

Code of Civil Procedure

(Act No. 109 of June 26, 1996)

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Part I General Provisions

Chapter I General Rules

(Purpose)

Article 1 Beyond what is provided for in other laws and regulations, procedure in civil litigation is governed by the provisions of this Code.

(Responsibilities of the Courts and the Parties)

Article 2 The courts must endeavor to ensure that civil litigation is conducted fairly and expeditiously, and the parties must conduct litigation in good faith.

(Rules of the Supreme Court)

Article 3 Beyond what is provided for in this Code, the Rules of the Supreme Court provide for the necessary particulars concerning procedure in civil litigation.

Chapter II The Courts

Section 1 Jurisdiction of the Japanese Courts

(Jurisdiction Based on the Defendant's Domicile)

Article 3-2 (1) The courts have jurisdiction over an action that is brought against a person domiciled in Japan; against a person without a domicile, or of domicile unknown, whose residence is in Japan; and against a person without a residence, or of residence unknown, who was domiciled in Japan before the action was filed (unless the person has been domiciled in a foreign country after last being domiciled in Japan).

(2) Notwithstanding the provisions of the preceding paragraph, the courts have jurisdiction over an action that is brought against an ambassador, minister, or any other Japanese national in a foreign country who enjoys immunity from the jurisdiction of that country.

(3) The courts have jurisdiction over an action that is brought against a corporation or any other association or foundation whose principal office or

business office is located in Japan, and against a corporation, association, or foundation without a business office or other office, or with a business office or other office of unknown location, whose representative or other person principally in charge of its business is domiciled in Japan.

(Jurisdiction over an Action Involving a Contractual Obligation)

Article 3-3 An action stated in one of the following items may be filed with the Japanese courts in the case specified in that item:

- (i) an action on a claim for performance of a contractual obligation; on a claim involving benevolent intervention in another's affairs that has been done, or unjust enrichment that has arisen, in connection with a contractual obligation; on a claim for damages due to nonperformance of a contractual obligation; or on any other claim involving a contractual obligation: if the contractually specified place for performance of the obligation is within Japan, or if the law of the place adopted under the contract gives a place within Japan as the place for performance of the obligation;
- (ii) an action on a claim for the payment of monies for a bill or note or for a check: if the place for payment of the bill or note or for the check is within Japan;
- (iii) an action on a property right: if the subject matter of the claim is located within Japan, or if the action is a claim for the payment of monies, and seizable property of the defendant is located within Japan (unless the value of the property is extremely low);
- (iv) an action against a person with an office or a business office, which is filed in connection with the business conducted at that person's office or business office: if that office or business office is located within Japan;
- (v) an action against a person that conducts business in Japan (including a foreign company (meaning a foreign company as prescribed in Article 2, item (ii) of the Companies Act (Act No. 86 of 2005)) that continually carries out transactions in Japan): if that action involves the business that the person conducts in Japan;
- (vi) an action based on a ship claim or any other claim secured by a ship: if the ship is located within Japan;
- (vii) one of the following actions involving a company or any other association or foundation: if the association or foundation is a corporation and it is incorporated pursuant to the laws and regulations of Japan, or if the association or foundation is not a corporation but its principal office or business office is located within Japan:
 - (a) an action brought by a company or any other association against its member or a person that was its member, an action brought by one member against another member or against a person that was a member,

- or an action brought by a person that was a member against a member, which is based on the relevant person's status as a member;
- (b) an action brought by an association or foundation against its officer or a person that was its officer, which is based on the person's status as an officer;
- (c) an action brought by a company against its incorporator or a person that was its incorporator, or against its inspector or a person that was its inspector, which is based on the person's status as an incorporator or inspector;
- (d) an action brought by a company's or other association's creditor against its member or a person that was its member, which is based on the person's status as a member.
- (viii) an action for a tort: if the place where the tort occurred is within Japan (excluding if the consequences of a wrongful act committed in a foreign country have arisen within Japan but it would not ordinarily have been possible to foresee those consequences arising within Japan);
- (ix) an action for damages due to the collision of a ship or any other accident at sea: if the first place where the damaged ship docked is within Japan;
- (x) an action related to a maritime rescue: if the place where the maritime rescue took place or the first place where the salvaged ship docked is within Japan;
- (xi) an action related to real property: if the real property is located within Japan;
- (xii) an action related to a right of inheritance or legitime, or an action related to a legacy or any other act that comes into effect upon a person's death: if at the time of the opening of the succession, the decedent was domiciled in Japan; if at the time of the opening of the succession, the decedent was without a domicile or was of domicile unknown, but had a residence in Japan; or if at the time of the opening of the succession, the decedent was without a residence or was of residence unknown, but before the opening of the succession, the decedent had been domiciled in Japan (unless the decedent was domiciled in a foreign country after last being domiciled in Japan);
- (xiii) an action involving a claim against a succession or any other encumbrance on an estate which does not fall under the category of an action stated in the preceding item: as specified in that item.

(Jurisdiction over Actions Involving Consumer Contracts and Labor Relations)

Article 3-4 (1) An action involving a contract concluded between a consumer (meaning an individual (except for an individual that becomes a party to a contract as a part of a business undertaking or for business purposes); the

same applies below) and an enterprise (meaning a corporation or any other association or foundation or an individual that becomes a party to a contract as a part of a business undertaking or for business purposes; the same applies below) (this excludes a labor contract; referred to below as a "consumer contract"), which is brought by the consumer against the enterprise, may be filed with the Japanese courts if the consumer is domiciled in Japan at the time the action is filed or at the time the consumer contract is concluded.

(2) An action that an individual worker brings against an employer in connection with a dispute over a civil matter that arises between them over the existence or absence of a labor contract or any other matter that concerns their labor relationship (referred to below as a "civil dispute over an individual labor relationship") may be filed with the Japanese courts if the place for providing the labor under the labor contract subject to the dispute (or the locality of the place of business that hired the worker, if the place for providing the labor is not established) is within Japan.

(3) The provisions of the preceding Article do not apply to an action involving a consumer contract which is brought by an enterprise against a consumer, or an action involving a civil dispute over an individual labor relationship which is brought by an employer against a worker.

(Exclusive Jurisdiction)

Article 3-5 (1) Actions prescribed in Part VII, Chapter II of the Companies Act (excluding those prescribed in Sections 4 and 6 of that Chapter), actions prescribed in Chapter VI, Section 2 of the Act on General Incorporated Associations and General Incorporated Foundations (Act No. 48 of 2006), and other equivalent actions equivalent involving associations or foundations incorporated pursuant to Japanese laws and regulations other than those Acts, are under the exclusive jurisdiction of the Japanese courts.

(2) An action related to a registration is under the exclusive jurisdiction of the Japanese courts if the place where the registration is to be made is within Japan.

(3) An action about the existence or absence or the validity of an intellectual property right (meaning an intellectual property right as prescribed in Article 2, paragraph (2) of the Intellectual Property Basic Act (Act No. 122 of 2002)) that arises through a registration establishing that intellectual property right is under the exclusive jurisdiction of the Japanese courts if that registration was made in Japan.

(Jurisdiction over a Joint Claim)

Article 3-6 If multiple claims are involved in a single action and the Japanese courts have jurisdiction over one of those claims and no jurisdiction over the

others, the action may be filed with the Japanese courts only if the one claim is closely connected with the other claims; provided, however, that with regard to an action brought by multiple persons or an action brought against multiple persons, this applies only in the case specified in the first sentence of Article 38.

(Agreement on Jurisdiction)

Article 3-7 (1) Parties may establish, by agreement, the country in which they are permitted to file an action with the courts.

(2) An agreement as referred to in the preceding paragraph is not valid unless it is made regarding actions that are based on a specific legal relationship, and executed by means of a paper document.

(3) If electronic or magnetic records (meaning records used in computer data processing which are created in electronic form, magnetic form, or any other form that is otherwise impossible to perceive through the human senses alone; the same applies below) in which the content of an agreement as referred to in paragraph (1) is recorded are used to execute that agreement, the agreement is deemed to have been executed by means of a paper document and the provisions of the preceding paragraph apply.

(4) An agreement that an action may be filed only with the courts of a foreign country may not be invoked if those courts are unable to exercise jurisdiction by law or in fact.

(5) An agreement as referred to in paragraph (1) which covers consumer contract disputes that may arise in the future is valid only in the following cases:

(i) if the agreement provides that an action may be filed with the courts of the country where the consumer was domiciled at the time the consumer contract was concluded (except in the case stated in the following item, any agreement that an action may be filed only with a court of such a country is deemed not to preclude the filing of an action with a court of any other country);

(ii) if the consumer, in accordance with that agreement, has filed an action with the courts of the agreed-upon country, or if an enterprise has filed an action with the Japanese courts or with the courts of a foreign country and the consumer has invoked that agreement.

(6) An agreement as referred to in paragraph (1) which covers civil disputes over individual labor relationships that may arise in the future is valid only in the following cases:

(i) if the agreement is made at the time a labor contract ends, and establishes that an action may be filed with the courts of the country where the place that the labor was being provided as of that time is located (except in the case stated in the following item, an agreement that an action may be filed

- only with the courts of such a country is deemed not to preclude the filing of an action with the courts of any other country);
- (ii) if the worker, in accordance with that agreement, files an action with the courts of the agreed-upon country; or if the enterprise files an action with the Japanese courts or with the courts of a foreign country and the worker invokes that agreement.

(Jurisdiction Based on Appearance)

Article 3-8 If the defendant presents an oral argument on the merits of the case or enters a statement in preparatory proceedings without entering the affirmative defense that the Japanese courts lack jurisdiction, the courts have jurisdiction.

(Denial Due to Special Circumstances)

Article 3-9 Even when the Japanese courts have jurisdiction over an action (unless an action is filed based on an agreement that only permits an action to be filed with the Japanese courts), the court may deny the whole or part of an action if it finds that there are special circumstances because of which, if the Japanese courts were to conduct a trial and reach a judicial decision in the action, it would be inequitable to either party or prevent a fair and speedy trial, in consideration of the nature of the case, the degree of burden that the defendant would have to bear in responding to the action, the location of evidence, and other circumstances.

(Exclusion from Application in the Case of Exclusive Jurisdiction)

Article 3-10 The provisions of Articles 3-2 through 3-4 and Articles 3-6 through the preceding Article do not apply if laws or regulations provide for the exclusive jurisdiction of the Japanese courts over the action in question.

(Examination of Evidence by the Court Sua Sponte)

Article 3-11 A court may conduct an examination of the evidence sua sponte with regard to matters that concern the jurisdiction of the Japanese courts.

(Basis of Timing for Determining Jurisdiction)

Article 3-12 Whether the Japanese courts have jurisdiction is determined on the basis of the time at which an action is filed.

Section 2 Jurisdiction

(Jurisdiction by General Venue)

Article 4 (1) An action is subject to the jurisdiction of the court of jurisdiction in

the locality that constitutes the general venue for an action against the defendant.

- (2) The general venue for an action against a natural person is determined by the person's domicile; by the person's residence, if the person is not domiciled in Japan or is of domicile unknown; or by the person's last domicile in Japan, if the person does not have a residence in Japan or is of residence unknown.
- (3) If there is no general venue pursuant to the provisions of the preceding paragraph for an action against an ambassador, minister, or any other Japanese national in a foreign country who enjoys immunity from the jurisdiction of that country, the general venue for an action against that person is deemed to be the general venue in the locality specified by the Rules of the Supreme Court.
- (4) The general venue for an action against a corporation or any other association or foundation is determined by the location of its principal office or business office; or by the domicile of its representative or any other principal person in charge of its business, if it has no business office or other office.
- (5) Notwithstanding the provisions of the preceding paragraph, the general venue for an action against a foreign association or foundation is determined by the location of its principal office or business office in Japan; or by the domicile of its representative or any other principal person in charge of its business in Japan, if it has no business office or other office in Japan.
- (6) The general venue for an action against the State is determined by the location of the government agency that represents the State in the litigation.

(Jurisdiction over an Action Involving Property Rights)

Article 5 An action stated in one of the following items may be filed with the court of jurisdiction in the place specified in that item:

- (i) an action involving a property right: the place of performance of the obligation;
- (ii) an action on a claim for payment of monies for a bill or note or for a check: the place of payment of the bill or note or for the check;
- (iii) an action involving a property right against a mariner: a location in the ship's country of registration;
- (iv) an action involving a property right against a person that is not domiciled in Japan (or a corporation with no business office or other office in Japan; the same applies in this item) or that is of domicile unknown: the location of the subject matter of the claim or the subject matter of the security against the claim, or of any seizable property of the defendant;
- (v) an action against a person with an office or business office, which is filed in connection with the business conducted at the person's office or business office: the location of that office or business office;

- (vi) an action related to a ship or to travel by sea which is filed against the shipowner or other person using the ship: a location in the ship's country of registration;
- (vii) an action based on a ship claim or any other claim secured by a ship: the location of the ship;
- (viii) the following actions involving a company or any other association or foundation: the locality that constitutes the general venue for an action against the association or foundation:
 - (a) an action brought by a company or other association against its member or a person that was its member; an action brought by one member against another member or against a person that was a member; or an action brought by a person that was a member against a member; which is based on the relevant person's status as a member;
 - (b) an action brought by an association or foundation against its officer or a person that was its officer, which is based on the person's status as an officer;
 - (c) an action brought by a company against its incorporator or a person that was its incorporator, or against its inspector or a person that was its inspector, which is based on the person's status as an incorporator or inspector;
 - (d) an action brought by a company's or any other association's creditor against its member or a person that was its member, which is based on the person's status as a member.
- (ix) an action for a tort: the place where the tort took place;
- (x) an action for damages due to the collision of a ship or any other accident at sea: the first place where the damaged ship docked;
- (xi) an action related to a maritime rescue: the place where the maritime rescue took place or the first place where the salvaged ship docked;
- (xii) an action related to real property: the location of the real property;
- (xiii) an action related to a registration: the place where the registration is required to be made;
- (xiv) an action related to a right of inheritance or an heir's statutory reserved share, or an action related to a testamentary gift or any other act that becomes valid upon a person's death: the locality that constituted the general venue for an action involving the decedent as of the time that inheritance commenced;
- (xv) an action involving a claim against a succession or any other encumbrance on an estate which does not fall under the category of an action stated in the preceding item: the place specified in that item.

(Jurisdiction over Prescribed IP Actions)

Article 6 (1) In an action involving a patent right, utility model right, a layout-design exploitation right for an integrated circuit, or an author's right to a work of computer programming (referred to below as a "prescribed IP action"), if a court listed in the first portion of either of the following items would have jurisdiction pursuant to the provisions of the preceding two Articles, the action is under the exclusive jurisdiction of the court specified in the latter portion of that item:

- (i) a district court located within the territorial jurisdiction of the Tokyo High Court, the Nagoya High Court, the Sendai High Court, or the Sapporo High Court: the Tokyo District Court;
 - (ii) a district court located within the territorial jurisdiction of the Osaka High Court, the Hiroshima High Court, the Fukuoka High Court, or the Takamatsu High Court: the Osaka District Court.
- (2) In a prescribed IP action, if a summary court located within the territorial jurisdiction of a court listed in the first portion of one of the items of the preceding paragraph would have jurisdiction pursuant to the provisions of the preceding two Articles, the action may also be filed with the court specified in the latter portion of that item.
- (3) An appeal to the court of second instance against a final judgment that the court specified in paragraph (1), item (ii) has entered as the court of first instance in a prescribed IP action, is under the exclusive jurisdiction of the Tokyo High Court; provided, however, that this does not apply to an appeal to the court of second instance against a final judgment in an action if litigation has been transferred pursuant to the provisions of Article 20-2, paragraph (1).

(Jurisdiction over an Action Involving a Design Right)

Article 6-2 With regard to an action involving design rights, trademark rights, author's rights (excluding author's rights to a work of computer programming), publishing rights, neighboring rights, or breeder's rights, or an action for infringement of a business interest due to unfair competition (meaning unfair competition as prescribed in Article 2, paragraph (1) of the Unfair Competition Prevention Act (Act No. 47 of 1993) or unfair competition as prescribed in Article 2, paragraph (3) of the Act for the Prevention of Unfair Competition Involving Genetic Resources from Livestock (Act No. 22 of 2020)), if a court listed in the first portion of either of the following items has jurisdiction pursuant to the provisions of Article 4 or Article 5, the action may also be filed with the court specified in the latter portion of that item:

- (i) a court stated in paragraph (1), item (i) of the preceding Article (other than the Tokyo District Court): the Tokyo District Court;
- (ii) a court stated in paragraph (1), item (ii) of the preceding Article (other than the Osaka District Court): the Osaka District Court.

(Jurisdiction over a Joint Claim)

Article 7 If multiple claims are involved in a single action, the action may be filed with a court that, pursuant to the provisions of Article 4 through the preceding Article (excluding Article 6, paragraph (3)), has jurisdiction over one of those claims; provided, however, that with regard to an action brought by two or more persons or an action brought against two or more persons, this applies only in the case specified in the first sentence of Article 38.

(Calculation of the Value of the Subject Matter of Litigation)

Article 8 (1) If jurisdiction is determined by the value of the subject matter of litigation pursuant to the Court Act (Act No. 59 of 1947), the value is calculated on the basis of the interest alleged in the action.

(2) If it is impossible or extremely difficult to calculate the value referred to in the preceding paragraph, the value is deemed to exceed 1,400,000 yen.

(Calculation of the Value in a Joint Claim)

Article 9 (1) If multiple claims are involved in a single action, the total value of the claims is the value of the subject matter of litigation; provided, however, that this does not apply to each claim if the interest alleged in the action is common to all claims.

(2) If a claim upon the fruits of something or a claim for damages, penalties, or expenses is an incidental subject matter of litigation, its value is not included in the calculation of the value of the subject matter of the litigation.

(Designation of the Court of Jurisdiction)

Article 10 (1) If the court of jurisdiction is unable to exercise its jurisdiction by law or in fact, the immediate superior court issues a ruling designating the court of jurisdiction, upon petition.

(2) If the court of jurisdiction cannot be determined due to ill-defined territorial jurisdictions among the courts, the immediate superior court common to the relevant courts issues a ruling designating the court of jurisdiction, upon petition.

(3) No appeal may be entered against the ruling stated in the preceding two paragraphs.

(Special Provisions on the Court of Jurisdiction)

Article 10-2 With regard to an action over which the Japanese courts have jurisdiction pursuant to the provisions of the preceding Section, if the court of jurisdiction is not determined pursuant to other provisions of this Code or provisions of other laws and regulations, the action is under the jurisdiction of

the court of jurisdiction in the locality specified by the Rules of the Supreme Court.

(Agreement on Jurisdiction)

Article 11 (1) The parties may determine the court of jurisdiction by agreement, but only in the first instance.

(2) An agreement as referred to in the preceding paragraph is not valid unless it is made regarding actions that are based on a specific legal relationship, and executed by means of a paper document.

(3) If electronic or magnetic records in which the content of an agreement as referred to in paragraph (1) is recorded are used to execute that agreement, the agreement is deemed to have been executed by means of a paper document and the provisions of the preceding paragraph apply.

(Jurisdiction by Appearance)

Article 12 If a defendant presents an oral argument on the merits of the case or enters a statement in preparatory proceedings before the court of first instance without entering a defense of lack of jurisdiction, that court has jurisdiction.

(Exclusion from Application Due to Exclusive Jurisdiction)

Article 13 (1) The provisions of Article 4, paragraph (1); Article 5; Article 6, paragraph (2); Article 6-2; Article 7; and the preceding two Articles do not apply if exclusive jurisdiction over an action is provided for by law or regulation.

(2) Notwithstanding the provisions of the preceding paragraph, if a court provided for in the first part of either of the items of Article 6, paragraph (1) is to have jurisdiction pursuant to the provisions of Article 7 or the preceding two Articles over a prescribed IP action, that court has jurisdiction over the action, pursuant to the provisions of Article 7 or the preceding two Articles.

(Examination of Evidence by the Court Sua Sponte)

Article 14 The court may conduct an examination of evidence sua sponte with regard to matters that concern jurisdiction.

(Basis of Timing for Determining Jurisdiction)

Article 15 Whether a court has jurisdiction is determined on the basis of the time at which an action is filed.

(Handling of Lack of Jurisdiction)

Article 16 (1) If the court finds that the whole or part of litigation is not subject to its jurisdiction, it transfers the litigation sua sponte to the court of

jurisdiction.

- (2) Notwithstanding the provisions of the preceding paragraph, even if the litigation is subject to the jurisdiction of a summary court that is under its territorial jurisdiction, the district court, upon petition or sua sponte, may conduct the trial and reach a judicial decision itself for the whole or part of the litigation, if it finds this to be appropriate; provided, however, that this does not apply if the litigation is subject to the exclusive jurisdiction of such a summary court (excluding exclusive jurisdiction determined by an agreement between the parties pursuant to the provisions of Article 11).

(Transfer to Avoid Delay)

Article 17 Even if the litigation is subject to its jurisdiction, the court of first instance, upon petition or sua sponte, may transfer the whole or part of the litigation to another court of jurisdiction if it finds this to be necessary in order to avoid a substantial delay in litigation or to ensure equity between the parties, in consideration of the domicile of each party and witnesses to be examined, the location of any object to be inspected that is to be used, and any other circumstances.

(Discretionary Transfer by the Summary Court)

Article 18 Even if the litigation is subject to its jurisdiction, a summary court, upon petition or sua sponte, may transfer the whole or part of litigation to the district court of jurisdiction in that locality, if it finds this to be appropriate.

(Mandatory Transfer)

- Article 19 (1) If a party petitions and the adverse party consents, the court of first instance must transfer the whole or part of litigation to the district court or summary court under that petition, even if the litigation is subject to its jurisdiction; provided, however, that this does not apply if the transfer would substantially delay litigation proceedings or if the petition is filed after the defendant has presented an oral argument on the merits of the case or entered a statement in preparatory proceedings, and if the petition is not for a transfer from the summary court to the district court of jurisdiction in that locality.
- (2) At the petition of the defendant in litigation involving real property that is under the jurisdiction of the summary court, the summary court must transfer the whole or part of litigation to the district court of jurisdiction in that locality; provided, however, that this does not apply if the defendant has presented an oral argument on the merits of the case before filing that petition.

(Restriction on Transfer If There Is Exclusive Jurisdiction)

Article 20 (1) The provisions of the preceding three Articles do not apply if the

litigation is subject to the exclusive jurisdiction of the court before which it is pending (except exclusive jurisdiction determined by an agreement between the parties pursuant to the provisions of Article 11).

- (2) Notwithstanding the provisions of the preceding paragraph, if litigation in a prescribed IP action is to be transferred to a court specified in either item of Article 6, paragraph (1) pursuant to the provisions of Article 17 or paragraph (1) of the preceding Article, the provisions of Article 17 or paragraph (1) of the preceding Article apply.

(Transfer of Litigation in a Prescribed IP Action)

Article 20-2 (1) Even if the litigation in a prescribed IP action is under the exclusive jurisdiction of a court specified in either item of Article 6, paragraph (1) pursuant to the provisions of the same paragraph, the court, upon petition or sua sponte, may transfer the whole or part of litigation to the district court that has jurisdiction pursuant to the provisions of Article 4, 5, or 11 or the district court that must accept litigation transferred to it pursuant to the provisions of Article 19, paragraph (1), if the court finds this to be necessary in order to avoid substantial harm or delay due to its lack of ability to try a specialized and technical matter that is to be tried through the litigation, or due to other circumstances.

- (2) At the filing an appeal to the court of second instance as mentioned in Article 6, paragraph (3), the Tokyo High Court, upon petition or sua sponte, may transfer the whole or part of litigation to the Osaka High Court, if it finds this to be necessary in order to avoid substantial harm or delay due to its lack of ability to try a specialized and technical matter that is to be tried by the court of second instance, or due to other circumstances.

(Immediate Appeals)

Article 21 An immediate appeal may be filed against a ruling to transfer litigation or a ruling to deny a petition for transfer.

(Binding Effect of a Judicial Decision for a Transfer)

Article 22 (1) A judicial decision for a transfer which has become final and binding is binding on the court that has accepted the transferred case.

- (2) The court that has accepted a transferred case may not further transfer the case to another court.
- (3) Once a judicial decision for a transfer becomes final and binding, the litigation is deemed to have been pending before the court to which it has been transferred since it was first brought to the initial court.

Section 3 Disqualifying or Challenging a Court Official

(Disqualifying a Judge)

Article 23 (1) In the following cases, a judge is disqualified from performing the duties of a judge; provided, however, that in the case stated in item (vi), this does not preclude a judge from performing duties as a commissioned judge based on a commission from another court:

- (i) if the judge, or the judge's spouse or former spouse, is a party to the case, or is related to a party to the case as a joint obligee, joint obligor, or obligor for redemption;
 - (ii) if the judge is or was formerly the relative of a party to the case within the fourth degree of consanguinity or the third degree of affinity, or is or was formerly the cohabiting relative of a party to the case;
 - (iii) if the judge is the guardian, guardianship supervisor, curator, curatorship supervisor, assistant, or assistantship supervisor of a party to the case;
 - (iv) if the judge becomes a witness or expert in the case;
 - (v) if a judge is or was formerly a party's representative or assistant in court in the case;
 - (vi) if the judge participated in granting an arbitral award in the case or participated in reaching the judicial decision in the prior instance against which an appeal has been entered.
- (2) If any of the grounds for disqualification prescribed in the preceding paragraph exist, the court, upon petition or sua sponte, reaches a judicial decision to disqualify.

(Challenging a Judge)

Article 24 (1) If there are circumstances involving a judge which could prejudice the impartiality of a judicial decision, a party may challenge that judge.

- (2) Once a party has presented an oral argument or entered a statement in preparatory proceedings before a judge, the party may not challenge that judge; provided, however, that this does not apply if the party did not know of the existence of any grounds for challenge at that time or if the grounds for the challenge occur thereafter.

(Judicial Decisions Regarding a Disqualification or Challenge)

Article 25 (1) The judicial decision on the disqualification of or challenge against a judge who is a member of a judicial panel or against a single district court judge is reached in the form of a ruling by the court to which the judge belongs, and the judicial decision on the disqualification of or challenge against a summary court judge is reached in the form of a ruling by the district court of jurisdiction in that locality.

- (2) In the district court, the judicial decision referred to in the preceding

paragraph is reached by a judicial panel.

- (3) A judge may not be involved in a judicial decision on that judge's own disqualification or on a challenge against that judge.
- (4) No appeal may be entered against a ruling finding grounds for disqualification or challenge.
- (5) An immediate appeal may be filed against a ruling finding there to be no grounds for disqualification or challenge.

(Stay of Litigation Proceedings)

Article 26 If a petition to disqualify or challenge is filed, litigation proceedings must be stayed until the ruling on the petition becomes final and binding; provided, however, that this does not apply with respect to any act requiring urgency.

(Mutatis Mutandis Application to Court Clerks)

Article 27 The provisions of this Section apply mutatis mutandis to court clerks. This being the case, the judicial decision is reached by the court to which the court clerk belongs.

Chapter III The Parties

Section 1 Capacity as a Party and Capacity to Sue or Be Sued

(Principles)

Article 28 Except as otherwise provided for in this Code, capacity as a party, the capacity to sue or be sued, and the statutory representation of a person lacking the capacity to sue or be sued are governed by the Civil Code (Act No. 89 of 1896) and other laws and regulations. The same applies to the delegation of the powers necessary for performing procedural acts.

(A Non-Corporate Association's or Foundation's Capacity as a Party)

Article 29 An association or foundation that is not a corporation and that has a designated representative or administrator may sue or be sued in the name of that representative or administrator.

(Appointed Parties)

- Article 30 (1) Persons with a common interest that do not fall under the provisions of the preceding Article may appoint one or more persons from among themselves to act as the plaintiff or defendant on behalf of all.
- (2) If a person is appointed to act as the plaintiff or defendant pursuant to the provisions of the preceding paragraph after litigation has become pending before the court, any plaintiff other than a person selected to act as plaintiff or

any defendant other than a person selected to act as defendant is automatically withdrawn from the litigation.

- (3) A person that shares a common interest with the plaintiff or defendant in pending litigation but that is not a party to the litigation may appoint them to also act as the plaintiff or defendant on their behalf.
- (4) A first person that has appointed a second person to act as plaintiff or defendant pursuant to the provisions of paragraph (1) or the preceding paragraph (the first person is referred to below as an "appointing party") may void their appointment or change the person they have appointed to act as a party to the case (the second person is referred to below as a "appointed party").
- (5) If an appointed party dies, or due to other reasons loses that status, another appointed party may perform procedural acts on behalf of all.

(Minors' and Adult Wards' Capacity to Sue and Be Sued)

Article 31 A minor or an adult ward may not perform any procedural act except through a legal representative; provided, however, that this does not apply if the minor may perform juridical acts independently.

(Special Provisions on Procedural Acts by Persons under Curatorship, Persons Under Assistantship, and Legal Representatives)

Article 32 (1) A person under curatorship, a person under assistantship (limited to a person that is required to obtain consent from the assistant to perform procedural acts; the same applies in the following paragraph and Article 40, paragraph (4)), or a guardian or other such legal representative is not required to obtain consent or a delegation of powers from the curator or curatorship supervisor, assistant or assistantship supervisor, or guardianship supervisor in order to perform a procedural act with regard to an action or appeal filed by an adverse party.

- (2) A person under curatorship, a person under assistantship, or a guardian or other such legal representative must have a special delegation of powers in order to perform any of the following procedural acts:
 - (i) withdrawing an action, entering into a settlement, waiving or acknowledging a claim, or withdrawing from litigation pursuant to the provisions of Article 48 (including as applied mutatis mutandis pursuant to Article 50, paragraph (3) and Article 51);
 - (ii) withdrawing an appeal to the court of second instance, a final appeal, or a petition as referred to in Article 318, paragraph (1);
 - (iii) withdrawing an objection under the provisions of Article 360 (including as applied mutatis mutandis pursuant to Article 367, paragraph (2), Article 378, paragraph (2) and Article 381-7, paragraph (2)) or consenting to such a

withdrawal.

(Special Provisions on Foreign Nationals' Capacity to Sue and Be Sued)

Article 33 Even if a foreign national does not have the capacity to sue or be sued pursuant to the laws of their home country, they are deemed to have the capacity to sue or be sued if they have that capacity pursuant to Japanese law.

(Measures If a Person Lacks Capacity to Sue or Be Sued)

Article 34 (1) If a person lacks the capacity to sue or be sued, authority to act as a person's legal representative, or delegation of powers that is necessary for performing a procedural act, the court must order this to be corrected within a specified time frame. In such a case, if there is a risk of damage arising from a delay, the court may have the person perform procedural acts on a temporary basis.

(2) A procedural act performed by a person without the capacity to sue or be sued, the authority to act as a person's legal representative, or the delegation of powers that is necessary for performing that procedural act, becomes valid retroactive to the time of the act through ratification by a party or legal representative that has come to satisfy these requirements.

(3) The provisions of the preceding two paragraphs apply *mutatis mutandis* if an appointed party performs procedural acts.

(Special Representatives)

Article 35 (1) If there is no legal representative or if a legal representative is unable to exercise the authority to act as a person's legal representative, a person seeking to perform a procedural act against a minor or adult ward may request the presiding judge of the court in charge of the case to appoint a special representative, by making a *prima facie* showing of the risk that the person will incur damage if there is a delay.

(2) The court may replace a special representative at any time.

(3) In order to perform procedural acts, a special representative must have the same delegation of powers as a guardian.

(Notice of Lapse of the Authority to Act as a Person's Legal Representative)

Article 36 (1) The lapse of authority to act as a person's legal representative does not become valid until the principal or the agent notifies the adverse party of it.

(2) The provisions of the preceding paragraph apply *mutatis mutandis* to the voidance of a person's appointment as an appointed party or a change of appointed parties.

(Mutatis Mutandis Application to the Representative of a Corporation)

Article 37 In this Code, the provisions concerning legal representatives and statutory representation apply mutatis mutandis to the representative of a corporation and to the representative or administrator of an association or foundation that is not a corporation but can sue or be sued in its own name.

Section 2 Joint Litigation

(Requirements for Joint Litigation)

Article 38 If rights or obligations that are the subject matter of litigation are common to two or more persons or are based on the same factual or statutory causes, these persons may sue or be sued as co-litigants. The same applies if rights or obligations that are the subject matter of litigation are of the same kind and based on the same kind of factual or statutory causes.

(Status of Co-Litigants)

Article 39 A procedural act performed by one of the co-litigants, a procedural act performed against one of the co-litigants by the adverse party, and any matter arising with regard to one of the co-litigants does not affect any other co-litigant.

(Mandatory Joint Litigation)

Article 40 (1) If the subject matter of litigation is to be determined for all co-litigants only as a unified matter, procedural acts performed by one of them become valid only in the interests of all of the co-litigants.

(2) In a case prescribed in the preceding paragraph, procedural acts performed against one of the co-litigants by the adverse party are valid against all of them.

(3) In a case prescribed in paragraph (1), if there are grounds for a continuance or suspension of litigation proceedings with regard to one of the co-litigants, the continuance or suspension is valid against all of them.

(4) The provisions of Article 32, paragraph (1) apply mutatis mutandis, in the case prescribed in paragraph (1), to procedural acts that a co-litigant who is a person under curatorship or person under assistantship, or a guardian or other legal representative is required to perform in an appeal filed by one of the co-litigants.

(Joint Litigation Involving a Request for a Simultaneous Trial and Decision)

Article 41 (1) If a right that is the subject matter of litigation for one codefendant and a right that is the subject matter of litigation for another codefendant cannot legally coexist and the plaintiff requests it, the court must

hear oral arguments and reach a judicial decision without instituting separate litigation.

- (2) The plaintiff must make the request referred to in the preceding paragraph by the time of conclusion of oral arguments in the second instance.
- (3) In a case as referred to in paragraph (1), if cases under appeal that each have a codefendant are pending separately before the same court of second instance, the court must hear oral arguments and reach a judicial decision after consolidating them.

Section 3 Intervention

(Supporting Intervention)

Article 42 A third party with an interest in the outcome of litigation may intervene in the litigation in order to assist either party.

(Application for Supporting Intervention)

- Article 43 (1) An application for supporting intervention must clarify the purpose and the grounds for the intervention, and must be filed with the court where procedural acts in that supporting intervention are required to be performed.
- (2) An application for supporting intervention may be filed in conjunction with the performance of a procedural act that may be performed by a supporting intervener.

(Objection to Supporting Intervention)

- Article 44 (1) If a party objects to a supporting intervention, the court reaches a judicial decision, in the form of a ruling, on whether or not to permit the supporting intervention. In such a case, the supporting intervener must make a prima facie showing of the reasons for the intervention.
- (2) After having presented oral arguments or entered a statement in preparatory proceedings without having raised the objection referred to in the preceding paragraph, a party may not then raise such an objection.
 - (3) An immediate appeal may be filed against a judicial decision as referred to in paragraph (1).

(Procedural Acts by a Supporting Intervener)

Article 45 (1) A supporting intervener may present allegations and evidence, file an objection, file an appeal, file a demand for a retrial, or perform any other procedural act in the litigation in question; provided, however, that this does not apply to procedural acts that the supporting intervener may not perform due to the progress of the litigation at the time of the supporting intervention.

- (2) A procedural act performed by a supporting intervener is invalid if it conflicts with a procedural act performed by the party being supported in the intervention.
- (3) Even if an objection has been raised against a supporting intervention, a supporting intervener may perform procedural acts until a judicial decision disallowing the supporting intervention becomes final and binding.
- (4) A procedural act performed by a supporting intervener is valid if invoked by a party, even if a judicial decision disallowing the supporting intervention becomes final and binding.
- (5) To apply provisions that concern the following requests, a supporting intervener (limited to one whose intervention is permitted by a judicial decision that has become final and binding after the party has raised the objection referred to in paragraph (1) of the preceding Article; or to one against whose intervention the party is no longer entitled to raise an objection pursuant to the provisions of paragraph (2) of that Article) is deemed to be a party:
 - (i) a request to inspect or copy hard-copy case records (meaning hard-copy case records as provided in Article 91, paragraph (1)), or to be issued an authenticated copy, transcript, or extract of those records, or for those records to be reproduced (referred to as "access to hard-copy case records" in Article 92, paragraph (1));
 - (ii) a request to inspect or copy electronic or magnetic case records (meaning electronic or magnetic case records as prescribed in Article 91-2, paragraph (1)), to be issued a paper document certifying the whole or part of their content, or to be provided with electronic or magnetic records certifying the whole or part of their content (referred to as "access to electronic or magnetic case records" in Article 92, paragraph (1)); and
 - (iii) a request to issue a paper document certifying information concerning the litigation as prescribed in Article 91-3, or to provide electronic or magnetic records certifying that information.

(Effect of a Judicial Decision Against a Supporting Intervener)

Article 46 A judicial decision in litigation that involves a supporting intervention is also effective against the supporting intervener, except in the following cases:

- (i) if the supporting intervener is unable to perform a procedural act, pursuant to the provisions of the proviso to paragraph (1) of the preceding Article;
- (ii) if a procedural act by the supporting intervener is invalid, pursuant to the provisions of paragraph (2) of the preceding Article;
- (iii) if the party being supported in the intervention interferes with a procedural act by the supporting intervener;

- (iv) if the party being supported in the intervention intentionally or negligently fails to perform a procedural act that a supporting intervener is not permitted to perform.

(Intervention as an Independent Party)

- Article 47 (1) A third party asserting that a right will be prejudiced by the outcome of litigation or a third party asserting entitlement to the whole or part of the subject matter of litigation may intervene in the litigation as a party, designating either or both of the parties to the litigation as an adverse party.
- (2) A third party must file a motion to intervene as under the provisions of the preceding paragraph in writing.
- (3) The written motion referred to in the preceding paragraph must be served upon both parties.
- (4) The provisions of Article 40, paragraphs (1) through (3) apply mutatis mutandis to the parties to litigation stated in paragraph (1) and a person that has intervened in the litigation pursuant to the provisions of that paragraph; and the provisions of Article 43 apply mutatis mutandis to an application for intervention under the provisions of that paragraph.

(Original Party's Withdrawal from Litigation)

- Article 48 If a person has intervened in litigation pursuant to the provisions of paragraph (1) of the preceding Article in order to assert that person's own right, the plaintiff or defendant from prior to the intervention may withdraw from the litigation, with the consent of the adverse party. In such a case, the judgment on the litigation is also valid against the withdrawing party.

(Postponement of the Expiration of the Prescription Period If the Transferee of a Right Intervenes in Litigation)

- Article 49 (1) If, while litigation is pending, a person asserting that the whole or part of the rights that are the subject of that litigation have been transferred to them intervenes in the litigation pursuant to the provisions of Article 47, paragraph (1) a judicial claim is deemed to have been filed at the time when the litigation first became pending, as it concerns postponing the expiration of the prescription period.
- (2) In a case provided for in the preceding paragraph, the intervention gives rise to the effect of compliance with statutory time frames, retroactive to the time when the litigation first became pending.

(Assumption of Litigation by the Successor of an Obligation)

- Article 50 (1) If, while litigation is pending, a third party succeeds to the whole or part of an obligation that is the subject matter of litigation, the court, at the

petition of an original party, may issue a ruling to have that third party assume the litigation.

- (2) Before issuing a ruling as referred to in the preceding paragraph, the court must hear the original party and the third party.
- (3) The provisions of Article 41, paragraphs (1) and (3) and the preceding two Articles apply mutatis mutandis if a ruling is issued to have a third party assume litigation pursuant to the provisions of paragraph (1).

(Intervention by the Successor of an Obligation and Assumption of Litigation by the Transferee of a Right)

Article 51 The provisions of Articles 47 through 49 apply mutatis mutandis to intervention by a third party that asserts that, while the litigation has been pending, that third party has succeeded to the whole or part of the obligation that is the subject matter of litigation; and the provisions of the preceding Article apply mutatis mutandis if, while litigation is pending, a third party is transferred the whole or part of a right that is the subject matter of litigation.

(Intervention as a Co-Litigant)

- Article 52 (1) If the subject matter of litigation is to be determined for one of the original parties and a third party only as a unified matter, the third party may intervene in the litigation as a co-litigant.
- (2) The provisions of Article 43 and Article 47, paragraphs (2) and (3) apply mutatis mutandis to an application for intervention under the provisions of the preceding paragraph.

(Notice of Litigation)

- Article 53 (1) While litigation is pending, a party may notify a third party that is permitted to intervene in the litigation of that litigation.
- (2) A person that has been notified of litigation may notify another person of that litigation.
 - (3) A person must notify another person of litigation by submitting a paper document to the court stating the grounds for notifying that person and the progress of the litigation.
 - (4) Even if a person receiving notice of litigation does not intervene in the litigation, to apply the provisions of Article 46, that person is deemed to have intervened in the litigation at the time that that person could have intervened.

Section 4 Litigation Representatives and Assistants in Court

(Qualification as a Litigation Representative)

Article 54 (1) Except for an agent who may act in court pursuant to law or

regulation, no person other than an attorney may serve as a litigation representative; provided, however, that in summary court, with the court's permission, a person who is not an attorney at law may be named litigation representative.

(2) The permission stated in the preceding paragraph may be revoked at any time.

(Scope of Authority to Act as a Person's Litigation Representative)

Article 55 (1) A litigation representative may perform procedural acts involved in a counterclaim, intervention, judicial enforcement, provisional seizure, or provisional disposition for a case entrusted to them, and may receive payment for this.

(2) A litigation representative must be specially entrusted in order to:

(i) file a counterclaim;

(ii) withdraw an action, enter into a settlement, waive or acknowledge a claim, or effect a withdrawal from litigation under the provisions of Article 48 (including as applied mutatis mutandis pursuant to Article 50, paragraph (3) and Article 51);

(iii) file or withdraw an appeal to the court of second instance, a final appeal, or a petition as referred to in Article 318, paragraph (1);

(iv) withdraw an objection under the provisions of Article 360 (including as applied mutatis mutandis pursuant to Article 367, paragraph (2), Article 378, paragraph (2) and Article 381-7, paragraph (2)) or consent to its withdrawal;

(v) appoint a representative.

(3) The authority to act as a person's litigation representative in litigation may not be restricted; provided, however, that this does not apply to a litigation representative who is not an attorney.

(4) The provisions of the preceding three paragraphs do not restrict the authority of a representative who may act in court pursuant to law or regulation.

(Individual Representation)

Article 56 (1) If there are multiple litigation representatives, each one represents a single party.

(2) Any provisions agreed upon between the parties that are contrary to the provisions of the preceding paragraph are invalid.

(Correction by the Party)

Article 57 Statements of fact that are entered by a litigation representative are invalid if immediately retracted or corrected by the party.

(Non-Extinguishment of Authority to Act as a Person's Litigation Representative)

Article 58 (1) The following grounds do not cause a person's authority to act as a litigation representative to be extinguished:

- (i) a party's death or loss of capacity to sue or be sued;
 - (ii) the disappearance due to merger of a corporation that is a party;
 - (iii) termination of duties involved in a trust assigned to a trustee that is a party;
 - (iv) a legal representative's death or loss of capacity to sue or be sued, or extinguishment or modification of the legal representative's authority to act as a person's legal representative.
- (2) A litigation representative's authority to act as the litigation representative for a person of a certain status who stands as a party to litigation in that person's own name on behalf of another person does not extinguish due to the party's loss of that status due to death or other such grounds.
- (3) The provisions of the preceding paragraph apply mutatis mutandis if an appointed party has lost that status due to death or other such grounds.

(Mutatis Mutandis Application of Provisions on Legal Representation)

Article 59 The provisions of Article 34, paragraphs (1) and (2) and Article 36, paragraph (1) apply mutatis mutandis to representation in litigation.

(Assistants in Court)

Article 60 (1) A party or litigation representative, with the permission of the court, may appear with an assistant in court.

- (2) The permission stated in the preceding paragraph may be revoked at any time.
- (3) Statements entered by an assistant in court, unless immediately retracted or corrected by the party or the litigation representative, are deemed to have been made by the party or litigation representative, personally.

Chapter IV Court Costs

Section 1 Bearing of Court Costs

(Bearing of Court Costs: in Principle)

Article 61 The defeated party bears the court costs.

(Bearing of Costs: Unnecessary Acts)

Article 62 Depending on the circumstances, the court may have the winning party bear the whole or part of the court costs incurred due to any act that was unnecessary for the expansion or defense of the winning party's rights, or court costs incurred due to any act that was necessary, in light of the progress of the litigation as of the time of the act, for the expansion or defense of the adverse party's rights.

(Bearing of Costs: Delay in Litigation)

Article 63 If a party delays litigation due to a failure to present allegations or evidence in a timely manner, failure to keep a court date or observe a time frame, or any other grounds attributable to that party, the court may have that party bear the whole or part of court costs incurred due to the delay, even if that party wins the case.

(Bearing of Costs: Partial Defeat)

Article 64 In the case of a partial defeat, the court fixes the court costs that each party bears at its own discretion; provided, however, that depending on the circumstances, the court may have either party bear all court costs.

(Bearing of Costs in Joint Litigation)

Article 65 (1) Co-litigants bear court costs equally; provided, however, that the court, depending on the circumstances, may have co-litigants bear court costs jointly and severally or in any other manner.
(2) Notwithstanding the provisions of the preceding paragraph, the court may have a party that has performed any act that was unnecessary for the expansion or defense of a right bear court costs incurred due to that act.

(Bearing of Costs: Supporting Intervention)

Article 66 The provisions of Article 61 through the preceding Article apply mutatis mutandis to the bearing of court costs incurred due to an objection to supporting intervention between the supporting intervener and the party that raises the objection, and to the bearing of court costs incurred due to supporting intervention between the supporting intervener and the adverse party.

(Judicial Decisions on the Bearing of Court Costs)

Article 67 (1) In the judicial decision that concludes a case, the court must reach a judicial decision sua sponte on the bearing of all court costs incurred in the relevant instance; provided, however, that depending on the circumstances, in a judicial decision on part of a case or on an interlocutory dispute, the court may reach a judicial decision on the bearing of those costs.
(2) If a superior court modifies a judicial decision on the merits, it must reach a judicial decision on the bearing of the total costs of litigation. The same applies when a court that has accepted a case remanded or transferred to it reaches the judicial decision that concludes the case.

(Bearing of Costs When Parties Reach a Settlement)

Article 68 If the parties reach a court settlement but do not specifically establish how settlement costs or court costs will be borne, each party bears its own costs.

(Reimbursement of Costs by a Legal Representative)

Article 69 (1) If a legal representative, litigation representative, court clerk, or court enforcement officer, intentionally or through gross negligence, gives rise to unnecessary court costs, the court in charge of the case, upon petition or sua sponte, may order that person to reimburse the relevant person in the amount of those costs.

(2) If a person performing a procedural act as a legal representative or litigation representative has failed to prove that the person has the authority to act as a person's legal representative or delegation of powers necessary for performing a procedural act and has also failed to have the act ratified, the provisions of the preceding paragraph apply mutatis mutandis to the court costs arising from that procedural act.

(3) An immediate appeal may be filed against a ruling under the provisions of paragraph (1) (including as applied mutatis mutandis pursuant to the provisions of the preceding paragraph).

(The Bearing of Costs by an Unauthorized Representative)

Article 70 In a case prescribed in paragraph (2) of the preceding Article, if the court denies an action, the person performing procedural acts as a representative bears the court costs.

(Procedures for Fixing the Amount of Court Costs)

Article 71 (1) The amount of court costs to be borne is fixed, upon petition, by the court clerk of the court of first instance after the judicial decision on the bearing of costs becomes enforceable.

(2) A person must file the petition under the preceding paragraph within ten years from the day on which the judicial decision on the bearing of costs becomes final and binding.

(3) In a case as referred to in paragraph (1), except in cases specified by the Rules of the Supreme Court, if both parties bear court costs, the costs that each party will bear is deemed to have offset the corresponding amount of costs that the other party will bear.

(4) A disposition on the petition referred to in paragraph (1) takes effect when the relevant persons are notified of it by a means that is considered to be appropriate.

(5) A person must object to the disposition referred to in the preceding paragraph within an inalterable time frame of one week from the day on which they are notified of it.

- (6) An objection under the preceding paragraph has the effect of a stay of enforcement.
- (7) If the court finds that there are grounds for the objection to a disposition fixing the amount under the provisions of paragraph (1), the court must fix the amount of court costs to be borne itself, if that amount is required to be fixed.
- (8) An immediate appeal may be filed against a ruling on an objection referred to in paragraph (5).

(Procedures for Fixing the Amount of Costs in a Settlement)

Article 72 If the parties reach a court settlement and establish how settlement costs or court costs will be borne but do not fix the amount of these costs, their amount is fixed, upon petition, by the court clerk of the court of first instance (for a settlement as referred to in Article 275, the court where the settlement is established). In such a case, the provisions of paragraphs (2) through (8) of the preceding Article apply *mutatis mutandis*.

(Handling When Litigation Is Concluded Not by Judicial Decision or Settlement)

Article 73 (1) If litigation is concluded not by a judicial decision or settlement, the court of first instance, upon petition, must issue a ruling ordering court costs to be borne, and the court clerk of that court must fix the amount to be borne after the ruling becomes enforceable. The same applies if an application for supporting intervention is withdrawn or if an objection to supporting intervention is withdrawn.

- (2) The provisions of Articles 61 through 66 and Article 71, paragraph (8) apply *mutatis mutandis* to a ruling on a petition under the preceding paragraph; the provisions of Article 71, paragraph (2) apply *mutatis mutandis* to a petition under the preceding paragraph; the provisions of Article 71, paragraphs (3) and (4) apply *mutatis mutandis* to a disposition rendered by the court clerk on a petition under the preceding paragraph; and the provisions of Article 71, paragraphs (5) through (8) apply *mutatis mutandis* to an objection to such a disposition. In such a case, the term "from the day when the judicial decision on the bearing of costs becomes final and binding" in Article 71, paragraph (2) is deemed to be replaced with "from the day when the litigation is concluded".

(Correction of a Disposition Fixing the Amount of Costs)

Article 74 (1) If a miscalculation, clerical error, or any other similar mistake that is clearly an error has been made in a disposition that fixes the amount under the provisions of Article 71, paragraph (1), Article 72 or paragraph (1) of the preceding Article, the court clerk, upon petition or *sua sponte*, may correct the disposition at any time.

- (2) The provisions of Article 71, paragraphs (4) through (6) and paragraph (8) apply *mutatis mutandis* to a corrective action under the provisions of the preceding paragraph and to the filing of any objection to it.
- (3) If a lawful objection is filed against a disposition that fixes the amount prescribed in paragraph (1), the objection under the preceding paragraph may not be filed.

Section 2 Security for Court Costs

(Order to Provide Security)

- Article 75 (1) If a plaintiff is not domiciled in Japan or does not have a business office or other office in Japan, at the petition of the defendant, the court must issue a ruling ordering the plaintiff to provide security for court costs. The same applies if that security becomes insufficient.
- (2) The provisions of the preceding paragraph do not apply if there is no dispute over part of a claim for the payment of money and the amount of that part of the claim is sufficient as security.
 - (3) Once a defendant has presented an oral argument on the merits or entered a statement in preparatory proceedings after having learned that there are grounds for security to be provided, the defendant may not file the petition referred to in paragraph (1).
 - (4) A defendant filing a petition under paragraph (1) may refuse to appear until the plaintiff provides security.
 - (5) In the ruling stated in paragraph (1), the court must specify the amount of security and the time frame for providing security.
 - (6) The amount of security is specified on the basis of the total amount of court costs the defendant would need to pay in all instances.
 - (7) An immediate appeal may be filed against a ruling on a petition under paragraph (1).

(Manner of Providing Security)

Article 76 In providing security, money or securities (including book-entry transfer corporate bonds or other securities prescribed in Article 129, paragraph (1) of the Act on Book-Entry Transfer of Company Bonds (Act No. 75 of 2001); the same applies in the following Article) that the court considers appropriate must be deposited with an official depository within the territorial jurisdiction of the district court of jurisdiction in the locality of the court that orders the security to be provided, or must be provided by a specified by the Rules of the Supreme Court; provided, however, that if the parties have entered into a special contract, that contract prevails.

(Defendant's Right to Collateral)

Article 77 A defendant has the right to receive payment for court costs, in preference to other creditors, from the money or securities deposited pursuant to the provisions of the preceding Article.

(Result of Failure to Provide Security)

Article 78 If a plaintiff fails to provide security within the time frame during which it is required to be provided, the court may enter a judgment denying the action, without hearing oral arguments; provided, however, that this does not apply if the plaintiff provides security before that a judgment is entered.

(Release of Security)

Article 79 (1) If a person providing security proves that the grounds for providing security have ceased to exist, the court, upon petition, must rule to release that security.

(2) The provisions of the preceding paragraph also apply if a person providing security proves that the person has obtained the consent of the security interest holder for the release of the security.

(3) If, after the conclusion of litigation, the court clerk, at the petition of the person providing the security, requests that the security interest holder exercise the right to the security within a certain time frame and the security interest holder fails to do so, the security interest holder is deemed to consent to the release of the security.

(4) An immediate appeal may be filed against a ruling under the provisions of paragraphs (1) and (2).

(Substitution of Security)

Article 80 At the petition of a person providing the security, the court may issue a ruling ordering the substitution of that security; provided, however, that this does not preclude other security from being substituted for that security pursuant to a contract.

(Mutatis Mutandis Application to Security under Other Laws and Regulations)

Article 81 The provisions of Article 75, paragraphs (4), (5), and (7) and Articles 76 through the preceding Article apply mutatis mutandis to any security that is required to be provided pursuant to other laws and regulations for the filing of an action.

Section 3 Legal Aid

(Granting Aid)

Article 82 (1) The court, upon petition, may issue a ruling granting legal aid to a person lacking the financial resources to pay the expenses necessary for preparing for and conducting litigation, or to a person for whom paying those expenses would cause substantial adversity in daily life; provided, however, that this applies only if the person has some chance of winning the case.

(2) Rulings granting legal aid are issued separately for each instance.

(Effects of Aid)

Article 83 (1) A ruling granting legal aid has the following effects with regard to litigation and enforcement, in line with what is provided for in the ruling:

- (i) a grace period for the payment of court costs, as well as for fees for a court enforcement officer and expenses necessary for the performance of the duties of the same;
 - (ii) a grace period for the payment of compensation and expenses for an attorney at law that is ordered by the court to help the person that has been granted legal aid;
 - (iii) exemption from providing security for court costs.
- (2) A ruling granting legal aid is only valid for assisting the person in whose favor the ruling is issued.
- (3) The court issues a ruling ordering any successor to litigation to pay expenses and costs for which a grace period for payment has been given.

(Revocation of a Ruling Granting Aid)

Article 84 If a person in whose favor a ruling granting legal aid is issued is found not to meet the requirements prescribed in the main clause of Article 82, paragraph (1) or comes to no longer meet those requirements, the court that has the case record on file may at any time, upon at the petition of an interested party or sua sponte, issue a ruling setting aside the ruling that granted the person legal aid, and order the person to pay any expenses and costs for which a grace period has been given.

(Manner of Collecting Expenses and Costs with a Grace Period)

Article 85 Expenses and costs in respect of which a person in whose favor a ruling granting legal aid is issued is given a payment grace period may be collected directly from the adverse party that it has been decided will bear those expenses and costs. To do so, an attorney at law or a court enforcement officer, on behalf of the person in whose favor the ruling granting legal aid has been issued, may file a petition stated in Article 71, paragraph (1), Article 72 or Article 73, paragraph (1) or carry out judicial enforcement with regard to compensation or fees and expenses and costs.

(Immediate Appeals)

Article 86 An immediate appeal may be filed against a ruling prescribed in this Section.

Chapter V Litigation Proceedings

Section 1 Trial Litigation

(Necessity of Oral Arguments)

Article 87 (1) The parties must conduct oral arguments before the court in connection with their litigation; provided, however, that for a case that is to be concluded by a ruling, the court determines whether or not the parties are required to conduct oral arguments.

(2) If oral arguments are not conducted pursuant to the proviso to the preceding paragraph, the court may hear the parties.

(3) The provisions of the preceding two paragraphs do not apply when otherwise provided.

(Oral Arguments Based on Communication Through Audio and Visual Transmissions)

Article 87-2 (1) If the court finds it to be appropriate, after hearing the opinions of the parties and as provided by the Rules of the Supreme Court, the court may conduct proceedings on a date for oral arguments using a means that enables the court and both parties to communicate with one another through audio and visual transmissions while gaining an awareness of one another's situation.

(2) If the court finds it to be appropriate, after hearing the opinions of the parties, the court may conduct the proceedings on the date for hearing in a way that enables the court and both parties to communicate with one another at the same time, through audio transmissions, as provided by the Rules of the Supreme Court.

(3) The party who has participated in proceedings as referred to in the preceding two paragraphs without appearing on the date referred to in that paragraph is deemed to have appeared on that date.

(Hearings by an Authorized Judge)

Article 88 If a hearing is held, the court may have it held by an authorized judge.

(Attempts at Settlement)

Article 89 (1) Irrespective of the extent to which litigation has progressed, the court may attempt to arrange a settlement or have an authorized or commissioned judge attempt to arrange a settlement.

- (2) If the court finds it to be appropriate, after hearing the opinions of the parties, the court may conduct the proceedings on the date for settlement in a way that enables the court and both parties to communicate with one another at the same time, through audio transmissions as provided by the Rules of the Supreme Court.
- (3) The party who has participated in proceedings as referred to in the preceding paragraph without appearing on the date referred to in that paragraph is deemed to have appeared on that date.
- (4) The provisions of Articles 148, 150, 154 and 155 apply mutatis mutandis to settlement proceedings.
- (5) If an authorized or commissioned judge attempts to arrange a settlement, the duties of the court and presiding judge under the provisions of paragraph (2), or under the provisions of Articles 148, 154 and 155 as applied mutatis mutandis pursuant to the preceding paragraph, are to be performed by that judge.

(Loss of the Right to Object to Litigation Proceedings)

Article 90 If a party learns or could have learned of a violation of the provisions concerning litigation proceedings but fails to make an objection without delay, the party loses the right to object to those proceedings; provided, however, that this does not apply to a right that cannot be waived.

(Access to Non-Electronic or Magnetic Case Records)

- Article 91 (1) Any person may file a request with the court clerk to inspect a hard-copy case records (meaning the portion of the case records excluding the electronic or magnetic case records as prescribed in paragraph (1) of the following Article; the same applies in this Article).
- (2) Only the parties to the case or a third party that makes a prima facie showing of interest in the case may file the request under the provisions of the preceding paragraph with regard to a hard-copy case records involving oral arguments that are prohibited from being disclosed to the public. The same applies to the portion of the hard-copy case records concerning the proposed terms of settlement under Article 264, the terms of settlement under the provisions of Article 265, paragraph (1) and the settlement as prescribed in Article 267, paragraph (1) (excluding a settlement that is concluded on the date for oral arguments).
 - (3) The parties to a case and any third party that makes a prima facie showing of interest in the case may file a request with the court clerk to copy the hard-copy case records, or to issue an authenticated copy, transcript or extract of the electronic or magnetic case records.
 - (4) The provisions of the preceding paragraph do not apply with respect to hard-

copy case records that have been prepared in the form of audiotapes or videotapes (including objects onto which a fixed set of information has been recorded by any equivalent means). Nevertheless, the court clerk must permit the reproduction of those audiotapes or videotapes at the request of a party to the case or a third party that makes a prima facie showing of interest in these objects.

- (5) A request to inspect, copy, or reproduce a hard-copy case records may not be filed if these actions would be detrimental to the preservation of the hard-copy case records or the performance of the court's duties.

(Access to Electronic or Magnetic Case Records)

Article 91-2 (1) As provided for by the Rules of the Supreme Court, any person may file a request with the court clerk to inspect something that, in the manner specified by the Rules of the Supreme Court, has been made to show the content of an electronic or magnetic case record (meaning the part of a case record that constitutes information which has been recorded into a file stored on a computer (inclusive of its input and output devices; the same applies below) used by the court (these files are simply referred to below as the court's "computer files", except in Article 91-2, paragraphs (2) and (3), Article 91-3, and Article 109-3, paragraph (1), item (ii)), pursuant to the provisions of this Code and other laws and regulations (the information is referred to as "information from the court's computer files" in Article 132-7 and Article 133-2, paragraph (5)); the same applies below)).

- (2) As provided for by the Rules of the Supreme Court, the parties to a case or a third party that makes a prima facie showing of interest in the case may file a request with a court clerk to copy the information recorded in electronic or magnetic case records by using an electronic data processing system specified by the Rules of the Supreme Court (meaning an electronic data processing system that connects a computer used by the court and the computer used by the other person involved in the procedure via a telecommunications line; the same applies below) to record the information in a file stored on a computer that the person is using, or by any other means specified by the Rules of the Supreme Court.

- (3) As provided for by the Rules of the Supreme Court, the parties to a case or a third party that makes a prima facie showing of interest in the case may request a court clerk to issue a paper document containing the whole or part of the information recorded in an electronic or magnetic case record, whose content the court clerk certifies, by the means specified by the Rules of the Supreme Court, to give information identical to what is recorded in the electronic or magnetic case record; or to provide an electronic or magnetic record containing the whole or part of the information recorded in an electronic

or magnetic case record, whose content the court clerk certifies, by the means specified by the Rules of the Supreme Court, to give information identical to what is recorded in the electronic or magnetic case record, using an electronic data processing system specified by the Rules of the Supreme Court to record it in a file stored on the computer that the party is using, or by any other means specified by the Rules of the Supreme Court.

- (4) The provisions of paragraphs (2) and (5) of the preceding Article apply *mutatis mutandis* to the request to inspect or copy electronic or magnetic case records under the provisions of paragraphs (1) and (2).

(Certifying Information Concerning the Litigation)

Article 91-3 As provided for by the Rules of the Supreme Court, the parties to a case or a third party that makes a *prima facie* showing of interest in a case may request a court clerk to issue a paper document containing information concerning the litigation that the court clerk certifies by the means specified by the Rules of the Supreme Court; or to provide an electronic or magnetic record containing information concerning the litigation that the court clerk certifies by the means specified by the Rules of the Supreme Court, using an electronic data processing system specified by the Rules of the Supreme Court to record it in a file stored on the computer that the party is using, or by any other means specified by the Rules of the Supreme Court.

(Restrictions on Inspection to Preserve Confidential Information)

Article 92 (1) If a party to a case makes a *prima facie* showing of the following grounds, the court, at the petition of that party, may rule to limit the persons who may request access to the parts of the case records that contain the confidential information in question (meaning access to hard-copy case records or access to electronic or magnetic case records; the same applies in Article 133, paragraph (3)) (referred to below as "access to the confidential parts of the case records" in this Article) to the parties to the case:

- (i) a material piece of confidential information about the private life of a party appears in the case record, and a third party's access to the confidential parts of the case records would be likely to substantially interfere with that party's public life;
 - (ii) a trade secret (meaning a trade secret as prescribed in Article 2, paragraph (6) of the Unfair Competition Prevention Act; the same applies below) being kept by a party to the case appears in the case records.
- (2) Once a petition as referred to in the preceding paragraph has been filed, a third party may not request access to the confidential parts of the case records until a judicial decision on the petition becomes final and binding.
- (3) A third party seeking access to the confidential parts of the case records may

file a petition with the court of record to set aside the ruling stated in paragraph (1), on the grounds that any requirement prescribed in that paragraph has not been met or is no longer being met.

- (4) An immediate appeal may be filed against a judicial decision denying the petition stated in paragraph (1) and against a judicial decision on the petition stated in the preceding paragraph.
- (5) A judicial decision setting aside a ruling as referred to in paragraph (1) does not come into force unless it becomes final and binding.
- (6) If a petition under paragraph (1) (limited to a petition filed due to the existence of grounds stated in item (i) of that paragraph; the same applies in the following paragraph and paragraph (8)) has been filed and a third party intervenes in the litigation after its filing, the court clerk must notify the party who filed the petition of the intervention immediately after the intervention; provided, however, that this does not apply if the judicial decision denying the petition has become final and binding.
- (7) In a case as referred to in the main clause of the preceding paragraph, the court clerk may not permit the intervener to access the confidential parts of the case records about which the petition under paragraph (1) was filed, during the time that runs from the day of the notification under the provisions of that paragraph until the final day in the two-week period that follows; provided, however, that this does not apply if a petition as referred to in Article 133-2, paragraph (2) has been made.
- (8) The provisions of the preceding two paragraphs do not apply if all parties that have filed the petition under paragraph (1) consent to allow the intervener referred to in paragraph (6) to access the confidential parts of the case records about which the petition under paragraph (1) has been filed.
- (9) If a petition under paragraph (1) (limited to one filed because the grounds stated in item (ii) of that paragraph exist; the same applies in the following paragraph) is filed, and if the use of a trade secret detailed in that petition for purposes other than conducting the suit, or the disclosure of that trade secret, would likely interfere with the party's business activities that are based on that trade secret, and the court finds it to be particularly necessary to do so in order to prevent this, the court may output the parts of the electronic or magnetic case records containing that trade secret in paper format or record them onto another recording medium, as well as taking measures to delete them from the electronic or magnetic case records or any other measures specified by the Rules of the Supreme Court as necessary and appropriate to securely manage the trade secret.
- (10) If, after measures under the provisions of the preceding paragraph are taken to delete parts of the electronic or magnetic case records, a judicial decision denying the petition referred to in paragraph (1) becomes final and binding, or

a judicial decision setting aside the decision concerning the petition becomes final and binding, the court clerk must record the part of the records containing the trade secret in the court's computer files.

Section 2 Technical Advisers

Subsection 1 Technical Advisers

(Participation of Technical Advisers)

- Article 92-2 (1) If the court finds that it will need to have a technical adviser participate during deliberations on the necessary matters involved in the arrangement of issues and evidence or the progress of litigation proceedings in order to clarify a matter related to the litigation or create a framework for smooth progress in the litigation proceedings, the court, after hearing the opinions of the parties, may rule to have a technical adviser participate in the proceedings so as to hear an explanation based on the adviser's expert knowledge. In such a case, the presiding judge must have the adviser give an explanation in writing or orally on a date for oral arguments or preparatory proceedings.
- (2) In lieu of providing an explanation in the form of a paper document under the provisions of the preceding paragraph, a technical adviser may provide an explanation using an electronic data processing system as provided for by the Rules of the Supreme Court to record the information to be stated in the paper document in the court's computer files or by submitting a recording medium on which an electronic or magnetic record of the information to be stated in the paper document has been recorded, as provided for by the Rules of the Supreme Court.
- (3) If the court finds that it will need to have a technical adviser participate during the examination of evidence in order to clarify a matter related to the litigation or the import of the results of the examination of evidence, the court, after hearing the opinions of the parties, may rule to have a technical adviser participate in the proceedings on a date for the examination of evidence, so as to hear an explanation based on the adviser's expert knowledge. In such a case, in order to have the adviser give an explanation on a date for the examination of a witness or the parties themselves or on a date for the questioning of an expert, the presiding judge, with the consent of the parties, may permit the adviser to directly ask the witness, the parties themselves, or the expert questions about things about which questions need to be asked in order to clarify a matter that is related to the litigation or to clarify the import of the results of the examination of evidence.
- (4) If the court finds that it will be necessary during an attempt to arrange a settlement, the court, with the consent of the parties, may rule to have a

technical adviser participate in the proceedings on a date when the court will attempt to arrange a settlement and on which both parties are able to attend, so as to hear an explanation based on the adviser's expert knowledge.

(Participation of a Technical Adviser Through Communication by Audio Transmissions)

Article 92-3 If the court has a technical adviser participate in proceedings pursuant to the provisions of paragraphs (1), (3) and (4) of the preceding Article and the court finds it appropriate, the court, after hearing the opinions of the parties, may have the technical adviser give an explanation or ask questions pursuant to the relevant paragraph of that Article on a date as referred to in the relevant paragraph of that Article, as provided for by the Rules of the Supreme Court, in a way that enables the court and both parties to communicate with the technical adviser at the same time, through audio transmissions.

(Revocation of a Ruling for the Participation of a Technical Adviser)

Article 92-4 If the court finds it to be appropriate, it is permitted to set aside a ruling to have a technical adviser participate in the proceedings, upon petition or sua sponte; provided, however, that the court is required to set aside such a ruling if both parties so petition.

(Designation, Appointment, and Dismissal of a Technical Adviser)

Article 92-5 (1) The number of technical advisers is one or more for each case.
(2) Any technical adviser who the court has participate in the proceedings pursuant to the provisions of Article 92-2 is designated by the court for each case, after the opinions of the parties are heard.
(3) Technical advisers serve the court on an irregular basis; the Rules of the Supreme Court provide for the necessary particulars concerning their appointment and dismissal.
(4) A technical adviser is paid an allowance as separately provided for by law, as well as travel expenses, a daily allowance, and accommodation costs in the amounts specified by the Rules of the Supreme Court.

(Disqualifying or Challenging a Technical Adviser)

Article 92-6 (1) The provisions of Articles 23 through 25 (excluding paragraph (2) of that Article) apply mutatis mutandis to a technical adviser.
(2) Once a petition to disqualify or challenge a technical adviser is filed, the technical adviser may not participate in the proceedings of the case with respect to which the petition has been filed until the ruling on the petition becomes final and binding.

(Powers of an Authorized Judge)

Article 92-7 If an authorized or commissioned judge conducts the procedures stated in paragraphs (1), (3) and (4) of Article 92-2, that judge performs the duties of the court and those of the presiding judge under the provisions of that Article through Article 92-4 and Article 92-5, paragraph (2); provided, however, that if an authorized judge carries out the procedures stated in Article 92-2, paragraph (3), the ruling to have a technical adviser participate in the proceedings, the revocation of such a ruling, and the designation of the technical adviser is made by the court in charge of the case.

Subsection 2 Function of a of Judicial Research Official in a Case Involving Intellectual Property

(Functions of a Judicial Research Official in a Case Involving Intellectual Property)

Article 92-8 If the court finds it to be necessary, it may have the judicial research official who is in charge of conducting research in connection with the trial and judicial decision in a case involving intellectual property at a high court or district court, fulfill the following functions in that case. In such a case, that judicial research official, as ordered by the presiding judge, is to fulfill those functions:

- (i) asking questions of the parties or urging them to offer proof with regard to factual or legal matters, on the following court dates or in the following proceedings, in order to clarify a matter that is related to the litigation:
 - (a) a date for oral arguments or hearing;
 - (b) proceedings for arranging issues or evidence;
 - (c) proceedings for determining whether there exists an obligation to submit a document or electronic or magnetic record or an obligation to present an object for inspection;
 - (d) proceedings for deliberating on the matters involved in the arrangement of issues or evidence or any other necessary matters involved in the progress of litigation proceedings.
- (ii) asking questions directly of a witness, the parties themselves, or an expert on a date for the examination of evidence;
- (iii) giving an explanation based on expert knowledge on a date for attempting to arrange a settlement;
- (iv) stating opinions about the case to a judge.

(Disqualifying or Challenging a Judicial Research Official in a Case Involving Intellectual Property)

Article 92-9 (1) The provisions of Articles 23 through 25 apply mutatis mutandis to a judicial research official who fulfills the functions referred to in the preceding Article.

(2) If a petition has been filed to disqualify or challenge a judicial research official who fulfills the functions referred to in the preceding Article, the judicial research official may not participate in the case for which the petition has been filed until the ruling on the petition becomes final and binding.

Section 3 Court Dates and Time Frames

(Designation and Change of Court Dates)

Article 93 (1) The presiding judge designates and changes court dates upon petition or sua sponte.

(2) A court date may be designated for a Sunday or any other general holiday, but only when this is unavoidable.

(3) A change of date for oral arguments or preparatory proceedings is only allowed if there are clear grounds for doing so; provided, however, that a change of the initial court date is also allowed if agreed upon by the parties.

(4) Notwithstanding the provisions of the preceding paragraph, a change of date for oral arguments following preparatory proceedings may only be allowed if there are unavoidable grounds for doing so.

(Summons to Appear on a Court Date)

Article 94 (1) A summons to appear for a court date is issued through a means stated in one of the following items or by any other means that is considered to be appropriate:

(i) serving an electronic writ of summons (meaning an electronic or magnetic record that the court clerk prepares by recording, as provided by the Rules of the Supreme Court, the date and place that the person who is required to appear is required to appear, in order to notify that person that they are required to appear on the court date designated by the presiding judge; the same applies in the following paragraph and Article 256, paragraph (3)) that has been recorded in the court's computer files, on the person who is required to appear; or

(ii) announcing the court date to a person who has appeared in connection with the case.

(2) Once a court clerk prepares an electronic writ of summons, they must record it in the court's computer files as provided for by the Rules of the Supreme Court.

(3) If a summons to appear on a court date is effected other than by the means prescribed in the items of paragraph (1), a party, witness, or expert who does

not appear on that court date may not be subjected to a legal sanction or other disadvantage for failure to keep the court date; provided, however, that this does not apply if the person submits a paper document indicating receipt of the summons to appear on that date.

(Computation of Time Frames)

Article 95 (1) The computation of a time frames is governed by Civil Code provisions on periods of time.

- (2) If a judicial decision specifying a time frame does not specify when the time frame begins, the time frame begins from the time that the judicial decision becomes effective.
- (3) If the last day of a time frame falls on a Sunday, Saturday, a holiday prescribed in the Act on National Holidays (Act No. 178 of 1948), January 2nd, January 3rd, or any day from December 29th to December 31st, that time frame expires on the following day.

(Extension and Shortening of a Time Frame and Additional Time Frames)

Article 96 (1) The court may extend or shorten a statutory time frame or a time frame that it has specified; provided, however, that this does not apply to an inalterable time frame.

- (2) If a time frame is inalterable, the court may establish an additional time frame for a person that is domiciled or resides in a distant location.

(Subsequent Completion of Procedural Acts)

Article 97 (1) If a party is unable to observe an inalterable time frame due to the failure of a computer used by the court or other grounds not attributable to the party, the party may complete the procedural act that was to be performed within the inalterable time frame, within one week after those grounds cease to exist; provided, however, that a party in a foreign country may complete the procedural act within two months' time after those grounds cease to exist.

- (2) The provisions of the main clause of paragraph (1) of the preceding Article do not apply to the time frame stated in the preceding paragraph.

Section 4 Service

Subsection 1 General Provisions

(Principle of Service by the Authority of the Court)

Article 98 (1) Except as otherwise provided, the court effects service by its own authority.

- (2) The court clerk handles the administrative functions involved in service.

(Service of a Person Without the Capacity to Sue or Be Sued)

Article 99 (1) Service that would otherwise be effected on a person without the capacity to sue or be sued is effected on that person's legal representative.

(2) If multiple persons jointly hold the authority to act as a person's legal representative, it is sufficient to serve one of them.

(3) Service that would otherwise be effected on a person who is in a penal institution is effected on the head of the penal institution.

(Return of Service)

Article 100 (1) A person who has effected service must prepare a paper document, enter information about the service in it, and submit it to the court.

(2) In a case as referred to in the preceding paragraph, in lieu of submitting a paper document under the provisions of that paragraph, the person who effected the service may record the information to be stated in that paper document in the court's computer files using an electronic data processing system specified by the Rules of the Supreme Court, or may submit a recording medium containing an electronic or magnetic record of the information to be stated in that paper document, as provided for by the Rules of the Supreme Court. In such a case, the person who effected the service is deemed to have submitted the paper document referred to in that paragraph.

Subsection 2 Service of Documents

(Mechanisms for Service)

Article 101 (1) Except as otherwise provided, service of documents is effected by mail or by a court enforcement officer.

(2) In the case of service of documents by mail, a person engaged in postal services is the person who effects service.

(Service by the Court Clerk)

Article 102 The court clerk may personally serve a person who has appeared for a case that is pending before the court to which the court clerk is assigned.

(Principle of Personal Service)

Article 102-2 Except as otherwise provided, the service of documents is effected through the delivery of the document with which a person is to be served, to the person on whom it is to be served.

(Place for Service)

Article 103 (1) Service of documents is effected at the domicile, residence, place of business, or business office of the person being served (referred to below as

the person's "address" in this Subsection); provided, however, that the service of documents on a legal representative may also be made at the place of business or business office of the principal.

- (2) If the place specified in the preceding paragraph is unknown or there is an obstacle to effecting service at that place, service of documents may be effected at another person's address, where the person who is to be served works based on employment, entrustment, or any other legal act (referred to below as their "workplace"). The same applies if the person who is to be served (except one prescribed in paragraph (1) of the following Article) has entered a statement indicating a willingness to be served with documents at the workplace.

(Notifying the Court of the Place for Service)

Article 104 (1) The party, legal representative, or litigation representative must notify the court in charge of the case of the place or places where the relevant person may be served with documents (limited to a place in Japan). In doing so, they may also notify the court of the person to be served.

- (2) Notwithstanding the provisions of the preceding Article, if a notification has been submitted pursuant to the provisions of the first sentence of the preceding paragraph, service of documents is effected at the place given in the notification.

- (3) Notwithstanding the provisions of the preceding Article, any subsequent service of documents upon a person that does not submit a notification pursuant to the provisions of the first sentence of paragraph (1) but that has been served as stated in one of the following items is effected at the place specified in that item:

- (i) service under the provisions of the preceding Article: the place where that service was effected;
- (ii) service under the provisions of the second sentence of the following Article that is effected by a person engaged in postal services at a business office of Japan Post Co., Ltd. (limited one where postal services are provided; the same applies in the second sentence of Article 106, paragraph (1)), or service under the provisions of the second sentence of Article 106, paragraph (1): the place established as the place where that service was to be effected;
- (iii) service under the provisions of Article 107, paragraph (1), item (i): the place to which the initial service of documents was directed.

(Service of Persons Wherever They May Be Found)

Article 105 Notwithstanding the provisions of the preceding two Articles, a person who is to be served with documents but who does not manifestly have an address in Japan (excluding one that has submitted a notification pursuant to the provisions of the first sentence of paragraph (1) of the preceding Article)

may be served wherever the person effecting the service finds the person who is to be served. The same applies if a person who clearly has an address in Japan or a person who has submitted a notification pursuant to the provisions of the first sentence of that paragraph does not refuse to be served with the documents.

(Substituted Service and Service by Leaving Documents)

- Article 106 (1) If a person effecting service of a document does not find the person that is to be served at the non-workplace location where service is to be effected, the document may be delivered to an employee or other worker, or to a person that lives with the person to be served, who will exercise reasonable discretion concerning the receipt of that document. The same applies if a person engaging in postal services is to deliver the document at the business office of Japan Post Co., Ltd.
- (2) If a person effecting service does not find the person to be served at their workplace (including if the place reported in the notification submitted pursuant to the provisions of the first sentence of Article 104, paragraph (1) is the workplace) and another person stated in Article 103, paragraph (2) or that person's legal representative or employee or other worker who will exercise reasonable discretion concerning the receipt of a document does not refuse to have the document delivered to them, the document may be delivered to such a person.
- (3) If a person that is to be served or a person to whom a document is to be delivered pursuant to the provisions of the first sentence of paragraph (1) refuses to service or refuses delivery of the document without a legitimate reason for refusing to do so, the document may be left at a place where service of the document may be effected.

(Effecting Service by Registered Mail)

- Article 107 (1) In the cases listed in the following items, if it is impossible for service to be effected pursuant to the provisions of the preceding Article (unless the service may be effected pursuant to the provisions of Article 109-2), the court clerk may send the document to the place specified in the relevant item by registered mail or using the correspondence delivery services prescribed in Article 2, paragraph (2) of the Act on Correspondence Delivery by Private Business Operators (Act No. 99 of 2002) that are provided by a general correspondence delivery operator prescribed in paragraph (6) of that Article or a specified correspondence delivery operator prescribed in paragraph (9) of that Article, and which are specified by the Rules of the Supreme Court as constituting services equivalent to registered mail (referred to below as "registered mail or equivalent services" in the following paragraph and

paragraph (3)):

- (i) if service is to be effected pursuant to the provisions of Article 103: the place specified in Article 103, paragraph (1);
 - (ii) if service is to be effected pursuant to the provisions of Article 104, paragraph (2): the place stated in that paragraph;
 - (iii) if service is to be effected pursuant to the provisions of Article 104, paragraph (3): the place stated in that paragraph (or, if this is the person's workplace, the person's address as indicated in the case record).
- (2) If a document is sent by registered mail or equivalent services pursuant to the provisions of item (ii) or (iii) of the preceding paragraph, any document to be served subsequently may be sent by registered mail or equivalent services to the place specified in item (ii) or (iii) of that paragraph.
- (3) If a document is sent by registered mail or equivalent services pursuant to the provisions of the preceding two paragraphs, the document is deemed to have been served at the time it is sent.

(Service in a Foreign Country)

Article 108 Service of documents that is to be effected in a foreign country is effected based on the presiding judge's request for the competent government agency of that country or the Japanese ambassador, minister, or consul stationed there to serve them.

Subsection 3 Service of Electronic or Magnetic Records

(Effecting Service Using Paper Documents onto Which the Information Contained in Electronic or Magnetic Records Has Been Output)

Article 109 Except as otherwise provided, it is permissible to serve an electronic or magnetic record using a paper document prepared by outputting the information recorded in the record to be served which has been recorded in the court's computer files pursuant to the provisions of this Act or any other laws and regulations (simply referred to below as the "record to be served" in this Section), as provided for in the preceding Subsection.

(Effecting Service Using an Electronic Data Processing System)

Article 109-2 (1) Notwithstanding the provisions of the preceding Article, it is permissible to serve an electronic or magnetic record by taking measures that enable the person being served to inspect, as referred to in item (i), paragraph (1) of the following Article, the information recorded in the record to be served, or that enable that information to be recorded as referred to in item (ii) of that paragraph; and by using an electronic data processing system as provided for by the Rules of the Supreme Court to notify the person being served that those

measures have been taken, as provided for by the Rules of the Supreme Court; provided, however, that this applies only if the person to be served has filed a notification in the form specified by the Rules of the Supreme Court indicating a willingness to be served by those means.

- (2) To file the notification referred to in the proviso to the preceding paragraph, a person must file a notification of the point of contact for receiving the notice under the main clause of that paragraph with the court in charge of the case, as provided for by the Rules of the Supreme Court. In doing so, they may also notify the court of the person to be served.
- (3) The notice under the main clause of paragraph (1) is to be sent to the point of contact filed with the court pursuant to the provisions of the preceding paragraph.

(When Service Using an Electronic Data Processing System Takes Effect)

Article 109-3 (1) Service under the provisions of paragraph (1) of the preceding Article takes effect at the earliest of the following times:

- (i) when the person to be served has inspected something that has been made to show the information recorded in the record to be served through the means specified by the Rules of the Supreme Court;
 - (ii) when the person to be served has recorded the information that has been recorded in the record to be served in a file prepared on the computer they are using; or
 - (iii) once one week has passed since the day when the notice under the main clause of paragraph (1) of the preceding Article was sent.
- (2) Any period during which the person to be served is prevented from inspecting as referred to in item (i) of the preceding paragraph or from recording the information referred to in item (ii) of that paragraph due to grounds not attributable to that person is not included in the calculation of the period referred to in item (iii) of that paragraph.

(Special Provisions on Persons Required to File a Notification Indicating a Willingness for an Electronic Data Processing System to Be Used to Serve Them)

Article 109-4 (1) Notwithstanding the proviso to Article 109-2, paragraph (1), a person stated in the items of Article 132-11, paragraph (1) may be served as under the provisions of Article 109-2, paragraph (1) even if the person has not filed the notification under the proviso to that paragraph. In such a case, the notice under the main clause of that paragraph is not required.

- (2) To apply the provisions of the preceding Article if service is effected pursuant to the provisions of the preceding paragraph, the phrase "the notice under the main clause of paragraph (1) of the preceding Article was sent" in item (iii),

paragraph (1) of that Article is deemed to be replaced with "the measures under the main clause of paragraph (1) of the preceding Article were taken".

Subsection 4 Service by Publication

(Requirements for Service by Publication)

Article 110 (1) In the following cases and upon petition, the court clerk may effect service by publication:

- (i) if the party's domicile and residence are unknown, and no other place where the party may be served is known;
 - (ii) if it is impossible to effect service pursuant to the provisions of Article 107, paragraph (1);
 - (iii) if, for service of documents that is to be effected in a foreign country, recourse to the provisions of Article 108 is not possible or it is found that service cannot be effected even through recourse to those provisions;
 - (iv) if a paper document certifying service has not been sent even though six months have passed since the presiding judge issued the request to the competent government agency of a foreign country pursuant to the provisions of Article 108.
- (2) In a case as referred to in the preceding paragraph, if the court finds it to be necessary in order to avoid a delay in litigation, it may order the court clerk to effect service by publication, even if there has been no such petition.
- (3) Second and subsequent service by publication on the same party is effected by the court clerk sua sponte; provided, however, that this does not apply in the case stated in paragraph (1), item (iv).

(Manner of Effecting Service by Publication)

Article 111 Service by publication is effected by taking measures that will enable a large, non-exclusive group of persons to inspect the information that the following items prescribe for the categories stated in those items by the means specified by the Rules of the Supreme Court and posting a paper document giving that information at the posting area for the court, or by taking measures that will make it possible to inspect that information on the screen display of a computer located at the court:

- (i) service of documents by publication: that the court clerk retains the documents to be served and will deliver them to the person who is to be served at any time; and
- (ii) service of electronic or magnetic records by publication: that, in connection with the information recorded in the record to be served, the court clerk will deliver the paper documents referred to in Article 109 to the person to be served or will take the measures under the main clause of Article 109-2,

paragraph (1) and issue a notice under the main clause of that paragraph, at any time.

(When Service by Publication Takes Effect)

Article 112 (1) Service by publication takes effect when two weeks have passed since the day on which the measures under the provisions of the preceding Article were commenced; provided, however, that service by publication as stated in Article 110, paragraph (3) takes effect on the day following the day on which the measures under the provisions of the preceding Article were commenced.

(2) The time frame referred to in the preceding paragraph is six weeks, for service by publication in the event of service that is required in a foreign country.

(3) The time frames referred to in the preceding two paragraphs may not be shortened.

(Arrival of a Manifestation of Intention Through Service by Publication)

Article 113 If a party to litigation is unable to learn the whereabouts of the adverse party and a document or electronic or magnetic record served by publication on the adverse party contains a statement or record indicating that the party is manifesting their intention to the adverse party concerning the claim that is the subject matter of litigation or concerning the means of defense, the manifestation of that intention is deemed to reach the adverse party once two weeks have passed since the day on which the measures under the provisions of Article 111 were commenced. The proviso to Article 98, paragraph (3) of the Civil Code applies *mutatis mutandis* in such a case.

Section 5 Judicial Decisions

(Scope of Res Judicata)

Article 114 (1) Res judicata applies only with regard to the contents of a final and binding judgment that are included in the main text.

(2) In judging the validity or invalidity of a claim asserted for the purpose of an offset, res judicata applies to an amount of money that has been duly asserted in order to effect an offset.

(Scope of Persons Subject to the Effect of a Final and Binding Judgment)

Article 115 (1) A final and binding judgment is valid against the following persons:

(i) the parties;

(ii) a person on whose behalf a party has come to act as a plaintiff or

- defendant;
- (iii) the successor to a person listed in one of the preceding two items, that succeeds following the conclusion of oral arguments;
 - (iv) the person retaining possession of the subject matter of the claim on behalf of a person listed in one of the preceding three items.
- (2) The provisions of the preceding paragraph apply *mutatis mutandis* to a declaration of provisional enforceability.

(When a Judgment Becomes Final and Binding)

- Article 116 (1) A judgment does not become final and binding until the expiration of the time frame specified for filing of an appeal with the court of second instance or a final appeal (excluding a final appeal as referred to in Article 327, paragraph (1) (including as applied *mutatis mutandis* pursuant to Article 380, paragraph (2))), for filing of a petition as referred to in Article 318, paragraph (1), or for filing of an objection under the provisions of Article 357 (including as applied *mutatis mutandis* pursuant to Article 367, paragraph (2)), Article 378, paragraph (1) or Article 381-7, paragraph (1).
- (2) A judgment is blocked from becoming final and binding by the filing of an appeal with the court of second instance, the filing of a final appeal as referred to in the preceding paragraph, or the filing of a petition or an objection as referred to in that paragraph, that is made within the time frame stated in that paragraph.

(Action to Modify a Final and Binding Judgment Ordering Compensation by Periodic Payments)

- Article 117 (1) If, with regard to a final and binding judgment ordering compensation through periodic payments for damage arising prior to the conclusion of oral arguments, any significant change has occurred in terms of the severity of residual disability, wage standards, or any other circumstances that were used as the basis for calculation of the amount of damages after the conclusion of oral arguments, an action may be filed to modify the judgment; provided, however, that this applies only to the part of the judgment involving periodic payments that will become due after the date the action is filed.
- (2) An action as referred to in the preceding paragraph is under the exclusive jurisdiction of the court of first instance.

(Validity of a Final and Binding Judgment Rendered by a Foreign Court)

- Article 118 A final and binding judgment rendered by a foreign court is valid only if it meets all of the following requirements:
- (i) the jurisdiction of the foreign court is recognized pursuant to laws and regulations, conventions, or treaties;

- (ii) the defeated defendant was served (excluding service by publication or similar service) with the requisite summons or order for the commencement of litigation, or appeared without having been served;
- (iii) the content of the judgment and the litigation proceedings are not contrary to public policy in Japan;
- (iv) a guarantee of reciprocity is in place.

(Notice of Rulings and Orders)

Article 119 A ruling or order takes effect when to the relevant parties of that ruling or order by a means that is considered to be appropriate.

(Setting Aside of a Judicial Decision Concerning Control of Litigation Proceedings)

Article 120 A ruling or order concerning control of litigation proceedings may be set aside at any time.

(Objection to a Disposition by the Court Clerk)

Article 121 The court to which the court clerk who has made a disposition is assigned reaches a judicial decision on any objection to that disposition, in the form of a ruling.

(Mutatis Mutandis Application of Provisions on Judgments)

Article 122 Unless contrary to their nature, provisions on judgments apply mutatis mutandis to rulings and orders.

(Powers of Assistant Judges)

Article 123 An assistant judge may independently reach a judicial decision other than a judgment.

Section 6 Continuance or Suspension of Litigation Proceedings

(Continuance of Litigation Proceedings and Substitution)

Article 124 (1) Litigation proceedings are subject to a continuance if any of the following grounds occur. In such a case, the person specified in the relevant item must be substituted as a party:

- (i) a party's death: the party's heir, the administrator of the estate, the liquidator of the estate, or any other person who is to continue the action pursuant to laws and regulations;
- (ii) the disappearance due to merger of a corporation that is a party: the corporation incorporated in the merger or the corporation surviving the merger;

- (iii) a party's loss of the capacity to sue or be sued, or a legal representative's death or extinguishment of the authority to act as a person's legal representative: the party's legal representative or the party who has acquired the capacity to sue or be sued;
- (iv) termination of duties involved in a trust assigned to one of the persons listed in (a) through (c) below: the person specified in (a) through (c):
 - (a) a trustee that is a party: the new trustee or the trust property administrator or incorporated trust property administrator;
 - (b) a trust property administrator or incorporated trust property administrator that is a party: the new trustee, new trust property administrator, or new incorporated trust property administrator;
 - (c) a trust caretaker that is a party: the beneficiary or the new trust caretaker.
- (v) the loss of status, due to death or any other grounds, of a person of a certain status who stood as a party to the litigation in that person's own name on behalf of another person: a person of the same status;
- (vi) all appointed parties' loss of status due to death or any other grounds: all appointing parties, or the new appointed parties.
- (2) The provisions of the preceding paragraph do not apply during a time when there is a litigation representative.
- (3) Even if there are grounds as stated in paragraph (1), item (i), the heir is not permitted to be substituted as a party during the time frame in which it is possible to renounce the inheritance.
- (4) The provisions of paragraph (1), item (ii) do not apply if the merger may not be asserted against the adverse party.
- (5) If the legal representative stated in paragraph (1), item (iii) is a curator or assistant, the provisions of that paragraph do not apply in the following cases:
 - (i) the person under curatorship or person under assistantship is not required to obtain consent of the curator or assistant for performing procedural acts;
 - (ii) the person under curatorship or person under assistantship is required to obtain consent prescribed in the preceding item, and has obtained it.

Article 125 (1) If an administration order for unclaimed land is issued (meaning an administration order for unclaimed land as prescribed in Article 264-2, paragraph (1) of the Civil Code; the same applies in this paragraph and the following paragraph), any litigation proceedings concerning the land or co-ownership interest subject to the administration order, movables covered by that order, or property that the administrator of the unclaimed land (meaning the administrator of unclaimed land as provided in paragraph (4) of that Article; the same applies in this paragraph and the following paragraph) has obtained through the management or disposal of the land or movables or due to

other such reasons (collectively referred to below as "unclaimed land, movables, or property" in this paragraph and the following paragraph), which have the owner of the unclaimed land, movables, or property (including a person who holds a co-ownership interest in it; the same applies in that paragraph) as a party are subject to a continuance. In such a case, the administrator of the unclaimed land may be substituted as a party.

- (2) If an administration order for unclaimed land is set aside, any litigation proceedings concerning the unclaimed land, movables, or property that have the administrator of that unclaimed land as a party is subject to a continuance. In such a case, the owner of the unclaimed land, movables, or property must be substituted as a party.
- (3) The provisions of paragraph (1) apply mutatis mutandis if an administration order for unclaimed buildings has been issued (meaning an administration order for unclaimed buildings as prescribed in Article 264-8, paragraph (1) of the Civil Code; the same applies in this paragraph), and the provisions of the preceding paragraph apply mutatis mutandis if an administration order for unclaimed buildings is set aside.

(Adverse Party's Petition for Substitution)

Article 126 The adverse party may also file a petition for the substitution of a party.

(Notice of Substitution)

Article 127 The court must notify the adverse party if a petition for the substitution of a party is filed.

(Judicial Decision on Substitution)

Article 128 (1) If a petition for the substitution of a party is filed and the court finds the petition to be groundless after conducting an examination sua sponte, the court must rule to deny the petition.

- (2) If a petition for the substitution of a party is filed during a continuance of litigation proceedings following the service of an electronic judgment or electronic record as prescribed in Article 255, paragraph (1) under the provisions of Article 255 (including as applied mutatis mutandis pursuant to Article 374, paragraph (2); the same applies in this paragraph), the court that reached the judgment in question must reach a judicial decision on the petition.

(Order to Continue Sua Sponte)

Article 129 Even if neither party has filed a petition for the substitution of a party, the court may order litigation proceedings to continue sua sponte.

(Suspension Due to Court Inability to Perform Duties)

Article 130 If the court is unable to perform its duties due to a natural disaster or other such cause, litigation proceedings are suspended until that cause ceases to exist.

(Suspension Due to the Incapacitation of a Party)

Article 131 (1) If a party is unable to continue with litigation proceedings due to an incapacitation of an uncertain duration, the court may issue an order the suspension of litigation proceedings, in the form of a ruling.

(2) The court may set aside a ruling as referred to in the preceding paragraph.

(Impact of Continuances and Suspensions)

Article 132 (1) A judgment may be rendered even during a continuance of litigation proceedings.

(2) If there is a continuance or suspension of litigation proceedings, the progress of time frames is interrupted. In such a case, all time frames start to run again at the time notice is given of the substitution of a party in proceedings or at the time that litigation proceedings continue.

Chapter VI Dispositions on the Collection of Evidence Prior to the Filing of an Action

(Inquiry Prior to the Filing of an Action)

Article 132-2 (1) If a person seeking to file an action provides written advance notice to the would-be defendant in the action that the person plans to file that action (referred to below as "advance notice" in this Chapter), the person providing the advance notice (referred to below as the "person providing advance notice" in this Chapter), within four months after providing that notice and before filing the action, may specify a reasonable time frame for response and direct a written inquiry to the person receiving the advance notice (referred to below as a "recipient of advance notice" in this Chapter), in order to elicit from that person a response in writing, or, at the option of the recipient of advance notice, in writing or by electronic or magnetic means (meaning one of the means that the Rules of the Supreme Court specifies of using an electronic data processing system or making use of telecommunications technology; the same applies below), with regard to information that will clearly be necessary for preparing allegations or proof if the action is filed; provided, however, that this does not apply if the inquiry falls under any of the following items:

- (i) an inquiry that falls under any of the items of paragraph (1) of Article 163;
- (ii) an inquiry into the particulars of a confidential matter in the private life of

the adverse party or a third party, any response to which would be likely to substantially interfere with the adverse party's or third party's public life;
(iii) an inquiry into the particulars of a trade secret of the adverse party or a third party.

- (2) The provisions of item (ii) of the preceding paragraph do not apply to an inquiry into the particulars of a confidential matter in the private life of a third party as prescribed in item (ii) of the preceding paragraph, and the provisions of item (ii) of that paragraph do not apply to an inquiry into the trade secret of a third party as prescribed in item (iii) of that paragraph, if the third party in question authorizes the adverse party to respond to the inquiry.
- (3) Written advance notice must detail the substance of the claim behind the action that the person intends to file and the essential points of the dispute.
- (4) In lieu of the written advance notice under the provisions of paragraph (1), the person who provides advance notice may do so by electronic or magnetic means, with the consent of the recipient. In such a case, the person who provides the advance notice is deemed to have provided the written advance notice under the provisions of that paragraph.
- (5) In lieu of the written inquiry under the provisions of paragraph (1), the person providing advance notice may provide this by electronic or magnetic means, with the consent of the recipient.
- (6) A recipient of advance notice (other than one who has received an inquiry asking for a response in writing or by electronic or magnetic means pursuant to the provisions of paragraph (1)) may provide a response by electronic or magnetic means in lieu of a written response under the provisions of that paragraph, with the consent of the person providing the advance notice. In such a case, the recipient of advance notice is deemed to have provided a written response under the provisions of that paragraph.
- (7) It is not permissible for an inquiry as referred to in paragraph (1) to be made based on an advance notice that duplicates any previous advance notice.

Article 132-3 (1) After a recipient of advance notice responds to the advance notice of the person providing it by giving the person a written summary of the recipient's answers to the substance of the claim and essential points of dispute referred to in paragraph (3) of the preceding Article that the person has detailed in the written advance notice they have provided, the recipient, within four months after the day on which the advance notice was provided and before the action is filed, may specify a reasonable time frame for response and direct a written inquiry to the person providing advance notice, in order to elicit from that person a response in writing, or, at the option of the person providing the advance notice, in writing or by electronic or magnetic means, with regard to information that will clearly be necessary for preparing allegations or proof if

the action is filed.

- (2) The provisions of the proviso to paragraph (1) as well as the provisions of paragraph (2) and paragraphs (4) through (6) of the preceding Article apply mutatis mutandis to a case as referred to in the preceding paragraph. In such a case, the term "written advance notice" in paragraph (4) of that Article is deemed to be replaced with "written response", and the term "advance notice by electronic or magnetic means" is deemed to be replaced with "response by electronic or magnetic means".
- (3) It is not permissible for an inquiry as referred to in paragraph (1) to be made based on a response to an advance notice that duplicates any previous advance notice.

(Dispositions on the Collection of Evidence Prior to the Filing of an Action)

Article 132-4 (1) If the court, at the petition of the person providing advance notice or of a recipient of advance notice that has responded as referred to in paragraph (1) of the preceding Article, finds that it is difficult for the petitioner to collect evidence that will clearly be necessary as proof if the action for which advance notice has been provided is filed, the court, after hearing the opinions of the adverse party to the advance notice or the response (simply referred to below as the "adverse party" in this Chapter) and before the action is filed, may reach one of the following dispositions in connection with the collection of evidence; provided, however, that this does not apply if the court finds that doing so would be inappropriate due to the time that would be required for the collection of evidence or the unreasonable burden that it would place on the person that would undertake the request:

- (i) requesting the person in possession of a document (including an object prescribed in Article 231; the same applies in this Chapter) to send that document, or requesting the person with the authority to use an electronic or magnetic record to send that record;
 - (ii) requesting a government agency or public office, a foreign government agency or public office, or a school, chamber of commerce, exchange, or other such organization (referred to as a "prescribed agency or organization" in paragraph (1), item (ii) of the following Article) to conduct the necessary examination;
 - (iii) requesting a person who has expert knowledge and experience to state an opinion based on their expert knowledge and experience;
 - (iv) ordering a court enforcement officer to conduct an examination into the form, possession, or other current conditions of an object.
- (2) A petition for a disposition as referred to in the preceding paragraph must be filed within an inalterable time frame of four months from the day on which the advance notice is provided; provided, however, that this does not apply if

the adverse party consents to the petition's being filed after the expiration of this time frame.

- (3) It is not permissible for a petition for a disposition as referred to in paragraph (1) to be filed based on an advance notice that duplicates any previous advance notice or based on the response to a duplicate advance notice.
- (4) After having reached a disposition as referred to in paragraph (1), the court may void that disposition if it finds that the disposition has come to be inappropriate due to the circumstances prescribed in the proviso to that paragraph.

(Court of Jurisdiction in Dispositions on the Collection of Evidence)

Article 132-5 (1) A petition for a disposition listed in one of the following items must be filed with the district court of jurisdiction for the place specified in the relevant item:

- (i) a petition for the disposition referred to in paragraph (1), item (i) of the preceding Article: the locality that constitutes the general venue for an action involving the petitioner or for an action involving the adverse party, or the residence of the person in possession of the document or the person with the authority to use the electronic or magnetic record;
 - (ii) a petition for the disposition referred to in paragraph (1), item (ii) of the preceding Article: the locality that constitutes the general venue for an action involving the petitioner or for an action involving the adverse party, or the locality of the prescribed agency or organization that would undertake the request for the examination;
 - (iii) a petition for the disposition referred to in paragraph (1), item (iii) of the preceding Article: the locality that constitutes the general venue for an action involving the petitioner or for an action involving the adverse party, or the location of the specific object about which the request would be issued for a statement of opinions;
 - (iv) a petition for the disposition referred to in paragraph (1), item (iv) of the preceding Article: the location of the object connected with the examination.
- (2) The provisions of Article 16, paragraph (1), Articles 21 and 22 apply mutatis mutandis to a case that involves a petition for a disposition as referred to in paragraph (1) of the preceding Article.

(Procedures for a Disposition on the Collection of Evidence)

- Article 132-6 (1) If the court reaches a disposition as referred to in Article 132-4, paragraph (1), items (i) through (iii), it must specify a time frame during which the person issued the request is required to send the document or electronic or magnetic record, report the examination results, or state an opinion.
- (2) A report of examination results connected with a request as referred to in

Article 132-4, paragraph (1), item (ii) or an order as referred to in Article 132-4, paragraph (1), item (iv), or a statement of opinion connected with a request as referred to in Article 132-4, paragraph (1), item (iii) must be offered by means of a paper document.

- (3) In lieu of providing a written report of examination results or statement of opinions under the provisions of the preceding paragraph, a person who has received a request under Article 132-4, paragraph (1), item (ii) or (iii) or an order under item (iv) of that paragraph (collectively referred to below as a "requested party" in this paragraph) may provide that report or statement by using an electronic data processing system as specified by the Rules of the Supreme Court to record the information to be stated in the paper document into the court's computer files, or by submitting a recording medium containing an electronic or magnetic record of that information, as provided by the Rules of the Supreme Court. Having done so, the requested party is deemed to have provided the written report of examination results or statement of opinions under the provisions of that paragraph.
- (4) If a document or electronic or magnetic record has been sent, the results of an examination have been reported, or an opinion has been stated based on a disposition as referred to in Article 132-4, paragraph (1), the court must notify the petitioner and the adverse party of this. In such a case, the provisions of Article 132-13 do not apply to the document that has been sent, the recording medium in which the electronic or magnetic records that have been sent are recorded, the paper document containing the report of examination results or statement of opinions, or the recording medium in which the electronic or magnetic records containing that report or statement are recorded.
- (5) The court must retain any document or electronic or magnetic record sent to it and any paper document or electronic or magnetic record containing a report of examination results or statement of opinion for the one-month period from the day on which the court notifies the petitioner and the adverse party as prescribed in the provisions of the preceding paragraph, in order to provide them for the petitioner's and the adverse party's use through the process specified in the following Article.
- (6) The provisions of Article 180, paragraph (1) apply mutatis mutandis to a disposition as referred to in Article 132-4, paragraph (1), the provisions of Article 184, paragraph (1) apply mutatis mutandis to a disposition as referred to in Article 132-4, paragraph (1), items (i) through (iii), the provisions of Article 213 apply mutatis mutandis to a disposition as referred to in Article 132-4, paragraph (1), item (iii), and the provisions of Article 231-3, paragraph (2) apply mutatis mutandis to a disposition as referred to in Article 132-4, paragraph (1), item (i).

(Inspection of the Record of a Case)

Article 132-7 The provisions of Article 91 (excluding paragraph (2)) apply mutatis mutandis to a request for access to a hard-copy record of a disposition on the collection of evidence (meaning a request to inspect or copy records of a case in which there has been a petition for a disposition as referred to in Article 132-4, paragraph (1) (other than a part of those records that constitutes information from the court's computer files), to be issued an authenticated copy, transcript, or extract of those records, or for a reproduction of these records to be created; the same applies in Article 133, paragraph (3)); the provisions of Article 91-2 apply mutatis mutandis to a request for access to the electronic or magnetic record of a disposition on the collection of evidence (meaning a request to inspect or copy a part of the information from the court's computer files that appears in the records of a case in which there has been a petition for a disposition as referred to in Article 132-4, paragraph (1), to be issued a paper document certifying the whole or part of the information from the court's computer files, or to be provided with an electronic or magnetic record certifying the whole or part of the information from the court's computer files; the same applies in Article 133, paragraph (3)); and the provisions of Article 91-3 apply mutatis mutandis to a request to be issued a paper document certifying information in a case in which there has been a petition for the disposition referred to in Article 132-4, paragraph (1) or to be provided with an electronic or magnetic record certifying that information. This being the case, the phrase "Any person" in Article 91, paragraph (1) and Article 91-2, paragraph (1) is deemed to be replaced with "A petitioner or adverse party", the phrase "a party to the case or a third party that makes a prima facie showing of interest in the case" in Article 91, paragraph (3), Article 91-2, paragraphs (2) and (3) and Article 91-3 is deemed to be replaced with "the petitioner or the adverse party", and the phrase "a party to the case or a third party that makes a prima facie showing of interest in the case" in Article 91, paragraph (4) is deemed to be replaced with "the petitioner or the adverse party".

(Appeal Not Permitted)

Article 132-8 No appeal may be entered against a judicial decision on a petition for a disposition as referred to in Article 132-4, paragraph (1).

(Bearing of Costs in Connection with a Judicial Decision Involving a Disposition for the Collection of Evidence)

Article 132-9 Costs involved in a judicial decision on a petition for a disposition as referred to in Article 132-4, paragraph (1) are borne by the petitioner.

Chapter VII Filing Motions and Statements Using an Electronic Data Processing System

(Filing Motions and Statements Using an Electronic Data Processing System)

Article 132-10 (1) Notwithstanding the provisions of this Code or other laws and regulations concerning a motion or statement that is part of proceedings for a civil action (referred to below as a "motion or statement"), a person may file a motion or statement that, pursuant to the provisions of those laws or regulations, is to be filed using a paper document (meaning using a paper document, piece of writing, written material, transcript, extract, authenticated copy, duplicate copy, extra copy, or other piece of paper or tangible object bearing characters, shapes, and other such information that can be perceived using the human senses; the same applies in this Chapter), and that the person is filing with the court (including one that a person is filing with the court's presiding judge, authorized judge, commissioned judge, or court clerk), by using an electronic data processing system as provided for by the Rules of the Supreme Court pursuant to their Rules to record the information required to be stated in the paper document into the court's computer files.

- (2) A motion or statement that has been filed by the means referred to in the preceding paragraph (referred to below as an "electronically filed motion or statement" in this Article) is deemed to have been filed using the paper document provided for in the provisions of laws and regulations concerning motions and statements which provide that the motion or statement in question is to be filed using a paper document; and the provisions of those laws and regulations and other laws and regulations concerning the motion or statement in question apply.
- (3) An electronically filed motion or statement is deemed to arrive at the court when the information that it contains is recorded in the court's computer files.
- (4) Notwithstanding the provisions of other laws and regulations, in a case as referred to in paragraph (1), a person filing a motion or statement that they are to affix their name to (meaning to sign the paper document, print or stamp their name on it, affix their seal to it, or otherwise include their name or trade name in it; the same applies in this paragraph) pursuant to the provisions of other laws and regulations concerning that motion or statement, in lieu of affixing their name, must take measures to clarify their name or trade name, as provided for by the Rules of the Supreme Court.
- (5) Notwithstanding the provisions of laws and regulations that concern the electronically filed motion or statement in question, if a motion or statement has been filed electronically, the service of that motion or statement is effected by serving the relevant person with an electronic or magnetic record giving the information that has been recorded in the court's computer files through the

electronic filing.

- (6) Service of an electronically filed motion or statement that has been effected by the means referred to in the preceding paragraph is deemed to have been effected by the means of service provided for in the provisions of laws and regulations that concern that electronically filed motion or statement, and the provisions of laws and regulations that concern that service and of other laws and regulations that concern that electronically filed motion or statement apply.

(Special Provisions on the Filing of Motions and Statements Using an Electronic Data Processing System)

Article 132-11 (1) A person as stated in one of the following items must file motions and statements in a case as provided in that item by the means referred to in paragraph (1) of the preceding Article; provided, however, that this does not apply if it is permissible to file an oral motion or statement, and the person does this:

- (i) a litigation representative who has been entrusted with handling a case (excluding a person who became a litigation representative with permission under the proviso to Article 54, paragraph (1)): the case they have been entrusted with handling;
 - (ii) a person designated under the provisions of Article 2, Article 5, paragraph (1), Article 6, paragraph (2), Article 6-2, paragraph (4) or (5), Article 6-3, paragraph (4) or (5), or Article 7, paragraph (3) of the Act on the Authority of the Minister of Justice over Suits Relating to the Interests of the State (Act No. 194 of 1947): the case subject to the designation;
 - (iii) an official entrusted with handling a case under the provisions of Article 153, paragraph (1) of the Local Autonomy Act (Act No. 67 of 1947): the case they have been entrusted with handling.
- (2) The persons stated in the items of the preceding paragraph must make a notification referred to in the proviso to Article 109-2, paragraph (1).
- (3) The provisions of paragraph (1) do not apply if a person stated in an item of that paragraph is unable to file a motion or statement using an electronic data processing system due to the failure of a computer used by the court or any other grounds not attributable to that person.

(Filing a Motion or Statement Using a Paper Document)

Article 132-12 (1) When a person files a motion or statement using a paper document (unless it is filed in violation of the provisions of paragraph (1) of the preceding Article), the court clerk must record the information given in that paper document (excluding the information specified in the following items for the cases stated in those items) in the court's computer files; provided, however,

that this does not apply if there are circumstances that make it difficult to record that information in the court's computer files:

- (i) if a petition as referred to in Article 92, paragraph (1) (limited to one filed because the grounds stated in item (ii) of that paragraph exist) concerning the paper document used to file the motion or statement in question is filed together with that document; and if the use of a trade secret detailed in that paper document for purposes other than conducting the suit, or the disclosure of that trade secret, would likely interfere with the party's business activities that are based on the trade secret, and the court finds it to be particularly necessary to exclude the relevant information from its computer files in order to prevent this (unless the petition referred to in that paragraph is denied or a judicial decision setting aside a ruling on the petition referred to in that paragraph becomes final and binding): the trade secret detailed in that paper document;
 - (ii) if a notification under the provisions of Article 133, paragraph (2) is submitted using a paper document: the information detailed in that paper document; and
 - (iii) if a petition as referred to in Article 133-2, paragraph (2) concerning the paper document that has been used to file the motion or statement in question is filed together with that document, and the court finds it to be necessary to exclude the relevant information from its computer files (unless the petition referred to in that paragraph is denied or a judicial decision setting aside a ruling on the petition referred to in that paragraph becomes final and binding): the part of a record containing the personal information of a person seeking anonymity prescribed in that paragraph which is detailed in that paper document.
- (2) Notwithstanding the provisions of laws and regulations concerning the motion or statement in question, service of an electronic or magnetic record giving the information recorded in a file pursuant to the provisions of that paragraph may be substituted for the service of a motion or statement that has been filed using a paper document detailing information that has been recorded into the court's computer files pursuant to the provisions of the preceding paragraph.
- (3) Service of a motion or statement that has been effected by the means referred to in the preceding paragraph is deemed to have been effected by the means of service prescribed in the provisions of laws and regulations concerning the motion or statement in question, and the provisions of laws and regulations concerning the service in question and of laws and regulations concerning the motion or statement in question apply.

(Recording the Information Detailed in Paper Documents into the Court's Computer Files)

Article 132-13 In addition to the information detailed in a paper document used to file a motion or statement prescribed in paragraph (1) of the preceding Article, the court clerk must record the information detailed in paper documents, and in recording media containing electronic or magnetic records, that have been submitted to the court pursuant to the provisions of this Act or any other laws and regulations in connection with civil litigation proceedings (excluding the information specified in the following items in the cases stated in those items) into the court's computer files; provided, however, that this does not apply if there are circumstances that make it difficult to record that information in the court's computer file:

- (i) if a petition as referred to in Article 92, paragraph (1) (limited to one filed because the grounds stated in item (ii) of that paragraph exist) concerning the paper document or recording medium is filed together with these submissions; and if the use of a trade secret detailed in that paper document or recording medium for purposes other than conducting the suit, or the disclosure of that trade secret, would likely interfere with the party's business activities that are based on that trade secret, and the court finds it to be particularly necessary to exclude that information from its computer files in order to prevent this (unless the petition referred to in that paragraph is denied or a judicial decision setting aside a ruling on the petition referred to in that paragraph becomes final and binding): the trade secret detailed in that paper document or recording medium;
- (ii) if a notification under the provisions of paragraph (2) of the following Article is filed through the submission of a recording medium: the information recorded in that recording medium;
- (iii) if a petition as referred to in Article 133-2, paragraph (2) concerning the paper document or recording medium in question is filed together with that submission, and the court finds it to be necessary to exclude the relevant information from its computer files (unless the petition is denied or a judicial decision setting aside a ruling on the petition becomes final and binding): the part of a record containing the personal information of a person seeking anonymity prescribed in that paragraph which is detailed in that paper document or recording medium;
- (iv) if a ruling under the provisions of Article 133-3, paragraph (1) has been made, and the court finds it to be necessary to exclude the relevant information from its computer files (unless a judicial decision setting aside a ruling on the petition becomes final and binding): the information detailed in the paper documents connected with that ruling, or in recording media containing the electronic or magnetic records connected with that ruling.

Chapter VIII Concealing Parties' Domiciles and Identifying Information

(Concealing a Petitioner's Domicile or Identifying Information)

Article 133 (1) If a person filing a motion or statement or that person's legal representative makes a prima facie showing that disclosure of the whole or part of the information about the person's or legal representative's domicile, residence, or other place at which they are ordinarily present (referred to below as the person's or representative's "address" in this paragraph and the following paragraph) to a party would be likely to substantially interfere with their public life, the court may, upon application, reach a judicial decision in the form of a ruling to anonymize the whole or part of the person's or representative's address. The same applies with regard to the name of a person filing a motion or statement or that person's legal representative or any other information sufficient to identify that person or representative (referred to below as "identifying information" in the following paragraph).

(2) When a person files the petition referred to in the preceding paragraph, they must file a notification with the court, in writing or by any other means specified by the Rules of the Supreme Court, indicating the address or identifying information of the person filing the motion or statement referred to in that paragraph or of that person's legal representative (referred to below as the "person seeking anonymity" in this Chapter; the address and identifying information of a person seeking anonymity are referred to as the "personal information of a person seeking anonymity" in paragraph (2) of the following Article) and indicating other information specified by the Rules of the Supreme Court.

(3) Once a petition as referred to in paragraph (1) has been filed, no person other than the person seeking anonymity whom the petition concerns may request access to the part of a case record or filing records (meaning a case record or the records of a case in which there has been a petition for a disposition as referred to in Article 132-4, paragraph (1); the same applies in this Chapter) that contain information indicated in the notification under the provisions of the preceding paragraph (referred to as the "part of a record containing information indicated in an anonymity notification" in the following Article) (access to a case record or filing records means access to a case record, access to a hard-copy record of a disposition on the collection of evidence, or access to an electronic or magnetic record of a disposition on the collection of evidence; the same applies in this Chapter) until the judicial decision on that petition becomes final and binding.

(4) An immediate appeal may be filed against a judicial decision denying the petition referred to in paragraph (1).

(5) When the court issues a ruling as referred to in paragraph (1) with regard to the domicile or name of a person seeking anonymity (referred to below as an

"anonymity ruling" in this Chapter), it must specify, in that ruling, information that will be used in place of the domicile or name of the person seeking anonymity. To apply the provisions of this Code or of other laws and regulations in such a case if information used in place of a domicile or name has been used in proceedings in the case in question or in a counterclaim, intervention, judicial enforcement, provisional seizure, or provisional disposition related to that case, the domicile or name of the person seeking anonymity is deemed to have been entered or recorded.

(Special Provisions Concerning Restriction of Access to Records If There Has Been an Anonymity Ruling)

- Article 133-2 (1) When an anonymity ruling has been made, it limits the persons who may request access to a part of a case records or filing records containing information indicated in an anonymity notification to the person seeking anonymity who is covered by that ruling.
- (2) In the case referred to in the preceding paragraph, the court, upon petition, may issue a ruling limiting persons who may request access to a part of the case records or filing records that does not contain information indicated in an anonymity notification but that does contain the personal information of a person seeking anonymity or information which can be used to infer the personal information of a person seeking anonymity (referred to below as a "part of a record containing the personal information of a person seeking anonymity" in this Article), to the person seeking anonymity who is covered by the anonymity ruling.
- (3) Once a petition as referred to in the preceding paragraph has been filed, a person other than the person seeking anonymity who has petitioned for the anonymity ruling may not request access to a part of a record containing the personal information of the person seeking anonymity until a judicial decision on the petition becomes final and binding.
- (4) An immediate appeal may be filed against a judicial decision denying the petition referred to in paragraph (2).
- (5) If a petition under paragraph (2) is filed, and if the court finds it to be necessary, it may output the content of the parts of the electronic or magnetic case records or filing records (meaning the electronic or magnetic case records or a part of the information from the court's computer files that appears in the records of a case in which there has been a petition for a disposition as referred to in Article 132-4, paragraph (1); the same applies in this paragraph and the following paragraph) containing the personal information of a person seeking anonymity into paper format or record them onto another recording medium, as well as taking measures to delete them from the electronic or magnetic case records or filing records or any other measures specified by the Rules of the

Supreme Court as necessary and appropriate to securely manage the part of the records containing the personal information of a person seeking anonymity.

- (6) If the measures to delete content from electronic or magnetic case records or filing records under the provisions of the preceding paragraph have been taken but a subsequent judicial decision denying the petition under paragraph (2) becomes final and binding or a subsequent judicial decision setting aside the decision on the petition becomes final and binding, the court clerk must record those parts of the records containing the personal information of the person seeking anonymity into the court's computer files.

(Special Provisions Concerning Restriction of Access If an Investigation Has Been Commissioned into the Place for Service)

- Article 133-3 (1) If, in order to serve a party or their legal representative, the court commissions an investigation into a party's or legal representative's domicile or residence or into any other place where they are to be served, and the court finds there to be a clear likelihood that allowing the inspection of a paper document or electronic or magnetic record containing a report of the results of the commissioned investigation would substantially interfere with that party's or legal representative's public life, it may issue a ruling limiting the persons permitted to request access to that document or record, to paper documents or electronic or magnetic records under Article 100 concerning service effected based on the report, and to any other case records or filing records connected with similar paper documents or electronic or magnetic records, to the party or legal representative in question. This also applies if the court commissions an investigation into the name of a party or their legal representative and other information sufficient to identify them, for the purpose of identifying the party or their legal representative.
- (2) The provisions of paragraphs (5) and (6) of the preceding Article apply *mutatis mutandis* if a ruling under the provisions of the preceding paragraph is issued.

(Setting Aside Anonymity Rulings)

- Article 133-4 (1) A person other than one subject to an anonymity ruling, a ruling under Article 133-2, paragraph (2), or a ruling under paragraph (1) of the preceding Article (referred to as "anonymity ruling or similar measures" in the following paragraph and paragraph (7)) may file a petition with the court where the case records or filing records are kept seeking to set aside that ruling, on the grounds that any prescribed requirement has not been met or is no longer being met.
- (2) With permission from the court where the case records or filing records are kept, even if an anonymity ruling or similar measures are in place, a party

other than the person covered by the ruling or measures may request access to a part of the case records or filing records that is restricted pursuant to the provisions of Article 133-2, paragraph (1) or (2) or Article 133-3, paragraph (1) if it is likely to substantially interfere with the party's own allegations or defense.

- (3) If a petition for permission under the provisions of the preceding paragraph is filed and a prima facie showing is made of the fact on which the petition is based, the court must permit the request.
- (4) Before the court reaches a judicial decision to set aside an anonymity ruling or similar measures as referred to in paragraph (1) or to grant the permission referred to in paragraph (2), it must hear opinions of the persons specified in the following items, in accordance with the categories stated in those items:
 - (i) a judicial decision on an anonymity ruling or a ruling under Article 133-2, paragraph (2): the person seeking anonymity covered by the ruling;
 - (ii) a judicial decision on a ruling under the preceding Article: the party or legal representative covered by the ruling.
- (5) An immediate appeal may be filed against a judicial decision concerning the petition to set aside an anonymity ruling or similar measures as referred to in paragraph (1) or a judicial decision concerning the petition for permission referred to in paragraph (2).
- (6) A judicial decision setting aside an anonymity ruling or similar measures as referred to in paragraph (1) or granting the permission referred to in paragraph (2) does not take effect until it becomes final and binding.
- (7) If a judicial decision granting the permission referred to in paragraph (2) is reached, the party petitioning for permission or their legal representative, litigation representative, or assistant in court must not, without a legitimate reason, use information obtained based on that permission for any other purpose than conducting the proceedings or disclose that information to a person other than the person covered by the anonymity ruling or similar measures.

Part II Litigation Proceedings in the First Instance

Chapter I Actions

(Formalities of Filing of an Action)

- Article 134 (1) An action must be filed through the submission of a complaint to the court.
- (2) The following information must be stated in the complaint:
 - (i) the parties and legal representatives;
 - (ii) the prayer for relief and a statement of the claim.

(Action for Declaratory Judgment as to the Validity of a Certificate)

Article 134-2 An action for declaratory judgment may also be filed to determine the authenticity of the provenance of a paper document that certifies a legal relationship.

(Action for Future Performance)

Article 135 An action seeking future performance may be filed only if it is necessary to claim this in advance.

(Joinder of Claims)

Article 136 Multiple claims may only be filed in a single action if they are handled through the same kind of litigation proceeding.

(Presiding Judge's Authority to Examine a Complaint)

Article 137 (1) If a complaint is in violation of the provisions of Article 134, paragraph (2), the presiding judge must specify a reasonable time frame and order that the defect to be corrected within that time frame.

(2) In a case as referred to in the preceding paragraph, if the plaintiff fails to correct the defect, the presiding judge must issue an order dismissing the complaint.

(3) An immediate appeal may be filed against an order as referred to in the preceding paragraph.

(Denial of Complaint in Case of Failure to Pay the Fees for Filing an Action)

Article 137-2 (1) If a person does not pay the fees for filing an action in accordance with the Act on the Costs of Civil Proceedings (Act No. 40 of 1971), a court clerk must specify a reasonable time frame and order them to pay the fees within that time frame.

(2) A disposition as referred to in the preceding paragraph takes effect when notice is given by a means that is considered appropriate.

(3) Any objection to a disposition as referred to in paragraph (1) must be filed within an inalterable time frame of one week from the day on which the notice is received.

(4) An objection under the preceding paragraph has the effect of a stay of enforcement.

(5) If an objection under paragraph (3) is filed and the court finds that the person will need to pay an amount of fees for filing an action that exceeds the amount the person was ordered to pay in the disposition referred to in paragraph (1), the court must specify a reasonable time frame and order the person to pay that amount within that time frame.

(6) In a case as referred to in paragraph (1) or the preceding paragraph, if the

plaintiff fails to pay the fees they have been ordered to pay, the presiding judge must issue an order denying the complaint.

- (7) An immediate appeal may be filed against an order as referred to in the preceding paragraph; provided, however, that this does not apply if the person who files it fails to pay fees for filing an action under the provisions of the Act on the Costs of Civil Proceedings as calculated according to the value of the subject matter of litigation that the person finds to be appropriate.
- (8) In a case as referred to in the proviso to the preceding paragraph, the court of prior instance must deny the immediate appeal.
- (9) No appeal may be entered against a ruling on a petition under the provisions of the preceding paragraph.

(Service of a Complaint)

Article 138 (1) A complaint must be served on the defendant.

- (2) The provisions of Article 137 apply *mutatis mutandis* if it is not possible to serve the complaint (including if the expenses necessary for serving the complaint are not prepaid).

(Designation of a Date for Oral Arguments)

Article 139 When an action has been filed, the presiding judge must designate a date for oral arguments and summon the parties to appear.

(Denial of an Action, Without Oral Arguments Being Heard)

Article 140 If an action is not in accordance with the law and this defect cannot be corrected, the court may enter a judgment to deny the action without hearing oral arguments.

(Denial of an Action When Expenses for a Summons Have Not Been Prepaid)

Article 141 (1) If the court has specified a reasonable time frame and ordered the plaintiff to prepay the necessary expenses for summoning the parties to appear for a court date under the provisions of the Act on the Costs of Civil Proceedings, but those expenses have not been prepaid, the court may rule to deny the action, in the form of a ruling, but only if the defendant has no objection to this.

- (2) An immediate appeal may be filed against a ruling as referred to in the preceding paragraph.

(Prohibition Against the Filing of Duplicate Actions)

Article 142 It is not permitted for a party to a case pending before the court to file another action in the case.

(Amending an Action)

- Article 143 (1) As long as it does not fundamentally change the claims, the plaintiff may amend a claim for relief or the statement of the claim until the time that oral arguments reach their conclusion; provided, however, that this does not apply if doing so would substantially delay the litigation proceedings.
- (2) The amendment of a claim for relief must be effected by means of a paper document.
- (3) The paper document referred to in the preceding paragraph must be served upon the adverse party.
- (4) If the court finds the amendment of the claim for relief or of the statement of the claims to be inappropriate, it must rule against permitting the amendment, upon petition or sua sponte.

(Addition of Claims on Behalf of or Concerning an Appointing Party)

- Article 144 (1) If a person has been appointed to act as plaintiff as under the provisions of Article 30, paragraph (3), that person may add a claim on behalf of the appointing party, up until the time that oral arguments reach their conclusion.
- (2) If a person has been appointed to act as defendant as under the provisions of Article 30, paragraph (3), the plaintiff may add a claim concerning a person who has appointed that person to act as defendant up until the time that oral arguments reach a conclusion.
- (3) The provisions of the proviso to paragraph (1) of the preceding Article and paragraphs (2) through (4) of that paragraph apply mutatis mutandis to the addition of a claim as referred to in the preceding two paragraphs.

(Action with an Interlocutory Declaration)

- Article 145 (1) If the judicial decision being sought in pending litigation is connected with the validity or invalidity of the legal relationship in dispute, a party may expand the claim and request a declaratory judgment concerning that legal relationship; provided, however, that this does not apply if the request for a declaration concerning that relationship is subject to the exclusive jurisdiction of another court (excluding one determined by an agreement between the parties pursuant to the provisions of Article 11).
- (2) If litigation as referred to in the preceding paragraph is pending before the court specified in any of the items of Article 6, paragraph (1), and the request for a declaration as referred to in the preceding paragraph is subject to the exclusive jurisdiction of another court pursuant to the provisions of paragraph (1) of that Article, the provisions of the proviso to the preceding paragraph do not apply.
- (3) If, pursuant to the provisions concerning exclusive jurisdiction, Japanese

courts have no jurisdiction over a request for a declaration as referred to in paragraph (1), a party may not request a declaratory judgment as referred to in that paragraph.

- (4) The provisions of Article 143, paragraphs (2) and (3) apply mutatis mutandis to the expansion of a claim under the provisions of paragraph (1).

(Counterclaims)

Article 146 (1) The defendant may file a counterclaim with the court where the principal action is pending up until the time that oral arguments reach a conclusion, but only if the subject matter of the counterclaim is a claim with a bearing on the claim that is the subject matter of the principal action or with a bearing on the means of defense; provided, however, that this does not apply in the following cases:

- (i) if the claim that is the subject matter of the counterclaim is subject to the exclusive jurisdiction of another court (excluding one determined by an agreement between the parties pursuant to the provisions of Article 11);
 - (ii) if the filing of a counterclaim would substantially delay litigation proceedings.
- (2) If the principal action is pending before a court specified in any of the items of Article 6, paragraph (1), and the claim that is the subject matter of the counterclaim is subject to the exclusive jurisdiction of another court pursuant to the provisions of paragraph (1) of that Article, the provisions of item (i) of the preceding paragraph does not apply.
- (3) If the Japanese courts have no jurisdiction over a claim that is the subject matter of a counterclaim, the defendant may file a counterclaim pursuant to the provisions of paragraph (1) only if the subject matter of the counterclaim is a claim with a close bearing on the claim that is the subject matter of the principal action or with a close bearing on the means of defense; provided, however, that this does not apply if the Japanese courts have no jurisdiction over the claim that is the subject matter of the counterclaim pursuant to the provisions on exclusive jurisdiction.
- (4) Counterclaims are governed by the provisions on actions.

(Postponement of the Expiration of the Prescription Period by Judicial Claim)

Article 147 The necessary judicial claim to postpone the expiration of the prescription period or to comply with a statutory time limit is considered to have been filed at the time when an action is filed, or at the time when the paper document referred to in Article 143, paragraph (2) (including as applied mutatis mutandis pursuant to Article 144, paragraph (3) and Article 145, paragraph (4)) is submitted to the court.

Chapter II Planned Trials

(Planned Progress of Litigation Proceedings)

Article 147-2 The court and the parties, in order to achieve a fair and speedy trial, must endeavor to abide by the planned progress of litigation proceedings.

(Plan for Trial)

Article 147-3 (1) If due to the complexities of a case, such as the large number of particulars that must be examined or complications involving the same, or if due to any other circumstances, it is found to be necessary in order for the court to hold a fair and speedy trial, the court must consult with both parties and formulate a plan for trial based on the outcome of that consultation.

(2) A plan for trial as referred to in the preceding paragraph must specify the following particulars:

- (i) the time frame for arranging issues and evidence;
- (ii) the time frame for examining witnesses and the parties themselves;
- (iii) the intended time frame for concluding oral arguments and rendering a judgment.

(3) In addition to the particulars stated in the items of the preceding paragraph, the plan for trial referred to in paragraph (1) may specify the time frame for presenting allegations or evidence with regard to any specific matter, and any other particulars that are necessary from the perspective of the planned progress of litigation proceedings.

(4) If the court finds it necessary in consideration of the current status of a trial, the status of the party's pursuit of litigation, and any other circumstances, the court may consult with both parties and modify the plan for trial referred to in paragraph (1) based on the outcome of the consultation.

Chapter III Oral Arguments and Preparation for Them

Section 1 Oral Arguments

(Presiding Judge's Authority to Control Litigation Proceedings)

Article 148 (1) The presiding judge directs oral arguments.

(2) The presiding judge may permit a person to speak or prohibit a person who does not comply with the judge's orders from speaking.

(Authority to Ask for an Explanation)

Article 149 (1) The presiding judge, on a date for oral arguments or on any other date, may ask questions of a party or call for a party to give proof with regard to a factual or legal matter, in order to clarify a matter that is related to the litigation.

- (2) An associate judge, after notifying the presiding judge, may take the measures prescribed in the preceding paragraph.
- (3) A party may, on a date for oral arguments or on any other date, request the presiding judge to ask any necessary questions.
- (4) If the presiding judge or associate judge takes the measures under the provisions of paragraph (1) or paragraph (2) on a date other than a date for oral arguments with regard to a matter that could materially change the allegations or evidence, the judge must notify the adverse party of the content of those measures.

(Objection to the Control of Litigation Proceedings)

Article 150 If a party objects to an order issued by the presiding judge in connection with the control of oral arguments or objects to the measures taken by the presiding judge or associate judge under the provisions of paragraph (1) or paragraph (2) of the preceding Article, the court reaches a judicial decision on that objection in the form of a ruling.

(Order for Clarification)

- Article 151 (1) In order to clarify a matter related to litigation, the court may reach any of the following dispositions:
- (i) ordering one of the parties themselves or their legal representative to appear on a date for oral arguments;
 - (ii) requesting a person that the court considers to be appropriate, and who handles a party's business affairs or acts as a party's assistant, to enter a statement on a date for oral arguments;
 - (iii) requesting the submission of a litigation document, document quoted from during litigation, or other such object that is in a party's possession; or requesting the submission of an electronic or magnetic record that contains information quoted during litigation and that a party is authorized to use;
 - (iv) retaining a document or other object submitted by a party or a third party at the court;
 - (v) inspecting evidence or ordering expert testimony;
 - (vi) commissioning an investigation.
- (2) As provided for by the Rules of the Supreme Court, a person must submit an electronic or magnetic record under the provisions of the preceding paragraph by submitting a recording medium that contains the electronic or magnetic record or by using an electronic data processing system as specified by the Rules of the Supreme Court.
- (3) The provisions of Article 132-13 do not apply to a document submitted pursuant to the provisions of paragraph (1) or to an electronic or magnetic record submitted pursuant to the provisions of the preceding paragraph.

- (4) Provisions on the examination of evidence apply *mutatis mutandis* to the inspection of evidence, expert testimony, and the commissioning of investigations under paragraph (1).

(Consolidation of Oral Arguments)

Article 152 (1) The court may order the restriction, separation, or consolidation of oral arguments, or set aside such an order.

- (2) If the court has ordered the consolidation of oral arguments for cases involving different parties and a party requests the examination of a witness who has already been examined before the consolidation but whom the party had no chance to examine, that examination must be carried out.

(Resumption of Oral Arguments)

Article 153 The court may order the resumption of oral arguments that have been concluded.

(Presence of Interpreters)

Article 154 (1) If a person participating in oral arguments is unable to communicate in Japanese or is unable to hear or speak, arrangements are made for an interpreter to be present at oral arguments; provided, however, that it is permissible to question a person who is unable to hear or speak in writing, or to have them enter a statement in writing.

- (2) If the court finds it to be appropriate, after hearing the opinions of the parties and as provided by the Rules of the Supreme Court, the court may have an interpreter interpret while using a means that enables the court and both parties to communicate with the interpreter through audio and visual transmissions while gaining an awareness of one another's situation. This being the case, if there are circumstances that make it difficult to have recourse to those means, a means may be used that enables the court and both parties to communicate with the interpreter at the same time through audio transmissions.

- (3) The provisions on experts apply *mutatis mutandis* to interpreters.

(Measures for Persons Lacking the Ability to Participate in Oral Arguments)

Article 155 (1) The court may prohibit a party, agent, or assistant in court who is unable to enter the necessary statement for clarifying a matter related to the litigation, from entering a statement, and specify a new date for continuing oral arguments.

- (2) If the court has prohibited a person from entering a statement pursuant to the provisions of the preceding paragraph, the court may order the person to be accompanied by an attorney at law, when it finds this to be necessary.

(Timing for Presenting Allegations and Evidence)

Article 156 Allegations and evidence must be presented at an appropriate time, in accordance with the status of progress in the litigation.

(Time Frame for Presenting Allegations and Evidence When a Plan for Trial Has Been Set)

Article 156-2 If the presiding judge finds it to be necessary for the progress of litigation proceedings based on a plan for trial as referred to in Article 147-3, paragraph (1), the presiding judge may specify a time frame for presenting allegations and evidence on a specific matter, after hearing the opinions of the parties.

(Denial of Allegations or Evidence Presented After Their Time)

Article 157 (1) If the court finds that the allegations or evidence that a party has presented, whether intentionally or through gross negligence, after the time for presenting them will delay the conclusion of litigation, it may rule to deny them, upon petition or sua sponte.

(2) The provisions of the preceding paragraph also apply if a party does not give the necessary explanation with regard to allegations or evidence whose import is unclear, or does not appear on the date for giving an explanation.

(Denial of Allegations or Evidence When a Plan for Trial Is Set)

Article 157-2 If a time frame for presenting allegations and evidence on a specific matter is specified pursuant to the provisions of Article 147-3, paragraph (3) or Article 156-2 (including as applied mutatis mutandis pursuant to Article 170, paragraph (5)), and the court, with regard to allegations or evidence that a party has presented after the expiration of that time frame, finds that those allegations or evidence would be likely to substantially interfere with the progress of litigation proceedings based on the plan for trial, the court may rule to deny them upon petition or sua sponte; provided, however, that this does not apply if the party has made a prima facie showing of reasonable grounds for the party having been unable to present the allegations or evidence within that time frame.

(Constructive Statements in a Complaint)

Article 158 If a plaintiff or defendant does not appear on the first date for oral arguments or appears on that date but does not present any oral arguments on the merits, the court may deem the plaintiff or defendant to have stated the particulars detailed in the complaint or written answer or any other brief that party has submitted, and have the adverse party who has appeared on that

date present oral arguments.

(Constructive Admission)

Article 159 (1) If a party, during oral arguments, does not make it clear that they deny a fact alleged by the adverse party, they are deemed to have admitted that fact; provided, however, that this does not apply if it should be found, based on the entire import of oral arguments, that the party has denied that fact.

(2) A person offering a statement indicating that they have no knowledge of a fact alleged by the adverse party is presumed to have denied that fact.

(3) The provisions of paragraph (1) apply mutatis mutandis if a party does not appear on a date for oral arguments; provided, however, that this does not apply if the party is summoned through service by publication.

(Preparation of Electronic Records of Oral Arguments)

Article 160 (1) For each court date for oral arguments, the court clerk must prepare an electronic record (meaning an electronic or magnetic record that a court clerk prepares pursuant to the provisions of this Act or any other laws and regulations for the purpose of recording or authenticating the form, content, progress, etc. of proceedings conducted on a court date or outside of a court date; the same applies below), as provided for by the Rules of the Supreme Court.

(2) When a court clerk prepares an electronic record pursuant to the provisions of the preceding paragraph, they must record it in the court's computer files as provided for by the Rules of the Supreme Court.

(3) If a party or any other person concerned raised any objection to the content of the electronic record recorded in the court's computer files pursuant to the provisions of the preceding paragraph, measures must be taken to make it clear that there has been an objection, as provided for by the Rules of the Supreme Court.

(4) Observance of provisions concerning the formalities of oral arguments may be proven only through the electronic record recorded in the court's computer files pursuant to the provisions of paragraph (2); provided, however, that this does not apply in the event of the loss of the electronic record.

(Correction of Electronic Records of Oral Arguments)

Article 160-2 (1) If there is a miscalculation, clerical error, or any other clear error similar to this in an electronic record recorded in the court's computer files pursuant to the provisions of paragraph (2) of the preceding Article, a court clerk may correct it at any time, upon petition or sua sponte.

(2) A court clerk must take the corrective action under the provisions of the

preceding paragraph by recording an indication of this in the court's computer files, as provided for by the Rules of the Supreme Court.

- (3) The provisions of Article 71, paragraphs (4), (5) and (8) apply *mutatis mutandis* to a corrective action under the provisions of paragraph (1) or a disposition of denial of petition under that paragraph, as well as a petition for objection against these.

Section 2 Briefs

(Briefs)

Article 161 (1) Oral arguments must be prepared in writing.

- (2) A brief details the following particulars:

(i) allegations and evidence;

(ii) statements about the adverse party's claim and allegations and evidence.

- (3) During oral arguments for which the adverse party is not present in court, no facts other than those stated in a brief which falls under any of the following items may be alleged:

(i) a brief that has been served upon the adverse party;

(ii) a brief for which the adverse party has submitted written acknowledgment of receipt; or

(iii) a brief that the adverse party has inspected pursuant to the provisions of Article 91-2, paragraph (1) or copied pursuant to the provisions of paragraph (2) of that Article.

(Time Frame for Submission of Briefs)

Article 162 (1) The presiding judge may specify a time frame for submitting a written answer or a brief detailing an allegation with regard to a specific matter or for offering evidence of a specific matter.

- (2) A party that submits a brief or offers evidence after a time frame specified pursuant to the provisions of the preceding paragraph has passed must explain to the court the reasons that the party was unable to perform the act within that time frame.

(Inquiry by a Party)

Article 163 (1) While litigation is pending, a party may specify a reasonable time frame for response and direct a written inquiry to the adverse party, so as to elicit from that party a response in writing, or at the option of the adverse party, either in writing or by electronic or magnetic means, with regard to particulars that are necessary for preparing allegations or proof; provided, however, that this does not apply if the inquiry falls under any of the following items:

- (i) an inquiry that is non-concrete or non-specific;
 - (ii) an inquiry that insults the adverse party or that inhibits a free choice of response;
 - (iii) an inquiry that constitutes a repetition of any previous inquiry;
 - (iv) an inquiry asking for an opinion;
 - (v) an inquiry that would require unreasonable expense or time for the adverse party to respond to;
 - (vi) an inquiry about the same kind of particulars as those regarding which a person may refuse to testify pursuant to the provisions of Article 196 or Article 197.
- (2) A party may make an inquiry by electronic or magnetic means in lieu of an inquiry in writing under the preceding paragraph, with consent from the adverse party.
- (3) An adverse party (excluding a party that received an inquiry requiring a response either in writing or by electronic or magnetic means pursuant to the provisions of paragraph (1)) may provide a response by electronic or magnetic means in lieu of a written response under the provisions of that paragraph, with consent from the party.

Section 3 Proceedings for Arranging Issues and Evidence

Subsection 1 Preliminary Oral Arguments

(Commencement of Preliminary Oral Arguments)

Article 164 If the court finds it necessary in order to arrange issues and evidence, the court may hold preliminary oral arguments as provided for in this Subsection.

(Confirmation of the Facts That Will Be Proven)

Article 165 (1) In closing preliminary oral arguments, the court is to confirm with the parties the facts that will be proven through the subsequent examination of evidence.

(2) If the presiding judge finds it to be appropriate, in closing preliminary oral arguments, the judge may have a party submit a paper document summarizing the issues and evidence as arranged through the preliminary oral arguments.

(Closing of Proceedings Due to a Party's Non-Appearance)

Article 166 If a party does not appear for a court date or does not submit a brief or offer evidence within the time frame specified pursuant to the provisions of Article 162, paragraph (1), the court may close preliminary oral arguments.

(Presentation of Allegations and Evidence After the Close of Preliminary Oral

Arguments)

Article 167 At the request of the adverse party, a party that has presented allegations or evidence after the close of preliminary oral arguments must explain to the adverse party the reasons that the party was unable to present the allegations or evidence prior to the close of preliminary oral arguments.

Subsection 2 Preparatory Proceedings

(Commencement of Preparatory Proceedings)

Article 168 If the court finds it to be necessary in order to arrange issues and evidence, the court may refer a case to preparatory proceedings, after hearing the opinions of the parties.

(Date for Preparatory Proceedings)

Article 169 (1) Preparatory proceedings are conducted on a date that both parties are able to attend.

(2) The court may permit the attendance of a person it considers appropriate; provided, however, that the court must permit the attendance of any person a party requests, unless that person's attendance would likely hinder the court from conducting the proceedings.

(Procedural Acts in Preparatory Proceedings)

Article 170 (1) The court may have a party submit a brief.

(2) On a date for preparatory proceedings, the court may reach a judicial decision regarding the offering of evidence or any other judicial decision that may be reached on a date other than a date for oral arguments, examine written evidence (including objects prescribed in Article 231), conduct an examination of evidence involving the content of information recorded in an electronic or magnetic record as prescribed in Article 231-2, paragraph (1), and present information as under Article 186, paragraph (2), Article 205, paragraph (3) (including as applied mutatis mutandis pursuant to Article 278, paragraph (2)), Article 215, paragraph (4) (including as applied mutatis mutandis pursuant to Article 278, paragraph (2)) and Article 218, paragraph (3).

(3) If the court finds it to be appropriate, after hearing the opinions of the parties, the court may conduct the proceedings on a date for preparatory proceedings in a way that enables the court and both parties to communicate with one another at the same time, through audio transmissions, as provided by the Rules of the Supreme Court.

(4) The party who has participated in proceedings as referred to in the preceding paragraph without appearing on a date as referred to in that paragraph is deemed to have appeared on that date.

(5) The provisions of Articles 148 through 151; Article 152, paragraph (1); Articles 153 to 159; Article 162; Article 165; and Article 166 apply *mutatis mutandis* to preparatory proceedings.

(Preparatory Proceedings by an Authorized Judge)

Article 171 (1) The court may have an authorized judge conduct preparatory proceedings.

(2) When an authorized judge conducts preparatory proceedings, the court's and the presiding judge's duties under the provisions of the preceding two Articles (excluding the reaching of a judicial decision prescribed in paragraph (2) of the preceding Article) are performed by the authorized judge; provided, however, that a judicial decision on an objection under the provisions of Article 150 as applied *mutatis mutandis* pursuant to paragraph (5) of that Article and a judicial decision on denial under the provisions of Article 157-2 as applied *mutatis mutandis* pursuant to that paragraph are reached by the court in charge of the case.

(3) An authorized judge who conducts preparatory proceedings may reach a judicial decision to commission an investigation under the provisions of Article 186, paragraph (1) or to request expert testimony, a judicial decision regarding the offering of documentary evidence following the submission of documents (including the objects prescribed in Article 231) or the offering for examination of evidence following the submission of electronic or magnetic records, or a judicial decision to request the sending of documents (including the objects prescribed in Article 229, paragraph (2) and Article 231) and electronic or magnetic records.

(Revocation of a Judicial Decision to Refer a Case to Preparatory Proceedings)

Article 172 If the court finds it to be appropriate, it may set aside a judicial decision to refer a case to preparatory proceedings, upon petition or *sua sponte*; provided, however, that the court must set aside that judicial decision if both parties so petition.

(Statement of the Outcome of Preparatory Proceedings)

Article 173 The parties, in oral arguments, must state the outcome of preparatory proceedings.

(Presenting Allegations and Evidence After the Close of Preparatory Proceedings)

Article 174 The provisions of Article 167 apply *mutatis mutandis* to a party that has presented allegations or evidence after the close of preparatory proceedings.

Subsection 3 Written Preparatory Proceedings

(Commencement of Written Preparatory Proceedings)

Article 175 If the court finds it to be appropriate, the court may refer a case to Written Preparatory Proceedings (meaning proceedings for arranging issues and evidence in ways such as through the submission of briefs, without the appearance of the parties; the same applies below).

(Manner of Conducting Written Preparatory Proceedings)

Article 176 (1) The presiding judge must set a time frame as provided in Article 162, paragraph (1) when conducting written preparatory proceedings.

(2) If the court finds it to be necessary when conducting written preparatory proceedings, the court may consult both parties with regard to things involved in the arrangement of issues and evidence or anything else concerning which they need to be consulted to prepare for oral arguments, as provided for by the Rules of the Supreme Court, in a way that enables the court and both parties to communicate with one another at the same time, through audio transmissions. Having done so, the court may have the court clerk record the outcome of the consultation.

(3) The provisions of Article 149, Article 150, and Article 165, paragraph (2) apply mutatis mutandis to Written Preparatory Proceedings.

(Written Preparatory Proceedings by an Authorized Judge)

Article 176-2 (1) The court may have an authorized judge conduct written preparatory proceedings.

(2) When an authorized judge conducts written preparatory proceedings, that judge is the one to perform the court's and the presiding judge's duties under the provisions of the preceding Article; provided, however, that the court in charge of the case is the one to reach a judicial decision on an objection under the provisions of Article 150 as applied mutatis mutandis pursuant to the provisions of Article 176, paragraph (3).

(Confirmation of Facts to Be Proven)

Article 177 On a date for oral arguments held after the close of written preparatory proceedings, the court is to confirm with the parties the facts to be proven through the subsequent examination of evidence.

(Presenting Allegations and Evidence After the Close of Written Preparatory Proceedings)

Article 178 In a case for which written preparatory proceedings have been closed, at the request of the adverse party, a party that presents allegations or

evidence on a date for oral arguments after statements have been entered on the particulars detailed in a paper document as referred to in Article 165, paragraph (2) as applied mutatis mutandis pursuant to Article 176, paragraph (3) or after a confirmation has been made pursuant to the provisions of the preceding Article, must explain to the adverse party the reason that the party was unable to present the allegations or evidence prior to the statements or confirmation being entered.

Chapter IV Evidence

Section 1 General Provisions

(Facts Not Required to Be Proven)

Article 179 Facts admitted by a party in court and obvious facts are not required to be proven.

(Offering of Evidence)

Article 180 (1) When offering evidence, a person must specify the fact that the evidence is meant to prove.

(2) Evidence may be offered prior to court dates.

(When Examination of Evidence Is Not Required)

Article 181 (1) The court is not required to examine evidence offered by a party which the court considers to be unnecessary.

(2) If there is any obstacle to the examination of evidence which will be present for an uncertain duration, the court may choose not to conduct an examination of evidence.

(Focused Examination of Witnesses and Parties)

Article 182 The examination of witnesses and the parties themselves must be conducted in as focused a manner as possible after the arrangement of issues and evidence is completed.

(Handling When a Party Fails to Appear)

Article 183 The examination of evidence may be conducted even if neither party appears on a date for oral arguments.

(Examination of Evidence in a Foreign Country)

Article 184 (1) The court must conduct an examination of evidence that is to be done in a foreign country by requesting the competent government agency of that country or the Japanese ambassador, minister, or consul stationed in that country to examine the evidence.

- (2) Even if an examination of evidence conducted in a foreign country contravenes the laws of that country, it is still valid if it does not contravene this Code.

(Examination of Evidence Out of Court)

Article 185 (1) If the court finds it to be appropriate, it may examine evidence out of court. To do so, it may order a member of a panel of judges or commission the district court or summary court to examine evidence.

- (2) If a commissioned judge performing the duties of a judge based on the commission prescribed in the preceding paragraph finds it to be appropriate for another district court or summary court to examine the evidence, the judge may further commission it to examine the evidence.

- (3) If the court (or an authorized judge who performs duties pursuant to the provisions of paragraph (1), or authorized judge who performs duties based on a commission as prescribed in the preceding two paragraphs) finds it to be appropriate after hearing the opinions of the parties and as provided by the Rules of the Supreme Court, the court may conduct the proceedings for examination of evidence under the provisions of paragraph (1) using a means that enables persons to communicate with one another through audio and visual transmissions while gaining an awareness of one another's situation.

(Commissioning Examinations)

Article 186 (1) The court may commission a government agency or public office, a foreign government agency or public office, or a school, chamber of commerce, exchange, or any other organization to conduct the necessary examinations.

- (2) The court must present the results of examinations based on the commissioning of duties under the preceding paragraph to the parties.

(Hearing Statements from Persons of Reference)

Article 187 (1) In a case to be concluded with a ruling, the court may hear statements from persons of reference and from the parties themselves; provided, however, that the persons of reference from whom the court may hear statements are limited to those requested by a party.

- (2) In a case involving an adverse party, the hearing under the provisions of the preceding paragraph must be held on a hearing date that both parties are able to attend.

- (3) If the court finds it to be appropriate, it may conduct the hearing of persons of reference, as provided by the Rules of the Supreme Court, using a means that enables persons to communicate with one another through audio and visual transmissions while gaining an awareness of one another's situation. This being the case, if neither party objects, the court may conduct a hearing of persons of

reference by a means that enables the court, both parties, and the persons of reference to communicate with one another at the same time through audio transmissions.

- (4) The provisions of the preceding paragraph apply *mutatis mutandis* when the court conducts a hearing of the parties themselves.

(Prima Facie Showings)

Article 188 Prima facie showings must be made using evidence that can be examined immediately.

(Enforcement of a Judicial Decision for a Civil Fine)

Article 189 (1) A judicial decision for a civil fine under the provisions of this Chapter is executed by order of the public prosecutor. This order has the same effect as an enforceable title of obligation.

- (2) A judicial decision for a civil fine is enforced pursuant to the provisions of the Civil Enforcement Act (Act No. 4 of 1979) and other laws and regulations concerning procedures for judicial enforcement; provided, however, that it is not necessary to serve a person with the judicial decision before executing it.

- (3) The provisions of Article 507 of the Code of Penal Procedure (Act No. 131 of 1948) apply *mutatis mutandis* to the enforcement of a judicial decision for a civil fine.

- (4) If an immediate appeal is filed against a judicial decision for a civil fine after that judicial decision (referred to below as a "original judicial decision" in this paragraph) is executed, and the court in charge of the appeal finds there to be grounds for immediate appeal, sets aside the original judicial decision, and reaches another judicial decision for a civil fine, its judicial decision for that civil fine is deemed to have been executed to the extent of the amount of the original judicial decision. In such a case, if the amount obtained as a result of the enforcement of the original judicial decision exceeds the amount of that civil fine, the amount in excess must be refunded.

Section 2 Examination of Witnesses

(Witnesses' Obligation)

Article 190 Except as otherwise provided, the court may examine any person as a witness.

(Examination of a Public Officer)

Article 191 (1) Before the court examines a public officer or a person who was a public officer as a witness with regard to any confidential information connected with that person's duties, it must obtain the approval of the relevant

supervisory government agency (in the case of a member of the House of Representatives or House of Councillors or a person who held the office, the relevant House; in the case of the Prime Minister or any other Minister of State or a person who held such a position, the Cabinet).

- (2) A supervisory government agency may not refuse to give the approval referred to in the preceding paragraph, unless giving it would be against the public interest or would be likely to substantially hinder the performance of a public duty.

(Civil Fines for Non-Appearence)

Article 192 (1) If a witness, without a legitimate reason for doing so, fails to appear, the court issues a ruling ordering the witness to bear any court costs incurred due to the witness's failure to appear, and sentences that witness to a civil fine of not more than 100,000 yen.

- (2) An immediate appeal may be filed against a ruling as referred to in the preceding paragraph.

(Criminal Fines for Non-Appearence)

Article 193 (1) If a witness fails to appear without a legitimate reason, the witness is sentenced to a criminal fine of not more than 100,000 yen or misdemeanor imprisonment without work.

- (2) Both a criminal fine and misdemeanor imprisonment without work may be imposed cumulatively on a person who has committed the crime referred to in the preceding paragraph, depending on the circumstances.

(Subpoenas)

Article 194 (1) The court may subpoena a witness who fails to appear without a legitimate reason for failing to do so.

- (2) The provisions of the Code of Criminal Procedure concerning subpoenas apply *mutatis mutandis* to a subpoena as referred to in the preceding paragraph.

(Examination of a Witness by an Authorized or Commissioned Judge)

Article 195 The court may have an authorized or commissioned judge examine a witness out of court, but only in the following cases:

- (i) the witness has no obligation to appear before the court in charge of the case, or has a legitimate reason for being unable to appear before that court;
- (ii) it would require unreasonable expense or time for the witness to appear before the court in charge of the case;
- (iii) it is necessary to examine the witness at the scene of the dispute in order to discover a fact;
- (iv) neither party has any objection.

(Right to Refuse to Testify)

Article 196 If a witness's testimony relates to a matter for which the witness, personally, or a person related to the witness in any of the following ways, would likely be subject to criminal prosecution or conviction, the witness may refuse to testify. The same applies if a witness's testimony relates to a matter that would harm the reputation of these persons:

- (i) a person who is or was the witness's spouse, relative within the fourth degree of consanguinity, or relative within the third degree of affinity;
- (ii) the witness's guardian or a person under the guardianship of the witness.

Article 197 (1) In the following cases, a witness may refuse to testify:

- (i) a case as referred to in Article 191, paragraph (1)
 - (ii) a person who is or was a doctor, dentist, pharmacist, pharmaceuticals distributor, birthing assistant, attorney at law (this includes registered foreign lawyers), patent attorney, defense counsel, notary, or person engaged in a religious occupation is examined with regard to any fact learned in the course of duty that must remain confidential;
 - (iii) the witness is examined with regard to a matter that involves a technical or professional secret.
- (2) The provisions of the preceding paragraph do not apply if the witness has been released from the duty of silence.

(Prima Facie Showing of Reasons for Refusal to Testify)

Article 198 A prima facie showing must be made of the grounds for a witness' refusal to testify.

(Judicial Decision on Refusal to Testify)

- Article 199 (1) Except in a case as referred to in Article 197, paragraph (1), item (i), the court in charge of the case hears the parties and reaches a judicial decision, in the form of a ruling, on the propriety of the refusal to testify.
- (2) The party and the witness may file an immediate appeal against the judicial decision referred to in the preceding paragraph.

(Sanctions for Refusal to Testify)

Article 200 The provisions of Articles 192 and 193 apply *mutatis mutandis* if, after a judicial decision finding no grounds for a witness' refusal to testify becomes final and binding, the witness still refuses to testify, without a legitimate reason for refusing to do so.

(Oath)

Article 201 (1) Except as otherwise provided, the court must have a witness swear under oath.

(2) When examining a person under 16 years of age or person who is unable to understand the purpose of swearing under oath as a witness, the court may not make the witness swear under oath.

(3) When examining a witness who falls under the provisions of Article 196 and does not exercise the right to refuse to testify, the court may choose not to have the witness swear under oath.

(4) A witness may refuse to swear under oath when being examined with regard to matters in which the witness, personally, or a person to whom the witness is related in any of the ways listed in the items of Article 196, is deeply interested.

(5) The provisions of Articles 198 and 199 apply *mutatis mutandis* if a witness refuses to swear under oath, and the provisions of Articles 192 and 193 apply *mutatis mutandis* if, after a judicial decision finding no grounds for a refusal to testify becomes final and binding, the witness still refuses to testify, without a legitimate reason for refusing to do so.

(Order of Examination)

Article 202 (1) A witness is examined by the party requesting the examination, the other party, and the presiding judge, in that order.

(2) When the presiding judge finds it to be appropriate, the judge may change the order referred to in the preceding paragraph, after hearing the opinions of the parties.

(3) If a party objects to a change under the provisions of the preceding paragraph, the court reaches a judicial decision on the objection in the form of a ruling.

(Prohibition Against Statements Based Off of Documents)

Article 203 A witness may not enter a statement that is based off of a document or any other object; provided, however, that this does not apply if the witness obtains the permission of the presiding judge.

(Escort)

Article 203-2 (1) If the presiding judge, in consideration of the witness's age, mental or physical condition or any other circumstances, finds that the witness is likely to feel extreme anxiety or tension when being examined, then the presiding judge may have the witness accompanied during the testimony by a person who can best ease the witness' anxiety or tension and is unlikely to disturb the examination of the witness by the presiding judge or the parties or the testimony of the witness, or is unlikely to unduly influence the contents of the testimony.

- (2) During the testimony of a witness, the person accompanying the witness pursuant to the provisions of the preceding paragraph must not behave in a manner that interferes with the examination of the presiding judge or the parties or with the testimony of the witness, or that unduly influences the content of the testimony.
- (3) When a party has made an objection to the measures taken by the presiding judge under the provisions of paragraph (1), the court, by an order, makes a judicial decision on the objection.

(Shielding Measures)

Article 203-3 (1) If the presiding judge finds that, due to the nature of the case, the age or the mental or physical condition of the witness, the relationship between the witness and either one of the parties or their legal representative (including the fact that the witness is a person who has suffered harm from the crime committed by the party or legal representative; the same applies in item (ii) of the following Article), or any other circumstances, the witness is likely to feel pressure and have their mental well-being seriously harmed while making a statement in the presence of either one of the parties or their legal representative (including when using the method provided for in that Article), and the presiding judge finds it to be appropriate to do so, then the presiding judge may take measures so that it is impossible for either one of the parties or their legal representative and the witness to be aware of each other's presence or only one can be aware of the other.

(2) If the presiding judge finds it to be appropriate in consideration of the nature of the case, the fact that the witness is a person who has suffered harm due to the crime, the age of the witness, the impact on the witness's mental or physical condition or reputation, or any other circumstances, the presiding judge may take measures so that it is impossible for the observer and the witness to be aware of each other's presence.

(3) The provisions of paragraph (3) of the preceding Article apply mutatis mutandis to the measures taken by the presiding judge under the provisions of the preceding two paragraphs.

(Examinations Based on Communication Using Audiovisual Transmissions)

Article 204 In any of the cases stated in the following and if the court finds it to be appropriate, it may examine the witness, as provided by the Rules of the Supreme Court, using a means that enables persons to communicate with one another through audio and visual transmissions while gaining an awareness of one another's situation:

- (i) if the court determines that it would be difficult for the witness to appear before the court in charge of the case due to the witness' domicile, age,

- mental or physical state, or other such circumstances;
- (ii) if the court determines that, due to the nature of the case, the witness' age or mental or physical state, the relationship between the witness and the party in question or their legal representative, or other such circumstances, the pressure that the witness would incur if they were to give their statement from the location where the presiding judge and the parties had come to examine them would likely seriously disrupt their mental balance; or
 - (iii) if neither party has any objection.

(Submission of Paper Documents in Lieu of Examination)

Article 205 (1) If neither party has any objection and the court finds it to be appropriate, the court may have a witness submit a paper document in lieu of conducting an examination of that witness.

(2) As provided for by the Rules of the Supreme Court, in lieu of submitting a paper document under the provisions of the preceding paragraph, a witness may use an electronic data processing system specified by the Rules of the Supreme Court to record the information required to be given in the paper document in the court's computer files, or may submit a recording medium containing an electronic or magnetic record of the information required to be given in that paper document. Having done so, the witness is deemed to have submitted the paper document under that paragraph.

(3) The court must present the information given in a paper document under paragraph (1), or the information recorded in the court's computer files or the information recorded in a recording medium under the preceding paragraph, pursuant to the provisions of the preceding paragraph.

(Powers of an Authorized Judge)

Article 206 If an authorized or commissioned judge examines a witness, that judge performs the duties of the court and the presiding judge; provided, however, that a judicial decision on an objection under the provisions of Article 202, paragraph (3) is reached by the court in charge of the case.

Section 3 Examination of the Parties

(Examination of Parties Themselves)

Article 207 (1) The court, upon petition or sua sponte, may examine the parties themselves. To do so, the court may have the party in question swear under oath.

(2) If examining both a witness and one of the parties themselves, the court examines the witness first; provided, however, that when the court finds it appropriate, it may examine the party in question first, after hearing the

opinions of the parties.

(Result of Non-Appearence)

Article 208 If one of the parties themselves is to be examined and that party, without a legitimate reason, fails to appear or refuses to swear under oath or enter a statement, the court may find that the opposing party's allegations concerning the matters for examination are true.

(Civil Fines for False Statements)

Article 209 (1) If a party who has been sworn in enters a false statement, the court issues a ruling sentencing the party to a civil fine of not more than 100,000 yen.

(2) An immediate appeal may be filed against the ruling referred to in the preceding paragraph.

(3) In a case as referred to in paragraph (1), if the party who has entered the false statement admits that the statement is false while litigation is pending, the court may set aside the ruling referred to in that paragraph, depending on the circumstances.

(Mutatis Mutandis Application of Provisions on the Examination of Witnesses)

Article 210 The provisions of Article 195; Article 201, paragraph (2); Articles 202 through 204; and Article 206 apply mutatis mutandis to the examination of the parties themselves.

(Examination of Legal representatives)

Article 211 The provisions of this Code concerning the examination of the parties themselves apply mutatis mutandis with regard to a legal representative who represents a party in litigation; provided, however, that this does not preclude the examination of the parties themselves.

Section 4 Expert Testimony

(Obligation to Give Expert Testimony)

Article 212 (1) A person who has the relevant knowledge and experience necessary to give expert testimony bears the obligation to give expert testimony.

(2) A person of the same status as a person who may refuse to testify or refuse to swear under oath pursuant to the provisions of Article 196 or Article 201, paragraph (4), or a person prescribed in Article 201, paragraph (2), may not serve as an expert.

(Designation of Experts)

Article 213 An expert is designated by the court in charge of the case or by an authorized or commissioned judge.

(Challenging an Expert)

Article 214 (1) If there are circumstances in which an expert is involved that could prevent expert testimony from being given in good faith, a party may challenge the expert before the expert enters a statement about a matter involved in the expert testimony. The same applies if, after an expert enters a statement, any grounds for challenge occur or a party becomes aware of the existence of any grounds for challenge.

(2) A motion to challenge must be filed with the court in charge of the case or with an authorized or commissioned judge.

(3) No appeal may be entered against a ruling finding grounds for challenge.

(4) An immediate appeal may be filed against a ruling finding no grounds for challenge.

(Formalities of Statements by Experts)

Article 215 (1) The presiding judge may have an expert state an opinion in writing or orally.

(2) In lieu of providing an opinion in the form of a paper document pursuant to the provisions of the preceding paragraph, an expert as referred to in that paragraph may provide an opinion using an electronic data processing system as specified by the Rules of the Supreme Court to record the information to be stated in that document in the court's computer files or by submitting a recording medium on which an electronic or magnetic record of the information to be stated in the paper document has been recorded, as provided for by the Rules of the Supreme Court. Having done so, the expert is deemed to have used a paper document to provide an opinion pursuant to the provisions of that paragraph.

(3) If the court has an expert state an opinion and finds it to be necessary in order to clarify the content of the opinion or confirm its basis, the court, upon petition or sua sponte, may have the expert state further opinions.

(4) The court must present the information detailed in a document under paragraph (1), or the information recorded in the court's computer files pursuant to the provisions of paragraph (2) or the particulars recorded in a recording medium as referred to in that paragraph.

(Asking Questions of an Expert)

Article 215-2 (1) If the court has an expert state an opinion orally, it may ask the expert questions after the expert has stated their opinion.

- (2) The questions referred to in the preceding paragraph are asked by the presiding judge, the party requesting the expert testimony, and the other party, in that order.
- (3) If the presiding judge finds it to be appropriate, the judge may change the order referred to in the preceding paragraph, after hearing the opinions of the parties.
- (4) If a party objects to a change under the provisions of the preceding paragraph, the court reaches a judicial decision on the objection in the form of a ruling.

(Statements Based on Communication Using Audiovisual Transmissions)

Article 215-3 If the court will have an expert state an opinion orally and the court finds it to be appropriate, it may have an expert state an opinion, as provided for by the Rules of the Supreme Court, using a means that enables persons to communicate with one another through audio and visual transmissions while gaining an awareness of one another's situation.

(Powers of an Authorized or Commissioned Judge)

Article 215-4 If an authorized or commissioned judge has an expert state an opinion, that judge performs the duties of the court and the presiding judge; provided, however, that a judicial decision on an objection under the provisions of Article 215-2, paragraph (4) is reached by the court in charge of the case.

(Mutatis Mutandis Application of Provisions on the Examination of Witnesses)

Article 216 The provisions of Article 191 apply mutatis mutandis if the court has a public officer or person who was a public officer state an opinion as an expert with regard to any confidential information in connection with that person's duties, the provisions of Articles 197 through 199 apply mutatis mutandis if an expert refuses to give expert testimony, the provisions of Article 201, paragraph (1) applies mutatis mutandis if the court has an expert swear under oath, and the provisions of Articles 192 and 193 apply mutatis mutandis if an expert fails to appear without a legitimate reason for failing to do so, if an expert refuses to swear under oath, and if, after a judicial decision finding no grounds for refusal to give expert testimony has become final and binding, the expert still refuses to give expert testimony, without a legitimate reason for refusing to do so.

(Expert Witness)

Article 217 An examination regarding facts that an expert has learned based on that expert's special knowledge and experience is governed by the provisions on the examination of a witness.

(Requesting Expert Testimony)

Article 218 (1) If the court finds it to be necessary, it may request a government agency or public office, a foreign government agency or public office, or a corporation that has adequate equipment to give expert testimony. In such a case, the provisions of this Section, except for those concerning swearing under oath, apply *mutatis mutandis*.

(2) In a case as referred to in the preceding paragraph, if the court finds it to be necessary, it may have a person designated by the government agency, public office, or corporation give an explanation of a paper document or electronic or magnetic record containing the results of expert testimony.

(3) In the case referred to in paragraph (1), the court must present the results of expert testimony connected with the request referred to in that paragraph to the parties.

Section 5 Documentary Evidence

(Offering of Documentary Evidence)

Article 219 Documentary evidence must be offered through the submission of a document or a request for the court to order the person in possession of a document to submit that document.

(Obligation to Submit Documents)

Article 220 In the following cases, the person in possession of the document in question may not refuse to submit that document:

- (i) if a party is personally in possession of a document that they have quoted from in litigation;
- (ii) if it is permissible for the party that will offer the evidence to request the person in possession of the document to deliver it or allow it to be inspected;
- (iii) if the document has been prepared in the interest of the party that will offer the evidence or with regard to the legal relationships between the party that will offer the evidence and the person in possession of the document;
- (iv) in cases other than those listed in the preceding three items, if the document does not fall under any of the following categories:
 - (a) a document detailing the particulars prescribed in Article 196 with regard to the person in possession of the document or a person who is related to the person in possession of the document in any of the ways stated in the items of that Article;
 - (b) a document concerning confidential information in connection with a public officer's duties, which, if submitted, would be against the public interest or would be likely to substantially hinder the performance of a public duty;

- (c) a document detailing a fact prescribed in Article 197, paragraph (1), item (ii) or a particular prescribed in Article 197, paragraph (1), item (iii), neither or which are exempt from the duty of silence;
- (d) a document prepared exclusively for the use of the person in possession (excluding a document held by the State or a local public entity, which is used by a public officer for an organizational purpose);
- (e) documents related to the litigation of a criminal case, the case record in a juvenile protective case, or a document seized in these cases.

(Petition for an Order to Submit Documents)

Article 221 (1) In petitioning for an order to submit a document, the following particulars must be made clear:

- (i) the indications of the document;
 - (ii) the purport of the document;
 - (iii) the person in possession of the document;
 - (iv) the facts to be proven by the document;
 - (v) the cause of the obligation to submit the document.
- (2) It is not permissible for a petition for an order to submit a document to be filed on the grounds that the document falls under any of the categories listed in item (iv) of the preceding Article, unless it is necessary to offer documentary evidence by way of a petition for an order to submit a document.

(Procedures for Identifying a Document)

Article 222 (1) If a person files a petition for an order to submit a document but it is extremely difficult to clarify the particulars stated in paragraph (1), item (i) or (ii) of the preceding Article, it is sufficient for the person, in lieu of those particulars, to clarify any particulars by which the person in possession of the document can identify the document that the petition concerns, when filing the petition. In such a case, the petitioner must ask the court to request the person in possession of the document to clarify the particulars stated in item (i) or item (ii) of that paragraph.

- (2) When a motion under the provisions of the preceding paragraph is made, unless the petition for an order to submit the document is clearly groundless, the court may request the person in possession of the document to clarify the particulars referred to in the second sentence of that paragraph.

(Order to Submit Documents)

Article 223 (1) If the court finds there to be grounds for a petition for an order to submit a document, it issues a ruling ordering the person in possession of the document to submit the document. In such a case, if the document contains any part that it is found unnecessary to examine or which cannot be found to be

subject to the obligation to submit, the court may order the submission of the document excluding the part.

- (2) Before seeking to order a third party to submit a document, the court must hear the third party.
- (3) If a petition for an order to submit a document has been filed with regard to a document concerning confidential information connected with a public officer's duties on the grounds that the document falls under any of the categories stated in Article 220, item (iv), unless the petition is clearly groundless, the court must hear the opinion of the supervisory government agency concerned (in the case of a member of the House of Representatives or House of Councillors or a person who held the office, the relevant House; in the case of the Prime Minister or any other Minister of State or a person who held the office, the Cabinet) as to whether the document in question falls under the category of document stated in Article 220, item (iv), (b). In such a case, if the supervisory government agency states the opinion that the document falls under the category of document stated in Article 220, item (iv), (b), it must specify the reasons for this.
- (4) In a case as referred to in the preceding paragraph, if that supervisory government agency has stated the opinion that that document falls under the category of document stated in Article 220, item (iv), (b) on the grounds that submission of that document would cause any of the following risks, the court may order the person in possession of the document to submit the document only if it cannot find sufficient reasonable grounds for that opinion:
 - (i) a risk that the document will impair national security, harm a relationship of trust with a foreign country or international organization, or give rise to a disadvantage in negotiations with a foreign country or international organization;
 - (ii) a risk that the document will hinder the prevention, suppression, or investigation of a crime, the continuation of prosecution, the enforcement of a sentence, or any other maintenance of public safety and order.
- (5) In a case as referred to in the first sentence of paragraph (3), if that supervisory government agency intends to state its opinion about a document that details particulars involving a technical or professional secret of a third party other than the person in possession of that document, it must hear the opinion of that third party in advance of doing so, unless it intends to state the opinion that the document falls under the category of document stated in Article 220, item (iv), (b).
- (6) If the court finds it to be necessary in order to determine which of the categories of documents stated in Article 220, item (iv), (a) through (d) the document that the petition for an order to submit a document concerns falls under, the court may have the person in possession of the document present

the document. In such a case, no person may request the document so presented to be disclosed.

- (7) An immediate appeal may be filed against a ruling on a petition for an order to submit a document.

(Effect of a Party's Non-Compliance with an Order to Submit a Document)

Article 224 (1) If a party does not comply with an order to submit a document, the court may find the adverse party's allegations concerning the details of that document to be true.

- (2) The provisions of the preceding paragraph also apply if a party, for the purpose of preventing the adverse party from using it, has caused a document that there is an obligation to submit to be lost or otherwise unusable.

- (3) In the cases prescribed in the preceding two paragraphs, if it is extremely difficult for the adverse party to make specific allegations in connection with the details of that document and to prove, by other evidence, a fact that is to be proven by the document, the court may find that the adverse party's allegations concerning that fact are true.

(Civil Fine for a Third Party's Non-Compliance with an Order to Submit a Document)

Article 225 (1) If a third party does not comply with an order to submit a document, the court issues a ruling sentencing the third party to a civil fine of not more than 200,000 yen.

- (2) An immediate appeal may be filed against a ruling as referred to in the preceding paragraph.

(Requesting the Sending of a Document)

Article 226 Notwithstanding the provisions of Article 219, documentary evidence may be offered by petitioning the court to request the person in possession of the document to send the document; provided, however, that this does not apply if a party may request the issuance of an authenticated copy or transcript of the document pursuant to law or regulation.

(Retention of Documents)

Article 227 (1) If the court finds it necessary, it may retain a document submitted or sent to it.

- (2) The provisions of Article 132-13 do not apply to the document that was submitted or sent.

(Provenance of Documents)

Article 228 (1) A document must be proven to be of authentic provenance.

- (2) If a document is found, in light of its form and purport, to have been prepared by a public officer in the course of duties, it is presumed to be an official document of authentic provenance.
- (3) If there is any doubt about the authenticity of an official document's provenance, the court may inquire of the that government agency or public office sua sponte.
- (4) If a private document has been signed by, or bears the seal of, the principal or an agent, it is presumed to be of authentic provenance.
- (5) The provisions of paragraphs (2) and (3) apply mutatis mutandis to a document that is found to have been prepared by a foreign government agency or public office.

(Proof by Comparison of Handwriting)

- Article 229 (1) The authenticity or inauthenticity of a document's provenance may be proven by a comparison of handwriting or seal impressions.
- (2) The provisions of Article 219; Article 223; Article 224, paragraphs (1) and (2); Article 226; and Article 227, paragraph (1) apply mutatis mutandis to the submission or sending of a document or any other object that contains the handwriting or seal impression to be used for comparison.
 - (3) If there is no sample of the adverse party's handwriting which is suitable for comparison, the court may order the adverse party to write graphic symbols to be used for comparison.
 - (4) If the adverse party fails to comply with a ruling as referred to in the provisions of the preceding paragraph without a legitimate reason for failing to do so, the court may find the allegations of the party that offers evidence concerning the authenticity or inauthenticity of the document's provenance to be true. The same applies if the adverse party writes the graphic symbols in a style of handwriting that is different from the adverse party's own.
 - (5) If a third party fails to comply with a ruling to submit under the provisions of Article 223, paragraph (1) as applied mutatis mutandis pursuant to paragraph (2) without a legitimate reason for failing to do so, the court issues a ruling sentencing the third party to a civil fine of not more than 100,000 yen.
 - (6) An immediate appeal may be filed against a ruling as referred to in the preceding paragraph.

(Civil Fines Against a Party Challenging the Authenticity of a Document's Provenance)

- Article 230 (1) If a party or their agent, intentionally or through gross negligence, has diverged from the truth in challenging the authenticity of a document's provenance, the court issues a ruling sentencing that person to a civil fine of not more than 100,000 yen.

- (2) An immediate appeal may be filed against a ruling as referred to in the preceding paragraph.
- (3) In a case as referred to in paragraph (1), if the party or agent that challenges the authenticity of a document's provenance admits, while litigation is pending, that the document is of authentic provenance the court may set aside the ruling referred to in that paragraph, depending on the circumstances.

(Mutatis Mutandis Application to Objects Equivalent to Documents)

Article 231 The provisions of this Section apply mutatis mutandis to drawings, photographs, audiotapes, videotapes, and any other objects prepared for the purpose of indicating information, other than documents.

Section 5-2 Examinations of Evidence That Involve the Content of Information Recorded in Electronic or Magnetic Records)

(Requesting the Court to Examine Evidence in Connection with the Content of Information Recorded in Electronic or Magnetic Records)

Article 231-2 (1) A person must file a request for the court to examine evidence in connection with the content of information recorded in an electronic or magnetic record while either submitting the electronic or magnetic record or petitioning the court to order the person with the authority to use that electronic or magnetic record to submit it.

- (2) As provided for by the Rules of the Supreme Court, a person must submit an electronic or magnetic record under the provisions of the preceding paragraph by submitting a recording medium on which the electronic or magnetic record has been recorded or by using an electronic data processing system as specified by the Rules of the Supreme Court.

(Mutatis Mutandis Application of Provisions Concerning Documentary Evidence)

Article 231-3 (1) The provisions of Articles 220 through 228 (excluding paragraph (4) of that Article) and Article 230 apply mutatis mutandis to the examination of evidence under paragraph (1) of the preceding Article. In such a case, the phrase "the person in possession of a document" in Article 220, Article 221, paragraph (1), item (iii), Article 222, Article 223, paragraph (1) and paragraphs (4) through (6) and Article 226 is deemed to be replaced with "the person with the authority to use an electronic or magnetic record"; the phrase "personally in possession of a document" in Article 220, item (i) is deemed to be replaced with "personally authorized to use an electronic or magnetic record"; the term "deliver" in item (ii) of that Article is deemed to be replaced with "provide"; the phrase "a document held by the State or a local public entity" in

item (iv)(d) of that Article is deemed to be replaced with "an electronic or magnetic record that the State or a local public entity is authorized to use"; the terms "documents" and "a document" in (e) of that item are deemed to be replaced with "electronic or magnetic records" and "an electronic or magnetic record recorded in a recording medium", respectively; the phrase "order to submit documents" in Article 221 (including the title), Article 222, the title of Article 223, Article 223, paragraphs (1), (3), (6) and (7), the title of Article 224, Article 224, paragraph (1), the title of Article 225 and Article 225, paragraph (1) is deemed to be replaced with "order to submit electronic or magnetic records"; the phrase "the content of that document" in Article 224, paragraphs (1) and (3) is deemed to be replaced with "the content of information recorded in the electronic or magnetic records"; the phrase "Article 219" in Article 226 is deemed to be replaced with "Article 231-2, paragraph (1)"; the phrase "the issuance of an authenticated copy or transcript of the document" in the proviso to that Article is to be deemed to be replaced with "the issuance of a document certifying the full particulars of information recorded in the electronic or magnetic record or the provisions of an electronic or magnetic record certifying the full particulars of the information"; the term "a document" in Article 227 is deemed to be replaced with "a recording medium storing electronic or magnetic record"; the phrase "an official document of authentic provenance" in Article 228, paragraph (2) is deemed to be replaced with "of authentic provenance"; and the term "an official document" in paragraph (3) of that Article is deemed to be replaced with "an electronic or magnetic record to be created by a public office or public officer".

- (2) As provided for by the Rules of the Supreme Court, a person is to submit an electronic or magnetic record subject to an order under Article 223, paragraph (1) as applied mutatis mutandis pursuant to the preceding paragraph or to transmit electronic or magnetic records subject to a request under Article 226 as applied mutatis mutandis pursuant to the preceding paragraph by submitting or sending a recording medium on which the electronic or magnetic record has been stored or by using an electronic data processing system as specified by the Rules of the Supreme Court.

Section 6 Inspection of Evidence

(Presentation of an Object for Inspection)

Article 232 (1) The provisions of Articles 219, 223, 224, 226, and 227, paragraph (1) apply mutatis mutandis to the presentation or sending of an object for inspection.

- (2) If a third party fails to comply with an order to submit under the provisions of Article 223, paragraph (1) as applied mutatis mutandis pursuant to the

preceding paragraph without a legitimate reason for failing to do so, the court issues a ruling sentencing the third party to a civil fine of not more than 200,000 yen.

- (3) An immediate appeal may be filed against a ruling as referred to in the preceding paragraph.

(Inspection of Evidence Using Audiovisual Transmissions)

Article 232-2 If neither party objects and the court finds it to be appropriate, the court may inspect evidence using a means that enables it to gain an awareness of the state of the thing being inspected through audio and visual transmissions, as provided by the Rules of the Supreme Court.

(Expert Testimony During the Inspection of Evidence)

Article 233 If the court or an authorized or commissioned judge finds that it will be necessary in the inspection of evidence, the court or judge may order expert testimony.

Section 7 Preservation of Evidence

(Preservation of Evidence)

Article 234 If the court finds circumstances to be such that, unless the examination of evidence is conducted in advance, it will be difficult to use the evidence, the court, upon petition, may conduct an examination of the evidence under the provisions of this Chapter.

(Court of Jurisdiction)

Article 235 (1) A petition for the preservation of evidence that is filed after the filing of an action, must be filed with the court of the instance in which the evidence is to be used; provided, however, that during the time from after the first date for oral arguments has been designated or from after the case is referred to preparatory proceedings or written preparatory proceedings until oral arguments are concluded, such a petition must be filed with the court in charge of the case.

- (2) A petition for the preservation of evidence that is filed before the filing of an action, must be filed with the district court or summary court that has jurisdiction over the residence of the person to be examined, person in possession of the document in question, or person with the authority to use the electronic or magnetic records or the location of the object to be inspected.

- (3) If there are pressing circumstances, a petition for the preservation of evidence may be filed with the district court or summary court referred to in the preceding paragraph, even after the filing of an action.

(Handling When the Adverse Party Cannot Be Designated)

Article 236 A petition for the preservation of evidence may be filed even if the adverse party cannot be designated. In such a case, the court may appoint a special representative on behalf of the person that would be the adverse party.

(Preservation of Evidence by the Court Sua Sponte)

Article 237 If the court finds it to be necessary, while litigation is pending, it may issue a ruling to preserve evidence sua sponte.

(Non-Permission of Appeal)

Article 238 No appeal may be entered against a ruling to preserve evidence.

(Examination of Evidence by an Authorized Judge)

Article 239 In a case as referred to in the proviso to Article 235, paragraph (1), the court may have an authorized judge examine evidence.

(Summons to a Court Date)

Article 240 The petitioner and the adverse party must be summoned to appear on a date for examination of evidence; provided, however, that this does not apply in a case requiring urgency.

(Expenses for the Preservation of Evidence)

Article 241 Expenses for the preservation of evidence constitute part of the court costs.

(Re-Examination During Oral Arguments)

Article 242 If a party has requested that a witness who was examined during proceedings for the preservation of evidence be examined during oral arguments, the court must examine the witness.

Chapter V Judgment

(Final Judgment)

- Article 243 (1) When litigation has been sufficiently developed to allow the court to reach a judicial decision, the court enters a final judgment.
- (2) If a part of litigation has been sufficiently developed to allow the court to reach a judicial decision, the court may enter a final judgment with regard to that part.
- (3) The provisions of the preceding paragraph apply mutatis mutandis if one of the several pieces of litigation for which the consolidation of oral arguments

has been ordered, has been sufficiently developed to allow a judicial decision to be reached, or if the principal action or counterclaim has been sufficiently developed to allow a judicial decision to be reached.

Article 244 If one or both parties fails to appear or leaves court without presenting oral arguments on a date for oral arguments, and the court finds it to be appropriate in consideration of the current status of the trial and the status of each party's conduct of the litigation, it may reach a final judgment; provided, however, that if one of the parties fails to appear or leaves court without presenting an oral argument on a date for oral arguments, this applies only at the request of the adverse party who appeared on that date.

(Interlocutory Judgment)

Article 245 If an independent allegation or piece of evidence or any other interlocutory dispute has been sufficiently developed for the court to reach a judicial decision on it, the court may enter an interlocutory judgment. The same applies with regard to the statement of the claim if it, or the number or amount concerned, is in dispute.

(Matters to Be Adjudicated)

Article 246 The court may not reach a judgment on any matter not raised by the parties.

(Principle of the Freedom of Personal Conviction)

Article 247 In reaching a judgment, the court decides whether to find allegations of fact to be true based on its freedom of personal conviction, in light of the entire import of oral arguments and the results of the examination of evidence.

(Finding the Amount of Damage)

Article 248 If damage is found to have occurred, but, due to the nature of the damage, it is extremely difficult to prove the amount of damage that occurred, the court may reach a finding on the amount of damage that is reasonable, based on the entire import of oral arguments and the results of the examination of evidence.

(Principle of Directness)

Article 249 (1) Judgment is rendered by a judge who has participated in the oral arguments that form the basis for that judgment.

(2) If a judge has been replaced, the parties must state the results of prior oral arguments.

(3) If a single, independent judge or the majority of a panel of judges has been

replaced and a party requests that a witness who was examined before the replacement be examined again, the court must examine the witness.

(Entry Into Force of a Judgment)

Article 250 A judgment enters into force when it is rendered.

(Date for Rendition of Judgment)

Article 251 (1) The court must render a judgment within two months of the date on which oral arguments conclude; provided, however, that this does not apply if the case is complex or there are any other special circumstances.

(2) The court may render a judgment even if the parties are not present in court.

(Electronic Judgments)

Article 252 (1) When the court renders a judgment, it must create an electronic or magnetic record in which it records the following things (referred to below as an "electronic judgment"), as provided for by the Rules of the Supreme Court:

- (i) the main text of the judgment;
- (ii) the facts;
- (iii) the grounds;
- (iv) the date of conclusion of oral arguments;
- (v) the parties and legal representatives;
- (vi) the court.

(2) In its record of the facts under the provisions of the preceding paragraph, the court must clarify the claim and summarize the main points of the allegations needed to show that the content of the main text is justified.

(Form for Rendering Judgment)

Article 253 (1) The court renders its judgment based on an electronic judgment created pursuant to the provisions of paragraph (1) of the preceding Article.

(2) Once the court has rendered a judgment pursuant to the provisions of the preceding paragraph, it must record the electronic judgment on which this was based in its computer files, as provided for by the Rules of the Supreme Court.

(Special Provisions on the Form for Rendering Judgment)

Article 254 (1) Notwithstanding the provisions of the preceding Article, in the following cases, if the court upholds the plaintiff's claim, it may render a judgment that is not based on an electronic judgment:

- (i) if the defendant does not deny the facts alleged by the plaintiff in oral arguments or does not advance any allegations or evidence;
- (ii) if the defendant, despite being summoned through service by publication,

does not appear on a date for oral arguments (unless a brief submitted by the defendant is deemed to be the defendant's statement in oral arguments).

- (2) If the court has rendered a judgment pursuant to the provisions of the preceding paragraph, in lieu of preparing an electronic judgment, the court must have the court clerk make a record of the parties and legal representatives, the main text of the judgment, the claims, and the gist of the grounds, in the electronic record for the oral arguments date on which the judgment is rendered.

(Service of Electronic Judgments)

Article 255 (1) Article 255 (1) An electronic judgment (limited to one recorded in the court's computer files pursuant to the provisions of Article 253, paragraph (2); the same applies in the following paragraph, Article 285, Article 355, paragraph (2), Article 357, Article 378, paragraph (1) and Article 381-7, paragraph (1)) or an electronic record containing a record of the parties and legal representatives, the main text of the judgment, the claims, and the gist of the grounds pursuant to the provisions of paragraph (2) of the preceding Article (limited to a statement recorded in the court's computer files pursuant to the provisions of Article 160, paragraph (2); the same applies in the following paragraph, Article 261, paragraph (5), Article 285, Article 357 and Article 378, paragraph (1)) must be served on the parties.

- (2) Service prescribed in the preceding paragraph is effected by any of the following means:

- (i) the service of a document that gives the information recorded in an electronic judgment or electronic record and whose content the court clerk has certified, by a means specified by the Rules of the Supreme Court, to be identical to what is recorded in the electronic judgment or electronic record;
or
- (ii) the service under the provisions of Article 109-2.

(Judgment for Modification)

Article 256 (1) If the court finds a violation of law or regulation in a judgment, it may reach a judgment to modify it, but only within one week after the judgment's rendition; provided, however, that this does not apply if the judgment has become final and binding or additional oral arguments in the case are necessary in order to modify the judgment.

- (2) A judgment for modification is reached without oral arguments being heard.
- (3) If a summons to appear on the date for the rendition of a judgment as referred to in the preceding paragraph is served by an electronic writ of summons (limited to a summons recorded in the court's computer files pursuant to the provisions of Article 94, paragraph (2)), service is deemed to

have been effected at the times specified in the following items for the categories of service stated in those items:

- (i) service under the provisions of Article 109: the time when a document created pursuant to the provisions of that Article is sent off to the place where service is to be effected;
- (ii) service under the provisions of Article 109-2: the time when a notice under the main clause of paragraph (1) of that Article is sent off.

(Ruling to Correct a Judgment)

Article 257 (1) If there is a miscalculation, clerical error, or any other clear error similar to this in a judgment, the court may issue a corrective ruling at any time, upon petition or sua sponte.

- (2) An immediate appeal may be filed against a corrective ruling under the preceding paragraph; provided, however, that this does not apply if a lawful appeal to the court of second instance has been filed against the judgment.
- (3) An immediate appeal may be filed against a ruling to deny the petition under paragraph (1) as not in accordance with the law; provided, however, that this does not apply if a lawful appeal to the court of second instance is filed against the judgment.

(Omission in a Judicial Decision)

Article 258 (1) If the court omits to address part of a claim in a judicial decision, litigation of that part of the claim remains pending before that court.

- (2) If the court omits to address the bearing of court costs in a judicial decision, the court reaches a judicial decision on the bearing of court costs in the form of a ruling, upon petition or sua sponte. In such a case, the provisions of Articles 61 through 66 apply *mutatis mutandis*.
- (3) An immediate appeal may be filed against a ruling as referred to in the preceding paragraph.
- (4) A judicial decision on the bearing of court costs under the provisions of paragraph (2) ceases to be effective if a lawful appeal to the court of second instance is filed against a judgment on the merits. In such a case, the court of second instance reaches a judicial decision on the bearing of the total costs of the litigation.

(Declaration of Provisional Enforcement)

Article 259 (1) In a judgment involving a claim on a property right, if the court finds it to be necessary, it may declare, upon petition or sua sponte, that provisional enforcement may be effected if security is provided or that provisional enforcement may be effected without security being provided.

- (2) With regard to a judgment on a claim for the payment of money for a bill, note,

or check and an incidental claim for damages at the statutory interest rate, the court must issue a sua sponte declaration that provisional enforcement may be effected without security being provided; provided, however, that if the court finds it to be appropriate, it may require the provisions of security for provisional enforcement.

- (3) The court, upon petition or sua sponte, may declare that it is possible to avoid provisional enforcement by providing security.
- (4) Any declaration of provisional enforceability must be stated in the main text of the judgment. The same applies to any declaration under the provisions of the preceding paragraph.
- (5) If the court has not reached a judicial decision on a petition for a declaration of provisional enforceability or has not issued a declaration of provisional enforceability that it should have issued sua sponte, it issues a supplemental ruling upon petition or sua sponte. The same applies if the court has not reached a judicial decision on a petition as referred to in paragraph (3).
- (6) The provisions of Articles 76, 77, 79 and 80 apply mutatis mutandis to security as referred to in paragraphs (1) through (3).

(Loss of Effect of a Declaration of Provisional Enforcement and Restoration)

Article 260 (1) A declaration of provisional enforceability ceases to be valid to the extent of any modification, if a judgment is rendered modifying the declaration or the judgment on the merits.

- (2) When modifying a judgment on the merits, at the petition of the defendant, the court must order the plaintiff to return what the defendant delivered based on a declaration of provisional enforceability, and to compensate for any damage the defendant has suffered due to provisional enforcement or in order to avoid it, in its judgment.
- (3) If only a declaration of provisional enforceability is modified, the provisions of the preceding paragraph apply mutatis mutandis to a later judgment modifying a judgment on the merits.

Chapter VI Conclusion of Litigation Other Than by Judicial Decision

(Withdrawal of an Action)

Article 261 (1) An action may be withdrawn in whole or in part before a judgment becomes final and binding.

- (2) The withdrawal of an action after the adverse party has submitted a brief, entered a statement in preparatory proceedings, or conducted oral arguments on the merits, is invalid without the consent of the adverse party; provided, however, that this does not apply to the withdrawal of a counterclaim if the principal action is withdrawn.

- (3) The withdrawal of an action must be effected by means of a paper document.
- (4) Notwithstanding the provisions of the preceding paragraph, if a party withdraws an action on a date for oral arguments, preparatory proceedings, or settlement (referred to below as a "proceeding date" in this Chapter), they are not precluded from doing this orally. In such a case, the court clerk must record in the electronic record for that court date that the action has been withdrawn.
- (5) In a case as referred to in the main clause of paragraph (2), if an action is withdrawn in writing, the written withdrawal must be served on the adverse party, and if it is withdrawn orally on a proceeding date (unless the adverse party has appeared on that date), an electronic record indicating that action has been withdrawn pursuant to the provisions of the preceding paragraph must be served on the adverse party.
- (6) If the adverse party does not state an objection within two weeks from the day on which that party is served with the written withdrawal of an action, the adverse party is deemed to have consented to the withdrawal of the action. The same applies if an action is withdrawn orally on a proceeding date and the adverse party does not state an objection within two weeks from the day on which the action is withdrawn, if the adverse party appears on that date; or within two weeks from the day on which the service under the provisions of the preceding paragraph is made, if the adverse party does not appear on that date.

(Result of the Withdrawal of an Action)

- Article 262 (1) The part of litigation for which an action is withdrawn is deemed to have never been pending before the court.
- (2) A person that withdraws an action after a final judgment on the merits has been reached may not file the same action.

(Constructive Withdrawal of an Action)

Article 263 If both parties fail to appear on a date for oral arguments or to present an oral argument before leaving the courtroom, or if both parties fail to appear on a date for preparatory proceedings or to enter a statement in preparatory proceedings before leaving; and if neither party files a petition to designate a court date within one month, the action is deemed to have been withdrawn. The same applies if, on two consecutive occasions, both parties fail to appear on a date for oral arguments or to present an oral argument before leaving the courtroom, or leaving both parties fail to appear on a date for preparatory proceedings or to enter a statement in preparatory proceedings before leaving.

(Written Acceptance of Proposed Terms of Settlement)

Article 264 (1) If it is found to be difficult for one of the parties to appear, and if that party submits a paper document indicating their acceptance of the proposed terms of settlement presented in advance by the court or by an authorized or commissioned judge, and the other party appears on a proceeding date and accepts the proposed terms of settlement, a settlement is deemed to have been reached between the parties.

(2) If it is been found to be difficult for both parties to appear, and if both parties submit a paper document indicating their acceptance of the proposed terms of settlement presented in advance by the court or by an authorized or commissioned judge designating the date when the settlement is to be reached and the designated date passes, a settlement is deemed to have been reached between the parties on the designated date.

(Terms of Settlement Set by the Court)

Article 265 (1) At the joint petition of the parties, the court or an authorized or commissioned judge may set the appropriate terms of settlement for resolving the case.

(2) The parties must file the petition referred to in the preceding paragraph using a paper document. When doing so, they must indicate in the paper document that they will abide by the terms of settlement referred to in that paragraph.

(3) The terms of settlement under the provisions of paragraph (1) are set by announcement on a proceeding date or otherwise by their announcement through a means that is found to be appropriate.

(4) A party may withdraw the petition referred to in paragraph (1) only prior to the announcement referred to in the preceding paragraph. To do so, the party is not required to obtain consent from the adverse party.

(5) When the announcement referred to in paragraph (3) has been made to both parties, the parties are deemed to have reached a settlement.

(Waiver or Acknowledgment of a Claim)

Article 266 (1) A waiver or acknowledgment of a claim is made on a proceeding date.

(2) If a party who has submitted a paper document waiving or acknowledging a claim does not appear on a proceeding date, the court or an authorized or commissioned judge may deem the party to have entered a statement to that effect.

(Effect of an Electronic Record of Settlement)

Article 267 (1) When a court clerk creates an electronic record of a settlement or of the waiver or acknowledgment of a claim and records it in the court's

- computer files, that entry has the same effect as a final and binding judgment.
- (2) An electronic record recorded in a file pursuant to the provisions of the preceding paragraph must be served on the parties. The provisions of Article 255, paragraph (2) apply *mutatis mutandis* in such a case.

(Corrective Rulings Involving Electronic Records of Settlement)

- Article 267-2 (1) If there is a miscalculation, clerical error, or any other clear error similar to this in an electronic record recorded in the court's computer files pursuant to the provisions of paragraph (1) of the preceding Article, the court may issue a corrective ruling at any time, upon petition or *sua sponte*.
- (2) An immediate appeal may be filed against a corrective ruling as referred to in the preceding paragraph.
- (3) An immediate appeal may be filed against a ruling to deny a petition as referred to in paragraph (1) as not in accordance with the law.

Chapter VII Special Provisions on Large-Scale Litigation

(Examination of Witnesses by an Authorized Judge in a Case Involving Large-Scale Litigation)

- Article 268 In a case involving large-scale litigation (meaning litigation in which a significantly large number of parties are involved and a significantly large number of witnesses or parties themselves are to be examined), the court may have an authorized judge examine witnesses or the parties themselves inside the court, if no objection is made by the parties.

(Composition of the Panel in a Case Involving Large-Scale Litigation)

- Article 269 (1) In district court, a panel of five judges may rule that it will conduct a trial and reach a judicial decision on a case prescribed in the preceding Article.
- (2) In a case as referred to in the preceding paragraph, the panel may not contain three or more assistant judges at any one time, and no assistant judge may serve as presiding judge.

(Composition of the Panel for a Case in a Prescribed IP Action)

- Article 269-2 (1) In the courts specified in each item of Article 6, paragraph (1), a panel of five judges may rule that it will conduct a trial and reach a judicial decision on a case in a prescribed IP action; provided, however, that this does not apply to a case involving litigation that has been transferred pursuant to the provisions of Article 20-2, paragraph (1).
- (2) The provisions of paragraph (2) of the preceding Article apply *mutatis mutandis* to a case as referred to in the preceding paragraph.

Chapter VIII Special Provisions on Litigation Proceedings in Summary Court

(Characteristics of Proceedings)

Article 270 In summary court, disputes are to be resolved promptly through simplified proceedings.

(Oral Filing of an Action)

Article 271 An action may be filed orally.

(Matters That Must Be Clarified in the Filing of an Action)

Article 272 When a person files an action, it is sufficient for them to clarify the main points of the dispute, in lieu of providing a statement of the claims.

(Filing of an Action through Voluntary Appearance)

Article 273 It is permitted for both parties to voluntarily appear before the court and conduct oral arguments involving their litigation. To do so, the action is filed through an oral statement.

(Transfer Based on the Filing of a Counterclaim)

Article 274 (1) If the defendant makes a claim in a counterclaim that is subject to the jurisdiction of the district court, the summary court, at the petition of the adverse party, must transfer the principal action and counterclaim to the district court in the form of a ruling. In such a case, the provisions of Article 22 apply *mutatis mutandis*.

(2) No appeal may be entered against the ruling stated in the preceding paragraph.

(Settlement Prior to the Filing of an Action)

Article 275 (1) In a civil dispute, a party may file a petition for settlement with the summary court of jurisdiction in the locality that constitutes the general venue for an action involving the adverse party, indicating the prayer for relief and providing a statement of the claims, as well as indicating the actual circumstances of the dispute.

(2) If a settlement as referred to in the preceding paragraph cannot be reached, the court, at the petition of both parties who have appeared on a date for settlement, immediately orders the parties to present oral arguments in litigation. In such a case, the party who has filed the petition for settlement is deemed to have filed an action at the time that party filed that petition, and settlement costs become a part of the court costs.

- (3) If the petitioner or the adverse party does not appear on a date for settlement as referred to in paragraph (1), the court may deem that no settlement can be reached.
- (4) The provisions of Articles 264 and 265 do not apply to a settlement as referred to in paragraph (1).

(Ruling in Lieu of Settlement)

Article 275-2 (1) In an action whose subject matter is a claim for the payment of money, if the defendant does not deny the facts alleged by the plaintiff in oral arguments or does not advance any allegations or evidence, and the court finds it to be appropriate in consideration of the defendant's financial resources and any other circumstances, after hearing the opinion of the plaintiff, the court may issue a ruling ordering the defendant to pay the money under that claim, and establishing rules on a time frame or an installment plan, not exceeding five years from the expiration of the time frame stated in paragraph (3), for paying the money under that claim, and may simultaneously establish that the defendant will be exempted from the obligation to pay any default charges that have accrued after the filing of the action if the defendant pays the money under that claim in accordance with the rules on the time frame or if the defendant pays that money without losing the benefit of time gained from the rules on the installment plan, pursuant to the rules under the following paragraph.

- (2) If the court establishes rules on an installment plan as referred to in the preceding paragraph, it must establish rules on the forfeiture of the benefit of time in the event of the defendant's failure to pay.
- (3) A party may file an objection against a ruling as referred to in paragraph (1) with the court that has issued that ruling, within an inalterable time frame of two weeks from the day on which the party receives notice of that ruling.
- (4) If an objection is filed within the time frame referred to in the preceding paragraph, the ruling referred to in paragraph (1) ceases to be effective.
- (5) If no objection is filed within the time frame referred to in paragraph (3), the ruling referred to in paragraph (1) has the same effect as a judicial settlement.

(Omission of Briefs)

Article 276 (1) Oral arguments are not required to be prepared in writing.

- (2) Notwithstanding the provisions of the preceding paragraph, written preparations must be made or the adverse party must be given direct notice prior to oral arguments with regard to any matter for which it would be found that the adverse party is unable to enter a statement without preparation.
- (3) During oral arguments for which the adverse party is not present in court, no matter prescribed in the preceding paragraph may be alleged other than what

is stated in a brief that falls under any of the following or conveyed in the notice under the provisions of that paragraph.

- (i) a brief that has been served on the adverse party;
- (ii) a brief for which the adverse party has submitted written acknowledgment of receipt; or
- (iii) a brief that the adverse party has inspected pursuant to the provisions of Article 91-2, paragraph (1) or copied pursuant to the provisions of paragraph (2) of that Article.

(Constructive Statements on Further Dates)

Article 277 The provisions of Article 158 apply mutatis mutandis if the plaintiff or the defendant does not appear on a further date for oral arguments or appears on that date but does not present any oral arguments on the merits.

(Examinations Based on Communication Using Audiovisual Transmissions)

Article 277-2 As provided by the Rules of the Supreme Court, if the court finds it to be appropriate, it may conduct the examination of witnesses or the parties themselves using a means that enables persons to communicate with one another through audio and visual transmissions while gaining an awareness of one another's situation.

(Submission of Documents in Lieu of Examination)

Article 278 (1) If the court finds it to be appropriate, it may allow the submission of a paper document in lieu of examining a witness or one of the parties themselves or instead of having an expert state an opinion.

- (2) The provisions of Article 205, paragraphs (2) and (3) apply mutatis mutandis to the submission of a paper document in lieu of the examination of witnesses or the parties themselves under the provisions of the preceding paragraph, and the provisions of Article 215, paragraphs (2) and (4) apply mutatis mutandis to the submission of a paper document in lieu of the statement of an opinion by an expert.

(Judicial Commissioners)

Article 279 (1) If the court finds it to be necessary, it may have a judicial commissioner assist in the attempt to arrange a settlement or have a judicial commissioner attend the trial so that it may hear the commissioner's opinion on the case.

- (2) The number of judicial commissioners is one or more for each case.
- (3) A judicial commissioner is designated by the court for each case, from among persons appointed in advance by the district court each year.
- (4) The status of persons appointed pursuant to the provisions of the preceding

paragraph, their number, and particulars that are otherwise necessary in connection with an appointment as referred to in that paragraph are specified by the Rules of the Supreme Court.

- (5) A judicial commissioner is paid travel expenses, a daily allowance, and lodging expenses in the amounts specified by the Rules of the Supreme Court.

(Particulars That Must Be Entered in Electronic Judgments)

Article 280 In recording facts and reasons as referred to in Article 252, paragraph (1), item (ii), pursuant to the provisions of that paragraph, it is sufficient to record the important points of the prayer for relief and of the statement of the claims, the existence or nonexistence of cause, and the important points of any defense which is the grounds for rejecting the claim.

Part III Appeals

Chapter I Appeals to the Court of Second Instance

(Judgments That Are Appealable to the Court of Second Instance)

Article 281 (1) An appeal to the court of second instance may be filed against a final judgment that a district court has entered as the court of first instance, or against a final judgment entered by a summary court; provided, however, that this does not apply if, after the final judgment is entered, both parties agree not to appeal to the court of second instance, though reserving the right to file a final appeal.

- (2) The provisions of Article 11, paragraphs (2) and (3) apply mutatis mutandis to an agreement as referred to in the preceding paragraph.

(Restriction on Filing Appeals to the Court of Second Instance Against Judicial Decisions on the Bearing of Court Costs)

Article 282 No appeal to the court of second instance may be filed against a judicial decision on the bearing of court costs alone.

(Judicial Decisions Subject to Judgment by the Court of Second Instance)

Article 283 Any judicial decision reached prior to a final judgment is subject to the judgment of the court of second instance; provided, however, that this does not apply to a judicial decision against which no appeal may be filed, nor to a judicial decision against which an appeal may be filed in the form of an appeal against a ruling.

(Waiver of the Right to Appeal to the Court of Second Instance)

Article 284 The right to appeal to the court of second instance may be waived.

(Time Frame for Filing Appeals to the Court of Second Instance)

Article 285 An appeal to the court of second instance must be filed within an inalterable time frame of two weeks from the day on which the electronic judgment or an electronic record indicating the parties and legal representatives, the main text, the claims, and the gist of the grounds pursuant to the provisions of Article 254, paragraph (2) is served; provided, however, that this does not preclude the validity of an appeal to the court of second instance filed prior to that time frame.

(Formalities for Filing Appeals to the Court of Second Instance)

Article 286 (1) An appeal to the court of second instance must be filed through the submission of a petition for appeal to the court of first instance.
(2) The following particulars must be entered in a petition for appeal:
(i) the parties and legal representatives;
(ii) an identification of the judgment in the first instance and an indication that this is the judgment against which the appeal is being filed.

(Denial of Appeals by the Court of First Instance)

Article 287 (1) If an appeal to the court of second instance is not in accordance with the law and this defect clearly cannot be corrected, the court of first instance must rule to deny the appeal, in the form of a ruling.
(2) An immediate appeal may be filed against a ruling as referred to in the preceding paragraph.

(Presiding Judge's Authority to Examine a Petition for Appeal)

Article 288 The provisions of Article 137 apply *mutatis mutandis* if a petition for appeal to the court of second instance is in violation of Article 286, paragraph (2), and the provisions of Article 137-2 apply *mutatis mutandis* if a person has not paid the fees for filing an appeal to the court of second instance in accordance with the provisions of the Act on the Costs of Civil Proceedings.

(Service of a Petition for Appeal)

Article 289 (1) A petition for appeal must be served upon the appellee.
(2) The provisions of Article 137 apply *mutatis mutandis* if it is impossible to serve a petition for appeal (including if the necessary expenses for serving a petition for appeal have not been prepaid).

(Denial of Appeals Without Hearing Oral Arguments)

Article 290 If an appeal to the court of second instance is not in accordance with the law and this defect cannot be corrected, the court of second instance may enter a judgment denying the appeal, without hearing oral arguments.

(Denial of Appeals When Expenses for Summonses Have Not Been Prepaid)

- Article 291 (1) If the court of second instance has specified a reasonable time frame and ordered the appellant to prepay the necessary expenses for summoning the parties to appear for a court date in accordance with the provisions of the Act on the Costs of Civil Proceedings, but those expenses have not been prepaid, the court may rule to deny the appeal, in the form of a ruling.
- (2) An immediate appeal may be filed against a ruling as referred to in the preceding paragraph.

(Withdrawal of Appeals to the Court of Second Instance)

- Article 292 (1) An appeal to the court of second instance may be withdrawn before the court of second instance enters a final judgment.
- (2) The provisions of Article 261, paragraphs (3) and (4), Article 262, paragraph (1) and Article 263 apply mutatis mutandis to the withdrawal of appeals to the court of second instance.

(Incidental Appeals)

- Article 293 (1) An appellee may file an incidental appeal until such time as oral arguments are concluded, even if this is after the right to appeal to the court of second instance has expired.
- (2) An incidental appeal expires if the appeal to the court of second instance is withdrawn or if the appeal to the court of second instance is denied as not in accordance with the law; provided, however, that an incidental appeal that meets the requirements for an appeal to the court of second instance is deemed to be an independent appeal to the court of second instance.
- (3) Incidental appeals are governed by the provisions on appeals to the court of second instance; provided, however, that an incidental appeal may be filed through the submission of a petition for incidental appeal with the court of second instance.

(Declaration of Provisional Enforcement for the Judgment in the First Instance)

- Article 294 Upon petition, the court of second instance may rule to issue a declaration of provisional enforceability, in the form of a ruling, but only with regard to the part of the judgment in the first instance against which no objection has been entered.

(Appeals Against a Judicial Decision Involving Provisional Enforcement)

- Article 295 No objection may be entered against a judicial decision by the court of second instance involving provisional enforcement; provided, however, that

an immediate appeal may be filed against a ruling to deny a petition as referred to in the preceding Article.

(Scope of Oral Arguments)

- Article 296 (1) Oral arguments are conducted only within the bounds of the modification of the judgment in the first instance that the party seeks.
- (2) The parties must state the results of the oral arguments in the first instance.

(Mutatis Mutandis Application of Provisions on Litigation Proceedings in the First Instance)

- Article 297 The provisions of Part II, Chapters I through VII, except as otherwise provided, apply mutatis mutandis to litigation proceedings in the second instance; provided, however, that this does not apply to Article 269.

(Effect of Procedural Acts from the First Instance)

- Article 298 (1) Any procedural act performed in the first instance is also in effect in the second instance.
- (2) The provisions of Article 167 apply mutatis mutandis to a party that advances allegations and evidence in the second instance with regard to a case for which preliminary oral arguments or preparatory proceedings in the first instance have been closed, and the provisions of Article 178 apply mutatis mutandis to a party that advances allegations and evidence in the second instance if the statements or confirmation stated in that Article has been entered in a case for which written preparatory proceedings in the first instance have been closed.

(Restrictions on Arguing Lack of Jurisdiction of the Court of First Instance)

- Article 299 (1) In the second instance, the parties may not argue that the court of first instance did not have jurisdiction; provided, however, that this does not apply with regard to exclusive jurisdiction (excluding that which is determined by agreement between the parties pursuant to the provisions of Article 11).
- (2) If the court of first instance referred to in the preceding paragraph is the court specified in any of the items of Article 6, paragraph (1), and the litigation is subject to the exclusive jurisdiction of another court pursuant to the provisions of Article 6, paragraph (1), the provisions of the proviso to the preceding paragraph do not apply.

(Filing of a Counterclaim)

- Article 300 (1) In the second instance, a counterclaim may be filed only with the consent of the adverse party.
- (2) If the adverse party presents an oral argument on the merits of a counterclaim without stating an objection to it, the adverse party is deemed to

have consented to the filing of the counterclaim.

- (3) The provisions of the preceding two paragraphs apply *mutatis mutandis* to the addition of a claim concerning a person who has appointed someone to act as a lead party.

(Time Frame for Presenting Allegations and Evidence)

- Article 301 (1) The presiding judge, after hearing the opinions of the parties, may specify the time frames for presenting allegations and evidence, amend the claim or of the statement of the claims, filing a counterclaim, or adding a claim on behalf of or concerning appointing party.
- (2) A party that performs any of the procedural acts prescribed in the preceding paragraph after a time frame specified pursuant to the provisions of that paragraph has passed, must explain to the court the reasons that the party was unable to perform the act within that time frame.

(Dismissal of an Appeal)

- Article 302 (1) If the court of second instance finds the judgment in the first instance to be appropriate, it must dismiss the appeal.
- (2) Even if the reasons supplied do not justify the judgment in the first instance, if there is any other reason that does justify that judgment, the court of second instance must dismiss the appeal.

(Sanction Against the Abuse of the Right to Appeal to the Court of Second Instance)

- Article 303 (1) If the court of second instance dismisses an appeal pursuant to the provisions of paragraph (1) of the preceding Article, and it finds that the appellant has filed the appeal exclusively for the purpose of delaying the conclusion of the litigation, it may order the appellant to pay up to ten times the amount of fees that must be paid for filing an appeal with the court of second instance.
- (2) A judicial decision under the provisions of the preceding paragraph must be indicated in the main text of the judgment.
- (3) A judicial decision under the provisions of paragraph (1) ceases to be valid if a judgment is rendered modifying the judgment on the merits.
- (4) Even if the final appellate court dismisses a final appeal, it may modify a judicial decision under the provisions of paragraph (1).
- (5) The provisions of Article 189 apply *mutatis mutandis* to a judicial decision under the provisions of paragraph (1).

(Scope of Reversal and Modification of a Judgment in the First Instance)

- Article 304 A judgment in the first instance may be reversed or modified only

within the bounds of the objection entered against it.

(Reversal in the Event of an Unjustified Judgment in the First Instance)

Article 305 The court of second instance must set aside a judgment in the first instance if it finds that judgment to be unjustified.

(Reversal in the Event of a Judgment by the Court of First Instance Made Upon Unlawful Procedure)

Article 306 If the procedure upon which the judgment in the first instance is made is in violation of the law, the court of second instance must set aside the judgment in the first instance.

(Remanding of a Case)

Article 307 If the court of second instance sets aside a judgment in the first instance that has denied the action as not in accordance with the law, it must remand the case to the court of first instance; provided, however, that this does not apply if additional oral arguments in the case are unnecessary.

Article 308 (1) In a case other than that which is prescribed in the main clause of the preceding Article, in which the court of second instance sets aside a judgment in the first instance, if additional oral arguments in the case are necessary, it may remand the case to the court of first instance.

(2) If a case is remanded on the grounds that litigation proceedings in the court of first instance is in violation of the law, that litigation proceedings are deemed to have been set aside by the remand.

(Transfer on the Grounds of Lack of Jurisdiction of the Court of First Instance)

Article 309 If the court of second instance sets aside the judgment in the first instance on the grounds of lack of jurisdiction over the case, it must transfer the case to the court of jurisdiction.

(Declaration of Provisional Enforceability in a Judgment by the Court of Second Instance)

Article 310 For a judgment involving a claim for the payment of money (excluding a claim stated in Article 259, paragraph (2)), the court of second instance, upon petition, must declare that a provisional enforceability may be effected without security being provided, unless it finds such a declaration to be unnecessary; provided, however, that if the court of second instance finds appropriate, it may require the provisions of security for provisional enforcement.

(Composition of the Panel for the Appellate Case in a Prescribed IP Action)

Article 310-2 In the Tokyo High Court, if an appeal is filed against a final judgment that any of the courts specified in the items of Article 6, paragraph (1) enters as the court of first instance in a prescribed IP action, a panel of five judges may rule for the panel to conduct a trial and reach a judicial decision on that case; provided, however, that this does not apply to a case that involves an appeal to the court of second instance, against a final judgment in an action for litigation that has been transferred pursuant to the provisions of Article 20-2, paragraph (1).

Chapter II Final Appeals

(Final Appellate Court)

Article 311 (1) A final appeal may be filed with the Supreme Court against a final judgment that the high court enters as the court of second instance or as the court of first instance, or may be filed with the high court against a final judgment that the district court enters as the court of second instance.

(2) In a case as referred to in the proviso to Article 281, paragraph (1), a final appeal may be filed directly with the Supreme Court against a district court judgment, and may be filed directly with a high court against a summary court judgment.

(Grounds for Final Appeal)

Article 312 (1) A final appeal may be filed on the grounds that the judgment reflects an error in the interpretation of the Constitution or that it is otherwise unconstitutional.

(2) A final appeal may also be filed on the grounds that any of the following circumstances are present; provided, however, that this does not apply to the circumstances stated in item (iv) if the ratification under the provisions of Article 34, paragraph (2) has taken place (including as applied *mutatis mutandis* pursuant to Article 59):

(i) the court that pronounced judgment was not composed in accordance with the law;

(ii) a judge who, by law, is not permitted to participate in the judgment, has participated in the judgment;

(ii)-2 provisions on the exclusive jurisdiction of the Japanese courts have been violated;

(iii) provisions on exclusive jurisdiction have been violated (unless one of the courts specified in the items of Article 6, paragraph (1) has entered the final judgment in the first instance, and that litigation is subject to the exclusive jurisdiction of another court pursuant to the provisions of Article 6,

- paragraph (1));
 - (iv) authority to act as a person's legal representative, authority to act as a person's litigation representative, or the delegation of powers that a representative needs in order to perform procedural acts, was lacking;
 - (v) provisions on the opening of oral arguments to the public have been violated;
 - (vi) no reason has been given for the judgment, or the reasons given for the judgment conflict with each other.
- (3) A final appeal to the high court may also be filed on the grounds of a violation of law or regulation that has clearly influenced the judgment.

(Mutatis Mutandis Application of Provisions on Appeals to the Court of Second Instance)

Article 313 The provisions of the preceding Chapter, except as otherwise provided, apply mutatis mutandis to a final appeal and to litigation proceedings in the final appellate instance.

(Formalities for the Filing of Final Appeal)

- Article 314 (1) A final appeal must be filed through the submission of a petition for a final appeal with the court of prior instance.
- (2) The authority of the presiding judge under the provisions of Article 288 and Article 289, paragraph (2) as applied mutatis mutandis pursuant to the preceding Article is exercised by the presiding judge of the court of prior instance.

(Entry of Grounds for Final Appeal)

- Article 315 (1) If the grounds for final appeal are not entered in a petition for final appeal, a statement of the grounds for final appeal must be submitted to the court of prior instance within the time frame specified by the Rules of the Supreme Court.
- (2) Grounds for final appeal must be entered in the format specified by the Rules of the Supreme Court.

(Denial of a Final Appeal by the Court of Prior Instance)

- Article 316 (1) If circumstances clearly fall under any of the following items, the court of prior instance must rule to deny the final appeal:
- (i) the final appeal is not in accordance with the law and this defect cannot be corrected;
 - (ii) a statement of grounds for final appeal has not been submitted, constituting a violation of the provisions of paragraph (1) of the preceding Article; or the stated grounds for final appeal are in violation of paragraph

(2) of that Article.

(2) An immediate appeal may be filed against a ruling as referred to in the preceding paragraph.

(Denial of a Final Appeal by the Final Appellate Court)

Article 317 (1) In the cases stated in the items of paragraph (1) of the preceding Article, the final appellate court may rule to dismiss a final appeal.

(2) The Supreme Court, as the final appellate court, may rule to dismiss a final appeal if the grounds for final appeal clearly do not fall under the circumstances prescribed in Article 312, paragraph (1) or (2).

(Petitioning the Supreme Court to Accept a Final Appeal)

Article 318 (1) If the Supreme Court is the court with which the final appeal should be filed, it may rule, upon petition, to accept as the final appellate court, a case in which a prior instance judgment reflects a determination that conflicts with Supreme Court precedent (or, if there is no Supreme Court precedent, conflicts with precedent of the former Great Court of Cassation or precedent of the high court acting as the final appellate court or the court of second instance) or to accept any other case that is found to involve matters of material import in the interpretation of laws and regulations.

(2) A petition as referred to in the preceding paragraph (referred to below as a "petition to accept a final appeal") may not give circumstances prescribed in Article 312, paragraphs (1) and (2) as the grounds for petition.

(3) In a case as referred to in paragraph (1), the Supreme Court may exclude any grounds for petition to accept a final appeal that it finds to be immaterial.

(4) If a ruling as referred to paragraph (1) is issued, a final appeal is deemed to have been filed. To apply the provisions of Article 320 in such a case, grounds for petition to accept a final appeal other than those excluded pursuant to the provisions of the preceding paragraph are deemed to be the grounds for the final appeal.

(5) The provisions of Articles 313 through 315 and Article 316, paragraph (1) apply mutatis mutandis to a petition to accept a final appeal.

(Dismissal of a Final Appeal, Without Oral Arguments Being Heard)

Article 319 If the final appellate court finds that a final appeal is without grounds based on the petition for final appeal, statement of grounds for final appeal, written answer, or any other documents, it may enter a judgment to dismiss the final appeal, without hearing oral arguments.

(Scope of Examination)

Article 320 The final appellate court must conduct its examination based on the

grounds for final appeal, only within the bounds of the objection that has been entered.

(Binding Force of Facts Found in a Prior Instance Judgment)

Article 321 (1) Lawful findings of fact in a prior instance judgment are binding on the final appellate court.

(2) If a final appeal under the provisions of Article 311, paragraph (2) is filed, the final appellate court may not reverse the prior instance judgment on the grounds that the findings of fact in the judgment are in violation of the law.

(Exclusion of Matters to Be Examined by the Court Sua Sponte from Application of Prescribed Provisions)

Article 322 The provisions of the preceding two Articles do not apply to matters that must be examined by the court sua sponte.

(Declaration of Provisional Enforceability)

Article 323 Upon petition, the final appellate court may rule to issue a declaration of provisional enforceability, but only with regard to the part of the judgment in the prior instance against which no objection has been entered.

(Transfer to the Supreme Court)

Article 324 The high court, as the final appellate court, must rule to transfer a case to the Supreme Court if the circumstances specified by the Rules of the Supreme Court are present.

(Reversal and Remand)

Article 325 (1) If there are circumstances prescribed in Article 312, paragraph (1) or (2), the final appellate court must reverse the prior instance judgment, and, except in the cases referred to in the following Article, it must remand the case to the court of prior instance or transfer the case to another, equivalent court. The same applies if the high court is the final appellate court and a violation of law or regulation has clearly influenced the judgment.

(2) Even without the circumstances prescribed in Article 312, paragraph (1) or (2), the Supreme Court, as the final appellate court, may reverse a prior instance judgment if a violation of law or regulation has clearly influenced the judgment, and, except in the cases referred to in the following Article, it may remand the case to the court of prior instance or transfer the case to another, equivalent court.

(3) The court to which a case is remanded or transferred pursuant to the provisions of the preceding two paragraphs must reach a judicial decision based on additional oral arguments. In such a case, the factual or legal finding

based on which the final appellate court has reversed the judgment is binding on the court to which the case is remanded or transferred.

- (4) A judge who has participated in the prior instance judgment may not participate in the judicial decision referred to in the preceding paragraph.

(Reversal and Decision by the Final Appellate Court)

Article 326 In the following cases, the final appellate court must reach a judicial decision on the case:

- (i) the final appellate court reverses a judgment on the grounds that there has been an error in the application of the Constitution or any other law or regulation to the facts that have been found, and the case has been sufficiently developed to allow a judicial decision to be reached based on these facts;
- (ii) the final appellate court reverses a judgment on the grounds that the case is not subject to the jurisdiction of the court.

(Special Appeal to the Court of Last Resort)

Article 327 (1) A further appeal may be filed with the Supreme Court against a final judgment entered by the high court as the final appellate court, but only on the grounds that the judgment involves an error in the interpretation of the Constitution or that it is otherwise unconstitutional.

- (2) Unless it is contrary to their nature, provisions concerning a final appeal and litigation proceedings in the final appellate instance against a final judgment by the court of second instance or the court of first instance apply *mutatis mutandis* to a final appeal as referred to in the preceding paragraph and litigation proceedings in the final appellate instance. This being the case, the phrase "a prior instance judgment" in Article 321, paragraph (1) is deemed to be replaced with "the final judgment entered by the district court as the court of second instance (or the final judgment entered by the summary court, if a final appeal under the provisions of Article 311, paragraph (2) is filed)".

Chapter III Appeal Against a Ruling

(Judicial Decision Subject to Appeal Against a Ruling)

Article 328 (1) An appeal against a ruling may be filed against a ruling or order to deny a petition involved in the litigation proceedings, without oral arguments being heard.

- (2) An appeal against a ruling may be filed against a ruling or order if this has been issued in a matter that may not be decided through a ruling or order.

(Objection to a Judicial Decision by an Authorized Judge)

Article 329 (1) A party who disagrees with the judicial decision of an authorized or commissioned judge may file an objection with the court in charge of the case; provided, however, that this applies only if the judicial decision is one that it would be possible to appeal in the form of an appeal against a ruling, if it were the judicial decision of the court in charge of the case.

(2) An appeal may be filed against a judicial decision on an objection as referred to in the preceding paragraph.

(3) To apply the provisions of paragraph (1) if the Supreme Court or a high court is the court in charge of a case, the phrase "the court in charge of the case" in the proviso to that paragraph is deemed to be replaced with "the district court".

(Re-appeal from Appeal against Ruling)

Article 330 A further appeal may be filed against the ruling of the court in charge of an appeal against a ruling, but only on the grounds that the ruling reflects an error in the interpretation of the Constitution or is otherwise unconstitutional, or that a violation of law or regulation has clearly influenced the ruling.

(Mutatis Mutandis Application of Provisions on Appeals to the Court of Second Instance and Final Appeals)

Article 331 The provisions of Chapter I, unless it is contrary to their nature, apply mutatis mutandis to an appeal against a ruling and to litigation proceedings in the court in charge of an appeal against a ruling; provided, however, that with regard to the appeal against a ruling as referred to in the preceding Article and litigation proceedings for the appeal, the provisions of the preceding Chapter concerning a final appeal against the final judgment of the court of second instance or the court of first instance and concerning litigation proceedings in the final appellate instance apply mutatis mutandis.

(Time Frame for Filing an Immediate Appeal)

Article 332 An immediate appeal must be filed within an inalterable time frame of one week from the day on which notice of a judicial decision is received.

(Correction by the Court of Prior Instance)

Article 333 If the court or presiding judge that has made the judicial decision in the prior instance finds that there are grounds for an appeal against a ruling, the court or the presiding judge must correct that judicial decision.

(Stay of Enforcement of a Judicial Decision in the Prior Instance)

Article 334 (1) An appeal against a ruling has the effect of a stay of enforcement, but only if it is filed as an immediate appeal.

- (2) The court in charge of an appeal against a ruling or the court or judge that has made the judicial decision in the prior instance may order a stay of enforcement of the judicial decision in the prior instance or any other necessary disposition until the time as a ruling is issued on the appeal against the ruling.

(Hearing in Lieu of Oral Arguments)

Article 335 If the court in charge of an appeal against a ruling does not hold oral arguments on in the appeal against the ruling, it may hear the appellant and any other interested party.

(Special Appeal Against Ruling to the Supreme Court)

Article 336 (1) A special appeal against a ruling may be filed with the Supreme Court against any ruling or order of a district court or summary court against which no objection may be entered or with regard to the ruling or order of the high court, on the grounds that the ruling or order reflects an error in the interpretation of the Constitution or that it is otherwise unconstitutional.

- (2) An appeal against a ruling as referred to in the preceding paragraph must be filed within an inalterable time frame of five days from the day on which notice of the judicial decision is received.
- (3) Unless contrary to their nature, provisions on the final appeal and litigation proceedings in the final appellate instance referred to in Article 327, paragraph (1), as well as the provisions of Article 334, paragraph (2), apply *mutatis mutandis* to an appeal against a ruling as referred to in paragraph (1) and litigation proceedings in such an appeal.

(Appeal with Permission)

Article 337 (1) An appeal may be specially filed with the Supreme Court against a ruling or order of the high court (excluding a ruling or order on an appeal against a ruling as referred to in Article 330 or on a petition as referred to in the following paragraph) other than in a case under the provisions of paragraph (1) of the preceding Article, but only if the high court permits it pursuant to the provisions of the following paragraph; provided, however, that this applies only if the judicial decision in question is one that it would be possible to appeal in the form of an appeal against a ruling, if it were the judicial decision of the district court.

- (2) Upon petition, the high court referred to in the preceding paragraph must rule to permit an appeal against a ruling in respect of the judicial decision referred to in the preceding paragraph, if it reflects a determination that is inconsistent with Supreme Court precedent (or, if there is no Supreme Court precedent, conflicts with precedent of the former Great Court of Cassation or

precedent of the high court as the final appellate court or the court in charge of the appeal against the ruling) or if it is otherwise found to involve matters of material import involving the interpretation of laws and regulations.

- (3) The circumstances provided for in paragraph (1) of the preceding Article may not be given as the grounds for the petition in a petition as referred to in the preceding paragraph.
- (4) If permission under the provisions of paragraph (2) is granted, the appeal against a ruling as referred to in paragraph (1) is deemed to have been filed.
- (5) The Supreme Court may reverse the judicial decision of the prior instance if a violation of law or regulation has clearly influenced the judicial decision.
- (6) The provisions of Article 313; Article 315; and paragraph (2) of the preceding Article apply *mutatis mutandis* to a petition as referred to in paragraph (2); the provisions of Article 318, paragraph (3) apply *mutatis mutandis* if the court grants the permission under the provisions of paragraph (2); and the provisions of the second sentence of Article 318, paragraph (4) and paragraph (3) of the preceding Article apply *mutatis mutandis* if the permission under the provisions of paragraph (2) is granted.

Part IV Retrial

(Grounds for Retrial)

Article 338 (1) If any of the following circumstances are present, a party may protest a final judgment that has become final and binding through a demand for a retrial; provided, however, that this does not apply if a party, when filing the appeal to the court of second instance or the final appeal, alleged those circumstances or knew of them but did not allege them:

- (i) the court that pronounced judgment was not composed in accordance with the law;
- (ii) a judge who, by law, is not permitted to participate in the judgment, has participated in the judgment;
- (iii) the authority to act as a person's legal representative, authority to act as a person's litigation representative, or the delegation of powers that a representative needs in order to perform procedural acts was lacking;
- (iv) a judge who participated in the judgment has committed a crime in connection with their duties in the case;
- (v) another person's criminally punishable act has caused the party to make an admission or prevented the party from advancing allegations or evidence that would have influenced the judgment;
- (vi) a document or other object used as evidence toward the judgment was forged or altered, or an electronic or magnetic record used as evidence toward the judgment was created in an unlawful way;

- (vii) a false statement by a witness, expert, or interpreter, or by a party or legal representative who had been sworn in, was used as evidence toward the judgment;
 - (viii) the civil or criminal judgment or other judicial decision, or the administrative disposition, on which the judgment in question was based has been modified by a subsequent judicial decision or administrative disposition;
 - (ix) there has been an omission involving a determination with regard to a matter of material import that would have influenced the judgment;
 - (x) the judgment that the protest concerns conflicts with a previous judgment that has become final and binding.
- (2) If any of the circumstances stated in items (iv) through (vii) of the preceding paragraph exists, a party may demand a retrial only if a guilty verdict or decision imposing a civil fine for the relevant criminally publishable act has become final and binding, or if the reason that it is not possible to obtain a final and binding guilty verdict or final and binding decision imposing a civil fine for that act is something other than a lack of evidence.
- (3) If the court of second instance has reached a judgment on the merits of a case, it is not permissible to demand a retrial over the judgment of the court of first instance.

Article 339 If the circumstances prescribed in paragraph (1) of the preceding Article are present with regard to the judicial decision based on which a judgment is made (limited to the case prescribed in paragraph (2) of that Article if any of the circumstances stated in items (iv) through (vii) of that paragraph are present), such circumstances may be given as grounds for retrial in connection with the judgment, even if the means of filing an independent protest against that judicial decision have been specified.

(Court of Jurisdiction)

- Article 340 (1) A demand for a retrial is under the exclusive jurisdiction of the court that has reached the judgment that the protest concerns.
- (2) Demands for a retrial over judgments entered by courts of different instances with regard to the same case are collectively subject to the jurisdiction of their superior court.

(Litigation Proceedings in a Retrial)

Article 341 Unless contrary to their nature, provisions on litigation proceedings in each instance apply *mutatis mutandis* to litigation proceedings in a retrial.

(Time Frame for a Retrial)

Article 342 (1) A retrial must be demanded within an inalterable time frame of 30 days from the day on which a party has become aware of the grounds for retrial, after the judgment has become final and binding.

(2) It is not permissible to demand a retrial once five years have elapsed from the day on which the judgment becomes final and binding (or, if grounds for retrial occur after the judgment becomes final and binding, the day on which the grounds for retrial occur).

(3) The provisions of the preceding two paragraphs do not apply to a demand for a retrial filed on the grounds of a lack of representative authority, which is among the circumstances stated in Article 338, paragraph (1), item (iii), nor do they apply to the circumstances stated in Article 338, paragraph (1), item (x).

(Particulars That Must Be Entered in a Complaint Demanding a Retrial)

Article 343 The following particulars must be entered in the complaint demanding the retrial:

(i) the parties and legal representatives;

(ii) a representation of the judgment that the protest concerns, and an indication that this is the judgment over which the retrial is being demanded;

(iii) the grounds for protest.

(Amendment of Grounds for Protest)

Article 344 The party that has demanded a retrial may amend the grounds for protest.

(Denial of a Demand for a Retrial)

Article 345 (1) If a demand for a retrial is not in accordance with the law, the court must rule to deny it.

(2) If there are no grounds for retrial, the court must rule to dismiss the claims for retrial.

(3) Once a ruling as referred to in the preceding paragraph becomes final and binding, it is not permissible to further demand a retrial with the same circumstances as grounds for protest.

(Ruling to Commence Retrial)

Article 346 (1) If there are grounds for a retrial, the court must rule to commence the retrial.

(2) Before issuing the ruling referred to in the preceding paragraph, the court must hear the adverse party.

(Immediate Appeal)

Article 347 An immediate appeal may be filed against a ruling as referred to in Article 345, paragraph (1) or (2) and paragraph (1) of the preceding Article.

(Trial and Judicial Decision on the Merits)

Article 348 (1) When a ruling to commence a retrial becomes final and binding, the court conducts a trial and reaches a judicial decision on the merits, within the bounds of the party's protest.

(2) In a case as referred to in the preceding paragraph, if the court finds that the judgment in question is just, it must dismiss the claims for retrial.

(3) Except in a case as referred to in the preceding paragraph, the court must set aside the judgment and reach another judicial decision.

(Retrial over a Ruling or Order)

Article 349 (1) A party may demand a retrial over a ruling or order that has become final and binding and against which a protest may be entered through the filing of an immediate appeal.

(2) The provisions of Article 338 through the preceding Article apply mutatis mutandis to a demand as referred to in the preceding paragraph.

Part V Special Provisions on Actions on Bills or Notes and Actions on Checks

(Requirements for an Action on Bills or Notes)

Article 350 (1) A trial and judicial decision may be sought through an action on bills or notes in respect of a claim for the payment of money based on a bill or note and any incidental claim for damages at the statutory interest rate.

(2) A statement indicating that a trial and judicial decision are sought through an action on bills or notes must be entered in the complaint.

(Prohibition of Counterclaims)

Article 351 It is not permissible to file a counterclaim in an action on bills or notes.

(Limitations to the Examination of Evidence)

Article 352 (1) In an action on bills or notes, the court may only conduct examinations of evidence that involve documentary evidence and the content of information recorded in electronic or magnetic records.

(2) The court may not order a person to submit a document or request a person to send a document, and it may not issue an order as prescribed in Article 223 as applied mutatis mutandis pursuant to Article 231-3, paragraph (1) or to make a request as prescribed in Article 226 as applied mutatis mutandis pursuant to that paragraph. The same applies to the court's ordering a person to submit an

object that contains handwriting or a seal impression to be used for comparison or to the court's requesting a person to send the object.

- (3) Upon petition, the court may examine the parties themselves regarding the authenticity or inauthenticity of a document's or electronic or magnetic record's provenance or regarding a fact that concerns the presentation of a bill or note.
- (4) The court may not commission the examination of evidence. The same applies to the commissioning of an examination under the provisions of Article 186, paragraph (1).
- (5) The provisions of the preceding paragraphs do not apply to matters that are to be examined by the court *sua sponte*.

(Transfer to Ordinary Proceedings)

Article 353 (1) The plaintiff, without the consent of the defendant, may enter a statement requesting that litigation be transferred to ordinary proceedings, until that time as oral arguments are concluded.

- (2) Litigation is transferred to ordinary proceedings upon the entry of a statement as referred to in the preceding paragraph.
- (3) In a case as referred to in the preceding paragraph, the court must immediately send the defendant a notice stating that litigation has been transferred to ordinary proceedings; provided, however, that this notice is not required if a statement as referred to in paragraph (1) has been entered orally on a court date at which the defendant has appeared.
- (4) In a case as referred to in paragraph (2), the court dates already designated for the action on bills or notes is deemed to have been designated for ordinary proceedings.

(Conclusion of Oral Arguments)

Article 354 If the defendant does not deny the facts alleged by the plaintiff in oral arguments or does not submit any manner of defense, the court may conclude oral arguments even before sending the notice under the provisions of paragraph (3) of the preceding Article.

(Denial of an Action, Without Oral Arguments Being Heard)

Article 355 (1) If the whole or part of a claim is not eligible for a trial and judicial decision by way of an action on bills and notes, the court may enter a judgment denying the whole or part of the action, without hearing oral arguments.

- (2) In the case referred to in the preceding paragraph, to apply the provisions of Article 147 if the plaintiff files an action through ordinary proceedings on the claim referred to in that paragraph within two weeks from the day of being

served with a written judgment, the action is deemed to have been filed at the time of filing of the previous action.

(Prohibition of Appeal)

Article 356 It is not permissible to appeal to the court of second instance against the final judgment in an action on bills or notes; provided, however, that this does not apply to a judgment denying an action, other than a judgment as referred to in paragraph (1) of the preceding Article.

(Objection)

Article 357 An objection to a final judgment in an action on bills or notes, other than a judgment denying the action, may be lodged with the court that enters that judgment, within an inalterable time frame of two weeks from the day on which the electronic judgment or electronic record stating the parties and legal representatives, the main text, the claims, and the gist of the grounds pursuant to the provisions of Article 254, paragraph (2) is served; provided, however, that this does not preclude the validity of an objection lodged prior to that time.

(Waiver of Right to Object)

Article 358 A person may only waive the right object before lodging that objection.

(Denial of an Objection, Without Oral Arguments Being Heard)

Article 359 If an objection is not in accordance with the law and this defect cannot be corrected, the court may enter a judgment denying the objection, without hearing oral arguments.

(Withdrawal of an Objection)

Article 360 (1) An objection may be withdrawn until that time as the court of first instance reaches a final judgment through ordinary proceedings.
(2) The withdrawal of an objection is not valid unless the opposing party consents.
(3) The provisions of Article 261, paragraphs (3) through (6); Article 262, paragraph (1); and Article 263 apply mutatis mutandis to the withdrawal of an objection.

(Proceedings after Objection)

Article 361 If a lawful objection is lodged, litigation returns to the stage it was at before the conclusion of oral arguments. In such a case, the trial is conducted and the judicial decision is reached through ordinary proceedings.

(Judgment after Objection)

Article 362 (1) If a judgment that is to be reached in accordance with the provisions of the preceding Article is consistent with the judgment from the action on bills or notes, the court must approve the judgment from the action on bills or notes; provided, however, that this does not apply if the procedure upon which the judgment in the action on bills or notes is made is in violation of the law.

(2) Unless the court approves the judgment from an action on bills or notes pursuant to the provisions of the preceding paragraph, in a judgment that is to be reached in accordance with the provisions of the preceding Article, the court must set aside the judgment from the action on bills or notes.

(Court Costs in a Judgment after Objection)

Article 363 (1) Whenever the court denies an objection or approves a judicial decision on the bearing of court costs from an action on bills or notes, the court must enter a judicial decision on the bearing of court costs incurred after the objection was lodged.

(2) The provisions of Article 258, paragraph (4) apply mutatis mutandis when a lawful objection is lodged against the judgment in an action on bills or notes.

(Remand of a Case)

Article 364 If the court of second instance sets aside the judgment in the first instance denying an objection as not in accordance with the law, it must remand the case to the court of first instance; provided, however, that this does not apply if additional oral arguments in the case are unnecessary.

(Transfer from Pre-Filing Settlement Proceedings to an Action on Bills or Notes)

Article 365 In an action that is deemed to have been filed pursuant to the provisions of the second sentence of Article 275, paragraph (2), any statement indicating that a trial and judicial decision are sought through an action on bills or notes must be entered at the time the petition referred to in the first sentence of Article 275, paragraph (2) is filed.

(Transfer from Demand Procedures to an Action on Bills or Notes)

Article 366 (1) In an action that is deemed to have been filed pursuant to the provisions of Article 395 or Article 398, paragraph (1), any statement indicating that a trial and judicial decision are sought through an action on bills or notes must be entered at the time the application is filed for a demand for payment.

(2) If a declaration of provisional enforceability under the provisions of Article

391, paragraph (1) is issued, the statement referred to in the preceding paragraph is deemed not to have been made.

(Action on Checks)

Article 367 (1) A trial and judicial decision may be sought through an action on checks in respect of a claim for the payment of money based on a check and any incidental claim for damages at the statutory interest rate.

(2) The provisions of Article 350, paragraph (2) and Article 351 through the preceding Article apply mutatis mutandis to an action on checks.

Part VI Special Provisions on Small Claims Actions

(Requirements for Small Claims Actions)

Article 368 (1) In summary court, a trial and judicial decision may be sought through a small claims action in respect of a claim for the payment of money, if the value of the subject matter of litigation is not more than 600,000 yen; provided, however, that a person may not file these actions with the same summary court more frequently than the number of times specified by the Rules of the Supreme Court in the same year.

(2) A statement indicating that a trial and judicial decision are sought through a small claims action must be entered at the time the action is filed.

(3) In entering a statement as referred to in the preceding paragraph, the plaintiff must report the number of times in the relevant year that the plaintiff has sought trials and judicial decisions through small claims actions in the summary court where the plaintiff is filing the action.

(Prohibition of Counterclaim)

Article 369 It is not permissible to file a counterclaim in a small claims action.

(The Single-Day Trial Principle)

Article 370 (1) In a small claims action, unless there are special circumstances, the trial must be completed on the first date for oral arguments.

(2) The parties must advance all allegations and evidence prior to the date referred to in the preceding paragraph or on that date; provided, however, that this does not apply if oral arguments are continued.

(Restriction on the Examination of Evidence)

Article 371 It is permissible to limit the examination of evidence to evidence that can be examined immediately.

(Examination of Witnesses)

Article 372 (1) It is permissible to examine a witness without having the witness swear under oath.

(2) The witnesses and the parties themselves are examined in the order that the judge finds appropriate.

(3) If the court finds it to be appropriate, it may examine a witness, as provided for by the Rules of the Supreme Court, in a way that enables the court, the parties, and the witness to communicate with one another at the same time, through audio transmissions.

(Transfer to Ordinary Proceedings)

Article 373 (1) The defendant may enter a statement requesting that litigation be transferred to ordinary proceedings; provided, however, that this does not apply after the defendant has presented oral arguments on the first date for oral arguments or if that court date has been completed.

(2) Litigation is transferred to ordinary proceedings upon the entry of a statement as referred to in the preceding paragraph.

(3) In the following cases, the court must rule to conduct a trial and reach a judicial decision in litigation through ordinary proceedings:

(i) the plaintiff has sought a trial and judicial decision through a small claims action in violation of the provisions of Article 368, paragraph (1);

(ii) the court has specified a reasonable time frame and ordered a report in accordance with the provisions of Article 368, paragraph (3), but that report is not given;

(iii) it is impossible to summon the defendant to the first date for oral arguments by any means other than service by publication;

(iv) the court finds it inappropriate to conduct a trial and reach a judicial decision through a small claims action.

(4) It is not permissible to enter a protest against the ruling referred to in the preceding paragraph.

(5) If litigation is transferred to ordinary proceedings, any date already designated for the small claims action is deemed to have been designated for ordinary proceedings.

(Rendition of Judgment)

Article 374 (1) Unless the court finds it to be inappropriate, the court renders a judgment immediately after the conclusion of oral arguments.

(2) In a case as referred to in the preceding paragraph, the court may render its judgment without basing this on the electronic judgment. In such a case, the provisions of Article 254, paragraph (2) and Article 255 apply *mutatis mutandis*.

(Granting a Grace Period for Payment Upon the Judgment)

- Article 375 (1) If the court enters a judgment upholding a claim and finds it to be particularly necessary in consideration of the defendant's financial resources or other such circumstances, it may establish rules on a time frame or installment plan, not exceeding three years from the date on which it renders the judgment, for paying the money under the claim it is upholding, and may simultaneously establish that the defendant will be exempted from the obligation to pay any default charges that have accrued after the filing of the action if the defendant pays the money under that claim in accordance with the rules on the time frame, or if the defendant pays that money without losing the benefit of time gained from the rules on the installment plan, pursuant to the rules under the following paragraph.
- (2) If the court establishes rules on an installment plan as referred to in the preceding paragraph, it must establish rules on the forfeiture of the acceleration of due date in the event of the defendant's failure to pay.
- (3) It is not permissible to enter a protest against a judicial decision involving the rules under the provisions of the preceding two paragraphs.

(Declaration of Provisional Enforceability)

- Article 376 (1) In a judgment upholding a claim, the court must issue a sua sponte declaration that provisional enforcement may be effected if security is provided or that provisional enforcement may be effected without security being provided.
- (2) The provisions of Articles 76, 77, 79, and 80 apply mutatis mutandis to security as referred to in the preceding paragraph.

(Prohibition of Appeals to the Court of Second Instance)

- Article 377 It is not permissible to file an appeal to the court of second instance against the final judgment in a small claims action.

(Objections)

- Article 378 (1) An objection against the final judgment in a small claims action may be lodged with the court that has entered that judgment, within an inalterable period frame of two weeks from the day on which an electronic judgment or an electronic record recording the parties and legal representatives, the main text, the claims, and the gist of the grounds pursuant to the provisions of Article 254, paragraph (2) (including as applied mutatis mutandis pursuant to Article 374, paragraph (2)) is served; provided, however, that this does not preclude the validity of an objection lodged prior to that time frame.
- (2) The provisions of Articles 358 through 360 apply mutatis mutandis to the

objection referred to in the preceding paragraph.

(Trial and Judicial Decision After Objection)

- Article 379 (1) If a lawful objection is lodged, litigation returns to the stage it was at before the conclusion of oral arguments. In such a case, the trial is conducted and a judicial decision is reached through ordinary proceedings.
- (2) The provisions of Article 362; Article 363; Article 369; Article 372, paragraph (2); and Article 375 apply *mutatis mutandis* to a trial and judicial decision as referred to in the preceding paragraph.

(Appeal Against a Judgment After Objection)

- Article 380 (1) It is not permissible to appeal to the court of second instance against a final judgment entered in accordance with the provisions of Article 359, as applied *mutatis mutandis* pursuant to Article 378, paragraph (2), and the provisions of paragraph (1) of the preceding Article.
- (2) The provisions of Article 327 apply *mutatis mutandis* to a final judgment as referred to in the preceding paragraph.

(Civil Fines)

- Article 381 (1) If a person seeking a trial and judicial decision through a small claims action falsely reports the number of times referred to in Article 368, paragraph (3), the court issues a ruling sentencing that person to a civil fine of not more than 100,000 yen.
- (2) An immediate appeal may be filed against the ruling referred to in the preceding paragraph.
- (3) The provisions of Article 189 apply *mutatis mutandis* to a judicial decision imposing a civil fine under the provisions of paragraph (1).

Part VII Special Provisions on Court Proceedings in a Trial with a Statutory-Limited Duration on Expedited Civil Proceedings

(Requirements for Court Proceedings in a Trial with a Statutory-Limited Duration)

- Article 381-2 (1) A party may file a request with the court seeking a trial and judicial decision through court proceedings in a trial with a statutory-limited duration ; provided, however, this does not apply to the actions stated in the following:
- (i) an action involving a consumer contract; and
 - (ii) an action involving a civil dispute over an individual labor relationship.
- (2) If both parties to the case make the request referred to in the preceding paragraph, the court must rule that it will try the action and reach a judicial

decision through court proceedings in a trial with a statutory-limited duration, unless the court finds that doing this would be inequitable to either party or prevent a fair trial, in consideration of the nature of the case, the degree of burden that the parties would have to bear in conducting the litigation, and other circumstances. The same applies if one of the parties makes the request under that paragraph and the adverse party agrees to a trial and judicial decision through court proceedings in a trial with a statutory-limited duration.

- (3) A party must make the request under paragraph (1) or give their agreement under the second sentence of the preceding paragraph using a paper document; provided, however, that this does not preclude them from making an oral request or agreeing orally on a date for oral arguments or preparatory proceedings.
- (4) If an action is transferred to court proceedings in a trial with a statutory-limited duration, the dates designated for regular proceedings are deemed to have been designated for the purpose of expedited civil proceedings.

(Trials in Court Proceedings in a Trial with a sStatutory-Limited Duration)

Article 381-3 (1) When a ruling under paragraph (2) of the preceding Article is made, the presiding judge must designate a date for oral arguments or preparatory proceedings that is within two weeks after the date of ruling.

- (2) On the court date referred to in the preceding paragraph, the presiding judge must designate a date for concluding oral arguments in the case that is within six months after the current court date, and must designate a court date for rendering the judgment that is within one month after the date on which oral arguments are concluded.
- (3) If a ruling as referred to in paragraph (2) of the preceding Article has been made, the parties must submit allegations and evidence within five months from the court date specified in paragraph (1) (or within the shorter period that the court designates after hearing the opinions of both parties, if applicable).
- (4) The court is to confirm with both parties which matters will be decided in the judgment in court proceedings in a trial with a statutory-limited duration, based on the results of the arrangement of issues and evidence, before the expiration of the period referred to in the preceding paragraph.
- (5) The examination of evidence in court proceedings in a trial with a statutory-limited duration must be conducted within six months from the court date referred to in paragraph (1) (or within the shorter period that the court designates after hearing the opinions of both parties, if applicable).
- (6) Notwithstanding the provisions of Article 93, paragraph (3), the court may not permit a change of court dates in court proceedings in a trial with a statutory-limited duration unless there is a compelling reason.

(Transfer to Ordinary Proceedings)

Article 381-4 (1) In the following cases, the court must issue a ruling that the action will be tried and a judicial decision will be reached through ordinary proceedings:

- (i) if one or both parties enter a statement requesting that the case be transferred to ordinary proceedings; or
 - (ii) if the court finds that it will be difficult to try the action or reach a judicial decision through court proceedings in a trial with a statutory-limited duration in light of the allegations and evidence submitted and the status of the trial.
- (2) No appeal may be entered against the ruling stated in the preceding paragraph.
- (3) If a case is transferred to ordinary proceedings, the dates designated for court proceedings in a trial with a statutory-limited duration must be deemed to have been designated for the purpose of ordinary litigation proceedings.

(Electronic Judgments in Court Proceedings in a Trial with a Statutory-Limited Duration)

Article 381-5 In an electronic judgment in court proceedings in a trial with a statutory-limited duration, the important points of the prayer for relief and the statement of the claims as well as other allegations and evidence must be recorded as the facts, and the details of the determination concerning the matters confirmed with both parties pursuant to the provisions of Article 381-3, paragraph (4) must be recorded as the grounds.

(Prohibition of Appeal)

Article 381-6 It is not permissible to appeal to the court of second instance against the final judgment in court proceedings in a trial with a statutory-limited duration; provided, however, that this does not apply to a judgment denying an action.

(Objection)

Article 381-7 (1) A party may file an objection to the final judgment in court proceedings in a trial with a statutory-limited duration, other than a judgment denying the action, with the court that has entered that judgment, within an inalterable time frame of two weeks after the day on which the electronic judgment is served; provided, however, that this does not preclude the validity of an objection filed prior to that time.

- (2) The provisions of Article 358 through Article 360 as well as Article 364 apply mutatis mutandis to the objection under the preceding paragraph.

(Trial and Judicial Decision After the Filing of an Objection)

Article 381-8 (1) If a lawful objection is filed, litigation returns to the stage it was at before the conclusion of oral arguments. In such a case, the trial is conducted and the judicial decision is reached through ordinary proceedings.

- (2) An objection under the preceding paragraph has the effect of a stay of enforcement.
- (3) The court may stay the enforcement of the final judgment in court proceedings in a trial with a statutory-limited duration or reach any other necessary disposition until a judgment has been reached after the filing of an objection.
- (4) The provisions of Article 362 and Article 363 apply *mutatis mutandis* to a trial and judicial decision under paragraph (1).

Part VIII Demand Procedures
Chapter I General Provisions

(Requirements for Demanding Payment)

Article 382 At the application of the creditor, the court clerk may issue a demand for the payment of a claim whose object is the payment or delivery of a fixed amount of money, other fungible, or securities; provided, however, that this applies only if it is possible to serve the demand in Japan without recourse to service by publication.

(Application for a Demand for Payment)

- Article 383 (1) An application for a demand for payment is filed with the court clerk of the summary court of jurisdiction in the locality that constitutes the general venue for an action involving the debtor.
- (2) An application for a demand for the payment of the claim stated in each of the following items may also be filed with the court clerk of the summary court of jurisdiction in the place stated in that item:
- (i) a claim against a person with an office or a business office, which is filed in connection with the business conducted at the person's office or business office: the location of that office or business office;
 - (ii) a claim for the payment of monies based on a bill, note, or check, and any incidental claims: the place for payment of the bill or note or for the check.

(*Mutatis Mutandis* Application of Provisions on Actions)

Article 384 Unless contrary to their nature, provisions on actions apply *mutatis mutandis* to an application for a demand for payment.

(Denial of an Application)

Article 385 (1) If an application for a demand for payment is not in accordance with the provisions of Article 382 or Article 383 or if it is obvious, from the object of the application, that the claim is without grounds, the application must be denied. The same applies to any part of a claim for which it is not permissible to issue a demand for payment.

(2) The disposition under the provisions of the preceding paragraph comes into effect by notice being given by a means that is considered appropriate.

(3) Any objection to the disposition referred to in the preceding paragraph must be lodged within an inalterable time frame of one week from the day on which the notice is received.

(4) It is not permissible to enter a protest against a judicial decision on an objection as referred to in the preceding paragraph.

(Issuance of a Demand for Payment)

Article 386 (1) A demand for payment is issued without the debtor being heard.

(2) A debtor may lodge an objection to a demand for payment with the summary court to which the court clerk that issues the demand belongs.

(Particulars That Must Be Entered in an Electronic Demand for Payment)

Article 387 (1) When issuing a demand for payment, the court clerk must create an electronic demand for payment (meaning an electronic or magnetic record containing the following and including a supplementary note indicating that if the debtor does not lodge an objection to the demand within two weeks after the day on which the debtor is served with the demand for payment, a declaration of provisional enforceability will be issued at the petition of the creditor; the same applies in this Chapter) as provided for by the Rules of the Supreme Court:

(i) an indication that the debtor is being ordered to make a payment or delivery as referred to in Article 382;

(ii) the prayer for relief and a statement of the claim;

(iii) the parties and legal representatives.

(2) When a court clerk has created an electronic demand for payment pursuant to the provisions of the preceding paragraph, they must record it in the court's computer files as provided for by the Rules of the Supreme Court.

(Service of Electronic Demand for Payment)

Article 388 (1) An electronic demand for payment (limited to one recorded in the court's computer files pursuant to the provisions of paragraph (2) of the preceding Article; the same applies in this Chapter) must be served on the debtor.

(2) A demand for payment becomes valid at the time it is served on the debtor.

- (3) If it is not possible to serve an electronic demand for payment because the debtor's domicile, residence, business office or other office, or workplace is not located at the place the creditor has expressed, the court clerk must notify the creditor of this. In such a case, if the creditor does not propose a place for service to be effected other than the place previously proposed within an inalterable time frame of two weeks from the day on which the creditor receives that notice, the creditor is deemed to have withdrawn the application for the demand for payment.

(Correction of a Demand for Payment)

Article 389 (1) The provisions of Article 74, paragraphs (1) and (2) apply *mutatis mutandis* to a demand for payment.

- (2) If a lawful objection to a demand for payment is lodged after a declaration of provisional enforceability, it is not permissible to lodge an objection to a corrective action under the provisions of Article 74, paragraph (1) as applied *mutatis mutandis* pursuant to the preceding paragraph.

(Objection to a Demand Prior to a Declaration of Provisional Enforceability)

Article 390 If a lawful objection to a demand for payment is lodged prior to a declaration of provisional enforceability, the demand for payment ceases to be valid, to the extent of the objection to the demand.

(Declaration of Provisional Enforceability)

Article 391 (1) If a debtor does not lodge an objection to an electronic demand for payment within two weeks from the day on which the debtor is served with that demand for payment, the court clerk, at the petition of the creditor, must issue a declaration of provisional enforceability, attaching a supplementary note of the amount of expenses for demand procedures to the demand for payment; provided, however, that this does not apply if an objection to the demand is lodged prior to that declaration.

- (2) Any declaration of provisional enforceability must be recorded in an electronic demand for payment, as provided for by the Rules of the Supreme Court, and the demand for payment must be served on the parties; provided, however, that with the consent of the creditor, a paper document prepared by outputting the information contained in the electronic demand for payment in which a declaration of provisional enforceability has been recorded may be sent to the creditor, in lieu of service.
- (3) The provisions of Article 385, paragraphs (2) and (3) apply *mutatis mutandis* to a disposition denying, a petition as referred to in paragraph (1) and to the lodging of an objection against such a disposition.
- (4) An immediate appeal may be filed against a judicial decision on an objection

as referred to in the preceding paragraph.

- (5) The provisions of Article 260 and Article 388, paragraph (2) apply *mutatis mutandis* to a declaration of provisional enforceability as referred to in paragraph (1).

(Loss of Validity of a Demand for Payment upon the Expiration of a Time Frame)

Article 392 If a creditor does not file a petition for a declaration of provisional enforceability within 30 days from the time at which it becomes permissible for the creditor to file that petition, the demand for payment ceases to be valid.

(Objection to a Demand After a Declaration of Provisional Enforceability)

Article 393 Once an inalterable time frame of two weeks has passed following the day on which the debtor is served with an electronic demand for payment bearing a declaration of provisional enforceability, the debtor may not lodge an objection to that demand for payment.

(Denial of an Objection to a Demand)

- Article 394 (1) If the summary court finds that an objection to a demand is not in accordance with the law, it must rule to deny that objection, even if the claim that the objection concerns is subject to the jurisdiction of the district court.
- (2) An immediate appeal may be filed against the ruling referred to in the preceding paragraph.

(Transfer to Litigation Based on an Objection to a Demand)

Article 395 If a lawful objection to a demand is lodged, an action is deemed to have been filed regarding the claim that the objection concerns, at the time that the application for the demand for payment was filed, with the summary court to which the court clerk issuing the demand for payment belongs or with the district court of jurisdiction for that locality, depending on the value of the subject matter of the claim. In such a case, expenses for the demand procedures constitute part of the court costs.

(Validity of a Demand for Payment)

Article 396 If no objection is lodged to a demand for payment bearing a declaration of provisional enforceability, or when a ruling denying an objection to a demand becomes final and binding, the demand for payment has the same effect as a final and binding judgment.

Chapter II Special Provisions on Demand Procedures That Are Handled Using Electronic Data Processing Systems

(Applying for a Demand for Payment Using Electronic Data Processing Systems)

Article 397 A means of using an electronic data processing system specified by the Rules of the Supreme Court may be used as provided by the Rules of the Supreme Court to file an application for a demand for payment with the court clerk of a summary court specified by the Rules of the Supreme Court as a court that handles demand procedures under the provisions of this Chapter (referred to as a "designated summary court" in Article 398, paragraph (1) and Article 399), not only in a case as prescribed in Article 383, but also if the summary court prescribed in that Article is a summary court separately provided for by the Rules of the Supreme Court.

Article 398 (1) If, in demand procedures involving an application for a demand for payment that is filed, pursuant to the provisions of the main clause of Article 132-10, paragraph (1), using an electronic data processing systems, a lawful objection to a demand is lodged against the relevant demand for payment, an action is deemed to have been filed, at the time that the application for the demand for payment was filed and regarding the claim that the objection concerns, with the summary court as provided for in Article 383, to which the court clerk issuing the demand for payment belongs, or the summary court separately provided for by the Rules of the Supreme Court as referred to in the preceding Article, or with the district court of jurisdiction in the locality of either such summary court, depending on the value of the subject matter of the claim.

(2) In a case as referred to in the preceding paragraph, if there are two or more applicable summary or district courts as prescribed in that paragraph, and the summary court as provided for in Article 383, paragraph (1) or the district court of jurisdiction in that locality is among them, the action regarding the claim that the objection concerns is deemed to have been filed there, and if neither of the courts is among them, the action for that claim is deemed to have been filed with the summary court of jurisdiction in the place specified in paragraph (2), item (i) of that Article or the district court of jurisdiction for that locality.

(3) Notwithstanding the provisions of the preceding paragraph, if the creditor, as provided for by the Rules of the Supreme Court, has designated a summary court or district court from among the summary courts or district courts as provided for in paragraph (1), the action is deemed to have been filed with that court.

(When Service Using Electronic Data Processing Systems Takes Effect)

Article 399 Notwithstanding the provisions of Article 109-3, with the consent of the creditor that is to be served, service under the provisions of Article 109-2, paragraph (1) concerning demand procedures involving an application for a demand for payment that is filed with a court clerk of a designated summary court takes effect when a notice under that paragraph is sent to the creditor.

Articles 400 through Article 402 (Deleted)

Part IX Stays of Enforcement

(Judicial Decision for a Stay of Enforcement)

Article 403 (1) In the following cases, the court, upon petition, may issue a ruling ordering a temporary stay of judicial enforcement, with or without requiring a person to provide security, and simultaneously ordering the provisions of security and the commencement or continuance of judicial enforcement, or simultaneously ordering a revocation of executive measures already taken while requiring a person to provide security; provided, however, that the court may only issue an order to commence or continue judicial enforcement in the cases stated in items (iii) through (vi):

- (i) an appeal as referred to in Article 327, paragraph (1) (including as applied *mutatis mutandis* pursuant to Article 380, paragraph (2); the same applies in the following Article) or a demand for a retrial is filed, there appear to be legal grounds for the circumstances being alleged to be used as grounds for protest and the party makes a *prima facie* showing in respect of a point of fact involving those circumstances, and the party makes a *prima facie* showing that enforcement risks causing damage that it would not be possible to compensate;
- (ii) a final appeal or a petition to accept a final appeal is filed against a judgment bearing a declaration of provisional enforceability, and the party makes a *prima facie* showing in respect of circumstances under which the judgment in prior instance would be reversed and a *prima facie* showing that enforcement risks causing damage that it would not be possible to compensate;
- (iii) an appeal to the court of second instance is filed against a judgment bearing a declaration of provisional enforceability, or an objection is filed to a demand for payment bearing a declaration of provisional enforceability (other than an appeal to the court of second instance and an objection to a demand as referred to in the following item), and the party makes a *prima facie* showing that it is impossible to assert that no circumstances exist that would constitute cause to reverse or change the judgment in the prior instance or the demand for payment, or makes a *prima facie* showing that

- enforcement risks causing substantial damage;
- (iv) an appeal to the court of second instance is filed against a judgment bearing a declaration of provisional enforceability, or an objection is filed to a demand for payment bearing a declaration of provisional enforceability, on a claim for the payment of money for a bill or note or for a check and any on incidental claim for damages at the statutory interest rate, and the party makes a prima facie showing in respect of circumstances that would constitute cause to reverse or change the judgment in the prior instance or the demand for payment;
 - (v) an objection is filed against a judgment in an action on a bill or note or action on a check bearing a declaration of provisional enforceability, or an objection is filed against a judgment in a small claims action bearing a declaration of provisional enforceability, and the party makes a prima facie showing in respect of circumstances that would constitute cause to reverse or change the judgment in the prior instance;
 - (vi) an action as referred to in Article 117, paragraph (1) is filed, there appear to be legal grounds for the circumstances being alleged to be used for a modification, and the party makes a prima facie showing in respect of a point of fact involving those circumstances.
- (2) No protest may be entered against a judicial decision on a petition prescribed in the preceding paragraph.

(Judicial Decision by the Court of Prior Instance)

- Article 404 (1) If an appeal as referred to in Article 327, paragraph (1) is filed, a final appeal or a Petition for the Acceptance of Final Appeal is filed against a judgment bearing a declaration of provisional enforceability, or an appeal to the court of second instance is filed against a judgment bearing a declaration of provisional enforceability, and the case record is stored at the court of prior instance, that court reaches a judicial decision on the petition prescribed in paragraph (1) of the preceding Article.
- (2) The provisions of the preceding paragraph apply mutatis mutandis if an objection is filed to a demand for payment bearing a declaration of provisional enforceability.

(Provision of Security)

- Article 405 (1) If a party provides security pursuant to the provisions of this Part, in depositing it, the party must use the official depository located in the territorial jurisdiction of the district court of jurisdiction in the locality of the court that has ordered the party to provide the security or of the enforcement court.
- (2) The provisions of Articles 76, 77, 79, and 80 apply mutatis mutandis to

security as referred to in the preceding paragraph.