

# **Cabinet Office Order on Non-Disclosure of Patent Applications Under the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures**

(Cabinet Office Order No. 78 of December 18, 2023)

Based on the provisions of Article 67, paragraph (1), paragraph (9), and paragraph (10), Article 70, paragraph (1) and paragraph (3), Article 73, paragraph (2), Article 75, paragraph (1), Article 76, paragraph (1) and paragraph (2), and Article 80, paragraph (2) of the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures (Act No. 43 of 2022), and in order to enforce that Act, the Cabinet Office Order on Non-Disclosure of Patent Applications under the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures is established as follows.

## **(Definition)**

Article 1 The terms used in this Cabinet Office Order are the same as the terms used in the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures (referred to as "the Act" below).

## **(Procedures in Writing)**

Article 2 (1) When taking procedures that are to be carried out by submitting documents to the Prime Minister pursuant to the provisions of Chapter 5 of the Act or the provisions of this Cabinet Office Order, a patent applicant must enter the name of the submitter (for a corporation, its name and the name of its representative), the submitter's domicile or residence, and the patent application number in the documents.

(2) The documents referred to in the preceding paragraph must be written in Japanese.

## **(Hearing of Opinions at Security Reviews)**

Article 3 When conducting a security review under the provisions of Article 67, paragraph (1) of the Act, the opinions of the patent applicant regarding the extent of the risk that the disclosure of the invention stated in the description, etc. may undermine the security of the State and its citizens through actions taken from the outside, and the impact on industrial development if a security designation is made, and other circumstances are to be heard; provided,

however, that this does not apply when it can be determined that there is no need to make a security designation without requesting the submission of materials or explanations from the patent applicant pursuant to the provisions of paragraph (2) of that Article.

(Notice on the Content of the Invention that Could be an Invention for Security Designation)

Article 4 The notice under the provisions of Article 67, paragraph (9) of the Act is to be made by a document stating the content of the invention that could be an invention for security designation, and the place in the description, etc. where that invention is stated.

(Matters to Specified by Cabinet Office Order Referred to in Article 67, Paragraph (9), Item (iii) of the Act)

Article 5 The matters specified by Cabinet Office Order referred to in Article 67, paragraph (9), item (iii) of the Act are the content of the modifications when any modifications are scheduled for the matters specified in item (i) or (ii) of that paragraph.

(Procedures for Maintaining Patent Applications)

Article 6 The submission of the document under the provisions of Article 67, paragraph (10) of the Act must be made by using Form No. 1.

(Notices on Security Designation)

Article 7 The notices to patent applicants and the Commissioner of the Japan Patent Office under the provisions of Article 70, paragraph (1) of the Act are to be given by using a document stating the following matters:

- (i) the content of the invention for security designation and the place in the description, etc. where that invention for security designation is stated;
- (ii) the period of time for the security designation specified pursuant to the provisions of Article 70, paragraph (2) of the Act; and
- (iii) the matters concerning invention sharing business entities.

(Extension of the Security Designation Period)

Article 8 When extending the security designation period pursuant to the provisions of the second sentence of Article 70, paragraph (3) of the Act, the opinions of the designated patent applicant are to be heard in advance.

(Matters to be Stated in Written Applications for Authorization for Working the Inventions for Security Designation)

Article 9 The matters specified by Cabinet Office Order referred to in Article 73,

paragraph (2) of the Act are as follows:

- (i) the name of a person who intends to work the invention (for a corporation, its name and the name of its representative), and the person's domicile or residence;
- (ii) the reasons that necessitate working of the invention; and
- (iii) measures to be taken for preventing leakage of the information on the invention for security designation for working the invention.

(Measures Specified by Cabinet Office Order Referred to in Article 75,  
Paragraph (1) of the Act)

Article 10 The measures specified by Cabinet Office Order referred to in Article 75, paragraph (1) of the Act are as follows:

- (i) the following measures as measures on management of systematic information;
  - (a) to properly manage persons who handle the information on the invention for security designation (for measures to be taken by invention sharing business entities, limited to the information on the invention for security designation which has been admitted for the designated patent applicant to handle; referred to as "information on the invention for security designation" below in this Article) (the persons are referred to as "persons handling information" below in this Article), and appoint a responsible person who integrally manages appropriate implementation of the measures to prevent the leakage of the information on the invention for security designation (referred to as "responsible person for the information on the invention for security designation" below in this Article);
  - (b) to clarify the responsibilities and duties of the responsible person for the information on the invention for security designation, and other persons handling information;
  - (c) to develop a management register stating the security designation period, the names of the present and past responsible persons for the information on the invention for security designation and other persons handling information, the status of the authorization to work the invention, and other necessary information to properly manage the information on the invention for security designation;
  - (d) to handle the information on the invention for security designation as trade secrets (meaning the trade secrets provided for in Article 2, paragraph (6) of the Unfair Competition Prevention Act (Act No. 47 of 1993));
  - (e) to formulate and implement rules on proper management of the information on the invention for security designation, and evaluate the operation of the rules and make improvements in order to appropriately

- take measures on the management of the information on the invention for security designation;
- (f) when invention sharing business entities formulate the rules referred to in sub-item (e), or make modifications to those rules, to have the entities obtain the confirmation of the designated patent applicant in advance;
- (g) to develop a system for handling affairs when the leakage of the information on the invention for security designation has occurred or is likely to occur;
- (h) when finding that the leakage of the information on the invention for security designation has occurred or is likely to occur, the designated patent applicant must immediately report that fact to the Prime Minister, and an invention sharing business entity must immediately report that fact to the designated patent applicant;
- (ii) the following measures as measures on management of personal information:
  - (a) to limit the scope of persons handling information to the minimum necessary;
  - (b) when adding a person to persons handling information, to have the responsible person for the information on the invention for security designation check whether there is a risk that the person will leak the information on the invention for security designation in advance, and when it is likely that the risk will occur, to prohibit the person from handling the information on the invention for security designation;
  - (c) to take measures to have persons handling information comply with the rules referred to in sub-item (e) of the preceding item;
  - (d) to have the responsible person for the information on the invention for security designation conduct necessary education and training for other persons handling information;
- (iii) the following measures as measures on management of physical information:
  - (a) to take measures to specify the zone for handling the information on the invention for security designation, or for storing documents, drawings, electronic or magnetic records (meaning a record made by electronic method, magnetic method, or other methods not perceivable by human senses) or objects in which the information on the invention for security designation is recorded, or objects that embody the information on the invention for security designation (referred to as "documents, etc. containing the information on the invention for security designation" below in this item) and to manage and restrict entries into the zone that has been specified (referred to as "specified zone" below in this item);
  - (b) storing of documents, etc. containing the information on the invention for

- security designation is to be made in the specified zone after taking measures to prevent the leakage of the information on the invention for security designation using appropriate storage facilities;
- (c) when newly copying or creating documents, etc. containing the information on the invention for security designation, to make it a rule to obtain the approval of the responsible person for the information on the invention for security designation in advance by presenting the reasons and the method, and to limit the number of the copies and the documents, etc. to the minimum necessary;
  - (d) when taking out documents, etc. containing the information on the invention for security designation from the specified zone, to make it a rule to obtain the approval of the responsible person for the information on the invention for security designation in advance by presenting the reasons and the method;
  - (e) when disposing of documents, etc. containing the information on the invention for security designation, to use means that make restoration impossible; and
  - (f) beyond what is stated in sub-items (a) through (e), to take measures to prevent theft and loss of documents, etc. containing the information on the invention for security designation;
- (iv) the following measures as measures on management of technical information:
- (a) to take measures to limit the persons who can handle the information on the invention for security designation on a computer;
  - (b) when a computer for handling the information on the invention for security designation is connected to telecommunications lines, to take measures to prevent acts of unauthorized computer access (meaning the acts of unauthorized computer access provided for in Article 2, paragraph (4) of the Act on Prohibition of Unauthorized Computer Access (Act No. 128 of 1999)); and
  - (c) beyond what is stated in sub-items (a) and (b), to take measures to prevent the leakage of the information on the invention for security designation on a computer.

(Procedures for Modifications of Invention Sharing Business Entities)

Article 11 (1) The application for permission under the provisions of Article 76, paragraph (1) of the Act must be filed by an application document using Form No. 2 that states the following matters:

- (i) the name of the business entity for which handling of the information on the invention for security designation is to be newly permitted (for a corporation, its name and the name of its representative), and its domicile or residence;

- (ii) the reasons that necessitate to newly permit the business entity to handle the information on the invention for security designation; and
  - (iii) the plan for information management by the business entity that is newly permitted to handle the information on the invention for security designation.
- (2) The notification of the modifications under the provisions of Article 76, paragraph (2) of the Act must be given by a written notice using Form No. 3.

(Written Claim for Compensation)

Article 12 The person who seeks to claim compensation pursuant to the provisions of Article 80, paragraph (2) of the Act must submit a written claim using Form No. 4 that states the matters stated in the following items with the materials sufficient to make a prima facie showing of those matters attached, to the Prime Minister:

- (i) the total amount of compensation claimed and its breakdown ;
- (ii) the reasons for claiming compensation.

(Identification Card for On-site Inspections)

Article 13 The identification card of a person who conducts on-site inspections pursuant to the provisions of Article 84, paragraph (1) of the Act is to be based on Form No. 5.

### **Supplementary Provisions**

This Cabinet Office Order comes into effect on the day of enforcement of the provisions stated in Article 1, item (v) of the Supplementary Provisions of the Act.