be replaced with "an international application filed in a foreign language" and "description, claims, drawings, and abstract in the international application, as of the day that it is found would have been the international filing date as provided in Article 184-20, paragraph (4)", respectively.

６　第百八十四条の三第二項、第百八十四条の六第一項及び第二項、第百八十四条の九第六項、第百八十四条の十二から第百八十四条の十四まで、第百八十四条の十五第一項、第三項及び第四項並びに第百八十四条の十七から前条までの規定は、第四項の規定により特許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。

(6) Article 184-3, paragraph (2), Article 184-6, paragraphs (1) and (2), Article 184-9, paragraph (6), Articles 184-12 through 184-14, Article 184-15, paragraphs (1), (3), and (4), and Articles 184-17 through 184-19 apply mutatis mutandis to an international application that is deemed to be a patent application under paragraph (4). In this case, the technical replacement of terms necessary for the mutatis mutandis application of the provisions is provided by Cabinet Order.

第十章　雑則

Chapter X Miscellaneous Provisions

（二以上の請求項に係る特許又は特許権についての特則）

(Special Provisions for Patent or Patent Right Covering Two or More Claims)

第百八十五条　二以上の請求項に係る特許又は特許権についての第二十七条第一項第一号、第六十五条第五項（第百八十四条の十第二項において準用する場合を含む。）、第八十条第一項、第九十七条第一項、第九十八条第一項第一号、第百十一条第一項第二号、第百十四条第三項（第百七十四条第一項において準用する場合を含む。）、第百二十三条第三項、第百二十五条、第百二十六条第八項（第百三十四条の二第九項において準用する場合を含む。）、第百二十八条（第百二十条の五第九項及び第百三十四条の二第九項において準用する場合を含む。）、第百三十二条第一項（第百七十四条第三項において準用する場合を含む。）、第百七十五条、第百七十六条若しくは第百九十三条第二項第五号又は実用新案法第二十条第一項の規定の適用については、請求項ごとに特許がされ、又は特許権があるものとみなす。

Article 185 In applying of Article 27, paragraph (1), item (i), Article 65, paragraph (5) (including as applied mutatis mutandis pursuant to Article 184-10, paragraph (2)), Article 80, paragraph (1), Article 97, paragraph (1), Article 98, paragraph (1), item (i), Article 111, paragraph (1), item (ii), Article 114, paragraph (3) (including as applied mutatis mutandis pursuant to Article 174, paragraph (1)), Article 123, paragraph (3), Article 125, Article 126, paragraph (8) (including as applied mutatis mutandis pursuant to Article 134-2, paragraph (9)), Article 128 (including as applied mutatis mutandis pursuant to Article 120-5, paragraph (9) and Article 134-2, paragraph (9)), Article 132, paragraph (1) (including as applied mutatis mutandis pursuant to Article 174, paragraph (3)), Article 175 or 176, or Article 193, paragraph (2), item (v) of this Act, or of Article 20, paragraph (1) of the Utility Model Act to the granting of a patent or patent right with two or more claims, the patent is deemed to have been granted, or the patent right is deemed to exist, on a claim-by-claim basis.

（証明等の請求）

(Request for Certificate)

第百八十六条　何人も、特許庁長官に対し、特許に関し、証明、書類の謄本若しくは抄本の交付、書類の閲覧若しくは謄写又は特許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ことができる。ただし、次に掲げる書類については、特許庁長官が秘密を保持する必要があると認めるときは、この限りでない。

Article 186 (1) Any person may file a request with the Commissioner of the Japan Patent Office to be issued a certificate, a certified copy of documents in connection with the patent, may request to inspect or copy documents in connection with the patent, or to be issued a document that shows the information that has been recorded in a part of the Patent Register that is stored on magnetic tapes; provided, however, that this does not apply with respect to the following documents, if the Commissioner of the Japan Patent Office finds it to be necessary to keep them confidential:

一　願書、願書に添付した明細書、特許請求の範囲、図面若しくは要約書若しくは外国語書面若しくは外国語要約書面若しくは特許出願の審査に係る書類（特許権の設定の登録又は出願公開がされたものを除く。）又は第六十七条の五第二項の資料

(i) a written application, or the description, claims, drawings, or abstract attached to a written application, foreign-language documents, a foreign-language abstract or a document from the examination of a patent application (unless an establishment of a patent right has been registered or the publication of a patent application has been effected), or the materials referred to in Article 67-5, paragraph (2);

二　判定に係る書類であつて、当事者から当該当事者の保有する営業秘密が記載された旨の申出があつたもの

(ii) documents concerning an advisory opinion on the technical scope of a patented invention, with respect to which a party in the case has given notice that the trade secrets owned by the party in the case has been described;

三　拒絶査定不服審判に係る書類（当該事件に係る特許出願について特許権の設定の登録又は出願公開がされたものを除く。）

(iii) documents from an appeal against an examiner's decision of refusal (unless a patent has been registered in connection with the patent application involved in the case or the publication of a patent application has been effected);

四　特許無効審判若しくは延長登録無効審判又はこれらの審判の確定審決に対する再審に係る書類であつて、当事者又は参加人から当該当事者又は参加人の保有する営業秘密が記載された旨の申出があつたもの

(iv) documents from a trial for patent invalidation, from a trial for invalidation of registration of a patent term extension or from a retrial following a final and binding trial decision from either such trial for invalidation, if a party to the case or an intervenor has given notice that the proprietary trade secrets of the party or intervenor is included in those documents;

五　個人の名誉又は生活の平穏を害するおそれがあるもの

(v) documents that are likely to cause damage to an individual's reputation or peaceful daily life; and

六　公の秩序又は善良の風俗を害するおそれがあるもの

(vi) documents which are likely to injure public order and public morals.

２　特許庁長官は、前項第一号から第五号までに掲げる書類について、同項本文の請求を認めるときは、当該書類を提出した者に対し、その旨及びその理由を通知しなければならない。

(2) If the Commissioner of the Japan Patent Office approves a request as referred to in the main clause of the preceding paragraph in respect of a document set forth in one of items (i) through (v) of that paragraph, the commissioner must notify the person that submitted that document of this and indicate the reasons for approving it.

３　特許に関する書類及び特許原簿のうち磁気テープをもつて調製した部分については、行政機関の保有する情報の公開に関する法律（平成十一年法律第四十二号）の規定は、適用しない。

(3) The provisions of the Act on Access to Information Held by Administrative Organs (Act No. 42 of 1999) do not apply to documents concerning patents or the part of the Patent Register that is stored on magnetic tapes.

４　特許に関する書類及び特許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保有個人情報（個人情報の保護に関する法律（平成十五年法律第五十七号）第六十条第一項に規定する保有個人情報をいう。）については、同法第五章第四節の規定は、適用しない。

(4) The provisions of Chapter V, Section 4 of the Act on the Protection of Personal Information (Act No. 57 of 2003) do not apply to personal information the administrative entity holds (meaning the personal information the administrative entity holds that is provided for in Article 60, paragraph (1) of the same Act) recorded in the documents concerning patents and the part of the patent register that is stored on magnetic tapes.

（特許表示）

(Patent Marking)

第百八十七条　特許権者、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、物の特許発明におけるその物若しくは物を生産する方法の特許発明におけるその方法により生産した物（以下「特許に係る物」という。）又はその物の包装にその物又は方法の発明が特許に係る旨の表示（以下「特許表示」という。）を附するように努めなければならない。

Article 187 A patentee, exclusive licensee, or non-exclusive licensee must endeavor to mark a product that constitutes a patented invention, a product produced by a process that constitutes a patent invention (hereinafter referred to as a "patent product"), or the packaging of the patented product, with a mark (hereinafter referred to as a "patented mark") as provided by Order of the Ministry of Economy, Trade and Industry, indicating that the product or process constituting the invention is patented.

（虚偽表示の禁止）

(Prohibition of False Marking)

第百八十八条　何人も、次に掲げる行為をしてはならない。

Article 188 It is prohibited for any person to take the following actions:

一　特許に係る物以外の物又はその物の包装に特許表示又はこれと紛らわしい表示を付する行為

(i) putting a patent mark or a mark that could be confused with a patent mark on a non-patented product or the packaging of a non- patent product;

二　特許に係る物以外の物であつて、その物又はその物の包装に特許表示又はこれと紛らわしい表示を付したものの譲渡等又は譲渡等のための展示をする行為

(ii) transferring, etc. or displaying for the purpose of transferring, etc. a non-patented product, or the packaging of a non-patented product, that bears a patent mark or a mark that could be confused with a patent mark;

三　特許に係る物以外の物の生産若しくは使用をさせるため、又は譲渡等をするため、広告にその物の発明が特許に係る旨を表示し、又はこれと紛らわしい表示をする行為

(iii) representing a non-patented product to be in any way connected with a patent in an advertisement, or making a representation in an advertisement that could be confused with meaning this, in order to cause that product to be produced or used, or for the purpose of transferring, etc. that product; or

四　方法の特許発明におけるその方法以外の方法を使用させるため、又は譲渡し若しくは貸し渡すため、広告にその方法の発明が特許に係る旨を表示し、又はこれと紛らわしい表示をする行為

(iv) representing a non-patented process to be in any way connected with patent in advertisement, or making a representation in an advertisement, or making a representation in an advertisement that could be confused with meaning this, in order to cause that the process to be used, or in order to transfer or rent out the process.

（送達）

(Service)

第百八十九条　送達する書類は、この法律に規定するもののほか、経済産業省令で定める。

Article 189 Beyond what is provided for in this Act, documents to be served are specified by Order of the Ministry of Economy, Trade and Industry.

第百九十条　民事訴訟法第九十八条第二項、第九十九条から第百三条まで、第百五条、第百六条、第百七条第一項（第二号及び第三号を除く。）及び第三項並びに第百九条（送達）の規定は、この法律又は前条の経済産業省令で定める書類の送達に準用する。この場合において、同法第九十八条第二項及び第百条中「裁判所書記官」とあるのは「特許庁長官の指定する職員又は審判書記官」と、同法第九十九条第一項中「郵便又は執行官」とあるのは「郵便」と、同法第百七条第一項中「場合には、裁判所書記官」とあるのは「場合及び審査に関する書類を送達すべき場合には、特許庁長官の指定する職員又は審判書記官」と、「最高裁判所規則」とあるのは「経済産業省令」と読み替えるものとする。

Article 190 Article 98, paragraph (2), Articles 99 through 103, Articles 105 and 106, Article 107, paragraphs (1) (excluding items (ii) and (iii)) and (3), and Article 109 of the Code of Civil Procedure (service) apply mutatis mutandis to the service of documents specified in this Act or by Order of the Ministry of Economy, Trade and Industry as referred to in the preceding Article. In this case, the term "a court clerk" in Articles 98, paragraph (2) and Article 100 of the Code of Civil Procedure is deemed to be replaced with "an official designated by the Commissioner of the Japan Patent Office, or the trial or appeal clerk"; the phrase "by mail or by court execution officer" in Article 99, paragraph (1) of the Act is deemed to be replaced with "by mail"; and the phrase "if it is impossible for service to be effected pursuant to the provisions of the preceding Article, the court clerk" in Article 107, paragraph (1) of the Act is deemed to be replaced with "if it is impossible for service to be effected pursuant to the provisions of the preceding Article or if documents from an examination are to be served, the official designated by the Commissioner of the Japan Patent Office, or a trial or appeal clerk"; and the phrase "the Rules of the Supreme Court" in article 107, paragraph (1) of the Act is deemed to be replaced with "Order of the Ministry of Economy, Trade and Industry".

第百九十一条　送達を受けるべき者の住所、居所その他送達をすべき場所が知れないとき、又は前条において準用する民事訴訟法第百七条第一項（第二号及び第三号を除く。）の規定により送達をすることができないときは、公示送達をすることができる。

Article 191 (1) If the domicile or residence of the person to be served on or any other place where the person is to be served on is unknown, or if the service cannot be effected pursuant to Article 107, paragraph (1) (excluding items (ii) and (iii)) of the Code of Civil Procedure as applied mutatis mutandis pursuant to Article 190 of this Act, service may be effected by publication.

２　公示送達は、送達する書類を送達を受けるべき者に何時でも交付すべき旨を官報及び特許公報に掲載するとともに特許庁の掲示場に掲示することにより行う。

(2) Service by publication is effected by indication being published in the Official Gazette and the patent gazette that documents to be served can be served on the person to be served at any time, and by this posted on the noticeboard of the Japan Patent Office.

３　公示送達は、官報に掲載した日から二十日を経過することにより、その効力を生ずる。

(3) Service by publication takes effect once 20 days have passed since the day the relevant indication is published in the Official Gazette.

第百九十二条　在外者に特許管理人があるときは、その特許管理人に送達しなければならない。

Article 192 (1) If an overseas resident has a patent administrator, the patent administrator is the one who must be served on.

２　在外者に特許管理人がないときは、書類を航空扱いとした書留郵便等（書留郵便又は信書便の役務のうち書留郵便に準ずるものとして経済産業省令で定めるものをいう。次項において同じ。）に付して発送することができる。

(2) If an overseas resident has no patent administrator, documents may be dispatched by registered mail, etc. (refers to registered mail or service of correspondence delivery that is prescribed by Ordinance of the Ministry of Economy, Trade and Industry as being equivalent to registered mail; hereinafter the same applies in paragraph (3)).

３　前項の規定により書類を書留郵便等に付して発送したときは、発送の時に送達があつたものとみなす。

(3) If a document is sent by registered mail, etc., pursuant to the preceding paragraph, it is deemed to be served at the time it is sent.

（特許公報）

(Patent Gazette)

第百九十三条　特許庁は、特許公報を発行する。

Article 193 (1) The Japan Patent Office publishes the patent gazette (Tokkyo Koho).

２　特許公報には、この法律に規定するもののほか、次に掲げる事項を掲載しなければならない。

(2) Beyond what is provided for in this Act, the following must be published in the patent gazette:

一　出願公開後における拒絶をすべき旨の査定若しくは特許出願の放棄、取下げ若しくは却下又は特許権の存続期間の延長登録の出願の取下げ

(i) examiners' decisions to reject patent applications after their publication; waivers, withdrawals, and dismissals of patent applications after their publication; and withdrawals of applications to register patent term extensions;

二　出願公開後における特許を受ける権利の承継

(ii) succession to the right to be granted a patent after the publication of a patent application;

三　出願公開後における第十七条の二第一項の規定による願書に添付した明細書、特許請求の範囲又は図面の補正（同項ただし書各号の規定によりしたものにあつては、誤訳訂正書の提出によるものに限る。）

(iii) amendments of the descriptions, claims, or drawings attached to written applications under Article 17-2, paragraph (1) after the publication of the patent application (in the case of an amendment under one of the items in the proviso to that paragraph, this is limited to an amendment made through the submission of a mistranslation correction form);

四　第四十八条の三第五項（同条第七項において準用する場合を含む。）の規定による出願審査の請求

(iv) requests for the examination of an application under Article 48-3, paragraph (5) (including as applied mutatis mutandis pursuant to paragraph (7) of the Article);

五　特許権の消滅（存続期間の満了によるもの及び第百十二条第四項又は第五項の規定によるものを除く。）又は回復（第百十二条の二第二項の規定によるものに限る。）

(v) lapse of patent (excluding lapse at the expiration of the period and forfeiture under Article 112, paragraph (4) or (5)) or the restoration of the same (limited to a restoration under Article 112-2, paragraph (2));

六　特許異議の申立て若しくは審判若しくは再審の請求又はこれらの取下げ

(vi) oppositions to a granted patent, or trials, appeals, or retrials, or withdrawals thereof;

七　特許異議の申立てについての確定した決定、審判の確定審決又は再審の確定した決定若しくは確定審決（特許権の設定の登録又は出願公開がされたものに限る。）

(vii) final and binding rulings on oppositions to a granted patent, final and binding decisions on trials and appeals, and or final and binding retrial decisions (but only if a patent application for which the establishment of a patent right is registered or patent application is published);

八　訂正した明細書及び特許請求の範囲に記載した事項並びに図面の内容（訂正をすべき旨の確定した決定又は確定審決があつたものに限る。）

(viii) matters stated in the corrected descriptions and claims, and the contents of drawings (limited to those corrected following a final and binding decision on a trial or appeal to correct them);

九　裁定の請求若しくはその取下げ又は裁定

(ix) requests for awards, withdrawal of request for awards and the awarding of awards; and

十　第百七十八条第一項の訴えについての確定判決（特許権の設定の登録又は出願公開がされたものに限る。）

(x) final and binding judgments in an action under Article 178, paragraph (1) (limited to the case where the establishment of a patent right has been registered or the publication of the patent application has been effected).

（書類の提出等）

(Submission of Documents)

第百九十四条　特許庁長官又は審査官は、当事者に対し、特許異議の申立て、審判又は再審に関する手続以外の手続を処理するため必要な書類その他の物件の提出を求めることができる。

Article 194 (1) The Commissioner of the Japan Patent Office or the examiner may request a party to a case to submit documents or other materials that are necessary for a procedure other than one relating to an opposition to a granted patent, a trial, appeal, or retrial.

２　特許庁長官又は審査官は、関係行政機関又は学校その他の団体に対して審査に必要な調査を依頼することができる。

(2) The Commissioner of the Japan Patent Office or the examiner may request the relevant administrative agency, educational institution or any other organizations to conduct an investigation that is necessary to the examination.

（手数料）

(Fees)

第百九十五条　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 195 (1) The following persons must pay the amount of fees that Cabinet Order specifies in view of the actual costs:

一　第四条、第五条第一項若しくは第百八条第三項の規定による期間の延長又は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 period as under Article 4, Article 5, paragraph (1), Article 108, paragraph (3), or a request for a change of date as under Article 5, paragraph (2);

二　特許証の再交付を請求する者

(ii) a person filing a request for re-issuance of a patent certificate;

三　第三十四条第四項の規定により承継の届出をする者

(iii) a person filing notification of a succession pursuant to Article 34, paragraph (4);

四　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 for issuance of a certificate pursuant to Article 186, paragraph (1);

五　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 for issuance of a certified copy of documents or an extract of documents pursuant to Article 186, paragraph (1);

六　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 documents pursuant to Article 186, paragraph (1); and

七　第百八十六条第一項の規定により特許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 to be issued a document that shows the information that has been recorded in a part of the Patent Register that is stored on magnetic tapes, pursuant to Article 186, paragraph (1).

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 attached table must pay the amount of fees that Cabinet Order specifies within the scope of the amount of money set forth in the corresponding right-hand column of the table.

３　特許出願人でない者が出願審査の請求をした後において、当該特許出願の願書に添付した特許請求の範囲についてした補正により請求項の数が増加したときは、その増加した請求項について前項の規定により納付すべき出願審査の請求の手数料は、同項の規定にかかわらず、特許出願人が納付しなければならない。

(3) Notwithstanding the provisions of the preceding paragraph, if the number of claims increases due to an amendment of the claims attached to the written application for the patent application after a person other than the applicant of the patent files a request for examination of an application, the fees for the request for examination of the patent application which is payable pursuant to the preceding paragraph in respect of the increased claims must be paid by the applicant of the patent.

４　前三項の規定は、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。

(4) The three preceding paragraphs do not apply if the person that would be required to pay the fee pursuant to those paragraphs is the State.

５　特許権又は特許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特許権又は特許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（出願審査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。

(5) If a patent or a right to be granted a patent is held under the co- ownership of the State and a person other than the State, and their shares have been agreed upon, notwithstanding the provisions of paragraph (1) or (2), the fees that are payable by the State and the person other than the State pursuant to those provisions in respect of their own patent or a right to be granted a patent (but only a fee specified by Cabinet Order which is other than for the request for examination) are the amount arrived at by multiplying the fee provided for in those provisions by the percentage that represents the share of the person other than the State, and this is the amount that the person other than the State must pay.

６　特許を受ける権利が国又は次条若しくは第百九十五条の二の二の規定若しくは他の法令の規定による出願審査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特許を受ける権利について第二項の規定により納付すべき出願審査の請求の手数料は、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出願審査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。

(6) If the right to be granted a patent is held under co-ownership with the State or a person receiving a reduction in or exemption from the fees for filing a request for examination as under the following Article or Article 195-2-2 or other laws or regulations (hereinafter in this paragraph referred to as a "reduction or exemption"), and the co-owner's shares of the right to be granted a patent have been agreed upon, notwithstanding the provisions of paragraph (2), the amount of fee for filing a request for examination that is payable by the persons pursuant to paragraph (2) in respect of their own right to be granted a patent is the sum total calculated by first multiplying the applicable fee for filing the request for examination provided for in that paragraph for each co-owner other than the State (for a person receiving a reduction or exemption, this means the fee after 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 the persons other than the State must pay.

７　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。

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

８　第一項から第三項までの手数料の納付は、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。

(8) Payment for the fees referred to in paragraphs (1) through (3) 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 cash payment may be made.

９　出願審査の請求をした後において、次に掲げる命令、通知又は査定の謄本の送達のいずれかがあるまでの間にその特許出願が放棄され、又は取り下げられたときは、第二項の規定により納付すべき出願審査の請求の手数料を納付した者の請求により政令で定める額を返還する。

(9) If the patent application is waived or withdrawn after the examination of the application is requested and before the issuance of an order or notice as allows or before the service of certified copy of the examiner's decision as follow, at the request of the person that paid the fee for requesting for examination pursuant to paragraph (2), the amount specified by Cabinet Order is refunded:

一　第三十九条第六項の規定による命令

(i) an order under Article 39, paragraph (6);

二　第四十八条の七の規定による通知

(ii) a notice under Article 48-7;

三　第五十条の規定による通知

(iii) a notice under Article 50; or

四　第五十二条第二項の規定による査定の謄本の送達

(iv) service of a certified copy of the examiner's decision under Article 52, paragraph (2).

１０　前項の規定による手数料の返還は、特許出願が放棄され、又は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。

(10) A request for a refund of fees under the preceding paragraph may not be filed once six months have passed since the date on which the patent application was waived or withdrawn.

１１　過誤納の手数料は、納付した者の請求により返還する。

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

１２　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。

(12) A refund of fees under the preceding paragraph may not be filed once one year has passed since the date those fees were paid.

１３　第九項又は第十一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、第十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、その理由がなくなつた日から十四日（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。

(13) If a person that makes a request for a refund of fees under paragraph (9) or paragraph (11) is unable to make the request within the period provided in paragraph (10) or the preceding paragraph due to reasons beyond the person's control, the person may, notwithstanding these provisions, make the request within 14 days (if the person is an overseas resident, within two months) from the date on which the reasons ceased to be applicable, but not later than six months following the passage of the period prescribed in these provisions.

（出願審査の請求の手数料の減免）

(Reduction of or Exemption from Fees for Request for Examination of an Application)

第百九十五条の二　特許庁長官は、自己の特許出願について出願審査の請求をする者であつて資力を考慮して政令で定める要件に該当する者が、出願審査の請求の手数料を納付することが困難であると認めるときは、政令で定めるところにより、前条第二項の規定により納付すべき出願審査の請求の手数料を軽減し、又は免除することができる。

Article 195-2 If the Commissioner of the Japan Patent Office finds that a person requesting the examination of the person's own patent application and meeting the requirements that Cabinet Order specifies in consideration of financial resources, is having difficulty paying the fee for requesting for the examination of the application, the Commissioner of the Japan Patent Office may, pursuant to Cabinet Order, reduce or exempt the fees payable for the request for examination of the application pursuant to paragraph (2) of the preceding Article.

第百九十五条の二の二　特許庁長官は、自己の特許出願について出願審査の請求をする者であつて、第百九条の二第一項の政令で定める者に対しては、政令で定めるところにより、第百九十五条第二項の規定により納付すべき出願審査の請求の手数料を軽減し、又は免除することができる。

Article 195-2-2 Pursuant to the provisions of Cabinet Order, the Commissioner of the Japan Patent Office may reduce or exempt the fees for a request for examination that are pursuant to Article 195, paragraph (2) for a person that is filing a request for examination of the person's own patent application and constitutes a person specified by Cabinet Order as referred to in Article 109-2, paragraph (1).

（行政手続法の適用除外）

(Exclusion from Application of the Administrative Procedures Act)

第百九十五条の三　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ついては、行政手続法（平成五年法律第八十八号）第二章及び第三章の規定は、適用しない。

Article 195-3 Chapters II and III of the Administrative Procedures Act (Act No. 88 of 1993) do not apply to dispositions under this Act or an order issued pursuant to this Act.

（行政不服審査法の規定による審査請求の制限）

(Restriction on Request for Administrative Review Under the Provisions of the Administrative Complaint Review Act)

第百九十五条の四　査定、取消決定若しくは審決及び特許異議申立書、審判若しくは再審の請求書若しくは第百二十条の五第二項若しくは第百三十四条の二第一項の訂正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ついては、行政不服審査法の規定による審査請求をすることができない。

Article 195-4 It is not permissible to request for administrative review under the provisions of the Administrative Complaint Review Act for an examiner's decision, revocation decision, or trial decision, for a ruling to dismiss a statement of opposition to a granted patent, for a written request for a trial or retrial or a written request for correction under Article 120-5, paragraph (2) or Article 134-2, paragraph (1), or for a disposition against which no appeal may be filed pursuant to this Act, or inactions thereof.

第十一章　罰則

Chapter XI Penal Provisions

（侵害の罪）

(The Crime of Infringement)

第百九十六条　特許権又は専用実施権を侵害した者（第百一条の規定により特許権又は専用実施権を侵害する行為とみなされる行為を行つた者を除く。）は、十年以下の懲役若しくは千万円以下の罰金に処し、又はこれを併科する。

Article 196 A person that infringes a patent right or violates an exclusive license (other than a person committing an act that is deemed to constitute the infringement of a patent right or violation of an exclusive license pursuant to Article 101) is subject to punishment by imprisonment for a term not exceeding ten years or a fine not exceeding 10,000,000 yen, or a combination thereof.

第百九十六条の二　第百一条の規定により特許権又は専用実施権を侵害する行為とみなされる行為を行つた者は、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 196-2 A person that commits an act that is deemed to constitute the infringement of a patent right or violation of an exclusive license pursuant to Article 101 is subject to punishment by imprisonment for a term not exceeding five years or a fine not exceeding 5,000,000 yen or a combination thereof.

（詐欺の行為の罪）

(The Crime of Fraud)

第百九十七条　詐欺の行為により特許、特許権の存続期間の延長登録、特許異議の申立てについての決定又は審決を受けた者は、三年以下の懲役又は三百万円以下の罰金に処する。

Article 197 A person that obtains a patent, registers a patent term extension, or is issued a ruling on an opposition to a granted patent or a decision on a trial or appeal by means of a fraudulent act is subject to punishment by imprisonment for a term not exceeding three years or a fine not exceeding 3,000,000 yen.

（虚偽表示の罪）

(Crime of False Marking)

第百九十八条　第百八十八条の規定に違反した者は、三年以下の懲役又は三百万円以下の罰金に処する。

Article 198 A person that violates Article 188 is subject to punishment by imprisonment for a term not exceeding three years or a fine not exceeding 3,000,000 yen.

（偽証等の罪）

(The Crime of Perjury)

第百九十九条　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嘱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 199 (1) A witness, expert, or interpreter that has sworn under oath pursuant to this Act and then offered a false statement, expert opinion, or false interpretation to the Japan Patent Office or the court commissioned thereby is subject to punishment by imprisonment for a term 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、又は特許異議の申立てについての決定若しくは審決が確定する前に自白したときは、その刑を減軽し、又は免除することができる。

(2) If a person that has committed the crime referred to in the preceding paragraph makes a voluntary confession before a certified copy of the judgment in the case is served, or before a ruling on an opposition to a granted patent or a decision on a trial or appeal has become final and binding, the relevant punishment may be reduced or remitted.

（秘密を漏らした罪）

(The Crime of Disclosing Confidential Information)

第二百条　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特許出願中の発明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 200 A present or former official of the Japan Patent Office that discloses or misappropriates confidential information about an invention claimed in a pending patent application that the official has learned in connection with official duties is subject to punishment by imprisonment for a term not exceeding one year or a fine not exceeding 500,000 yen.

第二百条の二　査証人又は査証人であつた者が査証に関して知得した秘密を漏らし、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 200-2 If a current or former investigator discloses or misappropriates a secret learned in connection with their investigation, the current or former investigator is subject to imprisonment for a term not exceeding a year or a fine not exceeding 500,000 yen.

（秘密保持命令違反の罪）

(The Crime of Violating a Confidentiality Protective Order)

第二百条の三　秘密保持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 200-3 (1) A person that violates a confidentiality protective order is subject to punishment by imprisonment for a term not exceeding five years or a fine not exceeding 5,000,000 yen or a combination thereof.

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 that commits that crime outside Japan.

（両罰規定）

(Dual Liability)

第二百一条　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 201 (1) If the representative of a corporation, or the agent, employee, or other worker of a corporation or an individual commits a violation of the provisions set forth in one of the following items in connection with business of that corporation or individual, beyond the offender being subject to punishment, the corporation is subject to punishment by a fine prescribed in the relevant item and the individual is subject to punishment by a fine prescribed in the relevant Article referred to in the that item:

一　第百九十六条、第百九十六条の二又は前条第一項　三億円以下の罰金刑

(i) Article 196, Article 196-2, or paragraph (1) of the preceding Article: a fine not exceeding 300 million yen; and

二　第百九十七条又は第百九十八条　一億円以下の罰金刑

(ii) Article 197 or 198: a fine not exceeding 100 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 as referred to in the preceding paragraph, a complaint as referred to in paragraph (2) of the preceding Article 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百九十六条、第百九十六条の二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 196 or 196-2, or paragraph (1) of the preceding Article, the period of prescription is governed by the same rules as those for crimes in the provisions of those provisions.

（過料）

(Civil Fine)

第二百二条　第百五十一条（第七十一条第三項、第百二十条（第百七十四条第一項において準用する場合を含む。）及び第百七十四条第二項から第四項までにおいて準用する場合を含む。）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嘱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 202 If a person that has sworn under oath pursuant to Article 207, paragraph (1) of the Code of Civil Procedure as applied pursuant to Article 151 (including as applied mutatis mutandis pursuant to Article 71, paragraph (3), Article 120 (including as applied mutatis mutandis pursuant to Article 174, paragraph (1)) and Article 174, paragraphs (2) through (4) of this Act) offers a false statement to the Japan Patent Office or the court commissioned thereby, the person is subject to punishment by a civil fine not exceeding 100,000 yen.

第二百三条　この法律の規定により特許庁又はその嘱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 203 A person that, pursuant to this Act, has been summoned by the Japan Patent Office or the court commissioned thereby, but that, without legitimate grounds 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 punishment by a civil fine not exceeding 100,000 yen.

第二百四条　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嘱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 204 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 legitimate grounds for doing so, does not comply with that order is subject to punishment by a civil fine not exceeding 100,000 yen.

別表（第百九十五条関係）

Appended Table (In relation to Article 195)

|  |  |  |
| --- | --- | --- |
|  | 納付しなければならない者Person who must pay fees | 金額Amounts |
| 一1 | 特許出願（次号に掲げるものを除く。）をする者A person filing a patent application (excluding one in the following item) | 一件につき一万六千円16,000 yen per case |
| 二2 | 外国語書面出願をする者A person filing a written application in a foreign language | 一件につき二万六千円26,000 yen per case |
| 三3 | 第三十八条の三第三項の規定により手続をすべき者A person responsible for the procedures under Article 38-3, paragraph (3) | 一件につき一万六千円16,000 yen per case |
| 四4 | 第百八十四条の五第一項の規定により手続をすべき者A person responsible for the procedures under Article 184-5, paragraph (1) | 一件につき一万六千円16,000 yen per case |
| 五5 | 第百八十四条の二十第一項の規定により申出をする者A person filing a petition under Article 184-20, article (1) | 一件につき一万六千円16,000 yen per case |
| 六6 | 特許権の存続期間の延長登録の出願をする者A person filing an application for the registration of extension of the duration of a patent right |  |
| イ　第六十七条第二項の延長登録の出願をする場合(1) Applying the registration of extension under Article 67, paragraph (2). | 一件につき四万三千六百円43,600 yen per case |
| ロ　第六十七条第四項の延長登録の出願をする場合(2) Applying the registration of extension under Article 67, paragraph (4). | 一件につき七万四千円74,000 yen per case |
| 七7 | 第五条第三項の規定による期間の延長（第五十条の規定により指定された期間に係るものを除く。）を請求する者A person filing a request for extension of time limits under Article 5, paragraph (3) (excluding that with regard to the time limit designated under Article 50) | 一件につき四千二百円4,200 yen per case |
| 八8 | 第五条第三項の規定による期間の延長（第五十条の規定により指定された期間に係るものに限る。）を請求する者A person filing a request for extension of time limits under Article 5, paragraph (3) (that of the time limit designated under Article 50 only) | 一件につき六万八千円68,000 yen per case |
| 九9 | 出願審査の請求をする者A person requesting an examination of an application | 一件につき十六万八千六百円に一請求項につき四千円を加えた額168,600 yen per case plus 4,000 yen per claim |
| 十10 | 誤訳訂正書を提出して明細書、特許請求の範囲又は図面について補正をする者A person amending a description, scope of claims, or drawings through the submission of a statement of correction of incorrect translation | 一件につき一万九千円19,000 yen per case |
| 十一11 | 第三十六条の二第六項、第四十一条第一項第一号括弧書、第四十三条の二第一項（第四十三条の三第三項において準用する場合を含む。）、第四十八条の三第五項（同条第七項において準用する場合を含む。）、第百十二条の二第一項、第百八十四条の四第四項又は第百八十四条の十一第六項の規定により手続をする者（その責めに帰することができない理由によりこれらの規定による手続をすることとなつた者を除く。）A person undertaking any of the procedures pursuant to Article 36-2, paragraph (6), the provisions in parentheses of Article 41, paragraph (1), item (i), Article 43-2, paragraph (1) (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3)), Article 48-3, paragraph (5) (including as applied mutatis mutandis pursuant to Article 48-3, paragraph (7)), Article 112-2, paragraph (1), Article 184-4, paragraph (4) or Article 184-11, paragraph (6) (excluding a person who needs to undertake any of the procedures prescribed in these provisions due to reasons beyond the person's control) | 一件につき二十九万七千円297,000 yen per case |
| 十二12 | 第七十一条第一項の規定により判定を求める者A person requesting an advisory opinion under Article 71, paragraph (1) | 一件につき四万円40,000 yen per case |
| 十三13 | 裁定を請求する者A person requesting an award | 一件につき五万五千円55,000 yen per case |
| 十四14 | 裁定の取消しを請求する者A person requesting canceling of an award | 一件につき二万七千五百円27,500 yen per case |
| 十五15 | 特許異議の申立てをする者a patent opponent | 一件につき一万六千五百円に一請求項につき二千四百円を加えた額16,500 yen per case plus 2,400 yen per claim |
| 十六16 | 特許異議の申立てについての審理への参加を申請する者a person applying intervention in proceedings on an opposition to a granted patent | 一件につき一万千円11,000 yen per case |
| 十七17 | 審判又は再審（次号に掲げるものを除く。）を請求する者A person filing a request for a trial or retrial (excluding one in the following item) | 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49,500 yen per case plus 5,500 yen per claim |
| 十八18 | 特許権の存続期間の延長登録の拒絶査定若しくは無効に係る審判又はこれらの審判の確定審決に対する再審を請求する者A person filing a request for a trial against an examiner's decision of refusal of the registration of extension of the term of a patent right, a trial for invalidation of the registration of extension of the term of a patent right, or a retrial against the final and binding administrative judge's decision in these trials. | 一件につき五万五千円55,000 yen per case |
| 十九19 | 明細書、特許請求の範囲又は図面の訂正の請求をする者A person filing a request for a correction of the description, scope of claim(s), or drawing(s) | 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49,500 yen per case plus 5,500 yen per claim |
| 二十20 | 審判又は再審への参加を申請する者A person applying intervention in a trial or retrial | 一件につき五万五千円55,000 yen per case |