

意匠法

Design Act

(昭和三十四年四月十三日法律第百二十五号)
(Act No. 125 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、意匠の保護及び利用を図ることにより、意匠の創作を奨励し、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 the creation of designs by enabling the protection and utilization of designs, and thereby contributing to the development of industry.

(定義等)

(Definitions)

第二条 この法律で「意匠」とは、物品（物品の部分を含む。以下同じ。）の形状、模様若しくは色彩若しくはこれらの結合（以下「形状等」という。）、建築物（建築物の部分を含む。以下同じ。）の形状等又は画像（機器の操作の用に供されるもの又は機器がその機能を発揮した結果として表示されるものに限り、画像の部分を含む。次条第二項、第三十七条第二項、第三十八条第七号及び第八号、第四十四条の三第二項第六号並びに第五十五条第二項第六号を除き、以下同じ。）であつて、視覚を通じて美感を起こさせるものをいう。

Article 2 (1) The term "design" in this Act means the shape, patterns, or colors, or any combination of them (hereinafter referred to as the "shape or equivalent features"), of an article (including a part of an article; the same applies hereinafter); the shape or equivalent features of a building (including a part of a building; the same applies hereinafter); or a graphic image (limited to one used in the operation of a device or displayed as a result of the device performing its function, and including a part of a graphic image; hereinafter the same applies excluding paragraph (2) of the following Article, Article 37, paragraph (2), Article 38, items (vii) and (viii), Article 44-3, paragraph (2), item (vi) and Article 55, paragraph (2), item (vi)), which is aesthetically pleasing in its visual presentation.

2 この法律で意匠について「実施」とは、次に掲げる行為をいう。

(2) The term "working" as used in this Act with respect to a design means the following acts:

一 意匠に係る物品の製造、使用、譲渡、貸渡し、輸出若しくは輸入（外国にある者が外国から日本国内に他人をして持ち込ませる行為を含む。以下同じ。）又は譲渡若しくは貸渡しの申出（譲渡又は貸渡しのための展示を含む。以下同じ。）をする行為

(i) manufacturing, using, transferring, leasing, exporting, or importing
(including an act of a person in a foreign country having another person

- bring an article embodying the design from the foreign country into Japan; the same applies hereinafter), or offering to transfer or lease (including displaying for the purpose of transferring or leasing; the same applies hereinafter) an article embodying the design;
- 二 意匠に係る建築物の建築、使用、譲渡若しくは貸渡し又は譲渡若しくは貸渡しの申出をする行為
- (ii) constructing, using, transferring, or leasing, or offering to transfer or lease a building embodying the design;
- 三 意匠に係る画像（その画像を表示する機能を有するプログラム等（特許法（昭和三十四年法律第二百一十一号）第二条第四項に規定するプログラム等をいう。以下同じ。）を含む。以下この号において同じ。）について行う次のいずれかに該当する行為
- (iii) acts falling under any of the following sub-items performed in connection with the graphic image embodying the design (including a computer program or anything equivalent (refers to a computer program or anything equivalent provided in Article 2, paragraph (4) of the Patent Act (Act No.121 of 1959); the same applies hereinafter) that has a function to display the graphic image; hereinafter the same applies in this item):
- イ 意匠に係る画像の作成、使用又は電気通信回線を通じた提供若しくはその申出（提供のための展示を含む。以下同じ。）をする行為
- (a) creating or using the graphic image embodying the design, or providing or offering to provide it through a telecommunications line (this includes displaying it in order to provide it; the same applies hereinafter);
- ロ 意匠に係る画像を記録した記録媒体又は内蔵する機器（以下「画像記録媒体等」という。）の譲渡、貸渡し、輸出若しくは輸入又は譲渡若しくは貸渡しの申出をする行為
- (b) transferring, leasing, exporting or importing, or offering to transfer or lease a recording medium on which the graphic image embodying the design has been recorded or a device that incorporates the graphic image embodying the design (hereinafter referred to as a "recording medium or device holding a graphic image").
- 3 この法律で「登録意匠」とは、意匠登録を受けている意匠をいう。
- (3) The term "registered design" as used in this Act means a design for which a design registration has been made.

第二章 意匠登録及び意匠登録出願

Chapter II Design Registration and Application for Design Registration

(意匠登録の要件)

(Requirements for Design Registration)

第三条 工業上利用することができる意匠の創作をした者は、次に掲げる意匠を除き、

その意匠について意匠登録を受けることができる。

Article 3 (1) A creator of a design that is industrially applicable may have a design registration made for the design, except for the following designs:

一 意匠登録出願前に日本国内又は外国において公然知られた意匠

(i) designs that were publicly known in Japan or a foreign country, prior to the filing of the application for design registration;

二 意匠登録出願前に日本国内又は外国において、頒布された刊行物に記載された意匠又は電気通信回線を通じて公衆に利用可能となつた意匠

(ii) designs that were contained in a distributed publication, or designs that were made publicly available through a telecommunications line in Japan or a foreign country, prior to the filing of the application for design registration;

or

三 前二号に掲げる意匠に類似する意匠

(iii) designs similar to those prescribed in the preceding two items.

2 意匠登録出願前にその意匠の属する分野における通常の知識を有する者が日本国内又は外国において公然知られ、頒布された刊行物に記載され、又は電気通信回線を通じて公衆に利用可能となつた形状等又は画像に基づいて容易に意匠の創作をすることができたときは、その意匠（前項各号に掲げるものを除く。）については、同項の規定にかかわらず、意匠登録を受けることができない。

(2) If, prior to the filing of the application for design registration, a person ordinarily skilled in the art of the design would have been able to easily create the design based on a shape or equivalent features or graphic images that were publicly known, contained in a distributed publication, or made available to the public through a telecommunications line in Japan or a foreign country, a person may not have a design registration made for that design (except for designs prescribed in any of the items of the preceding paragraph), notwithstanding the preceding paragraph.

第三条の二 意匠登録出願に係る意匠が、当該意匠登録出願の日前の他の意匠登録出願であつて当該意匠登録出願後に第二十条第三項又は第六十六条第三項の規定により意匠公報に掲載されたもの（以下この条において「先の意匠登録出願」という。）の願書の記載及び願書に添付した図面、写真、ひな形又は見本に現された意匠の一部と同一又は類似であるときは、その意匠については、前条第一項の規定にかかわらず、意匠登録を受けることができない。ただし、当該意匠登録出願の出願人と先の意匠登録出願の出願人とが同一の者であつて、第二十条第三項の規定により先の意匠登録出願が掲載された意匠公報（同条第四項の規定により同条第三項第四号に掲げる事項が掲載されたものを除く。）の発行の日前に当該意匠登録出願があつたときは、この限りでない。

Article 3-2 If a design in an application for design registration is identical or similar to part of a design depicted in the application and drawing, photograph, model, or specimen attached to the application of another application for

design registration which has been filed prior to the date of filing of the application and published after the filing of the application in the design gazette pursuant to Article 20, paragraph (3) or Article 66, paragraph (3) (hereinafter referred to as the "earlier application for design registration" in this Article), a design registration may not be made for that design, notwithstanding paragraph (1) of the preceding Article; provided, however, that this does not apply if the applicant of the application and the applicant of the earlier application for design registration are the same person and the application was filed before the date when the design gazette in which the earlier application for design registration was published pursuant to Article 20, paragraph (3) (except for the design gazette in which the matters listed in Article 20, paragraph (3), item (iv) were published pursuant to Article 20, paragraph (4)) was issued.

(意匠の新規性の喪失の例外)

(Exception to Lack of Novelty of Design)

第四条 意匠登録を受ける権利を有する者の意に反して第三条第一項第一号又は第二号に該当するに至った意匠は、その該当するに至った日から一年以内にその者がした意匠登録出願に係る意匠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、同条第一項第一号又は第二号に該当するに至らなかつたものとみなす。

Article 4 (1) In applying the provisions of Article 3, paragraphs (1) and (2) to a design in an application for design registration that the person with the right to have a design registration made has filed within one year after the day on which that design, contrary to the person's wishes, came to fall under the provisions of Article 3, paragraph (1), item (i) or (ii), the design in question is deemed not to have come to fall under the provisions of Article 3, paragraph (1), item (i) or (ii).

2 意匠登録を受ける権利を有する者の行為に起因して第三条第一項第一号又は第二号に該当するに至った意匠（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第一号又は第二号に該当するに至ったものを除く。）も、その該当するに至った日から一年以内にその者がした意匠登録出願に係る意匠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 governs the application of the provisions of Article 3, paragraphs (1) and (2) to a design in an application for design registration that the person with the right to have a design registration made has filed within one year after the day on which that design, due to that person's actions, came to fall under the provisions of Article 3, paragraph (1), item (i) or (ii) (excluding a design that came to fall under those items by being published in a gazette for inventions, utility models, designs, or trademarks).

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意匠登録出願と同時に特許庁長官に提出し、かつ、第三条第一項第一号又は第二号に該当するに至つ

た意匠が前項の規定の適用を受けることができる意匠であることを証明する書面（次項及び第六十条の七において「証明書」という。）を意匠登録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) A person seeking the application of the preceding paragraph must submit to the Commissioner of the Japan Patent Office, at the time of filing of the application for design registration, a document stating that the person is seeking the application and, within 30 days from the date of filing of the application for design registration, a document proving the fact that the design which has fallen under Article 3, paragraph (1), item (i) or (ii) is a design to which the preceding paragraph (referred to as a "certificate" in the following paragraph and Article 60-7) may be applicable.

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) Notwithstanding the preceding paragraph, if the person is unable to submit the certificate within the period as provided in that paragraph due to causes not attributable to the person, the person may submit the certificate to the Commissioner of the Japan Patent Office within 14 days (or, if the person is an overseas resident, within two months) of the date on which the cause ceased to exist, but not later than six months following the lapse of the period.

（意匠登録を受けることができない意匠）

(Designs Not Eligible for Design Registration)

第五条 次に掲げる意匠については、第三条の規定にかかわらず、意匠登録を受けることができない。

Article 5 Notwithstanding the provisions of Article 3, the following designs may not have a design registration made:

一 公の秩序又は善良の風俗を害するおそれがある意匠

(i) a design that may damage public order or morals;

二 他人の業務に係る物品、建築物又は画像と混同を生ずるおそれがある意匠

(ii) a design that risks giving rise to confusion with an article, building, or graphic image connected with another person's business; or

三 物品の機能を確保するために不可欠な形状若しくは建築物の用途にとって不可欠な形状のみからなる意匠又は画像の用途にとって不可欠な表示のみからなる意匠

(iii) a design consisting solely of shapes that are essential to ensure the functioning of an article or consisting solely of shapes that are essential to the usage of a building, or a design consisting solely of indications that are essential to the usage of the graphic image.

（仮通常実施権）

(Provisional Non-Exclusive Licenses)

第五条の二 意匠登録を受ける権利を有する者は、その意匠登録を受ける権利に基づいて取得すべき意匠権について、その意匠登録出願の願書の記載及び願書に添付した図面、写真、ひな形又は見本に現された意匠又はこれに類似する意匠の範囲内において、他人に仮通常実施権を許諾することができる。

Article 5-2 (1) A person that has the right to have a design registration made may grant a provisional non-exclusive license of the design right to be obtained based on the right to have a design registration made to another person within the scope of a design depicted in the application for design registration and depicted in the drawing, or represented in the photograph, model, or specimen attached to the application or a design similar to it.

2 前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意匠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、その意匠権について、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 a registration establishing design rights has been made in connection with an application for design registration to which a provisional non-exclusive license under the preceding paragraph is linked, a non-exclusive license is deemed to be granted under those design rights to the person that has that provisional non-exclusive license, to the extent permitted by the act establishing the provisional non-exclusive license.

3 特許法第三十三条第二項及び第三項、第三十四条の三第四項、第六項及び第八項から第十項まで並びに第三十四条の五の規定は、仮通常実施権に準用する。この場合において、同法第三十四条の三第八項中「第四十六条第一項」とあるのは「意匠法第十三条第二項」と、同条第九項中「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」とあるのは「第一項又は前条第四項の規定による仮通常実施権に係る特許出願について、意匠法第十三条第一項」と読み替えるものとする。

(3) The provisions of Article 33, paragraphs (2) and (3), Article 34-3, paragraph (4), paragraph (6), paragraphs (8) through (10), and Article 34-5 of the Patent Act apply mutatis mutandis to a provisional non-exclusive license. In this case, the term "Article 46, paragraph (1)" in Article 34-3, paragraph (8) of the Patent Act is deemed to be replaced with "Article 13, paragraph (2) of the Design Act", the term "Article 46, paragraph (2) of the Patent Act 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" in Article 34-3, paragraph (9) of the Patent Act is deemed to be replaced with "Article 13, paragraph (1) of the Design Act with regard to a patent application to which a provisional non-exclusive license under paragraph (1) or (4) of the preceding Article is linked".

(意匠登録出願)

(Application for Design Registration)

第六条 意匠登録を受けようとする者は、次に掲げる事項を記載した願書に意匠登録を受けようとする意匠を記載した図面を添付して特許庁長官に提出しなければならない。

Article 6 (1) A person seeking to have a design registration made must submit to the Commissioner of the Japan Patent Office an application stating the following matters accompanied by a drawing depicting the design for which the registration is sought:

一 意匠登録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 design registration;

二 意匠の創作をした者の氏名及び住所又は居所

(ii) the name and domicile or residence of the creator of the design; and

三 意匠に係る物品又は意匠に係る建築物若しくは画像の用途

(iii) the article embodying the design, or the usage of the building or graphic image embodying the design.

2 経済産業省令で定める場合は、前項の図面に代えて、意匠登録を受けようとする意匠を現わした写真、ひな形又は見本を提出することができる。この場合は、写真、ひな形又は見本の別を願書に記載しなければならない。

(2) If so provided by Order of the Ministry of Economy, Trade and Industry, the applicant may submit photographs, models, or specimens representing the design for which the registration is sought, in lieu of the drawing referred to in the preceding paragraph. In this case, the applicant must indicate in the application whether they are photographs, models, or specimens that are being submitted.

3 第一項第三号の意匠に係る物品若しくは意匠に係る建築物の用途の記載又は願書に添付した図面、写真若しくはひな形によつてはその意匠の属する分野における通常の知識を有する者がその意匠に係る物品又は建築物の材質又は大きさを理解することができないためその意匠を認識することができないときは、その意匠に係る物品又は建築物の材質又は大きさを願書に記載しなければならない。

(3) If neither the statement concerning the article embodying the design or the usage of the building embodying the design that is referred to in paragraph (1), item (iii), nor the drawings, photographs, or models attached to the application would give a person ordinarily skilled in the art of the design a concept of the material or size of the article or building, and by this reason the person would not be able to discern the design, the material or size of the article or building embodying the design must be stated on the application.

4 意匠に係る物品の形状、模様若しくは色彩、建築物の形状、模様若しくは色彩又は画像がその物品、建築物又は画像の有する機能に基づいて変化する場合において、その変化の前後にわたるその物品の形状等、建築物の形状等又は画像について意匠登録を受けようとするときは、その旨及びその物品、建築物又は画像の当該機能の説明を願書に記載しなければならない。

(4) If the shape, pattern, or color of an article embodying a design, the shape, pattern, or color of a building embodying a design, or a graphic image embodying a design changes due to the way the article, building, or graphic image functions, and the applicant seeks to have a design registration made for the shapes and equivalent features of the article, the shapes and equivalent features of the building, or the graphic image as it appears before, during, and after that change, the applicant must indicate this and give an explanation of that function of the article, building, or graphic image in the application.

5 第一項又は第二項の規定により提出する図面、写真又はひな形にその意匠の色彩を付するときは、白色又は黒色のうち一色については、彩色を省略することができる。

(5) If colors of the design are applied to the drawing, photograph, or model to be submitted pursuant to the provisions of paragraph (1) or (2), the applicant may omit applying either the color black or white.

6 前項の規定により彩色を省略するときは、その旨を願書に記載しなければならない。

(6) When the applicant omits applying the color black or white pursuant to the provisions of the preceding paragraph, the applicant must indicate this in the application.

7 第一項の規定により提出する図面に意匠を記載し、又は第二項の規定により提出する写真若しくはひな形に意匠を現す場合において、その意匠に係る物品、建築物又は画像の全部又は一部が透明であるときは、その旨を願書に記載しなければならない。

(7) If the applicant submits a drawing depicting a design pursuant to paragraph (1) or a photograph or model representing a design pursuant to paragraph (2), and the whole or part of the article embodying the design, building embodying the design, or graphic image embodying the design is transparent, the applicant must state this fact in the application.

(一意匠一出願)

(One Application per Design)

第七条 意匠登録出願は、経済産業省令で定めるところにより、意匠ごとにしなければならない。

Article 7 An application for design registration must be filed for each design as provided by Order of the Ministry of Economy, Trade and Industry.

(組物の意匠)

(Design for a Set of Articles)

第八条 同時に使用される二以上の物品、建築物又は画像であつて経済産業省令で定めるもの（以下「組物」という。）を構成する物品、建築物又は画像に係る意匠は、組物全体として統一があるときは、一意匠として出願をし、意匠登録を受けることができる。

Article 8 A design for two or more articles, buildings or graphic images that are used together and that are specifically designated by Order of the Ministry of

Economy, Trade and Industry (hereinafter referred to as a "set of articles") may be filed as one design and have a design registration made if the set of articles has a sense of unity as a whole.

(内装の意匠)

(Designs for Interiors)

第八条の二 店舗、事務所その他の施設の内部の設備及び装飾（以下「内装」という。）を構成する物品、建築物又は画像に係る意匠は、内装全体として統一的な美感を起こさせるときは、一意匠として出願をし、意匠登録を受けることができる。

Article 8-2 A design for articles, buildings, or graphic images that constitute equipment and decorations inside a store, office, and the other facilities (hereinafter referred to as "interior") may be filed as one design in an application, and have a design registration made if the interior creates a coordinated aesthetic impression as a whole.

(先願)

(Prior Application)

第九条 同一又は類似の意匠について異なつた日に二以上の意匠登録出願があつたときは、最先の意匠登録出願人のみがその意匠について意匠登録を受けることができる。

Article 9 (1) If two or more applications for design registration have been filed for identical or similar designs on different dates, only the applicant who filed the application for design registration on the earliest date may have a design registration made for the design.

2 同一又は類似の意匠について同日に二以上の意匠登録出願があつたときは、意匠登録出願人の協議により定めた一の意匠登録出願人のみがその意匠について意匠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、いずれも、その意匠について意匠登録を受けることができない。

(2) If two or more applications for design registration have been filed for identical or similar designs on the same day, only one applicant designated through consultation among the applicants who filed the applications may have a design registration made for the design. If the consultation produces no result or cannot be held, none of the applicants may have a design registration made for the design.

3 意匠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、又は意匠登録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、その意匠登録出願は、前二項の規定の適用については、初めからなかつたものとみなす。ただし、その意匠登録出願について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。

(3) If an application for design registration has been abandoned, withdrawn, or dismissed, or if the examiner's decision or the trial or appeal decision rejecting an application for design registration has become final and binding, the

application for design registration, for the purpose of applying the preceding two paragraphs, is deemed not to have been filed from the beginning; provided, however, that this does not apply to the case if the examiner's decision or the trial or appeal decision to reject the application for design registration has become final and binding on the basis that the second sentence of the preceding paragraph is applicable to that application for design registration.

4 特許庁長官は、第二項の場合は、相当の期間を指定して、同項の協議をしてその結果を届け出るべき旨を意匠登録出願人に命じなければならない。

(4) In the case referred to in paragraph (2), the Commissioner of the Japan Patent Office must order the applicants to have consultation referred to in paragraph (2) and to notify its results, by specifying a reasonable period of time.

5 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、第二項の協議が成立しなかつたものとみなすことができる。

(5) If no notification under the preceding paragraph is made within the period specified pursuant to that paragraph, the Commissioner of the Japan Patent Office may deem that no agreement under paragraph (2) has been reached.

(願書の記載又は図面等の補正と要旨変更)

(Amendment of Statement in the Application or the Drawing and Change of Gist)

第九条の二 願書の記載（第六条第一項第一号及び第二号に掲げる事項並びに同条第二項の規定により記載した事項を除く。第十七条の二第一項及び第二十四条第一項において同じ。）又は願書に添付した図面、写真、ひな形若しくは見本についてした補正がこれらの要旨を変更するものと意匠権の設定の登録があつた後に認められたときは、その意匠登録出願は、その補正について手続補正書を提出した時にしたものとみなす。

Article 9-2 If, after the registration establishing the design rights is made, it is found that an amendment made to the statement in the application (excluding the matters set forth in Article 6, paragraph (1), items (i) and (ii) and the matters stated pursuant to paragraph (2) of that Article; the same applies in Article 17-2, paragraph (1) and Article 24, paragraph (1)) or to the drawing, photograph, model, or specimen attached to the application has changed its gist, the application for design registration is deemed to have been filed at the time the written amendment of procedures was submitted.

(関連意匠)

(Related Designs)

第十条 意匠登録出願人は、自己の意匠登録出願に係る意匠又は自己の登録意匠のうちから選択した一の意匠（以下「本意匠」という。）に類似する意匠（以下「関連意匠」という。）については、当該関連意匠の意匠登録出願の日（第十五条第一項において準用する特許法第四十三条第一項、第四十三条の二第一項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意匠登録出願にあつては、最初の出願若しくは千九百年十二月十四日にブラッセルで、千九百十一年六月二日にワシントンで、千九百二十五年十一月六日にヘーグで、千九百三十四年六月二日にロンドンで、千九百五十八年十月三十一日にリスボンで及び千九百六十七年七月十四日にストックホルムで改正された工業所有権の保護に関する千八百八十三年三月二十日のパリ条約第四条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。以下この項において同じ。）がその本意匠の意匠登録出願の日以後であつて、当該本意匠の意匠登録出願の日から十年を経過する日前である場合に限り、第九条第一項又は第二項の規定にかかわらず、意匠登録を受けることができる。ただし、当該関連意匠の意匠権の設定の登録の際に、その本意匠の意匠権が第四十四条第四項の規定により消滅しているとき、無効にすべき旨の審決が確定しているとき、又は放棄されているときは、この限りでない。

Article 10 (1) Notwithstanding the provisions of Article 9, paragraph (1) or (2), an applicant for design registration may have a registration made for a design that is similar to a single design which the applicant has selected either from among the applicant's own designs for which an application for design registration has been filed or from among the applicant's own registered designs (hereinafter the selected design is referred to as the "principal design" and a design similar to it is referred to as a "related design"), but only if the filing date of the application to register the related design (or, if the application to register the related design contains a priority claim under Article 43, paragraph (1), Article 43-2, paragraph (1), Article 43-3, paragraph (1) or Article 43-3, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1), the filing date of the earliest application, the filing date of an application that is deemed to be the earliest application pursuant to Article 4C.(4) of the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958, and at Stockholm on July 14, 1967, or the filing date of an application that is recognized as the earliest application pursuant to Article 4A.(2) of the Paris Convention; hereinafter the same applies in this paragraph) falls on or after the filing date of the application to register the principal design, and also falls prior to the last day before the lapse of 10 years' time after the filing date of the application to register the principal design; provided, however, that this does not apply if, as of the time of the registration establishing the rights to the related design, the rights to the principal design have ceased to exist pursuant to Article 44, paragraph (4), a trial or appeal decision to invalidate them has become final and binding, or they have been abandoned.

2 第三条第一項第一号又は第二号に該当するに至つた自己の意匠のうち前項の規定により意匠登録を受けようとする意匠の本意匠と同一又は類似のものは、当該意匠登録

を受けようとする意匠についての同条第一項及び第二項の規定の適用については、同条第一項第一号又は第二号に該当するに至らなかつたものとみなす。

(2) In applying the provisions of Article 3, paragraphs (1) and (2) to any of the applicant's own designs that have come to fall under Article 3, paragraph (1), item (i) or (ii) and that are identical or similar to the principal design selected for the design that the applicant seeks to have a design registration made pursuant to the preceding paragraph, those designs are deemed not to have come to fall under Article 3, paragraph (1), item (i) or (ii) with regard to the design that the applicant seeks to have a design registration made.

3 第一項の規定により意匠登録を受けようとする意匠についての第三条の二ただし書の規定の適用については、同条ただし書中「同条第四項の規定により同条第三項第四号に掲げる事項が掲載されたものを除く。」とあるのは、「当該先の意匠登録出願について第十四条第一項の規定により秘密にすることを請求したときは、第二十条第四項の規定により同条第三項第四号に掲げる事項が掲載されたものに限る。」とする。

(3) In applying the proviso to Article 3-2 to a design that an applicant seeks to have a design registration made pursuant to paragraph (1), the phrase "except for a design gazette in which the matters set forth in Article 20, paragraph (3), item (iv) were published pursuant to Article 20, paragraph (4)" in the proviso to Article 3-2 is deemed to be replaced with "if the secrecy is requested for the earlier application for design registration under Article 14, paragraph (1), limited to a design gazette in which the matters set forth in Article 20, paragraph (3), item (iv) were published pursuant to the provisions of Article 20, paragraph (4)".

4 第一項の規定により意匠登録を受ける関連意匠にのみ類似する意匠については、当該関連意匠を本意匠とみなして、同項の規定により意匠登録を受けることができるものとする。当該意匠登録を受けることができるものとされた関連意匠にのみ類似する意匠及び当該関連意匠に連鎖する段階的な関連意匠にのみ類似する意匠についても、同様とする。

(4) A design that is similar only to the related design for which a design registration is granted pursuant to paragraph (1) may be granted a design registration pursuant to that paragraph by deeming the related design to be the principal design. This also applies for a design that is similar only to the related design for which it is provided that the design registration may be granted, and for a design that is similar only to a further-removed related design which is linked to a related design for which it is provided that a design registration may be granted.

5 前項の場合における第一項の規定の適用については、同項中「当該本意匠」とあるのは、「当該関連意匠に係る最初に選択した一の意匠」とする。

(5) In a case as referred to the preceding paragraph, to apply the provisions of paragraph (1), the term "the principal design" in that paragraph is deemed to

be replaced with "the single design that was first selected in connection with the related design".

6 本意匠の意匠権について専用実施権が設定されているときは、その本意匠に係る関連意匠については、第一項及び第四項の規定にかかわらず、意匠登録を受けることができない。

(6) If an exclusive license has been established on the design rights to the principal design, a design registration may not be granted for related designs associated with the principal design, notwithstanding the provisions of paragraphs (1) and (4).

7 関連意匠の意匠登録出願があつた場合において、当該意匠登録出願が基礎意匠（当該関連意匠に係る最初に選択した一の意匠をいう。以下同じ。）に係る関連意匠（当該基礎意匠の関連意匠及び当該関連意匠に連鎖する段階的な関連意匠をいう。以下同じ。）にそれぞれ該当する二以上の意匠の意匠登録出願であつたときは、これらの意匠については、第九条第一項又は第二項の規定は、適用しない。

(7) If applications to register related designs have been filed for two or more designs, each of which constitutes a related design associated with a fundamental design ("fundamental design" means the single design that was first selected in connection with a related design; the same applies hereinafter) ("related designs associated with a fundamental design" means a related design for which a fundamental design has been selected and any further-removed related design that is linked to the related design; the same applies hereinafter), Article 9, paragraph (1) or (2) does not apply to those designs.

8 前項に規定する場合において、第三条第一項第一号又は第二号に該当するに至つた自己の意匠のうち当該基礎意匠に係る関連意匠（当該関連意匠の意匠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、若しくは当該関連意匠の意匠登録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、又は当該関連意匠の意匠権が第四十四条第四項の規定により消滅したとき、無効にすべき旨の審決が確定したとき、若しくは放棄されたときを除く。）と同一又は類似のものは、第一項の規定により意匠登録を受けようとする意匠についての第三条第一項及び第二項の規定の適用については、同条第一項第一号又は第二号に該当するに至らなかつたものとみなす。

(8) In a case as provided in the preceding paragraph, in applying the provisions of Article 3, paragraphs (1) and (2) to any of the applicant's own designs that have come to fall under Article 3, paragraph (1), item (i) or (ii) and that are identical or similar to a related design associated with the fundamental design in question (excluding the cases in which an application to register the related design has been abandoned, withdrawn, or dismissed, the examiner's decision or trial or appeal decision rejecting the application for design registration associated with the related design has become final and binding, the rights to the related design have ceased to exist pursuant to the provisions of Article 44, paragraph (4), a trial or appeal decision to invalidate the rights to the related

design has become final and binding, or the rights to the related design have been abandoned), those designs are deemed not to have come to fall under Article 3, paragraph (1), item (i) or (ii) with regard to the design that the applicant seeks to have a design registration made pursuant to the provisions of paragraph (1).

(意匠登録出願の分割)

(Division of Applications for Design Registration)

第十条の二 意匠登録出願人は、意匠登録出願が審査、審判又は再審に係属している場合に限り、二以上の意匠を包含する意匠登録出願の一部を一又は二以上の新たな意匠登録出願とすることができる。

Article 10-2 (1) An applicant for design registration may divide a single application for design registration containing two or more designs into one or more new applications for design registration only while examination, trial, appeal, or retrial of the application for design registration is pending.

2 前項の規定による意匠登録出願の分割があつたときは、新たな意匠登録出願は、もとの意匠登録出願の時にしたものとみなす。ただし、第四条第三項並びに第十五条第一項において準用する特許法第四十三条第一項及び第二項（これらの規定を第十五条第一項において準用する同法第四十三条の二第二項（第十五条第一項において準用する同法第四十三条の三第三項において準用する場合を含む。）及び第四十三条の三第三項において準用する場合を含む。）の規定の適用については、この限りでない。

(2) If an application for design registration is divided pursuant to the preceding paragraph, the new applications for design registration are deemed to have been filed at the time of filing the original application; provided, however, that this does not apply for the purposes of applying Article 4, paragraph (3) of this Act and Article 43, paragraphs (1) and (2) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act (including as applied mutatis mutandis pursuant to Article 43-2, paragraph (2) of the Patent Act (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act) and Article 43-3, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act).

3 第一項に規定する新たな意匠登録出願をする場合には、もとの意匠登録出願について提出された書面又は書類であつて、新たな意匠登録出願について第四条第三項又は第十五条第一項において準用する特許法第四十三条第一項及び第二項（これらの規定を第十五条第一項において準用する同法第四十三条の二第二項（第十五条第一項において準用する同法第四十三条の三第三項において準用する場合を含む。）及び第四十三条の三第三項において準用する場合を含む。）の規定により提出しなければならないものは、当該新たな意匠登録出願と同時に特許庁長官に提出されたものとみなす。

(3) If a new application for design registration is filed pursuant to the provisions

of paragraph (1), any papers or documents which have been submitted in relation to the original application for design registration and are required to be submitted in relation to the new application under Article 4, paragraph (3) of this Act and Article 43, paragraphs (1) and (2) of the Patent Act as applied mutatis mutandis pursuant to Article 15 of this Act (including as applied mutatis mutandis pursuant to Article 43-2, paragraph (2) of the Patent Act (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act) is deemed to have been submitted to the Commissioner of the Japan Patent Office along with the new application for design registration.

第十一条及び第十二条 削除

Article 11 and Article 12 Deleted

(出願の変更)

(Conversion of Application)

第十三条 特許出願人は、その特許出願を意匠登録出願に変更することができる。ただし、その特許出願について拒絶をすべき旨の最初の査定の謄本の送達があつた日から三月を経過した後は、この限りでない。

Article 13 (1) An applicant of a patent application may convert the patent application into an application for design registration; provided, however, that this does not apply after three months have lapsed from the date the certified copy of the examiner's initial decision to reject the patent application has been served.

2 実用新案登録出願人は、その実用新案登録出願を意匠登録出願に変更することができる。

(2) An applicant of an application for utility model registration may convert the application for utility model registration into an application for design registration.

3 第一項ただし書に規定する期間は、特許法第四条の規定により同法第二百十一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。

(3) If the period provided in Article 121, paragraph (1) of the Patent Act is extended pursuant to Article 4 of that Act, the period provided in the proviso to paragraph (1) is deemed to have been extended only for that extended period.

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 pursuant to the provisions of paragraph (1) or (2), the original application is deemed to have been withdrawn.

5 特許出願人は、その特許出願について仮専用実施権を有する者があるときは、その

承諾を得た場合に限り、第一項の規定による出願の変更をすることができる。

(5) When there is a person that has a provisional exclusive license on a patent application, an applicant of the patent application may convert the patent application pursuant to the provisions of paragraph (1) only if the consent of the person is obtained.

6 第十条の二第二項及び第三項の規定は、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) The provisions of Articles 10-2, paragraphs (2) and (3) apply mutatis mutandis to the conversion of an application pursuant to the provisions of paragraph (1) or (2).

(特許協力条約に基づく国際出願に係る出願の変更の特例)

(Special Provisions on the Conversion of Application Concerning International Applications Under the Patent Cooperation Treaty)

第十三条の二 特許法第百八十四条の三第一項又は第百八十四条の二十第四項の規定により特許出願とみなされた国際出願の意匠登録出願への変更については、同法第百八十四条の六第二項の日本語特許出願にあつては同法第百八十四条の五第一項、同法第百八十四条の四第一項の外国語特許出願にあつては同項又は同条第四項及び同法第百八十四条の五第一項の規定による手続をし、かつ、同法第百九十五条第二項の規定により納付すべき手数料を納付した後（同法第百八十四条の二十第四項の規定により特許出願とみなされた国際出願については、同項に規定する決定の後）でなければすることができない。

Article 13-2 (1) An international application that has been deemed to be a patent application pursuant to Article 184-3, paragraph (1) or Article 184-20, paragraph (4) of the Patent Act may be converted into an application for design registration, only after the fees payable pursuant to the provisions of Article 195, paragraph (2) of that Act have been paid (or, in the case of an international application that is deemed to be a patent application pursuant to the provisions of Article 184-20, paragraph (4) of the Act, after the ruling as provided in Article 184-20, paragraph (4) has been rendered), and, in the case of a patent application in the Japanese language under Article 184-6, paragraph (2) of the Act, the procedures under Article 184-5, paragraph (1) of the Act have been completed, or, in the case of a patent application in a foreign language under Article 184-4, paragraph (1) of the Act, the procedures under Article 184-4, paragraph (1) or paragraph (4) and Article 184-5, paragraph (1) of the Act have been completed.

2 実用新案法（昭和三十四年法律第百二十三号）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意匠登録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。

- (2) An international application that has been deemed to be an application for utility model registration under Article 48-3, paragraph (1) or Article 48-16, paragraph (4) of the Utility Model Act (Act No. 123 of 1959) may be converted into an application for design registration, only after the fees payable under Article 54, paragraph (2) of that Act have been paid (or, in the case of an international application that is deemed to be an application for utility model registration under Article 48-16, paragraph (4) of the Act, after the ruling as provided in Article 48-16, paragraph (4) has been rendered), and, in the case of the Japanese language application for utility model registration under Article 48-5, paragraph (4) of the Act, the procedures under Article 48-5, paragraph (1) of the Act have been completed, or, in the case of a foreign language application for utility model registration under Article 48-4, paragraph (1) of the Act, the procedures under Article 48-4, paragraph (1) or (4) and Article 48-5, paragraph (1) of the Act have been completed.

（秘密意匠）

(Secret Designs)

第十四条 意匠登録出願人は、意匠権の設定の登録の日から三年以内の期間を指定して、その期間その意匠を秘密にすることを請求することができる。

Article 14 (1) An applicant for design registration may designate a period of three years or less after the date of registration establishing the design rights and request that the design be kept secret during that period.

2 前項の規定による請求をしようとする者は、次に掲げる事項を記載した書面を意匠登録出願と同時に、又は第四十二条第一項の規定による第一年分の登録料の納付と同時に特許庁長官に提出しなければならない。

(2) A person seeking to file a request under the preceding paragraph must submit a document stating the following information to the Commissioner of the Japan Patent Office, at the time of filing the application for design registration or at the time of making a payment of registration fee for the first year pursuant to the provisions of Article 42, paragraph (1):

一 意匠登録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 design registration;
and

二 秘密にすることを請求する期間

(ii) the period for which the secrecy is requested.

3 意匠登録出願人又は意匠権者は、第一項の規定により秘密にすることを請求した期間を延長し又は短縮することを請求することができる。

(3) The applicant for design registration or the holder of design rights may

request extension or shortening of the period for which the secrecy is requested pursuant to the provisions of paragraph (1).

4 特許庁長官は、次の各号の一に該当するときは、第一項の規定により秘密にすることを請求した意匠を意匠権者以外の者に示さなければならない。

(4) The Commissioner of the Japan Patent Office must disclose the design for which the secrecy is requested pursuant to the provisions of paragraph (1) to persons other than the holder of the design rights, if:

一 意匠権者の承諾を得たとき。

(i) the consent of the holder of the design rights to do so has been obtained;

二 その意匠又はその意匠と同一若しくは類似の意匠に関する審査、審判、再審又は訴訟の当事者又は参加人から請求があつたとき。

(ii) a request has been made by a party or an intervenor of examination, trial, appeal, retrial, or judicial litigation relating to the design or a design identical or similar to the design;

三 裁判所から請求があつたとき。

(iii) a request has been made by a court; or

四 利害関係人が意匠権者の氏名又は名称及び登録番号を記載した書面その他経済産業省令で定める書面を特許庁長官に提出して請求したとき。

(iv) a request has been made by an interested person through submitting a document stating the name of the holder of the design rights and the registration number, and other documents prescribed by Order of the Ministry of Economy, Trade and Industry to the Commissioner of the Japan Patent Office.

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第十五条 特許法第三十八条（共同出願）及び第四十三条から第四十三条の三まで（パリ条約による優先権主張の手續及びパリ条約の例による優先権主張）の規定は、意匠登録出願に準用する。この場合において、同法第四十三条第一項中「経済産業省令で定める期間内」とあるのは「意匠登録出願と同時に」と、同条第二項中「次の各号に掲げる日のうち最先の日から一年四月」とあるのは「意匠登録出願の日から三月」と読み替えるものとする。

Article 15 (1) Article 38 (Joint Applications) and Articles 43 to 43-3 (Priority Claim Procedures Under the Paris Convention; and Priority Claims as Under the Paris Convention) of the Patent Act apply mutatis mutandis to applications for design registration. In this case, the phrase "within the period provided by Order of the Ministry of the Economy, Trade and Industry" in Article 43, paragraph (1) of that Act is deemed to be replaced with "at the time of filing of the application for design registration"; the phrase "within one year and four months from the earliest of the following dates" in Article 43, paragraph (2) of that Act is deemed to be replaced with "within three months from the date of

filing of the application for design registration".

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

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

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

(3) The provisions of Article 35 (excluding the part related to a provisional exclusive license) (Employee Inventions) of the Patent Act apply mutatis mutandis to the creation of a design by an employee, an officer of a corporation, or a national or local government employee.

第三章 審査

Chapter III Examination

（審査官による審査）

(Examination by Examiners)

第十六条 特許庁長官は、審査官に意匠登録出願を審査させなければならない。

Article 16 The Commissioner of the Japan Patent Office must have an examiner examine applications for design registration.

（拒絶の査定）

(Examiner's Decision of Rejection)

第十七条 審査官は、意匠登録出願が次の各号のいずれかに該当するときは、その意匠登録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 17 The examiner must render a decision to reject an application for design registration if it falls under any of the following items:

一 その意匠登録出願に係る意匠が第三条、第三条の二、第五条、第八条、第八条の二、第九条第一項若しくは第二項、第十条第一項、第四項若しくは第六項、第十五条第一項において準用する特許法第三十八条又は第六十八条第三項において準用する同法第二十五条の規定により意匠登録をすることができないものであるとき。

(i) the design in the application for design registration is not registrable pursuant to the provisions of Article 3, Article 3-2, Article 5, Article 8, Article 8-2, Article 9, paragraph (1) or (2), Article 10, paragraph (1), (4), or (6) of this Act, Article 38 of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act, or Article 25 of the Patent Act as applied mutatis mutandis pursuant to Article 68, paragraph (3) of this Act;

二 その意匠登録出願に係る意匠が条約の規定により意匠登録をすることができないものであるとき。

(ii) the design in the application for design registration is not registrable pursuant to the provisions of a relevant treaty;

三 その意匠登録出願が第七条に規定する要件を満たしていないとき。

(iii) the application for design registration does not comply with the requirements under Article 7; and

四 その意匠登録出願人がその意匠について意匠登録を受ける権利を有していないとき。

(iv) if the applicant for design registration does not have the right to have a design registration made for the design.

(補正の却下)

(Dismissal of Amendments)

第十七条の二 願書の記載又は願書に添付した図面、写真、ひな形若しくは見本についてした補正がこれらの要旨を変更するものであるときは、審査官は、決定をもってその補正を却下しなければならない。

Article 17-2 (1) If an amendment made to a statement in the application, or to the drawing, photograph, model, or specimen attached to the application has changed its gist, the examiner must dismiss the amendment in a ruling.

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

(2) The ruling dismissing an amendment pursuant to the provisions of the preceding paragraph must be made in writing with its reasoning.

3 第一項の規定による却下の決定があつたときは、決定の謄本の送達があつた日から三月を経過するまでは、当該意匠登録出願について査定をしてはならない。

(3) If the ruling dismissing an amendment pursuant to the preceding paragraph (1) has been rendered, the examiner must not render a decision on the application for design registration until three months have lapsed from the date on which a certified copy of the ruling has been served.

4 審査官は、意匠登録出願人が第一項の規定による却下の決定に対し補正却下決定不服審判を請求したときは、その審判の審決が確定するまでその意匠登録出願の審査を中止しなければならない。

(4) If an applicant for design registration files a request for trial of an examiner's ruling dismissing an amendment pursuant to the provisions of paragraph (1), the examiner must suspend the examination of the application for design registration until the trial decision becomes final and binding.

(補正後の意匠についての新出願)

(New Application for Amended Design)

第十七条の三 意匠登録出願人が前条第一項の規定による却下の決定の謄本の送達があつた日から三月以内にその補正後の意匠について新たな意匠登録出願をしたときは、その意匠登録出願は、その補正について手続補正書を提出した時にしたものとみなす。

Article 17-3 (1) If an applicant for design registration files a new application for design registration for the amended design within three months from the date on which the certified copy of the ruling dismissing an amendment pursuant to the provisions of paragraph (1) of the preceding Article has been served, the new application is deemed to have been filed at the time when the written amendment of procedures for the amendment was submitted.

2 前項に規定する新たな意匠登録出願があつたときは、もとの意匠登録出願は、取り下げたものとみなす。

(2) If a new application for design registration under the preceding paragraph is filed, the original application for design registration is deemed to have been withdrawn.

3 前二項の規定は、意匠登録出願人が第一項に規定する新たな意匠登録出願について同項の規定の適用を受けたい旨を記載した書面をその意匠登録出願と同時に特許庁長官に提出した場合に限り、適用があるものとする。

(3) The provisions of the preceding two paragraphs apply only when the applicant for design registration has submitted to the Commissioner of the Japan Patent Office a document stating a request for the application of the provisions of paragraph (1) to the new application for design registration under paragraph (1), at the time of filing a new application.

第十七条の四 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、前条第一項に規定する期間を延長することができる。

Article 17-4 (1) The Commissioner of the Japan Patent Office may, upon request or ex officio, extend the period provided for in paragraph (1) of the preceding Article for persons in remote areas or areas with transportation difficulties.

2 審判長は、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、第五十条第一項（第五十七条第一項において準用する場合を含む。）において準用する前条第一項に規定する期間を延長することができる。

(2) The chief administrative judge may, upon request or ex officio, extend the period provided for in paragraph (1) of the preceding Article as applied mutatis mutandis pursuant to Article 50, paragraph (1) (including as applied mutatis mutandis pursuant to Article 57, paragraph (1)) for persons in remote areas or areas with transportation difficulties.

(意匠登録の査定)

(Decision to Grant a Design Registration)

第十八条 審査官は、意匠登録出願について拒絶の理由を発見しないときは、意匠登録をすべき旨の査定をしなければならない。

Article 18 If no reasons for rejection are found for an application for design registration, the examiner must reach the decision to grant the design registration.

(特許法の準用)

(*Mutatis Mutandis Application of the Patent Act*)

第十九条 特許法第四十七条第二項（審査官の資格）、第四十八条（審査官の除斥）、第五十条（拒絶理由の通知）、第五十二条（査定の方式）及び第五十四条（訴訟との関係）の規定は、意匠登録出願の審査に準用する。

Article 19 The provisions of Article 47, paragraph (2) (Qualifications for Examiners), Article 48 (Exclusion of Examiners), Article 50 (Notice of the Grounds for Rejection), Article 52 (Formal Requirements for Examiner's Decisions), and Article 54 (In Relation to Litigation) of the Patent Act apply *mutatis mutandis* to examination of applications of design registration.

第四章 意匠権

Chapter IV Design Rights

第一節 意匠権

Section 1 Design Rights

(意匠権の設定の登録)

(Registration of Establishment of Design Rights)

第二十条 意匠権は、設定の登録により発生する。

Article 20 (1) Design rights come into existence through registration of their establishment.

2 第四十二条第一項の規定による第一年分の登録料の納付があつたときは、意匠権の設定の登録をする。

(2) The establishment of a design right is registered once the registration fee for the first year under Article 42, paragraph (1) has been paid.

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

(3) If the registration referred to in the preceding paragraph has been made, the following matters must be published in the design gazette:

一 意匠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 holder of the design right;

二 意匠登録出願の番号及び年月日

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

三 登録番号及び設定の登録の年月日

(iii) the registration number and the date of the registration establishing the right;

四 願書及び願書に添付した図面、写真、ひな形又は見本の内容

(iv) the content of the application and drawing, photograph, model, or specimen attached to the application; and

五 前各号に掲げるもののほか、必要な事項

(v) other necessary matters.

4 第十四条第一項の規定により秘密にすることを請求した意匠に関する前項第四号に掲げる事項は、同項の規定にかかわらず、第十四条第一項の規定により指定した期間の経過後遅滞なく掲載するものとする。

(4) With regard to the design for which secrecy is requested pursuant to the provisions of Article 14, paragraph (1), notwithstanding the provisions of the preceding paragraph, matters provided for in item (iv) of the preceding Article must be published without delay after the period designated pursuant to the provisions of Article 14, paragraph (1) has lapsed.

(存続期間)

(Duration of Design Rights)

第二十一条 意匠権（関連意匠の意匠権を除く。）の存続期間は、意匠登録出願の日から二十五年をもつて終了する。

Article 21 (1) The duration of design rights (excluding rights to a related design) ends 25 years after the filing date of the application for design registration.

2 関連意匠の意匠権の存続期間は、その基礎意匠の意匠登録出願の日から二十五年をもつて終了する。

(2) The duration of design rights for a related design ends 25 years after the filing date of the application to register the fundamental design selected for it.

(関連意匠の意匠権の移転)

(Transfer of the Rights to a Related Design)

第二十二条 基礎意匠及びその関連意匠の意匠権は、分離して移転することができない。

Article 22 (1) The rights to a fundamental design and to its related designs may not be transferred independently of each other.

2 基礎意匠の意匠権が第四十四条第四項の規定により消滅したとき、無効にすべき旨の審決が確定したとき、又は放棄されたときは、当該基礎意匠に係る関連意匠の意匠権は、分離して移転することができない。

(2) If the rights to a fundamental design have been extinguished pursuant to the provisions of Article 44, paragraph (4), a trial or appeal decision invalidating the rights to a fundamental design has become final and binding, or the rights to a fundamental design have been abandoned, the rights to the related designs associated with the fundamental design may not be transferred independently.

(意匠権の効力)

(Effect of Design Rights)

第二十三条 意匠権者は、業として登録意匠及びこれに類似する意匠の実施をする権利を専有する。ただし、その意匠権について専用実施権を設定したときは、専用実施権者がその登録意匠及びこれに類似する意匠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 23 A holder of a design right has the exclusive right to work the registered design and designs similar to it in the course of trade; provided, however, that if an exclusive license regarding the design right is granted to a licensee, this does not apply to the extent that the exclusive licensee is licensed to exclusively work the registered design and designs similar to it.

(登録意匠の範囲等)

(Scope of Registered Design)

第二十四条 登録意匠の範囲は、願書の記載及び願書に添付した図面に記載され又は願書に添付した写真、ひな形若しくは見本により現わされた意匠に基いて定めなければならない。

Article 24 (1) The scope of a registered design must be determined based on the design depicted in the application, and in the drawing or represented in the photograph, model, or specimen attached to the application.

2 登録意匠とそれ以外の意匠が類似であるか否かの判断は、需要者の視覚を通じて起こさせる美感に基づいて行うものとする。

(2) Whether a registered design is similar to another design must be determined based upon the aesthetic impression that the designs would create through the eye of their consumers.

第二十五条 登録意匠及びこれに類似する意匠の範囲については、特許庁に対し、判定を求めることができる。

Article 25 (1) A request may be made to the Japan Patent Office for its advisory opinion on the scope of a registered design and designs similar to it.

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 made, the Commissioner of the Japan Patent Office must designate three administrative judges to provide an advisory opinion on the requested matter.

3 特許法第七十一条第三項及び第四項の規定は、第一項の判定に準用する。

(3) The provisions of Article 71, paragraphs (3) and (4) of the Patent Act apply mutatis mutandis to the advisory opinion referred to in paragraph (1).

第二十五条の二 特許庁長官は、裁判所から登録意匠及びこれに類似する意匠の範囲について鑑定を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 25-2 (1) If the Commissioner of the Japan Patent Office is requested by a court to provide an expert opinion on the scope of a registered design and designs similar to it, the Commissioner must appoint three administrative judges and have them provide an expert opinion on the requested matter.

2 特許法第七十一条の二第二項の規定は、前項の鑑定に準用する。

(2) The provisions of Article 71-2, paragraph (2) of the Patent Act apply mutatis mutandis to the commissioning of the provision of an expert opinion as referred to in the preceding paragraph.

(他人の登録意匠等との関係)

(Relationship with Registered Designs Held by Other Persons)

第二十六条 意匠権者、専用実施権者又は通常実施権者は、その登録意匠がその意匠登録出願の日前の出願に係る他人の登録意匠若しくはこれに類似する意匠、特許発明若しくは登録実用新案を利用するものであるとき、又はその意匠権のうち登録意匠に係る部分はその意匠登録出願の日前の出願に係る他人の特許権、実用新案権若しくは商標権若しくはその意匠登録出願の日前に生じた他人の著作権と抵触するときは、業としてその登録意匠の実施をすることができない。

Article 26 (1) If a registered design uses another person's registered design, patented invention, or registered utility model for which an application was filed prior to the date of filing of the application for the design, or a design similar to another person's registered design, or if part of a design right pertaining to the registered design is in conflict with another person's patent right, utility model right, or trademark right obtained based on an application filed prior to the date of filing of the application for the registered design, or copyright which arose prior to the date of filing of the application for the registered design, the holder of the design right, or exclusive licensee or non-exclusive licensees of the design right may not work the registered design in the course of trade.

2 意匠権者、専用実施権者又は通常実施権者は、その登録意匠に類似する意匠がその意匠登録出願の日前の出願に係る他人の登録意匠若しくはこれに類似する意匠、特許発明若しくは登録実用新案を利用するものであるとき、又はその意匠権のうち登録意匠に類似する意匠に係る部分はその意匠登録出願の日前の出願に係る他人の意匠権、特許権、実用新案権若しくは商標権若しくはその意匠登録出願の日前に生じた他人の著作権と抵触するときは、業としてその登録意匠に類似する意匠の実施をすることができない。

(2) If a design similar to a registered design uses another person's registered design, patented invention, or registered utility model for which an application was filed prior to the date of filing of the application for the design, or a design similar to another person's registered design, or if part of a design right pertaining to designs similar to the registered design is in conflict with another person's design right, patent right, utility model right, or trademark right obtained based on an application filed prior to the date of filing of the application for the registered design, or copyright which arose prior to the date of filing of the application for the registered design, the holder of the design right, or exclusive licensee or non-exclusive licensee of the design right may

not work the similar design in the course of trade.

(意匠権の移転の特例)

(Special Provisions on the Transfer of a Design Right)

第二十六条の二 意匠登録が第四十八条第一項第一号に規定する要件に該当するとき

(その意匠登録が第十五条第一項において準用する特許法第三十八条の規定に違反してされたときに限る。)又は第四十八条第一項第三号に規定する要件に該当するときは、当該意匠登録に係る意匠について意匠登録を受ける権利を有する者は、経済産業省令で定めるところにより、その意匠権者に対し、当該意匠権の移転を請求することができる。

Article 26-2 (1) If a design registration falls under the requirements provided for in Article 48, paragraph (1), item (i) (limited to cases in which the design registration has been obtained in violation of Article 38 of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1)) or provided for in Article 48, paragraph (1), item (iii), a person that has the right to have a design registration made on the design pertaining to the design registration may request the holder of the design right to transfer the design right, pursuant to the provisions of Order of the Ministry of Economy, Trade and Industry.

2 基礎意匠又は関連意匠の意匠権についての前項の規定による請求は、基礎意匠又は関連意匠の意匠権のいずれかの消滅後は、当該消滅した意匠権が第四十九条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ときを除き、することができない。

(2) A request under the preceding paragraph concerning the rights to a fundamental design or related design may not be filed after the rights to either the fundamental design or related design have ceased to exist, unless the design rights that have ceased to exist are deemed not to have existed from the beginning pursuant to the provisions of Article 49.

3 第一項の規定による請求に基づく意匠権の移転の登録があつたときは、その意匠権は、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。当該意匠権に係る意匠についての第六十条の十二第一項の規定による請求権についても、同様とする。

(3) If the transfer of a design right has been registered based on the request under paragraph (1), the design right is deemed to have belonged to a person that has obtained the registration from the beginning. The same applies to the right to claim compensation pursuant to the provisions of Article 60-12, paragraph (1) for the design pertaining to the design right.

4 共有に係る意匠権について第一項の規定による請求に基づきその持分を移転する場合においては、第三十六条において準用する特許法第七十三条第一項の規定は、適用しない。

(4) If a part of a co-owned design right is transferred based on the request under paragraph (1), the provisions of Article 73, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 36 of this Act do not apply.

(専用実施権)

(Exclusive License)

第二十七条 意匠権者は、その意匠権について専用実施権を設定することができる。ただし、基礎意匠又は関連意匠の意匠権についての専用実施権は、基礎意匠及び全ての関連意匠の意匠権について、同一の者に対して同時に設定する場合に限り、設定することができる。

Article 27 (1) A holder of design rights may grant an exclusive license on their design rights; provided, however, that an exclusive license on the rights to a fundamental design or exclusive licenses on the rights to its related designs may be granted only if all the exclusive licenses on the rights to the fundamental design and its related designs are granted to the same person at the same time.

2 専用実施権者は、設定行為で定めた範囲内において、業としてその登録意匠又はこれに類似する意匠の実施をする権利を専有する。

(2) An exclusive licensee has an exclusive right to work the registered design or designs similar to it in the course of trade to the extent permitted by the act establishing the license.

3 基礎意匠の意匠権が第四十四条第四項の規定により消滅したとき、無効にすべき旨の審決が確定したとき、又は放棄されたときは、当該基礎意匠に係る関連意匠の意匠権についての専用実施権は、全ての関連意匠の意匠権について同一の者に対して同時に設定する場合に限り、設定することができる。

(3) If the rights to a fundamental design cease to exist pursuant to the provisions of Article 44, paragraph (4), a trial or appeal decision to invalidate the rights to a fundamental design becomes final and binding, or the rights to a fundamental design have been abandoned, exclusive licenses on the rights to related designs associated with the fundamental design may be granted only if all the exclusive licenses on the rights to related designs are granted to the same person at the same time.

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

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

(通常実施権)

(Non-Exclusive License)

第二十八条 意匠権者は、その意匠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 28 (1) A holder of design rights may grant a non-exclusive license on the design right to another person.

2 通常実施権者は、この法律の規定により又は設定行為で定めた範囲内において、業としてその登録意匠又はこれに類似する意匠の実施をする権利を有する。

(2) A non-exclusive licensee has a right to work the registered design or designs similar to it in the course of trade to the extent prescribed by this Act or permitted by the act establishing the license.

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

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

（先使用による通常実施権）

(Non-Exclusive License Based on Prior Use)

第二十九条 意匠登録出願に係る意匠を知らないで自らその意匠若しくはこれに類似する意匠の創作をし、又は意匠登録出願に係る意匠を知らないでその意匠若しくはこれに類似する意匠の創作をした者から知得して、意匠登録出願の際（第九条の二の規定により、又は第十七条の三第一項（第五十条第一項（第五十七条第一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。）の規定により、その意匠登録出願が手続補正書を提出した時にしたものとみなされたときは、もとの意匠登録出願の際又は手続補正書を提出した際）現に日本国内においてその意匠又はこれに類似する意匠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意匠及び事業の目的の範囲内において、その意匠登録出願に係る意匠権について通常実施権を有する。

Article 29 A person that, without knowledge of a design in an application for design registration, created a design identical or similar to the design, or a person that, without knowledge of a design in an application for design registration, learned of the design from a person that created a design identical or similar to the design, and has been working the design or a design similar to it or preparing for the working of the design or a design similar to it in Japan at the time of filing the application for design registration (if the application for design registration is deemed to have been filed at the time of submission of the written amendment of procedures pursuant to Article 9-2 or Article 17-3, paragraph (1) (including as applied mutatis mutandis pursuant to Article 50, paragraph (1) (including as applied mutatis mutandis pursuant to Article 57, paragraph (1)), at the time of filing the original application or the written amendment of procedures), has a non-exclusive license on the design right, only to the extent of the design and the purpose of the business being worked or prepared.

(先出願による通常実施権)

(Non-Exclusive License Based on Prior Application)

第二十九条の二 意匠登録出願に係る意匠を知らないで自らその意匠若しくはこれに類似する意匠の創作をし、又は意匠登録出願に係る意匠を知らないでその意匠若しくはこれに類似する意匠の創作をした者から知得して、意匠権の設定の登録の際現に日本国内においてその意匠又はこれに類似する意匠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（前条に該当する者を除く。）は、次の各号のいずれにも該当する場合に限り、その実施又は準備をしている意匠及び事業の目的の範囲内において、その意匠登録出願に係る意匠権について通常実施権を有する。

Article 29-2 A person that, without knowledge of a design in an application for design registration, has created a design identical or similar to the design, or a person that, without knowledge of a design in an application for design registration, has learned the design from a person that created a design identical or similar to the design, and has been working the design or a design similar to it or preparing to work the design or a design similar to it in Japan at the time of the filing of the application for design registration (excluding a person falling under the preceding paragraph), has a non-exclusive license under the design rights, only if both of the following conditions are satisfied and only to the extent of the design and the purpose of the business being worked or prepared:

一 その意匠登録出願の日前に、自らその意匠又はこれに類似する意匠について意匠登録出願をし、当該意匠登録出願に係る意匠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であること。

(i) the person filed an application for design registration of the design in the application for design registration or design similar to it prior to the date of filing of the application, and has been working the design in the application or preparing to work the design in the application, and

二 前号の自らした意匠登録出願について、その意匠登録出願に係る意匠が第三条第一項各号の一に該当し、拒絶をすべき旨の査定又は審決が確定した者であること。

(ii) with regard to the application for design registration filed by the person as prescribed in the preceding item, the design in the application falls under any of items of Article 3, paragraph (1) and an examiner's decision or trial or appeal decision rejecting the application has become final and binding.

(意匠権の移転の登録前の実施による通常実施権)

(Non-Exclusive Licenses on the Ground of the Working of the Design Before Registration of Transfer of a Design Right)

第二十九条の三 第二十六条の二第一項の規定による請求に基づく意匠権の移転の登録の際現にその意匠権、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していた者であつて、その意匠権の移転の登録前に、意匠登録が第四十八条第一項第一号に規定する要件に該当すること（その意匠登録が

第十五条第一項において準用する特許法第三十八条の規定に違反してされたときに限る。)又は第四十八条第一項第三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意匠又はこれに類似する意匠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意匠及び事業の目的の範囲内において、その意匠権について通常実施権を有する。

Article 29-3 (1) A person that had a design right, an exclusive license on the design right, or a non-exclusive license on the design right, or the exclusive license at the time of the registration of transfer of design right based on the request pursuant to the provisions of Article 26-2, paragraph (1), and is doing a business of working the design in Japan or is preparing the business, before the registration of transfer of the design right, without knowledge that the design registration falls under the requirements provided in Article 48, paragraph (1), item (i) (limited to cases in which the design registration has been obtained in violation of Article 38 of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1)) or provided in Article 48, paragraph (1), item (iii), has a non-exclusive license on the design right only to the extent of the design and the purpose of the business of working or the business being prepared for the working.

2 当該意匠権者は、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 holder of the design right has the right to receive reasonable consideration from a person that holds a non-exclusive license pursuant to the provisions of 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 Due to Working the Design Prior to the Registration of the Demand for Invalidation Trial)

第三十条 次の各号のいずれかに該当する者であつて、意匠登録無効審判の請求の登録前に、意匠登録が第四十八条第一項各号のいずれかに該当することを知らないで、日本国内において当該意匠又はこれに類似する意匠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意匠及び事業の目的の範囲内において、当該意匠権又はその意匠登録を無効にした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 30 (1) Before the registration of a request for a trial for invalidation of design registration is made, if a person falling under any of the following items is engaged in or making preparations for the business of working the design in question or a design similar to it in Japan without knowledge that the design registration falls under any of the items of Article 48, paragraph (1), the person has a non-exclusive license on the design right or the exclusive license existing at the time of the invalidation of the design registration, only to the extent of the design and the purpose of the business being worked or prepared:

一 同一又は類似の意匠についての二以上の意匠登録のうち、その一を無効にした場合における原意匠権者

(i) the original holder of a design right, in a case in which one of two or more design registrations granted for the identical or similar design has been invalidated;

二 意匠登録を無効にして同一又は類似の意匠について正当権利者に意匠登録をした場合における原意匠権者

(ii) the original holder of a design right, in a case in which, after a design registration has been invalidated, a design registration is granted to the legitimate right holder for the identical or similar design; or

三 前二号に掲げる場合において、意匠登録無効審判の請求の登録の際現にその無効にした意匠登録に係る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

(iii) in the cases referred to in the preceding two items, at the time of the registration of the request for trial for invalidation of design registration, a person that has an exclusive license connected with the design right pertaining to the invalidated design registration, or a non-exclusive license connected with that design right or with an exclusive license on that design right.

2 当該意匠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 holder of design rights or the exclusive licensee has a right to receive reasonable consideration from a person that holds a non-exclusive license pursuant to the provisions of the preceding paragraph.

(意匠権等の存続期間満了後の通常実施権)

(Non-Exclusive Licenses After Expiration of the Duration of the Design Right)

第三十一条 意匠登録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のうち登録意匠に類似する意匠に係る部分はその意匠登録出願に係る意匠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、当該意匠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 31 (1) If part of a design right that pertains to designs similar to the registered design with regard to an application for a design registration filed on or before the date of filing of a design application is in conflict with the design right with regard to the design application, the original holder of design right, upon expiration of the duration of the design right, has a non-exclusive license on the design right or on the exclusive license actually existing at the time of expiration of the duration of the design right, only to the extent of the original design right.

2 前項の規定は、意匠登録出願の日前又はこれと同日の出願に係る特許権又は実用新

案権がその意匠登録出願に係る意匠権と抵触する場合において、その特許権又は実用新案権の存続期間が満了したときに準用する。

- (2) If a patent right or utility model right connected with an application for registration filed on or before the filing date of a design application is in conflict with the design rights connected with that design application, the provisions of the preceding paragraph apply mutatis mutandis upon expiration of the duration of the patent right or the duration of the utility model right.

第三十二条 意匠登録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のうち登録意匠に類似する意匠に係る部分はその意匠登録出願に係る意匠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存続期間が満了した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、当該意匠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 32 (1) If part of the design rights for a design similar to a registered design which is related to an application for a design registration filed on or before the filing date of a design application is in conflict with the design rights connected with that design application, a person that, at the time of expiration of the duration of the design right, actually owns the exclusive license on the expired design right, or a non-exclusive license on the design right or on the exclusive license, upon expiration of the duration of the design right, has a non-exclusive license on the design right or on the exclusive license actually existing at the time of expiration of the duration of the design right, to the extent of the original right.

2 前項の規定は、意匠登録出願の日前又はこれと同日の出願に係る特許権又は実用新案権がその意匠登録出願に係る意匠権と抵触する場合において、その特許権又は実用新案権の存続期間が満了したときに準用する。

- (2) If a patent right or utility model right connected with an application for registration filed on or before the filing date of a design application is in conflict with the design right connected with that design application, the provisions of preceding paragraph apply mutatis mutandis upon expiration of the duration of the patent right or the duration of the utility model right.

3 当該意匠権者又は専用実施権者は、前二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。

- (3) The holder of design rights or the exclusive licensee has a right to receive reasonable consideration from a person that holds a non-exclusive license pursuant to the provisions of the preceding two paragraphs.

(通常実施権の設定の裁定)

(Award Granting Non-Exclusive License)

第三十三条 意匠権者又は専用実施権者は、その登録意匠又はこれに類似する意匠が第

二十六条に規定する場合に該当するときは、同条の他人に対しその登録意匠又はこれに類似する意匠の実施をするための通常実施権又は特許権若しくは実用新案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 33 (1) If a registered design or a design similar to it falls under any of the cases provided in Article 26, the holder of design rights or the exclusive licensee may request the other person referred to in that Article to have consultation on the grant of a non-exclusive license to work the registered design or a design similar to it, or a non-exclusive license on the patent right or the utility model right.

2 前項の協議を求められた第二十六条の他人は、その協議を求めた意匠権者又は専用実施権者に対し、これらの者がその協議により通常実施権又は特許権若しくは実用新案権についての通常実施権の許諾を受けて実施をしようとする登録意匠又はこれに類似する意匠の範囲内において、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 referred to in Article 26 who is requested a discussion under the preceding paragraph may request the holder of design right or exclusive licensee requesting the discussion to have consultation on the grant of a non-exclusive license to the extent of the registered design or a design similar to it that the holder of design rights or the exclusive licensee seeks to work with a non-exclusive license on the design right, on the patent right or on the utility model right to be granted through the discussion.

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、意匠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 no agreement is reached by the discussion referred to in paragraph (1) or the discussion cannot be held, the holder of design rights or the exclusive licensee may request the Commissioner of the Japan Patent Office to render an award.

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、第二十六条の他人は、第七項において準用する特許法第八十四条の規定によりその者が答弁書を提出すべき期間として特許庁長官が指定した期間内に限り、特許庁長官の裁定を請求することができる。

(4) If no agreement is reached by the discussion referred to in paragraph (2) or the discussion cannot be held, and if a request for an award under the preceding paragraph is filed, the other person referred to in Article 26 may request the Commissioner of the Japan Patent Office to render an award only within the period for the submission of a written answer by that other person designated by the Commissioner pursuant to Article 84 of the Patent Act as applied *mutatis mutandis* under 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二十六条の他人又は意匠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 referred to in paragraph (3) or the preceding paragraph, the

Commissioner of the Japan Patent Office may not render an award granting a non-exclusive license if the granting of the non-exclusive license would be unreasonably prejudicial to the interests of the other person referred to in Article 26, the holder of the design right, or the exclusive licensee.

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

(6) In the case referred to in paragraph (4), in addition to the case provided for in the preceding paragraph, the Commissioner of the Japan Patent Office may not render an award to grant a non-exclusive license if the award granting a non-exclusive license is not rendered with respect to the request for an award under paragraph (3).

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

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

（通常実施権の移転等）

(Transfer of Non-Exclusive License)

第三十四条 通常実施権は、前条第三項若しくは第四項、特許法第九十二条第三項又は実用新案法第二十二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、意匠権者（専用実施権についての通常実施権にあつては、意匠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 34 (1) Except for a non-exclusive license granted by an award referred to in paragraph (3) or (4) of the preceding Article, Article 92, paragraph (3) of the Patent Act, or Article 22, paragraph (3) of the Utility Model Act, a non-exclusive license may be transferred only if the business involving the working of the relevant design is also transferred, if the consent of the holder of design rights (or, in the case of a non-exclusive license on the exclusive license, the holder of design rights and the exclusive licensee) is obtained, and if the transfer occurs as a result of general succession including inheritance.

2 通常実施権者は、前条第三項若しくは第四項、特許法第九十二条第三項又は実用新案法第二十二条第三項の裁定による通常実施権を除き、意匠権者（専用実施権についての通常実施権にあつては、意匠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 referred to in paragraph (3) or (4) of the preceding Article, Article 92, paragraph (3) of the Patent Act, or Article 22, paragraph (3) of the Utility Model Act, a non-exclusive licensee may establish a right of pledge on the non-exclusive right

only if the consent of the holder of design rights (or, in the case of a non-exclusive license on the exclusive license, the holder of design rights and the exclusive licensee) is obtained.

3 前条第三項、特許法第九十二条第三項又は実用新案法第二十二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意匠権、特許権又は実用新案権が実施の事業とともに移転したときはこれらに従って移転し、その意匠権、特許権又は実用新案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。

(3) A non-exclusive license granted by an award referred to paragraph (3) of the preceding Article, Article 92, paragraph (3) of the Patent Act, or Article 22, paragraph (3) of the Utility Model Act is transferred together with the design right, patent right, or utility model right of the non-exclusive licensee on which the non-exclusive license is granted and the business involving the working of the relevant design, if each right is transferred together with the business, or ceases to exist if each right of the non-exclusive licensee is transferred independently of the business or extinguished.

4 前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意匠権、特許権又は実用新案権に従って移転し、その意匠権、特許権又は実用新案権が消滅したときは消滅する。

(4) A non-exclusive license granted by an award referred to in paragraph (4) of the preceding Article is transferred together with the design right, patent right, or utility model right of the non-exclusive licensee on which the non-exclusive license is granted, and ceases to exist if the design right, patent right, or utility model right ceases to exist.

(質権)

(Right of Pledge)

第三十五条 意匠権、専用実施権又は通常実施権を目的として質権を設定したときは、質権者は、契約で別段の定をした場合を除き、当該登録意匠又はこれに類似する意匠の実施をすることができない。

Article 35 (1) Unless otherwise agreed by contract, if a right of pledge is established on a design right, exclusive license, or non-exclusive license, the pledgee may not work the registered design or design similar to it.

2 特許法第九十六条（物上代位）の規定は、意匠権、専用実施権又は通常実施権を目的とする質権に準用する。

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

3 特許法第九十八条第一項第三号及び第二項（登録の効果）の規定は、意匠権又は専用実施権を目的とする質権に準用する。

(3) The provisions of Article 98, paragraph (1), item (iii), and paragraph (2) (Effect of Registration) of the Patent Act apply mutatis mutandis to a right of

pledge established on a design right or exclusive license.

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第三十六条 特許法第六十九条第一項及び第二項（特許権の効力が及ばない範囲）、第七十三条（共有）、第七十六条（相続人がない場合の特許権の消滅）、第九十七条第一項（放棄）並びに第九十八条第一項第一号及び第二項（登録の効果）の規定は、意匠権に準用する。

Article 36 The provisions of Article 69, paragraphs (1) and (2) (Limitations of Patent Right), Article 73 (Co-Owned Patent Rights), Article 76 (Extinction of Patent Rights in Absence of an Heir), Article 97, paragraph (1) (Waiver of Patent Right) and Article 98, paragraph (1), items 0 (i) and (ii) (Effect of Registration) of the Patent Act apply mutatis mutandis to design rights.

第二節 権利侵害

Section 2 Infringement on Rights

(差止請求権)

(Right to Demand an Injunction)

第三十七条 意匠権者又は専用実施権者は、自己の意匠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 37 (1) A holder of a design right or an exclusive licensee may make a demand on a person that infringes or is likely to infringe the design right or exclusive license to stop or prevent the infringement.

2 意匠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品、建築物若しくは画像（その画像を表示する機能を有するプログラム等を含む。第六十四条及び第六十五条第一号を除き、以下同じ。）若しくは画像を記録した記録媒体若しくは内蔵する機器（以下「一般画像記録媒体等」という。）又はプログラム等（画像を表示する機能を有するプログラム等を除く。以下同じ。）若しくはプログラム等を記録した記録媒体若しくは記憶した機器（以下「プログラム等記録媒体等」という。）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 making a demand pursuant to the provisions of the preceding paragraph, a holder of a design right or an exclusive licensee may demand measures necessary for the prevention of infringement, including the disposal of articles, buildings, or graphic images (including a computer program or anything equivalent that has the function of displaying a graphic image; the same applies hereinafter except in Article 64 and Article 65, item (i)) or a recording medium onto which a graphic image has been recorded or a device incorporating the graphic image (hereinafter referred to as a "recording

medium or device holding an ordinary graphic image"), or a computer program or anything equivalent (except for a computer program or anything equivalent that has the function of displaying a graphic image; the same applies hereinafter) or a recording medium onto which a computer program or anything equivalent has been recorded or a device onto which a computer program or anything equivalent has been recorded (hereinafter referred to as a "recording medium or device containing a computer program or anything equivalent") constituting the act of infringement and the removal of the facilities used for the act of infringement.

3 第十四条第一項の規定により秘密にすることを請求した意匠に係る意匠権者又は専用実施権者は、その意匠に関し第二十条第三項各号に掲げる事項を記載した書面であつて特許庁長官の証明を受けたものを提示して警告した後でなければ、第一項の規定による請求をすることができない。

(3) With regard to a design for which secrecy is requested pursuant to the provisions of Article 14, paragraph (1), the holder of design rights or the exclusive licensee may not make a demand under paragraph (1) unless that person has given a warning by presenting documents stating the matters listed in the items of Article 20, paragraph (3), which are certified by the Commissioner of the Japan Patent Office.

(侵害とみなす行為)

(Acts Deemed to Constitute Infringement)

第三十八条 次に掲げる行為は、当該意匠権又は専用実施権を侵害するものとみなす。

Article 38 The following acts are deemed to constitute infringement on the design right or exclusive license:

一 登録意匠又はこれに類似する意匠に係る物品の製造にのみ用いる物品又はプログラム等若しくはプログラム等記録媒体等について業として行う次のいずれかに該当する行為

(i) an act falling under any of the following that a person does in the course of trade in connection with an article, computer program or anything equivalent, or recording medium or device containing a computer program or anything equivalent, that is used exclusively in the manufacturing of the article embodying a registered design or a design similar to it:

イ 当該製造にのみ用いる物品又はプログラム等記録媒体等の製造、譲渡、貸渡し若しくは輸入又は譲渡若しくは貸渡しの申出をする行為

(a) the act of manufacturing, transferring, leasing, importing, or offering to transfer or lease an article or recording medium or device containing a computer program or anything equivalent that is used exclusively in the manufacturing of the article;

ロ 当該製造にのみ用いるプログラム等の作成又は電気通信回線を通じた提供若しくはその申出をする行為

- (b) the act of creating a computer program or anything equivalent that is used exclusively in the manufacturing of the article, or of providing it or offering to provide it through a telecommunications line;
- 二 登録意匠又はこれに類似する意匠に係る物品の製造に用いる物品又はプログラム等若しくはプログラム等記録媒体等（これらが日本国内において広く一般に流通しているものである場合を除く。）であつて当該登録意匠又はこれに類似する意匠の視覚を通じた美感の創出に不可欠なものにつき、その意匠が登録意匠又はこれに類似する意匠であること及びその物品又はプログラム等若しくはプログラム等記録媒体等がその意匠の実施に用いられることを知りながら、業として行う次のいずれかに該当する行為
- (ii) an act falling under any of the following that a person does in the course of trade in connection with an article, computer program or anything equivalent, or recording medium or device containing a computer program or anything equivalent, that is used in the manufacturing of the article embodying the registered design or a design similar to it (excluding cases in which these are widely distributed within Japan), and that is indispensable to the aesthetically pleasing visual presentation that the registered design or design similar to it creates, while knowing that the design is a registered design or a design similar to it and that the article or computer program or anything equivalent or the recording medium or device containing a computer program or anything equivalent, is used for the working of the design:
- イ 当該製造に用いる物品又はプログラム等記録媒体等の製造、譲渡、貸渡し若しくは輸入又は譲渡若しくは貸渡しの申出をする行為
- (a) the act of manufacturing, transferring, leasing, or importing, or offering to transfer or lease any article or the recording medium or device containing a computer program or anything equivalent that is used in the manufacturing of the article;
- ロ 当該製造に用いるプログラム等の作成又は電気通信回線を通じた提供若しくはその申出をする行為
- (b) the act of creating any computer program or anything equivalent that is used in the manufacturing of the article, or providing it or offering to provide it through a telecommunications line;
- 三 登録意匠又はこれに類似する意匠に係る物品を業としての譲渡、貸渡し又は輸出のために所持する行為
- (iii) the act of possessing an article that uses a registered design or a design similar to it for the purpose of transferring, leasing, or exporting it in the course of trade;
- 四 登録意匠又はこれに類似する意匠に係る建築物の建築にのみ用いる物品又はプログラム等若しくはプログラム等記録媒体等について業として行う次のいずれかに該当する行為

(iv) an act falling under any of the following that a person does in the course of trade in connection with an article, computer program or anything equivalent, or recording medium or device containing a computer program or anything equivalent, which is used exclusively in the construction of a building embodying a registered design or a design similar to it:

イ 当該建築にのみ用いる物品又はプログラム等記録媒体等の製造、譲渡、貸渡し若しくは輸入又は譲渡若しくは貸渡しの申出をする行為

(a) the act of manufacturing, transferring, leasing, or importing, or offering to transfer or lease an article or recording medium or device containing a computer program or anything equivalent that is used exclusively in the construction of the building;

ロ 当該建築にのみ用いるプログラム等の作成又は電気通信回線を通じた提供若しくはその申出をする行為

(b) the act of creating a computer program or anything equivalent that is used exclusively in the construction of the building, or of providing or offering to provide it through a telecommunications line;

五 登録意匠又はこれに類似する意匠に係る建築物の建築に用いる物品又はプログラム等若しくはプログラム等記録媒体等（これらが日本国内において広く一般に流通しているものである場合を除く。）であつて当該登録意匠又はこれに類似する意匠の視覚を通じた美感の創出に不可欠なものにつき、その意匠が登録意匠又はこれに類似する意匠であること及びその物品又はプログラム等若しくはプログラム等記録媒体等がその意匠の実施に用いられることを知りながら、業として行う次のいずれかに該当する行為

(v) an act falling under any of the following that a person does in the course of trade in connection with an article, computer program or anything equivalent, or recording medium or device containing a computer program or anything equivalent, that is used in the construction of a building embodying the registered design or a design similar to it (excluding cases in which these are widely distributed within Japan), and that is indispensable to the aesthetically pleasing visual presentation that the registered design or design similar to it creates, while knowing that the design is a registered design or a design similar to it and that the article, computer program or equivalent thing, or recording medium or device containing the computer program or equivalent thing is used in the working of the design:

イ 当該建築に用いる物品又はプログラム等記録媒体等の製造、譲渡、貸渡し若しくは輸入又は譲渡若しくは貸渡しの申出をする行為

(a) the act of manufacturing, transferring, leasing, or importing, or offering to transfer or lease an article or recording medium or device containing a computer program or anything equivalent that is used in the construction of the building;

ロ 当該建築に用いるプログラム等の作成又は電気通信回線を通じた提供若しくは

その申出をする行為

(b) the act of creating a computer program or anything equivalent that is used in the construction of the building, or of providing it or offering to provide it through a telecommunications line;

六 登録意匠又はこれに類似する意匠に係る建築物を業としての譲渡又は貸渡しのために所有する行為

(vi) the act of owning a building embodying a registered design or a design similar to it for the purpose of transferring or leasing it in the course of trade;

七 登録意匠又はこれに類似する意匠に係る画像の作成にのみ用いる物品若しくは画像若しくは一般画像記録媒体等又はプログラム等若しくはプログラム等記録媒体等について業として行う次のいずれかに該当する行為

(vii) an act falling under any of the following that a person does in the course of trade in connection with an article, graphic image, recording medium or device holding an ordinary graphic image, computer program or anything equivalent, or recording medium or device containing a computer program or anything equivalent, that is used exclusively in the creation of the graphic image embodying the registered design or a design similar to it:

イ 当該作成にのみ用いる物品若しくは一般画像記録媒体等又はプログラム等記録媒体等の製造、譲渡、貸渡し若しくは輸入又は譲渡若しくは貸渡しの申出をする行為

(a) the act of manufacturing, transferring, leasing, or importing, or offering to transfer or lease an article, recording medium or device holding an ordinary graphic image, or recording medium or device containing a computer program or anything equivalent, that is used in the creation of the graphic image;

ロ 当該作成にのみ用いる画像又はプログラム等の作成又は電気通信回線を通じた提供若しくはその申出をする行為

(b) the act of creating a graphic image or computer program or anything equivalent that is used exclusively in the creation of the graphic image, or providing it or offering to provide it through a telecommunications line;

八 登録意匠又はこれに類似する意匠に係る画像の作成に用いる物品若しくは画像若しくは一般画像記録媒体等又はプログラム等若しくはプログラム等記録媒体等（これらが日本国内において広く一般に流通しているものである場合を除く。）であつて当該登録意匠又はこれに類似する意匠の視覚を通じた美感の創出に不可欠なものにつき、その意匠が登録意匠又はこれに類似する意匠であること及びその物品若しくは画像若しくは一般画像記録媒体等又はプログラム等若しくはプログラム等記録媒体等がその意匠の実施に用いられることを知りながら、業として行う次のいずれかに該当する行為

(viii) an act falling under any of the following that a person does in the course of trade in connection with an article, graphic image, recording medium or

device holding an ordinary graphic image, computer program or anything equivalent, or recording medium or device containing a computer program or anything equivalent, that is used in the creation of the graphic image embodying a registered design or a design similar to it (excluding cases in which these are widely distributed within Japan), and that is indispensable to the aesthetically pleasing visual presentation that the design creates, while knowing that the design is a registered design or a design similar to it and that the article, graphic image, recording medium or device holding the ordinary graphic image, computer program or equivalent thing, or recording medium or device containing the computer program or equivalent thing, is used in the working of the design:

イ 当該作成に用いる物品若しくは一般画像記録媒体等又はプログラム等記録媒体等の製造、譲渡、貸渡し若しくは輸入又は譲渡若しくは貸渡しの申出をする行為

(a) the act of manufacturing, transferring, leasing, or importing, or offering to transfer or lease an article, recording medium or device holding an ordinary graphic image, or recording medium or device containing a computer program or anything equivalent, that is used exclusively in the creation of the image;

ロ 当該作成に用いる画像又はプログラム等の作成又は電気通信回線を通じた提供若しくはその申出をする行為

(b) the act of creating any graphic image or computer program or anything equivalent that is used in the creation of the image, or of providing it or offering to provide it through a telecommunications line;

九 登録意匠若しくはこれに類似する意匠に係る画像を業としての電気通信回線を通じた提供のために保有する行為又は登録意匠若しくはこれに類似する意匠に係る画像記録媒体等を業としての譲渡、貸渡し若しくは輸出のために所持する行為

(ix) the act of holding a graphic image embodying a registered design or a design similar to it for the purpose of providing it through a telecommunications line in the course of trade, or the act of possessing a recording medium or device holding a graphic image embodying a registered design or a design similar to it for the purpose of transferring, leasing, or exporting it in the course of trade.

(損害の額の推定等)

(Presumption of the Value of Damage)

第三十九条 意匠権者又は専用実施権者が故意又は過失により自己の意匠権又は専用実施権を侵害した者に対しその侵害により自己が受けた損害の賠償を請求する場合において、その者がその侵害の行為を組成した物品を譲渡したときは、次の各号に掲げる額の合計額を、意匠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 39 (1) If the holder of design rights or exclusive licensee files a claim for compensation for damage that the holder or licensee personally incurs due to

infringement, against a person that, intentionally or due to negligence, infringes the design rights or exclusive license, and the infringer has transferred articles that constitute the act of infringement, the amount of damages sustained by the holder of design rights or exclusive licensee may be established to be the total of the amounts set forth in each of the following items:

一 意匠権者又は専用実施権者がその侵害の行為がなければ販売することができた物品の単位数量当たりの利益の額に、自己の意匠権又は専用実施権を侵害した者が譲渡した物品の数量（次号において「譲渡数量」という。）のうち当該意匠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意匠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 products that the holder of the design rights 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 design rights or exclusive license has transferred (referred to as the "quantity transferred" in the following item) which does not exceed the quantity covered by the right holder's or exclusive licensee's ability to work the design (referred to as the "workable quantity" in the item) (if there are circumstances that render the holder of design rights 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 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（意匠権者又は専用実施権者が、当該意匠権者の意匠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意匠権又は専用実施権に係る登録意匠の実施に対し受けるべき金銭の額に相当する額

(ii) if applicable, an amount equivalent to the amount of money that is to be received in exchange for the working of the registered design under the design 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 (except when it is not found that the holder of design rights would have been able to establish an exclusive license or grant a non-exclusive license under the holder's design rights, or that the holder of design rights or the exclusive licensee would have been able to grant a non-exclusive license under the exclusive licensee's exclusive license).

2 意匠権者又は専用実施権者が故意又は過失により自己の意匠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、意匠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 holder of design rights or exclusive licensee files a claim for compensation for damage that the holder of design rights or exclusive licensee personally incurs due to infringement, against a person that, intentionally or due to negligence, infringes the design right or 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 holder of design rights or the exclusive licensee.

3 意匠権者又は専用実施権者は、故意又は過失により自己の意匠権又は専用実施権を侵害した者に対し、その登録意匠又はこれに類似する意匠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 holder of design rights or the exclusive licensee may fix the value of the damages that the holder of design rights or the exclusive licensee has personally incurred as being equivalent to the amount of money the holder of design rights or the exclusive licensee would have been entitled to receive for the working of the registered design or a design similar to it, and may claim compensation for this against a person that, intentionally or due to negligence, infringes the design rights or exclusive license.

4 裁判所は、第一項第二号及び前項に規定する登録意匠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っては、意匠権者又は専用実施権者が、自己の意匠権又は専用実施権に係る登録意匠の実施の対価について、当該意匠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意匠権又は専用実施権を侵害した者との間で合意をすとしたならば、当該意匠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 registered design as provided in paragraph (1), item (ii) or the preceding paragraph, the court may take into account the consideration that the holder of design rights or the exclusive licensee would hypothetically obtain if they reached an agreement with the infringer, based on the premise that the design rights or exclusive license had been infringed, concerning the consideration for the working of the registered design that is covered by their design right or exclusive license.

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、意匠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 damage in excess of the amount provided for in that paragraph. In this case, the court may consider the absence of intent or gross negligence by the person

that has infringed the design right or exclusive license in fixing the value of damage.

(過失の推定)

(Presumption of Negligence)

第四十条 他人の意匠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。ただし、第十四条第一項の規定により秘密にすることを請求した意匠に係る意匠権又は専用実施権の侵害については、この限りでない。

Article 40 An infringer of a design right or an exclusive license of another person is presumed negligent in the commission of the act of infringement; provided, however, that this does not apply to a design for which secrecy is requested pursuant to the provisions of Article 14, paragraph (1).

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第四十一条 特許法第百四条の二から第百五条まで（具体的態様の明示義務、特許権者等の権利行使の制限、主張の制限及び書類の提出等）、第百五条の二の十二から第百五条の六まで（損害計算のための鑑定、相当な損害額の認定、秘密保持命令、秘密保持命令の取消し及び訴訟記録の閲覧等の請求の通知等）及び第百六条（信用回復の措置）の規定は、意匠権又は専用実施権の侵害に準用する。

Article 41 The provisions of Articles 104-2 through 105 (Obligation to Clarify the Specific Circumstances of Infringement; Restrictions on the Exercise of Rights of the Patentee; Limitation on Assertions; and Submission of Documents), Articles 105-2-12 through 105-6 (Expert Opinion for Calculation of Damages; Determination of Reasonable Amount of Damage; Confidentiality Protective Orders; Rescission of Confidentiality Protective Orders; and Notice for a Request of Inspection of a Case Record) and Article 106 (Measures to Restore Credibility) apply mutatis mutandis to infringement on a design right or an exclusive license.

第三節 登録料

Section 3 Registration Fees

(登録料)

(Registration Fees)

第四十二条 意匠権の設定の登録を受ける者又は意匠権者は、登録料として、第二十一条に規定する存続期間の満了までの各年について、一件ごとに、一万六千九百円を超えない範囲内で政令で定める額を納付しなければならない。

Article 42 (1) A person that has had a registration made establishing design rights, or the holder of design rights, must pay as registration fees the amount specified by Cabinet Order not exceeding 16,900 yen, for each design

registration and for each year to the expiration of the duration of design rights provided for in Article 21:

- 2 前項の規定は、国に属する意匠権には、適用しない。
- (2) The provisions referred to in the preceding paragraph do not apply to design rights belonging to the national government.
- 3 第一項の登録料は、意匠権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、同項の規定にかかわらず、同項に規定する登録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。
- (3) Notwithstanding the provisions of paragraph (1), if a design right is co-owned by the national government and persons other than the national government, and their respective ownership of the design right has been specified, the registration fees payable under paragraph (1) is determined as the sum calculated by multiplying the applicable registration fees as provided in paragraph (1) by the ratio of the ownership of persons other than the national government, and the persons other than the national government must pay the amount.
- 4 前項の規定により算定した登録料の金額に十円未満の端数があるときは、その端数は、切り捨てる。
- (4) If there is a fraction of less than 10 yen in the amount of registration fees calculated pursuant to the preceding paragraph, the fraction is to be discarded.
- 5 第一項の登録料の納付は、経済産業省令で定めるところにより、特許印紙をもつてしなければならない。ただし、経済産業省令で定める場合には、経済産業省令で定めるところにより、現金をもつて納めることができる。
- (5) The payment of registration fees referred to in paragraph (1) must be made by patent revenue stamps as provided by Order of the Ministry of Economy, Trade and Industry; provided, however, that cash payment may be made, if so specified by Order of the Ministry.

(登録料の納付期限)

(Due Date for Payment of Registration Fees)

第四十三条 前条第一項の規定による第一年分の登録料は、意匠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から三十日以内に納付しなければならない。

Article 43 (1) The registration fee for the first year pursuant to the provisions of paragraph (1) of the preceding Article must be paid within 30 days from the date on which a certified copy of the examiner's decision or trial or appeal decision to register the design has been served.

2 前条第一項の規定による第二年以後の各年分の登録料は、前年以前に納付しなければならない。

(2) The registration fees for each year after the second year prescribed in paragraph (1) of the preceding Article must be paid by the end of the previous year.

3 特許庁長官は、登録料を納付すべき者の請求により、三十日以内を限り、第一項に規定する期間を延長することができる。

(3) The Commissioner of the Japan Patent Office may extend the period provided for in paragraph (1) by up to 30 days, upon the request of a person who is required to pay the registration fees.

4 登録料を納付する者がその責めに帰することができない理由により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）内にその登録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登録料を納付することができる。

(4) If the person is unable to pay the registration fees within the period provided for in paragraph (1) due to reasons beyond the control of a person that pays registration fees (if the period under the preceding paragraph is extended, within the extended period), the person may pay the registration fees within 14 days notwithstanding the provisions of paragraph (1) (or, if the person is an overseas resident, within two months) from the date on which the reasons ceased to exist, but not later than six months after the lapse of the period.

（利害関係人による登録料の納付）

(Payment of Registration Fees by Interested Persons)

第四十三条の二 利害関係人は、納付すべき者の意に反しても、登録料を納付することができる。

Article 43-2 (1) An interested person may pay the registration fees even against the will of the person required to pay the registration fees.

2 前項の規定により登録料を納付した利害関係人は、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) The interested person that has paid the registration fees pursuant to the preceding paragraph may request the reimbursement of the expenses to the extent of the actual benefit obtained by the person required to pay the registration fees.

（登録料の追納）

(Late Payment of Registration Fees)

第四十四条 意匠権者は、第四十三条第二項に規定する期間内に登録料を納付することができないときは、その期間が経過した後であつても、その期間の経過後六月以内にその登録料を追納することができる。

Article 44 (1) If a holder of design rights is unable to pay the registration fees within the period prescribed in Article 43, paragraph (2), the holder of design rights may make a late payment of the registration fees even after the lapse of the period, but not later than 6 months after the lapse of the period.

2 前項の規定により登録料を追納する意匠権者は、第四十二条第一項の規定により納

付すべき登録料のほか、その登録料と同額の割増登録料を納付しなければならない。ただし、当該意匠権者がその責めに帰することができない理由により第四十三条第二項に規定する期間内にその登録料を納付することができないときは、その割増登録料を納付することを要しない。

(2) The holder of design rights who makes a late payment of the registration fees pursuant to the provisions of the preceding paragraph must pay a registration surcharge in the same amount as the registration fees, in addition to the registration fees to be paid pursuant to the provisions of Article 42, paragraph (1); provided, however, that if the holder of the design right is unable to pay the registration fees within the period prescribed in Article 43, paragraph (2) due to reasons beyond the control of the holder of the design right, the holder of the design right is not required to pay the registration surcharge.

3 前項の割増登録料の納付は、経済産業省令で定めるところにより、特許印紙をもっ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) The payment of the registration surcharge referred to in the preceding paragraph must be made by patent revenue stamps as provided by Order of the Ministry of Economy, Trade and Industry; provided, however, that cash payment may be made, if so provided by Order of the Ministry.

4 意匠権者が第一項の規定により登録料を追納することができる期間内にその登録料及び第二項の規定により納付すべき割増登録料を納付しないときは、その意匠権は、第四十三条第二項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 holder of the design right fails to pay the registration fees and the registration surcharge to be paid under paragraph (2) within the period that late payment of the registration fees may be made pursuant to the provisions of paragraph (1), the design right is deemed to have ceased to exist retroactive to the lapse of the period provided in Article 43, paragraph (2).

(登録料の追納による意匠権の回復)

(Restoration of Design Right by Late Payment of Registration Fees)

第四十四条の二 前条第四項の規定により消滅したものとみなされた意匠権の原意匠権者は、同項に規定する登録料及び割増登録料を納付することができるようになった日から二月以内で同条第一項の規定により登録料を追納することができる期間の経過後一年以内に限り、経済産業省令で定めるところにより、その登録料及び割増登録料を追納することができる。ただし、故意に、同項の規定により登録料を追納することができる期間内にその登録料及び割増登録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 44-2 (1) If the original holder of the design right which was deemed to have ceased to exist pursuant to the provisions of paragraph (4) of the preceding Article, may make a late payment of the registration fees and the registration surcharge prescribed in Article 44, paragraph (4) as provided by

Order of the Ministry of Economy, Trade and Industry within two months from the date on which the original holder becomes able to pay the registration fees and the registration surcharge, but not later than one year after the lapse of the period during which the late payment of the registration fees is allowed under Article 44, paragraph (1); provided, however, that this does not apply if the original holder is found to have intentionally failed to pay the registration fees and the registration surcharge within the period during which the late payment of the registration fees is allowed under Article 44, paragraph (1).

2 前項の規定による登録料及び割増登録料の追納があつたときは、その意匠権は、第四十三条第二項に規定する期間の経過の時にさかのぼつて存続していたものとみなす。

(2) If late payment for the registration fees and the registration surcharge are made pursuant to the provisions of the preceding paragraph, the design right is deemed to have been maintained retroactively from the time of the lapse of the period prescribed in Article 43, paragraph (2).

(回復した意匠権の効力の制限)

(Restriction on Effect of Restored Design Right)

第四十四条の三 前条第二項の規定により意匠権が回復したときは、その意匠権の効力は、第四十四条第一項の規定により登録料を追納することができる期間の経過後意匠権の回復の登録前に、輸入をし、若しくは日本国内において製造若しくは取得をした当該登録意匠若しくはこれに類似する意匠に係る物品若しくは画像記録媒体等、日本国内において建築若しくは取得をした当該登録意匠若しくはこれに類似する意匠に係る建築物又は日本国内において作成若しくは取得をした当該登録意匠若しくはこれに類似する意匠に係る画像には、及ばない。

Article 44-3 (1) If a design right has been restored pursuant to the provisions of paragraph (2) of the preceding Article, that design right is not effective against an article embodying the registered design or design similar to it, or a recording medium or device holding a graphic image embodying the registered design or design similar to it, which was imported into, or manufactured or acquired within Japan, a building embodying the registered design or a design similar to it, which was built or acquired within Japan, or a graphic image embodying the registered design or a design similar to it, which was created or acquired within Japan after the lapse of the period during which the late payment of the registration fees is allowed pursuant to the provisions of Article 44, paragraph (1) but before the registration of the restoration of the design right.

2 前条第二項の規定により回復した意匠権の効力は、第四十四条第一項の規定により登録料を追納することができる期間の経過後意匠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 design right restored pursuant to the provisions of paragraph (2) of the preceding Article is not effective against the following acts conducted after the

lapse of the period during which the late payment of the registration fees is allowed pursuant to the provisions of Article 44, paragraph (1) but before the registration of the restoration of the design right:

一 当該意匠又はこれに類似する意匠の実施

(i) the working of the design or a design similar to it;

二 当該登録意匠又はこれに類似する意匠に係る物品の製造に用いる物品又はプログラム等若しくはプログラム等記録媒体等について行つた次のいずれかに該当する行為

(ii) an act falling under any of the following that a person does in connection with an article, computer program or anything equivalent, or recording medium or device containing a computer program or anything equivalent, that is used in the manufacturing of the article embodying the registered design or a design similar to it:

イ 当該製造に用いる物品又はプログラム等記録媒体等の製造、譲渡、貸渡し若しくは輸入又は譲渡若しくは貸渡しの申出をした行為

(a) the act of manufacturing, transferring, leasing, or importing, or offering to transfer or lease an article or recording medium or device containing a computer program or anything equivalent, that is used in the manufacturing of the article;

ロ 当該製造に用いるプログラム等の作成又は電気通信回線を通じた提供若しくはその申出をした行為

(b) the act of creating a computer program or anything equivalent that is used in the creation of the article, or of providing it or offering to provide it through a telecommunications line;

三 当該登録意匠又はこれに類似する意匠に係る物品を譲渡、貸渡し又は輸出のために所持した行為

(iii) the act of possessing an article embodying a registered design or a design similar to it for the purpose of transferring, leasing or exporting it;

四 当該登録意匠又はこれに類似する意匠に係る建築物の建築に用いる物品又はプログラム等若しくはプログラム等記録媒体等について行つた次のいずれかに該当する行為

(iv) an act falling under any of the following that a person does in connection with an article, computer program or anything equivalent, or recording medium or device containing a computer program or anything equivalent, which is used in the construction of the building embodying the registered design or a design similar to it:

イ 当該建築に用いる物品又はプログラム等記録媒体等の製造、譲渡、貸渡し若しくは輸入又は譲渡若しくは貸渡しの申出をした行為

(a) the act of manufacturing, transferring, leasing, or importing, or offering to transfer or lease any article, or recording medium or device containing a computer program or anything equivalent, to be used for the building;

- ロ 当該建築に用いるプログラム等の作成又は電気通信回線を通じた提供若しくはその申出をした行為
- (b) the act of creating any computer program or anything equivalent to be used for the building, or providing it or offering to provide it through a telecommunications line;
- 五 当該登録意匠又はこれに類似する意匠に係る建築物を譲渡又は貸渡しのために所有した行為
- (v) the act of owning a building embodying a registered design or a design similar to it for the purpose of transferring or leasing it;
- 六 当該登録意匠又はこれに類似する意匠に係る画像の作成に用いる物品若しくは画像若しくは一般画像記録媒体等又はプログラム等若しくはプログラム等記録媒体等について行った次のいずれかに該当する行為
- (vi) an act falling under any of the following that a person does with regard to an article, graphic image, recording medium or device holding an ordinary graphic image, computer program or anything equivalent, or recording medium or device containing a computer program or anything equivalent, that is used to create the graphic image embodying a registered design or a design similar to it:
- イ 当該作成に用いる物品若しくは一般画像記録媒体等又はプログラム等記録媒体等の製造、譲渡、貸渡し若しくは輸入又は譲渡若しくは貸渡しの申出をした行為
- (a) the act of manufacturing, transferring, leasing, or importing, or offering to transfer or lease any article or recording medium or device holding an ordinary graphic image, or recording medium or device containing a computer program or anything equivalent, that is used in the creation of the image;
- ロ 当該作成に用いる画像又はプログラム等の作成又は電気通信回線を通じた提供若しくはその申出をした行為
- (b) the act of creating a graphic image or computer program or anything equivalent that is used in the creation of the image, or of providing it or offering to provide it through a telecommunications line;
- 七 当該登録意匠若しくはこれに類似する意匠に係る画像を電気通信回線を通じた提供のために保有した行為又は当該登録意匠若しくはこれに類似する意匠に係る画像記録媒体等を譲渡、貸渡し若しくは輸出のために所持した行為
- (vii) the act of holding a graphic image embodying a registered design or a design similar to it for the purpose of providing it through a telecommunications line, or the act of possessing a recording medium or device holding a graphic image embodying a registered design or a design similar to it for the purpose of transferring, leasing, or exporting it.

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第四十五条 特許法第百十一条第一項（第三号を除く。）から第三項まで（既納の特許料の返還）の規定は、登録料に準用する。

Article 45 The provisions of Article 111, paragraph (1) (excluding item (iii)) through paragraph (3) (Refund of Patent Fees) of the Patent Act apply mutatis mutandis to registration fees.

第五章 審判

Chapter V Trials and Appeals

（拒絶査定不服審判）

(Appeal against an Examiner's Decision of Refusal)

第四十六条 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 46 (1) A person that has been rendered an examiner's decision rejecting an application and that is dissatisfied with this decision may file a request for an appeal against an examiner's decision of refusal within three months from the date the certified copy of the examiner's decision has been 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) Due to reasons beyond the control of the person, if the person is unable to file a request for appeal against an examiner's decision of refusal within the period provided for in the preceding paragraph, the person may file the request within 14 days, notwithstanding the provisions of that paragraph (or, if the person is an overseas resident, within two months) from the date on which the reasons ceased to exist, but not later than six months after the lapse of the period.

（補正却下決定不服審判）

(Appeal Against an Examiner's Decision to Dismiss Amendment)

第四十七条 第十七条の二第一項の規定による却下の決定を受けた者は、その決定に不服があるときは、その決定の謄本の送達があつた日から三月以内に補正却下決定不服審判を請求することができる。ただし、第十七条の三第一項に規定する新たな意匠登録出願をしたときは、この限りでない。

Article 47 (1) A person that has received an examiner's decision to dismiss amendment prescribed in Article 17-2, paragraph (1) and is dissatisfied with the ruling may file a request for an appeal against an examiner's decision to dismiss amendment within three months from the date on which the certified copy of the examiner's decision has been served; provided, however, that this does not apply if a new application for design registration prescribed in Article

17-3, paragraph (1) has been filed.

2 前条第二項の規定は、補正却下決定不服審判の請求に準用する。

(2) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to a request for an appeal against examiner's decision to dismiss amendment.

(意匠登録無効審判)

(Trials for Invalidation of Design Registration)

第四十八条 意匠登録が次の各号のいずれかに該当するときは、その意匠登録を無効にすることについて意匠登録無効審判を請求することができる。

Article 48 (1) If a design registration falls under any of the following items, a request for a trial for invalidation of design registration may be filed.

一 その意匠登録が第三条、第三条の二、第五条、第九条第一項若しくは第二項、第十条第六項、第十五条第一項において準用する特許法第三十八条又は第六十八条第三項において準用する同法第二十五条の規定に違反してされたとき（その意匠登録が第十五条第一項において準用する同法第三十八条の規定に違反してされた場合に於ては、第二十六条の二第一項の規定による請求に基づき、その意匠登録に係る意匠権の移転の登録があつたときを除く。）。

(i) if the design registration has been made in violation of Article 3, Article 3-2, Article 5, Article 9, paragraph (1) or (2), Article 10, paragraph (6) of this Act, Article 38 of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act, or Article 25 of the Patent Act as applied mutatis mutandis pursuant to Article 68, paragraph (3) of this Act (if the design registration has been made in violation of Article 38 of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act, excluding the case in which the transfer of a design right pertaining to the design registration has been registered based on the request under Article 26-2, paragraph (1)).

二 その意匠登録が条約に違反してされたとき。

(ii) if the design registration has been made in violation of a treaty;

三 その意匠登録がその意匠について意匠登録を受ける権利を有しない者の意匠登録出願に対してされたとき（第二十六条の二第一項の規定による請求に基づき、その意匠登録に係る意匠権の移転の登録があつたときを除く。）。

(iii) if the design registration has been made for an application for design registration filed by a person that has not had the right to have the design registration made for the design (excluding the case in which the transfer of a design right pertaining to the design registration has been registered based on the request under Article 26-2, paragraph (1)); and

四 意匠登録がされた後において、その意匠権者が第六十八条第三項において準用する特許法第二十五条の規定により意匠権を享有することができない者になつたとき、又はその意匠登録が条約に違反することとなつたとき。

(iv) after the design registration has been made, if the holder of the design right has come to fall under a category of a person that is not permitted the enjoyment of design rights pursuant to the provisions of Article 25 of the Patent Act as applied mutatis mutandis pursuant to Article 68, paragraph (3) of this Act, or the design registration has come to violate a treaty.

2 意匠登録無効審判は、何人も請求することができる。ただし、意匠登録が前項第一号に該当すること（その意匠登録が第十五条第一項において準用する特許法第三十八条の規定に違反してされたときに限る。）又は前項第三号に該当することを理由とするものは、当該意匠登録に係る意匠について意匠登録を受ける権利を有する者に限り請求することができる。

(2) Any person may file a request for trial for invalidation of design registration; provided, however, that a request for a trial for invalidation of design registration filed on the grounds that the design registration falls under item (i) of the preceding paragraph (limited to cases in which the design registration is obtained in violation of Article 38 of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act) or under item (iii) of the preceding paragraph, maybe filed only by a person that has the right to have a design registration made for the design associated with the design registration in question.

3 意匠登録無効審判は、意匠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 invalidation of design registration may be filed even after the lapse of design rights.

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

(4) If a request for a trial for invalidation of design registration has been filed, a chief administrative judge must notify any exclusive licensee under the design right and other persons with registered rights relating to the design registration to that effect.

第四十九条 意匠登録を無効にすべき旨の審決が確定したときは、意匠権は、初めから存在しなかつたものとみなす。ただし、意匠登録が前条第一項第四号に該当する場合において、その意匠登録を無効にすべき旨の審決が確定したときは、意匠権は、その意匠登録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 49 Once a trial decision to the effect that a design registration is to be invalidated has become final and binding, the design right is deemed never to have existed from the beginning; provided, however, that if a design registration falls under paragraph (1), item (iv) of the preceding Article and a trial decision to invalidate the design registration has become final and binding, the design right is deemed not to have existed from the time the design registration came to fall under that item.

(審査に関する規定の準用)

(Mutatis Mutandis Application of Provisions on Examination)

第五十条 第十七条の二及び第十七条の三の規定は、拒絶査定不服審判に準用する。この場合において、第十七条の二第三項及び第十七条の三第一項中「三月」とあるのは「三十日」と、第十七条の二第四項中「補正却下決定不服審判を請求したとき」とあるのは「第五十九条第一項の訴えを提起したとき」と読み替えるものとする。

Article 50 (1) The provisions of Article 17-2 and Article 17-3 apply mutatis mutandis to an appeal against an examiner's decision of refusal. In this case, the term "three months" in Article 17-2, paragraph (3) and Article 17-3, paragraph (1) is deemed to be replaced with "30 days", and the phrase "files a request for an appeal against an examiner's decision to dismiss amendment" in Article 17-2, paragraph (4) is deemed to be replaced with "institutes an action referred to in Article 59, paragraph (1)".

2 第十八条の規定は、拒絶査定不服審判の請求を理由があるとする場合に準用する。ただし、第五十二条において準用する特許法第百六十条第一項の規定によりさらに審査に付すべき旨の審決をするときは、この限りでない。

(2) The provisions of Article 18 apply mutatis mutandis if there are found to be reasonable grounds to file a request for an appeal against an examiner's decision of refusal; provided, however, that this does not apply if an appeal decision is made to order a further examination to be carried out pursuant to the provisions of Article 160, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 52.

3 特許法第五十条（拒絶理由の通知）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。

(3) The provisions of Article 50 (Notice of Reasons for Refusal) of the Patent Act apply mutatis mutandis if any of the reasons for rejection that differ from the reasons for the examiner's decision are found in an appeal against an examiner's decision of refusal.

(補正却下決定不服審判の特則)

(Special Provisions on Trial over Examiner's Ruling Dismissing an Amendment)

第五十一条 補正却下決定不服審判において決定を取り消すべき旨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。

Article 51 If an appeal decision is made to rescind the examiner's ruling in a trial over examiner's decision to dismiss amendment, the determination will be binding on the examiner with respect to the case.

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第五十二条 特許法第百三十一条第一項及び第二項、第百三十一条の二（第一項第三号及び第二項第一号を除く。）から第百三十四条まで、第百三十五条から第百五十四条まで、第百五十五条第一項及び第二項、第百五十六条第一項、第三項及び第四項、第百五十七条、第百五十八条、第百六十条第一項及び第二項、第百六十一条並びに第百六十七条から第百七十条まで（審判の請求、審判官、審判の手續、訴訟との関係及び審判における費用）の規定は、審判に準用する。この場合において、同法第百五十六条第一項中「特許無効審判以外の審判においては、事件が」とあるのは「事件が」と、同法第百六十一条中「拒絶査定不服審判」とあり、及び同法第百六十九条第三項中「拒絶査定不服審判及び訂正審判」とあるのは「拒絶査定不服審判及び補正却下決定不服審判」と読み替えるものとする。

Article 52 The provisions of Article 131, paragraphs (1) and (2), Articles 131-2 (excluding items paragraph (1), item (iii) and paragraph (2), item (i)) through Article 134, Articles 135 through 154, Article 155, paragraphs (1) and (2), Article 156, paragraphs (1), (3), and (4), Article 157, Article 158, Article 160, paragraphs (1) and (2), Article 161, and Articles 167 through 170 (Request for Trial or Appeal; Administrative Judge; Trial or Appeal Procedures; Relationship with Judicial Litigation; and Costs of Trial and Appeal) of the Patent Act apply mutatis mutandis to trials and appeals. In this case, the phrase "a case ... in a trial or appeal other than a trial for invalidation" in Article 156, paragraph (1) is deemed to be replaced with "a case", the phrase "appeal of the examiner's decision of rejection" in Article 161 and the phrase "appeal against examiner's decision of rejection and trial for correction" in Article 169, paragraph (3) of the Act is deemed to be replaced with "an appeal against an examiner's decision of refusal and trial over examiner's decision to dismiss an amendment".

第六章 再審及び訴訟

Chapter VI Retrial and Judicial Litigation

(再審の請求)

(Request for Retrial)

第五十三条 確定審決に対しては、当事者又は参加人は、再審を請求することができる。

Article 53 (1) A party or an intervenor may file a request for a retrial against a final and binding trial or appeal decision.

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

(2) The provisions of Article 338, paragraphs (1) and (2), and Article 339 (Grounds for Retrial) of the Code of Civil Procedure (Act No. 109 of 1996) apply mutatis mutandis to a request for a retrial under the preceding paragraph.

第五十四条 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 54 (1) If a requester 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 against the final and binding trial decision.

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

(2) A request for a retrial as referred to in the preceding paragraph must be filed against the requester and the respondent in the trial or appeal as joint respondents.

(再審により回復した意匠権の効力の制限)

(Restriction on Effect of Design Right Restored by Retrial)

第五十五条 無効にした意匠登録に係る意匠権が再審により回復したときは、意匠権の効力は、当該審決が確定した後再審の請求の登録前に、善意に輸入をし、若しくは日本国内において製造若しくは取得をした当該登録意匠若しくはこれに類似する意匠に係る物品若しくは画像記録媒体等、善意に日本国内において建築若しくは取得をした当該登録意匠若しくはこれに類似する意匠に係る建築物又は善意に日本国内において作成若しくは取得をした当該登録意匠若しくはこれに類似する意匠に係る画像には、及ばない。

Article 55 (1) If design rights under an invalidated design registration has been restored by retrial, the effect of the design rights does not extend to any article or recording medium or device holding a graphic image that embodies the registered design or a design similar to it, which was imported into, or manufactured or acquired within Japan in good faith, any building embodying the registered design or a design similar to it, which was constructed or acquired within Japan in good faith, or any graphic image embodying the registered design or a design similar to it, which was created or acquired within Japan in good faith after the trial decision becomes final and binding but before the registration of the request for a retrial.

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

(2) If design rights under an invalidated design registration have been restored by retrial, the effect of the design rights does not extend to the following acts as performed after the trial decision becomes final and binding but before the registration of the request for a retrial:

一 当該意匠又はこれに類似する意匠の善意の実施

(i) the working of the design or a design similar to it in good faith;

二 善意に、当該登録意匠又はこれに類似する意匠に係る物品の製造に用いる物品又はプログラム等若しくはプログラム等記録媒体等について行つた次のいずれかに該

当する行為

- (ii) an act falling under any of the following that a person performs in good faith, in connection with an article, computer program or anything equivalent, or recording medium or device containing a computer program or anything equivalent, that is used in the manufacturing of the article embodying the registered design or a design similar to it:
- イ 当該製造に用いる物品又はプログラム等記録媒体等の製造、譲渡、貸渡し若しくは輸入又は譲渡若しくは貸渡しの申出をした行為
- (a) (a) the act of manufacturing, transferring, leasing, or importing, or offering to transfer or lease an article or recording medium or device containing a computer program or anything equivalent that is used in the manufacturing of the article;
- ロ 当該製造に用いるプログラム等の作成又は電気通信回線を通じた提供若しくはその申出をした行為
- (b) the act of creating a computer program or anything equivalent that is used in the manufacturing of the article, or of providing it or offering to provide it through a telecommunications line;
- 三 善意に、当該登録意匠又はこれに類似する意匠に係る物品を譲渡、貸渡し又は輸出のために所持した行為
- (iii) the act of possessing an article embodying a registered design or a design similar to it for the purpose of transferring, leasing or exporting it in good faith;
- 四 善意に、当該登録意匠又はこれに類似する意匠に係る建築物の建築に用いる物品又はプログラム等若しくはプログラム等記録媒体等について行った次のいずれかに該当する行為
- (iv) an act falling under any of the following that a person performs in good faith, in connection with an article, computer program or anything equivalent, or recording medium or device containing a computer program or anything equivalent, that is used in the construction of a building embodying the registered design or a design similar to it:
- イ 当該建築に用いる物品又はプログラム等記録媒体等の製造、譲渡、貸渡し若しくは輸入又は譲渡若しくは貸渡しの申出をした行為
- (a) the act of manufacturing, transferring, leasing, or importing, or offering to transfer or lease an article or recording medium or device containing a computer program or anything equivalent that is used in the construction of the building;
- ロ 当該建築に用いるプログラム等の作成又は電気通信回線を通じた提供若しくはその申出をした行為
- (b) the act of creating a computer program or anything equivalent that is used in the construction of the building, or of providing it or offering to provide it through a telecommunications line;

五 善意に、当該登録意匠又はこれに類似する意匠に係る建築物を譲渡又は貸渡しのために所有した行為

(v) the act of owning a building embodying the registered design or a design similar to it for the purpose of transferring or leasing it in good faith;

六 善意に、当該登録意匠又はこれに類似する意匠に係る画像の作成に用いる物品若しくは画像若しくは一般画像記録媒体等又はプログラム等若しくはプログラム等記録媒体等について行つた次のいずれかに該当する行為

(vi) an act falling under any of the following that a person performs in good faith, in connection with an article, graphic image, recording medium or device holding an ordinary graphic image, computer program or anything equivalent, or recording medium or device containing a computer program or anything equivalent, that is used in a creation of the graphic image embodying a registered design or a design similar to it:

イ 当該作成に用いる物品若しくは一般画像記録媒体等又はプログラム等記録媒体等の製造、譲渡、貸渡し若しくは輸入又は譲渡若しくは貸渡しの申出をした行為

(a) the act of manufacturing, transferring, leasing, or importing, or offering to transfer or lease an article, recording medium or device holding an ordinary graphic image, or recording medium or device containing a computer program or anything equivalent, that is used in the creation of the image;

ロ 当該作成に用いる画像又はプログラム等の作成又は電気通信回線を通じた提供若しくはその申出をした行為

(b) the act of creating a graphic image or computer program or anything equivalent that is used in the creation of the image, or of providing it or offering to provide it through a telecommunications line;

七 善意に、当該登録意匠若しくはこれに類似する意匠に係る画像を電気通信回線を通じた提供のために保有した行為又は当該登録意匠若しくはこれに類似する意匠に係る画像記録媒体等を譲渡、貸渡し若しくは輸出のために所持した行為

(vii) The act of holding a graphic image embodying a registered design or a design similar to it for the purpose of providing it through a telecommunications line, or the act of possessing a recording medium or device holding a graphic image embodying the registered design or a design similar to it for the purpose of transferring, leasing or exporting it in good faith.

第五十六条 無効にした意匠登録に係る意匠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意匠登録出願について再審により意匠権の設定の登録があつたときは、当該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意匠又はこれに類似する意匠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意匠及び事業の目的の範囲内において、その意匠権について通常実施権を有する。

Article 56 If design rights under an invalidated design registration have been restored by a retrial or if the establishment of design rights has been registered by a retrial in connection with an application for design registration that was refused by examination and the examiner's decision of refusal is maintained by an appeal decision, and if a person has been working the design or a design similar to it in Japan or has been making preparations for it in good faith, after the trial decision or the appeal decision became final and binding but before the registration of the request for a retrial, the person has a non-exclusive license under those design rights, to the extent of the design and the purpose of the business being worked or prepared.

(審判の規定の準用)

(Mutatis Mutandis Application of Provisions on Trials)

第五十七条 第五十条第一項及び第三項の規定は、拒絶査定不服審判の確定審決に対する再審に準用する。

Article 57 (1) The provisions of Article 50, paragraphs (1) and (3) apply mutatis mutandis to a retrial against a final and binding appeal decision for an appeal against an examiner's decision of refusal.

2 第五十一条の規定は、補正却下決定不服審判の確定審決に対する再審に準用する。

(2) The provision of Article 51 apply mutatis mutandis to a retrial against a final and binding appeal decision for a trial over examiner's ruling dismissing an amendment.

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第五十八条 特許法第七十三条及び第七十四条第五項の規定は、再審に準用する。

Article 58 (1) The provisions of Article 173 and Article 174, paragraph (5) of the Patent Act apply mutatis mutandis to a retrial.

2 特許法第三十一条第一項、第三十一条の二第一項本文、第三十二条第三項及び第四項、第三十三条、第三十三条の二、第三十四条第四項、第三十五条から第四十七条まで、第五十条から第五十二条まで、第五十五条第一項、第五十六条第一項、第三項及び第四項、第五十七条、第五十八条、第六十条、第六十七条の二本文、第六十八条、第六十九条第三項から第六項まで並びに第七十条の規定は、拒絶査定不服審判の確定審決に対する再審に準用する。この場合において、同法第六十九条第三項中「拒絶査定不服審判及び訂正審判」とあるのは、「拒絶査定不服審判」と読み替えるものとする。

(2) The provisions of Article 131, paragraph (1), the main clause of Article 131-2, paragraph (1), Article 132, paragraphs (3) and (4), Article 133, Article 133-2, Article 134, paragraph (4), Articles 135 through 147, Articles 150 through 152, Article 155, paragraph (1), Article 156, paragraphs (1), (3), and (4), Article 157, Article 158, Article 160, the main clause of Article 167-2, Article 168, Article

169, paragraphs (3) through (6), and Article 170 of the Patent Act apply mutatis mutandis to a retrial against a final and binding appeal decision for an appeal against an examiner's decision of refusal. In this case, the phrase "appeal against an examiner's decision of refusal and a trial for correction" in Article 169, paragraph (3) of the Act is deemed to be replaced with "appeal against an examiner's decision of refusal".

3 特許法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、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、補正却下決定不服審判の確定審決に対する再審に準用する。この場合において、同法第百六十九条第三項中「拒絶査定不服審判及び訂正審判」とあるのは、「補正却下決定不服審判」と読み替えるものとする。

(3) The provisions of Article 131, paragraph (1), the main clause of Article 131-2, paragraph (1), Article 132, paragraphs (3) and (4), Article 133, Article 133-2, Article 134, paragraph (4), Articles 135 through 147, Articles 150 through 152, Article 155, paragraph (1), Article 156, paragraphs (1), (3), and (4), Article 157, the main clause of Article 167-2, Article 168, Article 169, paragraphs (3) through (6), and Article 170 of the Patent Act apply mutatis mutandis to a retrial against a final and binding appeal decision for an appeal against an examiner's decision to dismiss amendment. In this case, the phrase "appeal over the examiner's decision of rejection or a trial for correction" in Article 169, paragraph (3) of that Act is deemed to be replaced with "appeal against an examiner's decision to dismiss amendment".

4 特許法第百七十四条第三項の規定は、意匠登録無効審判の確定審決に対する再審に準用する。

(4) The provisions of Article 174, paragraph (3) of the Patent Act apply mutatis mutandis to retrial against a final and binding trial decision for a trial for invalidation of design registration.

(審決等に対する訴え)

(Revocation Actions Against Trial or Appeal Decisions)

第五十九条 審決に対する訴え、第五十条第一項（第五十七条第一項において準用する場合を含む。）において準用する第十七条の二第一項の規定による却下の決定に対する訴え及び審判又は再審の請求書の却下の決定に対する訴えは、東京高等裁判所の専属管轄とする。

Article 59 (1) The Tokyo High Court has exclusive jurisdiction over a revocation action against a trial or appeal decision, a decision to dismiss an amendment under Article 17-2, paragraph (1) as applied mutatis mutandis pursuant to Article 50, paragraph (1) (including as applied mutatis mutandis pursuant to

Article 57, paragraph (1)), and a decision to dismiss a written request for a trial, appeal, or retrial.

2 特許法第七十八条第二項から第六項まで（出訴期間等）、第七十九条（被告適格）、第八十条第一項（出訴の通知等）及び第八十条の二から第八十二条まで（審決取消訴訟における特許庁長官の意見、審決又は決定の取消し及び裁判の正本等の送付）の規定は、前項の訴えに準用する。この場合において、同条第二号中「訴えに係る請求項を特定するために必要な」とあるのは、「旨を記載した」と読み替えるものとする。

(2) The provisions of Article 178, paragraphs (2) through (6) (Statute of Limitations for Filing an Action), Article 179 (Eligibility for Defendant), Article 180, paragraph (1) (Notice of Commencement of Action) and Articles 180-2 through 182 (Opinion of the Commissioner of the Japan Patent Office in a Revocation Action against a/an Trial or Appeal Decision; Vacating a Trial or Appeal Decision or a Ruling; and Sending of Original Copy of a Decision) of the Patent Act apply mutatis mutandis to a revocation action under the preceding paragraph. In this case, the phrase "necessary for identifying claims pertaining to a revocation action with respect to which" in Article 182, item (ii) is deemed to be replaced with "stating that".

（対価の額についての訴え）

(Revocation Actions against Amount of Consideration)

第六十条 第三十三条第三項又は第四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 60 (1) If a person that has received an award referred to in Article 33, paragraph (3) or (4) 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 特許法第八十三条第二項（出訴期間）及び第八十四条（被告適格）の規定は、前項の訴えに準用する。

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

第六十条の二 削除

Article 60-2 Deleted

第六章の二 ジュネーブ改正協定に基づく特例

Chapter VI-2 Special Provisions Based on Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs

第一節 国際登録出願

Section 1 Application for International Registration

(国際登録出願)

(Application for International Registration)

第六十条の三 日本国民又は日本国内に住所若しくは居所（法人にあつては、営業所）を有する外国人は、特許庁長官に意匠の国際登録に関するハーグ協定のジュネーブ改正協定（以下「ジュネーブ改正協定」という。）第一条（v i i）に規定する国際出願（以下「国際出願」という。）をすることができる。この場合において、経済産業省令で定める要件に該当するときは、二人以上が共同して国際出願をすることができる。

Article 60-3 (1) A Japanese citizen or a foreign national that has an address or residence (or, in the case of a corporation, a business office) in Japan may file to the Commissioner of the Japan Patent Office an international application provided in Article 1 (vii) of the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (hereinafter referred to as the "Geneva Act") (hereinafter the application is referred to as "international application"). In this case, if the requirements prescribed by Order of the Ministry of Economy, Trade and Industry are satisfied, two or more persons may jointly file an international application.

2 前項の規定による国際出願（以下「国際登録出願」という。）をしようとする者は、経済産業省令で定めるところにより外国語で作成した願書及び必要な物件を提出しなければならない。

(2) A person filing an international application pursuant to the provisions of the preceding paragraph (hereinafter referred to as "application for international registration") must submit an application written in a foreign language and necessary materials as provided by Order of the Ministry of Economy, Trade and Industry.

(意匠登録出願に関する規定の準用)

(Mutatis Mutandis Application of Provisions Related to Applications for Design Registration)

第六十条の四 第六十八条第二項において準用する特許法第十七条第三項（第三号に係る部分に限る。）及び第十八条第一項の規定は、国際登録出願に準用する。

Article 60-4 The provisions of Article 17, paragraph (3) (limited to the part related to item (iii)) and Article 18, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 68, paragraph (2) of this Act apply mutatis mutandis to the application for international registration.

(経済産業省令への委任)

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

第六十条の五 前二条に定めるもののほか、国際登録出願に関しジュネーブ改正協定及

びジュネーブ改正協定に基づく規則を実施するため必要な事項の細目は、経済産業省令で定める。

Article 60-5 In addition to what is provided for in the preceding two Articles, the details of necessary matters for enforcing the Geneva Act and the Common Regulations Under the Geneva Act relating to application for international registration are prescribed by Order of the Ministry of Economy, Trade and Industry.

第二節 国際意匠登録出願に係る特例

Section 2 Special Provisions on International Applications for Design Registration

(国際出願による意匠登録出願)

(Application for Design Registration Based on International Application)

第六十条の六 日本国をジュネーブ改正協定第一条 (x i x) に規定する指定締約国とする国際出願であつて、その国際出願に係るジュネーブ改正協定第一条 (v i) に規定する国際登録 (以下「国際登録」という。) についてジュネーブ改正協定第十条 (3) (a) の規定による公表 (以下「国際公表」という。) がされたものは、経済産業省令で定めるところにより、ジュネーブ改正協定第十条 (2) に規定する国際登録の日になされた意匠登録出願とみなす。

Article 60-6 (1) An international application designating Japan as a designated Contracting Party prescribed in Article 1 (xix) of the Geneva Act for which publication of an international registration prescribed in Article 1 (vi) of the Geneva Act (hereinafter referred to as "international registration") pertaining to the international application (hereinafter referred to as "international publication") have been made under Article 10 (3)(a) of the Geneva Act is deemed to be an application for design registration filed on an international registration date prescribed in Article 10 (2) of the Geneva Act as provided by Order of the Ministry of Economy, Trade and Industry.

2 二以上の意匠を包含する国際出願についての前項の規定の適用については、同項中「された意匠登録出願」とあるのは、「国際登録の対象である意匠ごとにされた意匠登録出願」とする。

(2) In applying the provisions of the preceding paragraph to an international application including two or more designs, "an application for design registration filed" in that paragraph is replaced with "an application for design registration filed for each design that is the subject of an international registration".

3 第一項 (前項の規定により読み替えて適用する場合を含む。) の規定により意匠登録出願とみなされた国際出願 (以下「国際意匠登録出願」という。) に係るジュネーブ改正協定第一条 (v i i i) に規定する国際登録簿 (以下「国際登録簿」という。) に記録された次の表の上欄に掲げる事項は、第六条第一項の規定により提出し

た願書に記載された同表の下欄に掲げる事項とみなす。

(3) Matters listed in the left-hand columns of the following table recorded on the international register prescribed in Article 1 (viii) of the Geneva Act (hereinafter referred to as "international register") pertaining to an international application deemed to be an application for design registration pursuant to paragraph (1) (including as applied following the deemed replacement of terms pursuant to the preceding paragraph) (hereinafter referred to as "international application for design registration") are deemed to be the matters listed in the right-hand columns of the table stated in the application submitted pursuant to Article 6, paragraph (1).

<p>国際登録の名義人の氏名又は名称及びその住所 the name, and domicile or residence of the registered person of an international registration</p>	<p>意匠登録出願人の氏名又は名称及び住所又は居所 the name, and domicile or residence of the applicant for design registration</p>
<p>国際登録の対象である意匠の創作をした者の氏名及びその住所 the name and the domicile of a person who has created a design that is the subject of an international registration;</p>	<p>意匠の創作をした者の氏名及び住所又は居所 the name, and the domicile or residence of a person who has created a design;</p>
<p>国際登録の対象である意匠を構成する一若しくは二以上の製品又は国際登録の対象である意匠が使用されることとなる一若しくは二以上の製品 one or more products that constitute a design that is the subject of an international registration, or one or more products that will use a design that is the subject of an international registration</p>	<p>意匠に係る物品又は意匠に係る建築物若しくは画像の用途（上欄に掲げる製品が建築物又は画像である場合において、当該製品に係る国際登録簿に記載された事項から当該建築物又は画像の用途を認識することができることに限る。） the article embodying the design, or the usage of the building or graphic image embodying the design (if the product listed in the left column is a building or graphic image, limited to the cases where it is possible to recognize the usage of the building or the graphic image from the matters recorded on the international register related to the product);</p>

4 国際意匠登録出願に係る国際登録簿に記載された意匠は、第六条第一項の規定により提出した図面に記載された意匠登録を受けようとする意匠とみなす。

(4) A design recorded on the international register concerning international applications for design registration is deemed to be a design for which registration is sought, which is depicted in the drawing submitted pursuant to Article 6, paragraph (1).

(意匠の新規性の喪失の例外の特例)

(Special Provisions on Exception to Lack of Novelty of Design)

第六十条の七 第四条第二項の規定の適用を受けようとする国際意匠登録出願の出願人は、その旨を記載した書面及び証明書を、同条第三項の規定にかかわらず、国際公表があつた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 60-7 (1) Notwithstanding the provisions of Article 4, paragraph (3), the applicant of an international application for design registration that seeks the application of the provisions of Article 4, paragraph (2) may submit to the Commissioner of the Japan Patent Office, after the date of international publication, but within the period provided by Order of the Ministry of Economy, Trade and Industry, a document stating that fact and a certificate.

2 前項に規定する出願人が、その国際出願と同時に証明書をジュネーブ改正協定第一条 (x x v i i i) に規定する国際事務局 (以下「国際事務局」という。) に提出したときは、第四条第三項の規定の適用については、証明書をジュネーブ改正協定第十条 (2) に規定する国際登録の日に特許庁長官に提出したものとみなす。

(2) When the applicant provided in the preceding paragraph submits a certificate to the International Bureau prescribed in Article 1 (xxviii) of the Geneva Act (hereinafter referred to as the "International Bureau") at the time of submitting the international application, for the purpose of application of Article 4, paragraph (3), the applicant is deemed to have submitted the certificate to the Commissioner of the Patent Office on the date of international application prescribed in Article 10 (2) of the Geneva Act.

(関連意匠の登録の特例)

(Special Provision on Registration of Related Designs)

第六十条の八 本意匠の意匠登録出願と関連意匠の意匠登録出願の少なくともいずれか一方が国際意匠登録出願である場合における第十条第一項 (同条第五項の規定により読み替えて適用する場合を含む。以下この項及び次項において同じ。) の規定の適用については、同条第一項中「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」とあるのは、「若しくは第四十三条の三第一項若しくは第二項又はジュネーブ改正協定第六条 (1) (a) の規定による」とする。

Article 60-8 (1) In applying the provisions of Article 10, paragraph (1) (including as applied following a deemed replacement of terms pursuant to paragraph (5) of the Article; hereinafter the same applies in this paragraph and the following paragraph) if either or both of the application for design registration of a principal design and the application for design registration of a related design are international applications for design registration, the phrase "or under Article 43-3, paragraph (1) or (2)" in that paragraph is deemed to read "or under Article 43-3, paragraph (1) or (2), or Article 6 (1)(a) of the Geneva Act".

2 本意匠の意匠権が第六十条の十四第二項に規定する国際登録を基礎とした意匠権で

ある場合における第十条第一項ただし書の規定の適用については、同項ただし書中「第四十四条第四項」とあるのは、「第六十条の十四第二項」とする。

(2) In applying the provisions of the proviso to Article 10, paragraph (1), if the rights to a principle design are design rights that are based on the international registration prescribed in Article 60-14, paragraph (2), the phrase "Article 44, paragraph (4)" in the proviso to that paragraph is deemed to read "Article 60-14, paragraph (2)".

3 基礎意匠に係る一又は二以上の関連意匠の意匠権が第六十条の十四第二項に規定する国際登録を基礎とした意匠権である場合における第十条第八項の規定の適用については、同項中「第四十四条第四項」とあるのは、「第四十四条第四項若しくは第六十条の十四第二項」とする。

(3) In applying the provisions of Article 10, paragraph (8) if the rights to one or more related designs that are associated with a fundamental design are design rights that are based on an international registration as prescribed in Article 60-14, paragraph (2), the term "Article 44, paragraph (4)" in that paragraph is deemed to read "Article 44, paragraph (4) or Article 60-14, paragraph (2)".

(秘密意匠の特例)

(Special Provisions on Secret Designs)

第六十条の九 国際意匠登録出願の出願人については、第十四条の規定は、適用しない。

Article 60-9 The provisions of Article 14 do not apply to the applicant of an international application for design registration.

(パリ条約等による優先権主張の手続の特例)

(Special Provisions on Procedures for a Priority Claim Under the Paris Convention)

第六十条の十 国際意匠登録出願については、第十五条第一項において読み替えて準用する特許法第四十三条（同項において準用する同法第四十三条の二第二項（第十五条第一項において準用する同法第四十三条の三第三項において準用する場合を含む。）及び第四十三条の三第三項において準用する場合を含む。）並びに第十五条第一項において準用する同法第四十三条の二第一項（第十五条第一項において準用する同法第四十三条の三第三項において準用する場合を含む。）及び第四十三条の三第二項の規定は、適用しない。

Article 60-10 (1) For the international applications for design registration, the provisions of Article 43 of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act following the deemed replacement of terms (including Article 43-2, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act) and including as applied mutatis mutandis pursuant

to Article 43-3, paragraph (3) of the Patent Act), and Article 43-2, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act (including as applied mutatis mutandis pursuant to Article 43-3, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1)) of this Act and Article 43-3, paragraph (2) of the Patent Act do not apply.

2 特許法第四十三条第二項から第九項までの規定は、ジュネーブ改正協定第六条(1)(a)の規定による優先権の主張をした者に準用する。この場合において、同法第四十三条第二項中「次の各号に掲げる日のうち最先の日から一年四月以内」とあるのは、「経済産業省令で定める期間内」と読み替えるものとする。

(2) The provisions of Article 43, paragraphs (2) through (9) of the Patent Act apply mutatis mutandis to a person that has made a priority claim under Article 6 (1)(a) of the Geneva Act. In this case, the term "within one year and four months from the earliest of the following dates" in Article 43, paragraph (2) of the Patent Act is deemed to be replaced with "within the period prescribed by Order the Ministry of Economy, Trade and Industry".

(意匠登録を受ける権利の特例)

(Special Provisions on the Right to Have a Design Registration Made)

第六十条の十一 国際意匠登録出願についての第十五条第二項において準用する特許法第三十四条第四項の規定の適用については、同項中「相続その他の一般承継の場合を除き、特許庁長官」とあるのは、「意匠法第六十条の七第二項に規定する国際事務局」とする。

Article 60-11 (1) In applying the provisions of Article 34, paragraph (4) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (2) of this Act to an international application for design registration, the phrase "except in the case of general successions including inheritance, ... the Commissioner of the Japan Patent Office" in that paragraph is replaced with "the International Bureau prescribed in Article 60-7, paragraph (2) of the Design Act."

2 国際意匠登録出願については、第十五条第二項において準用する特許法第三十四条第五項及び第六項の規定は、適用しない。

(2) The provisions of Article 34, paragraphs (5) and (6) as applied mutatis mutandis pursuant to Article 15, paragraph (2) of this Act do not apply to an international application for design registration.

(国際公表の効果等)

(Effect of International Publication)

第六十条の十二 国際意匠登録出願の出願人は、国際公表があつた後に国際意匠登録出願に係る意匠を記載した書面を提示して警告をしたときは、その警告後意匠権の設定の登録前に業としてその国際意匠登録出願に係る意匠又はこれに類似する意匠を実施

した者に対し、その国際意匠登録出願に係る意匠が登録意匠である場合にその登録意匠又はこれに類似する意匠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、国際公表がされた国際意匠登録出願に係る意匠であることを知つて意匠権の設定の登録前に業としてその国際公表がされた国際意匠登録出願に係る意匠又はこれに類似する意匠を実施した者に対しては、同様とする。

Article 60-12 (1) After international publication is made, if the applicant of an international application for design registration has given a warning by presenting documents depicting the design in the international application for design registration, the applicant of the international application for design registration may demand payment of the amount of compensation against a person that has worked the design in the international application for design registration or a design similar to it, in the course of trade after the warning is given, prior to the registration establishing a design right, which is equivalent to the amount the applicant would be entitled to receive for the working of the registered design or a design similar to it if the design in the international application for design registration was the registered design. Even if the warning has not been given, the same applies to a person that worked the design in the international application for design registration or a design similar to it in the course of trade prior to the registration establishing a design right, knowing that the design is the design in the international application for design registration for which the international publication has been effected.

2 特許法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。この場合において、同条第五項中「出願公開後」とあるのは「国際公表後」と、同条第六項中「第一百一条、第一百四条から第一百四条の三まで、第一百五十五条から、第一百五十五条の二の十二まで、第一百五十五条の四から第一百五十五条の七まで及び」とあるのは「意匠法第三十八条、同法第四十一条において準用する特許法第一百四条の二から第一百五十五条まで、第一百五十五条の二の十二及び第一百五十五条の四から第一百五十五条の六まで並びに意匠法第五十二条において準用する特許法」と読み替えるものとする。

(2) The provisions of Article 65, paragraphs (2) through (6) of the Patent Act apply mutatis mutandis to the exercise of the right to claim compensation pursuant to the provisions of the preceding paragraph. In this case, the term "after the publication of the patent application" in paragraph (5) of that Article is deemed to be replaced with "after international publication is made", and the phrase "Article 101, Articles 104 through 104-3, Articles 105 through 105-2-12, Articles 105-4 through 105-7, and" in paragraph (6) of that Article is deemed to be replaced with "Article 38 of the Design Act, Articles 104-2 through 105 of the Patent Act as applied mutatis mutandis pursuant to Article 41 of the Design Act, Article 105-2-12, and Articles 105-4 through 105-6 of the Patent Act, and the Patent Act as applied mutatis mutandis pursuant to Article 52 of

the Design Act".

(意匠登録の査定的方式の特例)

(Special provisions for formal requirements for examiner's decision of design registration)

第六十条の十二の二 国際意匠登録出願についての第十九条において準用する特許法第五十二条第二項の規定の適用については、特許庁長官は、査定（第十八条の規定による意匠登録をすべき旨の査定に限る。）に記載されている事項を、経済産業省令で定めるところにより、国際事務局を經由して国際登録の名義人に通知することをもつて、第十九条において準用する同項の規定による当該査定の謄本の送達に代えることができる。

Article 60-12-2 (1) For the purpose of application of Article 52, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 19 to an international application for design registration, the Commissioner of the Patent Office may notify the holder of international registration of the matters stated in an examiner's decision (limited to an examiner's decision to the effect that a design registration is to be granted under Article 18) via the International Bureau as provided by Order of the Ministry of Economy, Trade and Industry, in lieu of serving a certified copy of the examiner's decision under Article 52, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 19.

2 前項の場合において、同項の規定による通知が国際登録簿に記録された時に、同項に規定する送達があつたものとみなす。

(2) In the case of the preceding paragraph, the service prescribed in the preceding paragraph is deemed to have been made at the time when the notification under the preceding paragraph is recorded in the International Register.

(意匠権の設定の登録の特例)

(Special Provisions on Registrations of Establishment of the Design Rights)

第六十条の十三 国際意匠登録出願についての第二十条第二項の規定の適用については、同項中「第四十二条第一項の規定による第一年分の登録料の納付」とあるのは、「意匠登録をすべき旨の査定又は審決」とする。

Article 60-13 In applying the provisions of Article 20, paragraph (2) to an international application for design registration, the phrase "payment of the registration fee for the first year pursuant to the provisions of Article 42, paragraph (1)" in that paragraph is deemed to read "examiner's decision or trial or appeal decision to register the design".

(国際登録の消滅による効果)

(Effect of the Extinction of International Registration)

第六十条の十四 国際意匠登録出願は、その基礎とした国際登録が消滅したときは、取り下げられたものとみなす。

Article 60-14 (1) If an international registration on which an international application for design registration is based has ceased to exist, the international application for design registration is deemed to have been withdrawn.

2 前条の規定により読み替えて適用する第二十条第二項の規定により設定の登録を受けた意匠権（以下「国際登録を基礎とした意匠権」という。）は、その基礎とした国際登録が消滅したときは、消滅したものとみなす。

(2) A design right for which registration of its establishment has been made pursuant to Article 20, paragraph (2) as applied mutatis mutandis following a replacement of terms pursuant to the preceding Article (hereinafter referred to as "design right based on international registration") is deemed to have ceased to exist if the international registration on which it is based has ceased to exist.

3 前二項の効果は、国際登録簿から当該国際登録が消滅した日から生ずる。

(3) The preceding two paragraphs become effective as of the date on which the international registration has ceased to exist in the international register.

（関連意匠の意匠権の移転の特例）

(Special Provisions on the Transfer of the Rights to a Related Design)

第六十条の十五 基礎意匠の意匠権が国際登録を基礎とした意匠権である場合における第二十二条第二項の規定の適用については、同項中「第四十四条第四項」とあるのは、「第六十条の十四第二項」とする。

Article 60-15 In applying the provisions of Article 22, paragraph (2) to the rights to a fundamental design based on international registration, the term "Article 44, paragraph (4)" in that paragraph is deemed to read "Article 60-14, paragraph (2)".

（関連意匠の意匠権についての専用実施権の設定の特例）

(Special Provision on the Creation of an Exclusive License on the Rights to a Related Design)

第六十条の十六 基礎意匠の意匠権が国際登録を基礎とした意匠権である場合における第二十七条第三項の規定の適用については、同項中「第四十四条第四項」とあるのは、「第六十条の十四第二項」とする。

Article 60-16 In applying the provisions of Article 27, paragraph (3) to the rights to a fundamental design based on an international registration, the term "Article 44, paragraph (4)" in that paragraph is deemed to read "Article 60-14, paragraph (2)".

（意匠権の放棄の特例）

(Special Provisions for Waiving a Design Right)

第六十条の十七 国際登録を基礎とした意匠権を有する者は、その意匠権を放棄することができる。

Article 60-17 (1) A person that has a design right based on international registration may waive the design right.

2 国際登録を基礎とした意匠権については、第三十六条において準用する特許法第九十七条第一項の規定は、適用しない。

(2) The provisions of Article 97, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 36 do not apply to the design right based on international registration.

(意匠権の登録の効果の特例)

(Special Provisions on the Effect of a Design Right Registration)

第六十条の十八 国際登録を基礎とした意匠権の移転、信託による変更、放棄による消滅又は処分の制限は、登録しなければ、その効力を生じない。

Article 60-18 (1) Transfer, modification due to trust, extinguishment due to abandonment, or restriction on disposition of a design right based on international registration must be registered to take effect.

2 国際登録を基礎とした意匠権については、第三十六条において準用する特許法第九十八条第一項第一号及び第二項の規定は、適用しない。

(2) The provisions of Article 98, paragraph (1), item (i), and paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 36 do not apply to the design right based on international registration.

(意匠原簿への登録の特例)

(Special Provisions on Registration in the Design Register)

第六十条の十九 国際登録を基礎とした意匠権についての第六十一条第一項第一号の規定の適用については、同号中「意匠権の設定、移転、信託による変更、消滅、回復又は処分の制限」とあるのは、「意匠権の設定、信託による変更、消滅（存続期間の満了によるものに限る。）又は処分の制限」とする。

Article 60-19 (1) In applying the provisions of Article 61, paragraph (1), item (i) to a design right based on international registration, the phrase "establishment, transfer, modification due to trust, extinguishment, restoration, or restriction on disposition of a design right" in that item is deemed to read "establishment, modification due to trust, extinguishment (limited to extinguishment upon expiration of the duration of design right), or restriction on disposition of a design right".

2 国際登録を基礎とした意匠権の移転又は消滅（存続期間の満了によるものを除く。）は、国際登録簿に登録されたところによる。

(2) Transfer or extinguishment (excluding extinguishment upon expiration of the duration of design right) of a design right based on international registration depends on the place at which the design right is registered in the

international register.

(意匠公報の特例)

(Special Provisions on Design Gazettes)

第六十条の二十 国際登録を基礎とした意匠権についての第六十六条第二項第一号の規定の適用については、同号中「第四十四条第四項の規定によるものを除く。）又は回復（第四十四条の二第二項の規定によるものに限る。）」とあるのは、「第六十条の十四第二項の規定によるもの（ジュネーブ改正協定第十七条（2）の更新がなかつたことによるものに限る。）を除く。）とする。

Article 60-20 In applying the provisions of Article 66, paragraph (2), item (i) to a design right based on international registration, the phrase "excluding extinguishment pursuant to the provisions of Article 44, paragraph (4)) or its restoration (limited to restoration pursuant to the provisions of Article 44-2, paragraph (2))" in that item is deemed to read "excluding extinguishment pursuant to the provisions of Article 60-14, paragraph (2) (limited to extinguishment due to the fact that renewal under Article 17 (2) of the Geneva Act was not made))."

(国際意匠登録出願の個別指定手数料)

(Individual Designation Fee of International Applications for Design Registration)

第六十条の二十一 国際意匠登録出願をしようとする者は、ジュネーブ改正協定第七条（2）の個別の指定手数料（以下「個別指定手数料」という。）として、一件ごとに、十万五百円を超えない範囲内で政令で定める額に相当する額を国際事務局に納付しなければならない。

Article 60-21 (1) A person seeking to file an international application for design registration must pay as the individual designation fee under Article 7, paragraph (2) of the Geneva Act (hereinafter referred to as "individual designation fee"), the amount equivalent to the amount specified by Cabinet Order not exceeding 100,500 yen per case to the International Bureau.

2 国際意匠登録出願又は国際登録を基礎とした意匠権が基礎とした国際登録についてジュネーブ改正協定第十七条（2）の更新をする者は、個別指定手数料として、一件ごとに、八万四千五百円を超えない範囲内で政令で定める額に相当する額を国際事務局に納付しなければならない。

(2) A person making a renewal under Article 17 (2) of the Geneva Act with regard to the international registration on which an international application for design registration or a design right based on the international registration is based must pay as the individual designation fee, the amount equivalent to the amount specified by Cabinet Order not exceeding 84,500 yen per case to the International Bureau.

3 国際意匠登録出願及び国際登録を基礎とした意匠権については、第四十二条から第

四十五条まで及び第六十七条第二項（別表第一号に掲げる部分に限る。）の規定は、適用しない。

- (3) The provisions of Articles 42 through 45, and Article 67, paragraph (2) (limited to the part listed in item (1) of the Appended Table) do not apply to a design right based on an international application for design registration or on an international registration.

（個別指定手数料の返還）

(Refund of Individual Designation Fees)

第六十条の二十二 国際意匠登録出願が取り下げられ、又は国際意匠登録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、前条第一項又は第二項の規定により納付すべき個別指定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。

Article 60-22 (1) If an international application for design registration has been withdrawn, or a decision or trial or appeal decision to reject on an international application for design registration has become final and binding, the amount prescribed by Cabinet Order will be refunded upon the request of the person that paid the individual designation fee required to be paid pursuant to paragraph (1) or (2) of the preceding Article.

- 2 前項の規定による個別指定手数料の返還は、国際意匠登録出願が取り下げられ、又は国際意匠登録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日から六月を経過した後は、請求することができない。

(2) No request for refunding the individual designation fee under the preceding paragraph may be filed after the lapse of six months from the date on which the international application for design registration has been withdrawn, or a decision or trial or appeal decision to reject on the international application for design registration has become final and binding.

- 3 第一項の規定による個別指定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、その理由がなくなった日から十四日（在外者にあつては、二月）以内でその期間の経過後六月以内にその請求をすることができる。

(3) Notwithstanding the provisions of paragraph (1), due to reasons beyond the control of a person that files a request for refund of the individual designation fee under that paragraph, if the person is unable to file the request within the period provided in the preceding paragraph, the person may file the request within 14 days (or, if the person is an overseas resident, within two months) from the date on which the reasons ceased to exist, but not later than six months after the lapse of the period.

（経済産業省令への委任）

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

第六十条の二十三 第六十条の六から前条までに定めるもののほか、ジュネーブ改正協定及びジュネーブ改正協定に基づく規則を実施するため必要な事項の細目は、経済産業省令で定める。

Article 60-23 In addition to what is provided for in Articles 60-6 through the preceding Article, the details of the necessary matters for enforcing the Geneva Act and the Common Regulations Under the Geneva Act are prescribed by Order of the Ministry of Economy, Trade and Industry.

第七章 雑則

Chapter VII Miscellaneous Provisions

(手続の補正)

(Amendment of Procedures)

第六十条の二十四 意匠登録出願、請求その他意匠登録に関する手続をした者は、事件が審査、審判又は再審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。

Article 60-24 A person that undertakes a procedure with regard to an application for design registration, a request or any other procedures regarding design registration, may make amendments only while the case is pending in examination, trial, appeal, or retrial.

(意匠原簿への登録)

(Registration in the Design Register)

第六十一条 次に掲げる事項は、特許庁に備える意匠原簿に登録する。

Article 61 (1) The following matters are to be registered in the design register kept at the Japan Patent Office:

一 意匠権の設定、移転、信託による変更、消滅、回復又は処分の制限

(i) the establishment, transfer, modification due to trust, extinguishment, restoration, or restriction on disposition, of a design right;

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, maintenance, transfer, modification, extinguishment, or restriction on disposal, of an exclusive license; and

三 意匠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, transfer, modification, extinguishment, or restriction on disposal, of a right of pledge on a design right or exclusive license.

2 意匠原簿は、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 design register may be prepared, in whole or in part, in the form of magnetic tapes (this includes any other medium onto which certain information can be securely recorded by equivalent means; 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) In addition to what is provided for in this Act, the necessary matters for registration are prescribed by Cabinet Order.

(意匠登録証の交付)

(Issuance of Certificate of Design Registration)

第六十二条 特許庁長官は、意匠権の設定の登録又は第二十六条の二第一項の規定による請求に基づく意匠権の移転の登録があつたときは、意匠権者に対し、意匠登録証を交付する。

Article 62 (1) The Commissioner of the Japan Patent Office issues a certificate of design registration to the holder of the design right once the registration establishing the design rights has been made or a registration transferring the design rights has been made based on the request under the provisions of Article 26-2, paragraph (1).

2 意匠登録証の再交付については、経済産業省令で定める。

(2) Reissuance of the certificate of design registration is prescribed by Order of the Ministry of Economy, Trade and Industry.

(証明等の請求)

(Request for Certificate)

第六十三条 何人も、特許庁長官に対し、意匠登録に関し、証明、書類の謄本若しくは抄本の交付、書類、ひな形若しくは見本の閲覧若しくは謄写又は意匠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、ひな形又は見本については、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 63 (1) Any person may file a request with regard to design registrations to the Commissioner of the Japan Patent Office to issue a certificate, a certified copy of documents or an extract of documents, to allow inspection or copying of documents, model, or specimen, or to issue documents stating the information stored on magnetic tape that constitute a part of the design register; provided, however, that if the Commissioner considers it necessary to keep the following documents, models, or specimens confidential, these provisions do not apply to those documents, models, or specimens:

一 願書、願書に添付した図面、写真、ひな形若しくは見本又は意匠登録出願の審査に係る書類であつて、意匠登録がされていないもの

(i) an application, or drawing, photograph, model, or specimen attached to an application, or any document pertaining to the examination of an application for design registration for which the design has not been registered;

二 第十四条第一項の規定により秘密にすることを請求した意匠に関する書類、ひな形又は見本

- (ii) documents, models, or specimens related to a design for which the secrecy is requested pursuant to the provisions of Article 14, paragraph (1);
- 三 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（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。第五号において同じ。）が記載された旨の申出があつたもの
- (iii) documents related to an advisory opinion on the technical scope of a registered design, which a party to the case has reported to contain a trade secret (meaning a trade secret prescribed in Article 2, paragraph (6) of the Unfair Competition Prevention Act (Act No. 47 of 1993); the same applies in item (v)) owned by that party;
- 四 拒絶査定不服審判又は補正却下決定不服審判に係る書類であつて、当該事件に係る意匠登録出願について意匠登録がされていないもの
- (iv) documents related to an appeal against an examiner's decision of refusal or a trial against an examiner's decision to dismiss amendment filed for an application for design registration for which the design has not been registered;
- 五 意匠登録無効審判又はそ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
- (v) documents related to a trial for invalidation of design registration or a retrial against the final and binding trial decision in the trial, with respect to which a party in the case or an intervenor has reported to contain a trade secret owned by the party or the intervenor;
- 六 個人の名誉又は生活の平穩を害するおそれがあるもの
- (vi) documents that may damage an individual's reputation or peaceful existence; and
- 七 公の秩序又は善良の風俗を害するおそれがあるもの
- (vii) documents that may damage public order or morals.
- 2 特許庁長官は、前項第一号から第六号までに掲げる書類、ひな形又は見本について、同項本文の請求を認めるときは、当該書類、ひな形又は見本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 of the request under the main clause of the preceding paragraph with regard to the documents, models, or specimens set forth in items (i) through (vi) of that paragraph, the Commissioner must notify the person that submitted the documents, models, or specimens of the fact and reasons for it.
- 3 意匠登録に関する書類及び意匠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 the documents concerning design

registrations and the part of the design register recorded on magnetic tapes.

4 意匠登録に関する書類及び意匠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 the retained personal information (refers to the retained personal information prescribed in Article 60, paragraph (1) of the Act) recorded in the documents concerning design registrations and the part of the design register recorded on magnetic tapes.

（意匠登録表示）

(Indication of Design Registration)

第六十四条 意匠権者、専用実施権者又は通常実施権者は、経済産業省令で定めるところにより、登録意匠若しくはこれに類似する意匠に係る物品若しくはその包装、建築物又は画像若しくは画像記録媒体等若しくはその包装に当該物品、建築物又は画像が登録意匠又はこれに類似する意匠に係る旨の表示（以下「意匠登録表示」という。）を付するよう努めなければならない。

Article 64 A holder of design rights, exclusive licensee or non-exclusive licensee must try to place an indication (hereinafter referred to as an "indication of design registration") as provided by Order of the Ministry of Economy, Trade and Industry, on the article or its package, building, or graphic image or recording medium or device holding a graphic image, or its package embodying the registered design or a design similar to it, showing that the design of the article, building, or graphic image has been registered or that the design is similar to it.

（虚偽表示の禁止）

(Prohibition of False Indication)

第六十五条 何人も、次に掲げる行為をしてはならない。

Article 65 It is prohibited for any person to do the following acts:

一 登録意匠若しくはこれに類似する意匠に係る物品、建築物又は画像若しくは画像記録媒体等以外の物品若しくはその包装、建築物又は画像若しくは画像記録媒体等若しくはその包装に意匠登録表示又はこれと紛らわしい表示を付する行為

(i) the act of putting an indication of design registration or an indication that can be confused with this on an article or its packaging, a building, graphic image, or recording medium or device holding a graphic image or its packaging which does not constitute an article, building, or graphic image embodying a registered design or design similar to it or a recording medium or device holding a graphic image embodying a registered design or a design similar to it;

二 登録意匠又はこれに類似する意匠に係る物品、建築物又は画像若しくは画像記録媒体等以外の物品、建築物又は画像若しくは画像記録媒体等であつて、当該物品若しくはその包装、建築物又は画像若しくは画像記録媒体等若しくはその包装に意匠登録表示又はこれと紛らわしい表示を付したものについて行う次のいずれかに該当する行為

(ii) an act falling under any of the following that a person does in connection with an article, building, graphic image, or recording medium or device holding a graphic image that does not constitute an article, building, or graphic image embodying a registered design or a design similar to it or a recording medium or device holding a graphic image embodying a registered design or a design similar to it, if an indication of design registration or an indication that can be confused with this has been put on the article or its packaging, the building, the graphic image, or the recording medium or device holding a graphic image or its packaging:

イ 当該物品、建築物又は画像記録媒体等の譲渡、貸渡し又は譲渡若しくは貸渡しのための展示をする行為

(a) the act of transferring, leasing, or displaying for the purpose of transferring or leasing the article, building, or recording medium or device holding the graphic image;

ロ 当該画像の電気通信回線を通じた提供又はそのための展示をする行為

(b) the act of providing the graphic image through a telecommunications line or displaying it for the purpose of providing it;

三 登録意匠又はこれに類似する意匠に係る物品、建築物又は画像若しくは画像記録媒体等以外の物品、建築物又は画像若しくは画像記録媒体等について行う次のいずれかに該当する行為

(iii) an act falling under any of the following that a person does in connection with an article, building, graphic image, or recording medium or device holding a graphic image that does not constitute an article, building, or graphic image embodying a registered design or design similar to it or a recording medium or device holding a graphic image embodying a registered design or a design similar to it;

イ 当該物品又は画像記録媒体等の製造若しくは使用をさせるため、又は譲渡若しくは貸渡しをするため、広告に当該物品又は画像記録媒体等が登録意匠若しくはこれに類似する意匠に係る旨を表示し、又はこれと紛らわしい表示をする行為

(a) the act of placing an indication in an advertisement showing that the article in question embodies, or the recording medium or device in question holds a graphic image that embodies, a registered design or a design similar to it, or of placing an indication that can be confused with this, for the purpose of having the article or recording medium or device holding the graphic image manufactured or used, or for the purpose of transferring or leasing it;

ロ 当該建築物の建築若しくは使用をさせるため、又は譲渡若しくは貸渡しをするため、広告に当該建築物が登録意匠若しくはこれに類似する意匠に係る旨を表示し、又はこれと紛らわしい表示をする行為

(b) the act of placing an indication in an advertisement showing that the building in question embodies a registered design or a design similar to it, or of placing an indication that can be confused with this, for the purpose of having the building constructed or used, or for the purpose of transferring or leasing it;

ハ 当該画像の作成若しくは使用をさせるため、又は電気通信回線を通じた提供をするため、広告に当該画像が登録意匠若しくはこれに類似する意匠に係る旨を表示し、又はこれと紛らわしい表示をする行為

(c) the act of placing an indication in an advertisement showing that the graphic image in question embodies a registered design or a design similar to it, or of placing an indication that can be confused with this, for the purpose of having the graphic image created or used, or providing the graphic image through a telecommunications line.

(意匠公報)

(Design Gazette)

第六十六条 特許庁は、意匠公報を発行する。

Article 66 (1) The Japan Patent Office issues the design gazette.

2 意匠公報には、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) In addition to what is provided for in this Act, the following matters must be published in the design gazette:

一 意匠権の消滅（存続期間の満了によるもの及び第四十四条第四項の規定によるものを除く。）又は回復（第四十四条の二第二項の規定によるものに限る。）

(i) the extinguishment of design rights (excluding extinguishment upon expiration of the duration of the design right and extinguishment pursuant to the provisions of Article 44, paragraph (4)) or its restoration (limited to restoration pursuant to the provisions of Article 44-2, paragraph (2));

二 審判若しくは再審の請求若しくはその取下げ又は審判若しくは再審の確定審決（意匠権の設定の登録がされたものに限る。）

(ii) the filing of requests for trials, appeals or retrials, or their withdrawals, or final and binding trial decisions, appeal decisions, or retrial decisions (limited to cases in which a registration of establishment of the design rights has been made);

三 裁定の請求若しくはその取下げ又は裁定

(iii) requests for an award, their withdrawal, or the Commissioner's decisions; and

四 第五十九条第一項の訴えについての確定判決（意匠権の設定の登録がされたもの

に限る。)

(iv) final and binding judgments in actions referred to in Article 59, paragraph (1) (limited to cases in which a registration of establishment of the design rights has been made).

3 前項に規定するもののほか、第九条第二項後段の規定に該当することにより意匠登録出願について拒絶をすべき旨の査定又は審決が確定したときは、その意匠登録出願について、次に掲げる事項を意匠公報に掲載しなければならない。この場合において、その意匠登録出願の中に第十四条第一項の規定により秘密にすることを請求した意匠登録出願があるときは、全ての意匠登録出願に関する第三号に掲げる事項は、拒絶をすべき旨の査定又は審決が確定した日から同項の規定により指定した期間（秘密にすることを請求した意匠登録出願が二以上ある場合には、そのうち最も長い期間）の経過後遅滞なく掲載するものとする。

(3) In addition to what is provided for in the preceding paragraph, if an application for design registration for which an examiner's decision of rejection or the trial and appeal board's decision to reject on the grounds that application falls under the provisions of the second sentence of Article 9, paragraph (2) has become final and binding, the following matters must be published in the design gazette. In this case, if secrecy was requested pursuant to Article 14, paragraph (1) for any of those applications, with regard to all of those applications, the matters prescribed in item (iii) must be published without delay after the lapse of the period designated pursuant to that paragraph (if secrecy was requested for two or more applications for design registration, the period which is the longest among the periods of secrecy requested for the applications) from the date the examiner's decision or trial or appeal decision became final and binding.

一 意匠登録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 design registration;

二 意匠登録出願の番号及び年月日

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

三 願書及び願書に添付した図面、写真、ひな形又は見本の内容

(iii) the content of the application and the content of the drawing, photograph, model, or specimen attached to the application; and

四 前三号に掲げるもののほか、必要な事項

(iv) other necessary matters.

(手数料)

(Fees)

第六十七条 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 67 (1) The following persons must pay fees in an amount specified by

Cabinet Order in consideration of the actual costs:

一 第十四条第四項の規定により意匠を示すべきことを求める者

(i) a person that requests disclosure of a design pursuant to the provisions of Article 14, paragraph (4);

二 第十五条第二項において準用する特許法第三十四条第四項の規定により承継の届出をする者

(ii) a person that notifies the succession pursuant to the provisions of Article 34, paragraph (4) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (2);

三 第十七条の四、第四十三条第三項若しくは次条第一項において準用する特許法第四条若しくは第五条第一項の規定による期間の延長又は次条第一項において準用する同法第五条第二項の規定による期日の変更を請求する者

(iii) a person that files a request for an extension of period pursuant to the provisions of Article 17-4, Article 43, paragraph (3), or Article 4 or Article 5, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to paragraph (1) of the following Article, or for a change of the due date pursuant to the provisions of Article 5, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to paragraph (1) of the following Article;

四 国際登録出願をする者

(iv) a person that files an application for international registration;

五 意匠登録証の再交付を請求する者

(v) a person that files a request for the reissuance of the certificate of design registration;

六 第六十三条第一項の規定により証明を請求する者

(vi) a person that files a request for the issuance of a certificate pursuant to the provisions of Article 63, paragraph (1);

七 第六十三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

(vii) a person that files a request for the issuance of a certified copy of documents or an extract of documents pursuant to the provisions of Article 63, paragraph (1):

八 第六十三条第一項の規定により書類、ひな形又は見本の閲覧又は謄写を請求する者

(viii) a person that files a request to inspect or copy documents, models, or specimens pursuant to the provisions of Article 63, paragraph (1); and

九 第六十三条第一項の規定により意匠原簿のうち磁気テープをもっ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

(ix) a person that files a request for the issuance of documents which contain matters recorded on the magnetic tapes that constitute a part of the design register pursuant to the provisions of Article 63, 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 listed in the middle column of the Attached Table must pay fees in their respective amount as provided by Cabinet Order within the amount specified in the corresponding right-hand column of the table.

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

(3) The provisions of the preceding two paragraphs do not apply if the person required to pay the fees pursuant to these paragraphs is the national government.

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

(4) If the national government has co-ownership of a design right or a right to have a design registration made with a person other than the national government, and their respective ownership has been specified, notwithstanding the provisions of paragraph (1) or (2), the fees payable for the national government and a person other than the national government to have their own design right or a design registration made under those provisions (limited to the fees provided by Cabinet Order) must be determined as the sum of the fees multiplied by the ratio of the ownership of each person other than the national government, and, the person other than the national government must pay the amount.

5 前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。

(5) If there is a fraction of less than 10 yen in the amount of the fees calculated pursuant to the preceding paragraphs, the fraction is to be discarded.

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

(6) The payment of the fees referred to in paragraphs (1) and (2) must be made by patent revenue stamps as provided by Order of the Ministry of Economy, Trade and Industry provided, however, that cash payment may be made, if so specified by Order of the Ministry.

7 過誤納の手数料は、納付した者の請求により返還する。

(7) Fees paid in excess or in error are refunded upon the request of the person that made the payment.

8 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。

(8) No request for a refund of the fees under the preceding paragraph may be

filed after one year has lapsed from the date on which the payment has been made.

9 第七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、その理由がなくなった日から十四日（在外者にあつては、二月）以内でその期間の経過後六月以内にその請求をすることができる。

(9) Notwithstanding the provisions of paragraph (7), if, due to reasons beyond the control of a person that files a request for refund of fees under that paragraph, the person is unable to file the request within the period provided in the preceding paragraph, the person may file the request within 14 days (or, if the person is an overseas resident, within two months) from the date on which the reasons ceased to exist, but not later than six months after the lapse of the period.

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第六十八条 特許法第三条から第五条まで（期間及び期日）の規定は、この法律に規定する期間及び期日に準用する。この場合において、同法第四条中「第四十六条の二第一項第三号、第百八条第一項、第二百二十一条第一項又は第七百七十三条第一項」とあるのは、「意匠法第四十三条第一項、第四十六条第一項若しくは第四十七条第一項又は同法第五十八条第一項において準用する第七百七十三条第一項」と読み替えるものとする。

Article 68 (1) The provisions of Articles 3 through 5 (Periods and Due Dates) of the Patent Act apply mutatis mutandis to the periods and due dates provided in this Act. In this case, the term "Article 46-2, paragraph (1), item (iii), Article 108, paragraph (1), Article 121, paragraph (1), or Article 173, paragraph (1)" in Article 4 of the Patent Act is deemed to be replaced with "Article 43, paragraph (1), Article 46, paragraph (1), or Article 47, paragraph (1) of the Design Act, or Article 173, paragraph (1) as applied mutatis mutandis pursuant to Article 58, paragraph (1) of that Act".

2 特許法第六条から第九条まで、第十一条から第十六条まで、第十七条第三項及び第四項、第十八条から第二十四条まで並びに第九十四条（手続）の規定は、意匠登録出願、請求その他意匠登録に関する手続に準用する。この場合において、同法第九条中「拒絶査定不服審判」とあるのは「拒絶査定不服審判若しくは補正却下決定不服審判」と、同法第十四条中「拒絶査定不服審判」とあるのは「拒絶査定不服審判又は補正却下決定不服審判」と読み替えるものとする。

(2) The provisions of Articles 6 through 9, Articles 11 through 16, Article 17, paragraphs (3) and (4), Articles 18 through 24, and Article 194 (Procedures) of the Patent Act apply mutatis mutandis to procedures for an application for design registration or a request, and any other procedures related to design registration. In this case, the phrase "appeal against an examiner's decision of

refusal" in Article 9 of the Patent Act is deemed to be replaced with "appeal against an examiner's decision of refusal or appeal against an examiner's decision to dismiss amendment" and the phrase "appeal of the examiner's decision of rejection" in Article 14 of that Act is deemed to be replaced with "appeal against an examiner's decision of refusal or trial against an examiner's decision to dismiss amendment".

3 特許法第二十五条（外国人の権利の享有）の規定は、意匠権その他意匠登録に関する権利に準用する。

(3) The provisions of Article 25 (Enjoyment of Rights by Foreign Nationals) of the Patent Act apply mutatis mutandis to design rights and other rights related to design registration.

4 特許法第二十六条（条約の効力）の規定は、意匠登録に準用する。

(4) The provisions of Article 26 (Effect of Treaties) of the Patent Act apply mutatis mutandis to design registration.

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

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

6 特許法第百九十五条の三の規定は、この法律又はこの法律に基づく命令の規定による処分に準用する。

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

7 特許法第百九十五条の四（行政不服審査法の規定による審査請求の制限）の規定は、この法律の規定による補正の却下の決定、査定、審決及び審判若しくは再審の請求書の却下の決定並びにこの法律の規定により不服を申し立てることができないこととされている処分又はこれらの不作為に準用する。

(7) The provisions of Article 195-4 (Limitation on Request for Administrative Review Under the Provisions of the Administrative Complaint Review Act) of the Patent Act apply mutatis mutandis to a decision to dismiss amendment, examiner's decision, trial or appeal decision, or ruling to dismiss a written request for trial, appeal, or retrial, and dispositions of which no appeal may be filed in accordance with this Act, or their inaction.

第八章 罰則

Chapter VIII Penal Provisions

（侵害の罪）

（Crime of Infringement）

第六十九条 意匠権又は専用実施権を侵害した者（第三十八条の規定により意匠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 69 A person that infringes a design right or exclusive license (excluding one who has committed acts which are deemed to constitute infringement on a design right or an exclusive license pursuant to Article 38) is punished by imprisonment for a term not exceeding 10 years, a fine not exceeding 10 million yen, or both.

第六十九条の二 第三十八条の規定により意匠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っ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 69-2 A person that has committed an act which is deemed to constitute infringement on a design right or an exclusive license pursuant to the provisions of Article 38 is punished by imprisonment for a term not exceeding 5 years, a fine not exceeding 5 million yen, or both.

(詐欺の行為の罪)

(Crime of Fraud)

第七十条 詐欺の行為により意匠登録又は審決を受けた者は、一年以下の懲役又は百万円以下の罰金に処する。

Article 70 A person that has obtained a design registration or has been issued trial or appeal decision by means of a fraudulent act is punished by imprisonment for a term not exceeding one year or a fine not exceeding 1 million yen.

(虚偽表示の罪)

(Crime of False Indication)

第七十一条 第六十五条の規定に違反した者は、一年以下の懲役又は百万円以下の罰金に処する。

Article 71 A person that violates the provisions of Article 65 is punished by imprisonment for a term not exceeding one year or a fine not exceeding 1 million yen.

(偽証等の罪)

(Crime of Perjury)

第七十二条 この法律の規定により宣誓した証人、鑑定人又は通訳人が特許庁又はその囑託を受けた裁判所に対し虚偽の陳述、鑑定又は通訳をしたときは、三月以上十年以下の懲役に処する。

Article 72 (1) A witness, expert witness, or interpreter who has sworn an oath pursuant to this Act and then offered a false statement, a false expert opinion or interpretation to the Japan Patent Office or the court commissioned by the Office is punished by imprisonment for not less than three months but not more than 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、又は査定若しくは審決が確定する前に自白したときは、その刑を減輕し、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 has made a voluntary confession before a certified copy of the advisory opinion on the case has been served or an examiner's decision or trial or appeal decision has become final and binding, the punishment may be reduced or remitted.

(秘密を漏らした罪)

(Crime of Divulging Secrets)

第七十三条 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意匠登録出願中の意匠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 73 A present or former employee of the Japan Patent Office who has divulged a secret relating to a design in a pending application for design registration they have learned in the course of performing their duties, or has misappropriated the design is punished by imprisonment for a term not exceeding one year or a fine not exceeding 500,000 yen.

(秘密保持命令違反の罪)

(Crime of Violating a Confidentiality Protective Order)

第七十三条の二 第四十一条において準用する特許法第百五条の四第一項（第六十条の十二第二項において読み替えて準用する同法第六十五条第六項において準用する場合を含む。）の規定による命令に違反した者は、五年以下の懲役若しくは五百万円以下の罰金に処し、又はこれを併科する。

Article 73-2 (1) A person that violates an order given under Article 105-4, paragraph (1) of the Patent Act (including as applied mutatis mutandis pursuant to Article 65, paragraph (6) of the Act as applied mutatis mutandis pursuant to Article 60-12, paragraph (2)) as applied mutatis mutandis pursuant to Article 41 is punished by imprisonment for a term not exceeding five years, a fine not exceeding 5 million yen, or both.

2 前項の罪は、告訴がなければ公訴を提起することができない。

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

3 第一項の罪は、日本国外において同項の罪を犯した者にも適用する。

(3) The provisions for the crime under paragraph (1) apply to a person that commits the crime outside Japan.

(両罰規定)

(Dual Criminal Liability Provision)

第七十四条 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 74 (1) If a representative of a corporation or an agent, employee, or other worker of a corporation or an individual has committed a violation prescribed in the following items in the course of performing their duties for the corporation or individual, in addition to the offender being punished, the corporation is punished by a fine as provided in the relevant item and the individual is punished by a fine as provided in the respective Articles:
- 一 第六十九条、第六十九条の二又は前条第一項 三億円以下の罰金刑
 - (i) Article 69, Article 69-2, or paragraph (1) of the preceding Article: a fine not exceeding 300 million yen; and
 - 二 第七十条又は第七十一条 三千万円以下の罰金刑
 - (ii) Article 70 or Article 71: a fine not exceeding 30 million yen.
- 2 前項の場合において、当該行為者に対してした前条第二項の告訴は、その法人又は人に対しても効力を生じ、その法人又は人に対してした告訴は、当該行為者に対しても効力を生ずるものとする。
- (2) In the case of the preceding paragraph, a criminal complaint referred to in the provisions of paragraph (2) of the preceding Article which is filed against the offender has effect on the corporation or the individual, and a criminal complaint filed against the corporation or the individual has effect on the offender.
- 3 第一項の規定により第六十九条、第六十九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) The period of statute of limitations in cases where a fine is imposed on a corporation or an individual pursuant to the provisions of paragraph (1) with regard to a violation of Article 69, Article 69-2, or paragraph (1) of the preceding Article is that for the crimes in these provisions.

(過料)

(Civil Fine)

第七十五条 第二十五条第三項において準用する特許法第七十一条第三項において、第五十二条において、第五十八条第二項若しくは第三項において、又は同条第四項において準用する同法第七十四条第三項において、それぞれ準用する同法第五十一条において準用する民事訴訟法第二百七条第一項の規定により宣誓した者が特許庁又はその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 75 If a person that has sworn pursuant to Article 71, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 25, paragraph (3) of this Act, pursuant to Article 52, Article 58, paragraph (2) or (3) of this Act, or Article 174, paragraph (3) of the Patent Act as applied mutatis mutandis

pursuant to Article 58, paragraph (4) of this Act, which is respectively applied upon mutatis mutandis application pursuant to Article 207, paragraph (1) of the Code of Civil Procedure as applied mutatis mutandis pursuant to Article 151 of the Patent Act has made a false statement before the Japan Patent Office or a court commissioned by it, the person is punished by a civil fine not exceeding 100,000 yen.

第七十六条 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 76 A person that has been summoned by the Japan Patent Office or a court commissioned by the Office pursuant to the provisions of this Act, but fails to appear or refuses to swear an oath, make a statement, testify, give an expert opinion, or provide interpretation without legitimate grounds for doing so is subject to punishment by a civil fine not exceeding 100,000 yen.

第七十七条 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ったときは、十万円以下の過料に処する。

Article 77 A person that has been ordered by the Japan Patent Office or a court commissioned by the Office to submit or present documents or other objects for the purpose of examination or preservation of evidence pursuant to the provisions of this Act but fails to comply with the order without legitimate grounds for doing so is subject to punishment by a civil fine not exceeding 100,000 yen.

別表（第六十七条関係）

Appended Table (Re: Article 67)

	納付しなければならない者 Person who must pay fees	金額 Amounts
一 1	意匠登録出願をする者 A person filing an application for design registration	一件につき一万六千円 16,000 yen per case
二 2	第十四条第一項の規定により意匠を秘密にすることを請求する者 A person filing a request for secrecy of the design under Article 14, paragraph (1)	一件につき五千百円 5,100 yen per case

<p>三 3</p>	<p>第十五条第一項において準用する特許法第四十三条の二第一項（第十五条第一項において準用する同法第四十三条の三第三項において準用する場合を含む。）の規定又は第四十四条の二第一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 43-2, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act (including the case where it is applied mutatis mutandis pursuant to Article 43-3, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act), or Article 44-2, paragraph (1) of this Act (excluding a person who was to result in undertaking any of the procedures prescribed in these provisions due to reasons beyond the person's control)</p>	<p>一件につき二万五千円 25,000 yen per case</p>
<p>四 4</p>	<p>第二十五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 25, paragraph (1)</p>	<p>一件につき四万円 40,000 yen per case</p>
<p>五 5</p>	<p>第六十八条第一項において準用する特許法第五条第三項の規定による期間の延長（第十九条において準用する同法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 an extension of a period under Article 5, paragraph (3) of the Patent Act as applied mutatis mutandis under Article 68, paragraph (1) of this Act (except for the period designated in Article 50 of the Patent Act as applied mutatis mutandis under Article 19 of this Act)</p>	<p>一件につき四千二百円 4,200 yen per case</p>

六 6	第六十八条第一項において準用する特許法第五条第三項の規定による期間の延長（第十九条において準用する同法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 an extension of period under Article 5, paragraph (3) of the Patent Act as applied mutatis mutandis under Article 68, paragraph (1) of this Act (limited for the period designated in Article 50 of the Patent Act as applied mutatis mutandis in Article 19 of this Act)	一件につき七千二百円 7,200 yen per case
七 7	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
八 8	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
九 9	審判又は再審を請求する者 A person filing a request for trial, appeal, or retrial	一件につき五万五千円 55,000 yen per case
十 10	審判又は再審への参加を申請する者 A person applying for intervention in trial, appeal, and/or retrial	一件につき五万五千円 55,000 yen per case