

実用新案法（第八条、第三十条、第三十一条、第三十二  
条の二、第三十三条の二、第四十八条の四及び別表  
（第五十四条関係）未施行（暫定版））  
**Utility Model Act (Tentative translation)**

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

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第一章 総則

Chapter I General Provisions

(目的)

(Purpose)

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

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

(定義)

(Definitions)

第二条 この法律で「考案」とは、自然法則を利用した技術的思想の創作をいう。

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

2 この法律で「登録実用新案」とは、実用新案登録を受けている考案をいう。

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

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

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

(手続の補正)

(Amendment of Procedures)

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

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

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

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

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

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

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

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

(4) In the following cases, the Commissioner of the Patent Office may order that a procedural amendment be made within a reasonable, specified period of time:

一 手続が第二条の五第二項において準用する特許法（昭和三十四年法律第二百一十一号）第七条第一項から第三項まで又は第九条の規定に違反しているとき。

(i) if the procedure violates the provisions of Articles 7, paragraphs (1) through (3) or Article 9 of the Patent Act (Act No. 121 of 1959) as applied mutatis mutandis pursuant to Article 2-5, paragraph (2) of this Act;

二 手続がこの法律又はこの法律に基づく命令で定める方式に違反しているとき。

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

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

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

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

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

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

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

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

(手続の却下)

(Dismissal of a Procedure)

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

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

(法人でない社団等の手続をする能力)

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

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

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

一 第十二条第一項に規定する実用新案技術評価の請求をすること。

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

二 審判を請求すること。

(ii) demand a trial or appeal:

三 審判の確定審決に対する再審を請求すること。

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

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

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

(特許法の準用)

(Application Mutatis Mutandis of the Patent Act)

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

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

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

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

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

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

4 特許法第二十六条の規定は、実用新案登録に準用する。

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

## 第二章 実用新案登録及び実用新案登録出願

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

(実用新案登録の要件)

(Requirements for Utility Model Registration)

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

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

一 実用新案登録出願前に日本国内又は外国において公然知られた考案

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

二 実用新案登録出願前に日本国内又は外国において公然実施をされた考案

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

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

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

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

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

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

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

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

(実用新案登録を受けることができない考案)

(Unregisterable Devices)

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

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

(仮通常実施権)

(Provisional Non-Exclusive Licenses)

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

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

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

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

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

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

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

(実用新案登録出願)

(Applications for a Utility Model Registration)

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

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

一 実用新案登録出願人の氏名又は名称及び住所又は居所

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

二 考案者の氏名及び住所又は居所

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

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

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

3 前項の明細書には、次に掲げる事項を記載しなければならない。

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

一 考案の名称

(i) the title of the device;

二 図面の簡単な説明

(ii) a brief description of the drawings; and

三 考案の詳細な説明

(iii) a detailed description of the device.

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

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

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

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

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

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

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

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

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

二 実用新案登録を受けようとする考案が明確であること。

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

三 請求項ごとの記載が簡潔であること。

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

四 その他経済産業省令で定めるところにより記載されていること。

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

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

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

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

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

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

(補正命令)

(Order to Amend)

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

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

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

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

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

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

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

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

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

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

(先願)

(Prior Application)

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

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

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

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

registration for the device claimed.

(実用新案登録出願等に基づく優先権主張)

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

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

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

一 その実用新案登録出願が先の出願の日から一年以内にされたものでない場合（その実用新案登録出願が故意に先の出願の日から一年以内にされなかつたものでないと認められる場合であつて、かつ、その実用新案登録出願が経済産業省令で定める期間内に経済産業省令で定めるところによりされたものである場合を除く。）

(i) if the relevant application for utility model registration is not filed within one year from the date of filing of the earlier application (excluding cases where the person is not found to have intentionally failed to file the application for utility model registration within one year from the date of filing, and it was filed pursuant to Order of the Ministry of Economy, Trade and Industry within a period specified by Order of the Ministry of Economy, Trade and Industry);

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

若しくは第二項の規定による出願の変更に係る特許出願若しくは同法第四十六条の二第一項の規定による実用新案登録に基づく特許出願である場合

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

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

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

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

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

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

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

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

法第三十九条第三項及び第四項並びに第七十二条、意匠法（昭和三十四年法律第百二十五号）第二十六条、第三十一条第二項及び第三十二条第二項並びに商標法（昭和三十四年法律第百二十七号）第二十九条並びに第三十三条の二第三項及び第三十三条の三第三項（これらの規定を同法第六十八条第三項において準用する場合を含む。）の規定の適用については、当該実用新案登録出願は、当該先の出願の時にされたものとみなす。

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

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

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

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

(4) A person seeking a priority claim under the provisions of paragraph (1) must submit to the Commissioner of the Patent Office a document stating the effect thereof and the indication of the earlier application within a priority claim

specified by Order of the Ministry of Economy, Trade and Industry.

(先の出願の取下げ等)

**(Withdrawal of an Earlier Application)**

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

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

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

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

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

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

(出願の変更)

**(Conversion of Application)**

第十条 特許出願人は、その特許出願（特許法第四十六条の二第一項の規定による実用

新案登録に基づく特許出願（同法第四十四条第二項（同法第四十六条第六項において準用する場合を含む。）の規定により当該特許出願の時にしたものとみなされるものを含む。）を除く。）を实用新案登録出願に変更することができる。ただし、その特許出願について拒絶をすべき旨の最初の査定の謄本の送達があつた日から三月を経過した後又はその特許出願の日から九年六月を経過した後は、この限りでない。

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

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

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

3 前二項の規定による出願の変更があつたときは、その实用新案登録出願は、その特許出願又は意匠登録出願の時にしたものとみなす。ただし、その实用新案登録出願が

第三条の二に規定する他の実用新案登録出願又は特許法第二十九条の二に規定する実用新案登録出願に該当する場合におけるこれらの規定の適用及び次条第一項において準用する同法第三十条第三項の規定の適用については、この限りでない。

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

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

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

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

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

6 第一項ただし書に規定する三月の期間は、特許法第四条の規定により同法第二十

一条第一項に規定する期間が延長されたときは、その延長された期間を限り、延長されたものとみなす。

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

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

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

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

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

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

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

under paragraph (1) with the consent of that person.

10 第八項の規定は、第二項の規定による出願の変更の場合に準用する。

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

(特許法の準用)

(Application Mutatis Mutandis of the Patent Act)

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

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

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

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

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

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

### 第三章 実用新案技術評価

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

(実用新案技術評価の請求)

(Request for a Technical Opinion About a Utility Model)

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

Article 12 (1) Any person may file a request with the Commissioner of the Patent Office with respect to an application for utility model registration or a

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

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

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

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

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

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

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

5 特許法第四十七条第二項の規定は、実用新案技術評価書の作成に準用する。

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

6 第一項の規定による請求は、取り下げることができない。

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

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

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

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

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

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

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

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

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

## 第四章 実用新案権

### Chapter IV Utility Model

#### 第一節 実用新案権

#### Section 1 Utility Model

(実用新案権の設定の登録)

(Registration of Establishment a Utility Model)

第十四条 実用新案権は、設定の登録により発生する。

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

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

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

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

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

一 実用新案権者の氏名又は名称及び住所又は居所

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

二 実用新案登録出願の番号及び年月日

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

三 考案者の氏名及び住所又は居所

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

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

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

五 願書に添付した要約書に記載した事項

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

六 登録番号及び設定の登録の年月日

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

七 前各号に掲げるもののほか、必要な事項

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

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

(4) The provisions of Article 64, paragraph (3) of the Patent Act apply mutatis

mutandis if the particulars stated in the abstract referred to in item (v) of the preceding paragraph are published in the utility model gazette under the provisions of the preceding paragraph.

(明細書、実用新案登録請求の範囲又は図面の訂正)

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

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

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

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

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

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

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

2 前項の訂正は、次に掲げる事項を目的とするものに限る。

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

一 実用新案登録請求の範囲の減縮

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

二 誤記の訂正

(ii) correction of errors;

三 明瞭でない記載の釈明

(iii) clarification of an ambiguous statement; and

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

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

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

(3) Any correction as referred to in paragraph (1) must remain within the confines of the matters indicated in the description, scope of utility model

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

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

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

5 特許法第四条の規定は、第一項第一号に規定する期間に準用する。

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

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

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

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

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

- 8 第一項及び前項の訂正は、実用新案権の消滅後においても、することができる。ただし、実用新案登録無効審判により無効にされた後は、この限りでない。
- (8) A correction as referred to in paragraph (1) or (7) may be made even after a lapse of the utility model right; provided, however, that this does not apply after if the utility model registration has been invalidated in a trial for invalidation of the registration of a utility model.
- 9 第一項又は第七項の訂正をするには、訂正書を提出しなければならない。
- (9) A correction form must be submitted in order for a correction as referred to in paragraph (1) or (7) is to be made
- 10 第一項の訂正をするときは、訂正書に訂正した明細書、実用新案登録請求の範囲又は図面を添付しなければならない。
- (10) The corrected description, the scope of utility model registration claims or drawings must accompany the correction form if a correction as referred to in paragraph (1) is being made.
- 11 第一項又は第七項の訂正があつたときは、その訂正後における明細書、実用新案登録請求の範囲又は図面により実用新案登録出願及び実用新案権の設定の登録がされたものとみなす。
- (11) If a correction as referred to in under paragraph (1) or (7) is made, the filing of the application for utility model registration and the registration is deemed to be made, and the registration that establishes the utility model is deemed to be effected based on the corrected description, scope of claims for the utility model registration or drawings.
- 12 第一項又は第七項の訂正があつたときは、第一項の訂正にあつては訂正した明細書及び実用新案登録請求の範囲に記載した事項並びに図面の内容を、第七項の訂正にあつてはその旨を、実用新案公報に掲載しなければならない。
- (12) If a correction as referred to in paragraph (1) or (7) is made, the matters indicated in the corrected description, for the scope of utility model registration claims and the contents of the corrected drawings must be published in the utility model gazette and if a correction as referred to in paragraph (7), is made an indication of this must be published in the utility model gazette.
- 13 特許法第二百二十七条及び第三百三十二条第三項の規定は、第一項及び第七項の場合に準用する。
- (13) The provisions of Article 127 and Article 132, paragraph (3) of the Patent Act apply mutatis mutandis to the cases of paragraphs (1) and (7).

(訂正に係る補正命令)

**(Order to Amend With Respect to Correction)**

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

正をすべきことを命ずることができる。

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

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

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

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

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

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

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

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

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

(存続期間)

**(Duration of a Utility Model)**

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

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

(実用新案権の効力)

**(Effect of Utility Model)**

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

実用新案の実施をする権利を専有する範囲については、この限りでない。

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

(他人の登録実用新案等との関係)

(Relationship to the Registered Utility Model of Another Party)

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

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

(実用新案権の移転の特例)

(Special Provisions on the Transfer of a Utility Model)

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

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

2 前項の規定による請求に基づく実用新案権の移転の登録があつたときは、その実用新案権は、初めから当該登録を受けた者に帰属していたものとみなす。

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

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

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

(専用実施権)

(Exclusive Licenses)

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

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

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

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

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

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

(通常実施権)

(Non-Exclusive License)

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

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

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

(2) A non-exclusive licensee has the right to work the registered utility model in

the course of trade, pursuant to the provisions of this Act or within the scope specified in the contract granting the license.

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

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

（無効審判の請求登録前の実施による通常実施権）

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

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

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

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

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

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

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

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

(iii) a person that, at the time the demand for the trial for patent invalidation

is registered, has an exclusive license under the patent with this invalidates, or a non-exclusive license under such a patent or exclusive license, in a case as set forth in item (i) or (ii)

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

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

(不実施の場合の通常実施権の設定の裁定)

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

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

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

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

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

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

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

(自己の登録実用新案の実施をするための通常実施権の設定の裁定)

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

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

ることができる。

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

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

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

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

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

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

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

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

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

granting the non-exclusive license would be unreasonably prejudicial to the interests of the other person that is referred to in Article 17, the utility model holder, or the exclusive licensee.

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

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

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

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

（公共の利益のための通常実施権の設定の裁定）

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

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

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

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

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

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

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

（通常実施権の移転等）

(Transfer of a Non-Exclusive License)

第二十四条 通常実施権は、第二十一条第二項、第二十二条第三項若しくは第四項若し

くは前条第二項、特許法第九十二条第三項又は意匠法第三十三条第三項の裁定による通常実施権を除き、実施の事業とともにする場合、実用新案権者（専用実施権についての通常実施権にあつては、実用新案権者及び専用実施権者）の承諾を得た場合及び相続その他の一般承継の場合に限り、移転することができる。

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

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

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

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

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

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

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

business linked to the work.

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

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

(質権)

(Right of Pledge)

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

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

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

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

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

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

(特許法の準用)

(Application Mutatis Mutandis of the Patent Act)

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

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

Article 79-2 (Non-exclusive License Based on the Working of the Invention Prior to the Registration of the Transfer of a Patent Right), Articles 81 and 82 (Non-exclusive Licenses after the Expiration of the Term of a Design Right), Article 97, paragraph (1) (Abandonment), and Article 98, paragraph (1), items (i) and (ii) (Effect of Registration) apply mutatis mutandis to utility models.

## 第二節 権利侵害

### Section 2 Infringement of Rights

(差止請求権)

(Right to an Injunction)

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

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

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

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

(侵害とみなす行為)

(Acts Deemed to Constitute Infringement)

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

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

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

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

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

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

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

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

(損害の額の推定等)

(Estimation of Losses)

第二十九条 実用新案権者又は専用実施権者が故意又は過失により自己の実用新案権又は専用実施権を侵害した者に対しその侵害により自己が受けた損害の賠償を請求する場合において、その者がその侵害の行為を組成した物品を譲渡したときは、次の各号に掲げる額の合計額を、実用新案権者又は専用実施権者が受けた損害の額とすることができる。

Article 29 (1) Where a holder of a utility model right or an exclusive licensee claims against an infringer compensation for damage sustained as a result of the intentional or negligent infringement of the said utility model right or exclusive license, and the infringer assigned articles that constituted the act of infringement, the amount of damages sustained by the holder of the utility model right or the exclusive licensee may be presumed to be the total of the amounts written in each of the following items:

一 実用新案権者又は専用実施権者がその侵害の行為がなければ販売することができた物品の単位数量当たりの利益の額に、自己の実用新案権又は専用実施権を侵害し

た者が譲渡した物品の数量（次号において「譲渡数量」という。）のうち当該実用新案権者又は専用実施権者の実施の能力に応じた数量（同号において「実施相応数量」という。）を超えない部分（その全部又は一部に相当する数量を当該実用新案権者又は専用実施権者が販売することができないとする事情があるときは、当該事情に相当する数量（同号において「特定数量」という。）を控除した数量）を乗じて得た額

(i) the amount of profit per unit of the article(s) which would have been sold by the holder of the utility model right or the exclusive licensee if there had been no such act of infringement, multiplied by the portion not exceeding the quantity (if there are circumstances due to which the holder of the utility model right or the exclusive licensee would have been unable to sell the quantity of articles equivalent to all or part of the portion, the quantity due to such circumstances (referred to as "specified quantity" in the following item) shall be deducted) proportionate to the ability of the holder of the utility model right or the exclusive licensee to work the articles (referred to as "working equivalent quantity" in the following item) within the quantity of articles assigned by the infringer who has committed the infringement of the utility model right or exclusive license (referred to in the following item as "assigned quantity"); and

二 譲渡数量のうち実施相応数量を超える数量又は特定数量がある場合（実用新案権者又は専用実施権者が、当該実用新案権者の実用新案権についての専用実施権の設定若しくは通常実施権の許諾又は当該専用実施権者の専用実施権についての通常実施権の許諾をし得たと認められない場合を除く。）におけるこれらの数量に応じた当該実用新案権又は専用実施権に係る登録実用新案の実施に対し受けるべき金銭の額に相当する額

(ii) the amount equivalent to the amount of money to be received for the working of the registered utility model relating to the utility model right or exclusive license according to the quantity in the case where there is a quantity that exceeds the working equivalent quantity within the assigned quantity, or a specified quantity (excluding the case where it is not recognized that the holder of the utility model right or the exclusive licensee would have been able to establish the exclusive license or grant a non-exclusive license on the utility model right of the holder of the utility model right, or grant a non-exclusive license on the exclusive license of the exclusive licensee).

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

(2) If a utility model holder or an exclusive licensee claims compensation for damage that the utility model holder or exclusive licensee personally incurs due to infringement, against a person that, intentionally or due to negligence,

infringes the utility model or exclusive license, and the infringer has made a profit from infringement, the amount of profit is presumed to be the value of the damage incurred by the utility model holder or exclusive business.

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

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

4 裁判所は、第一項第二号及び前項に規定する登録実用新案の実施に対し受けるべき金銭の額に相当する額を認定するに当たっては、実用新案権者又は専用実施権者が、自己の実用新案権又は専用実施権に係る登録実用新案の実施の対価について、当該実用新案権又は専用実施権の侵害があつたことを前提として当該実用新案権又は専用実施権を侵害した者との間で合意をすとしたならば、当該実用新案権者又は専用実施権者が得ることとなるその対価を考慮することができる。

(4) When a court determines the amount equivalent to the amount of money to be received for the working of the registered utility model provided in paragraph(1)(ii) and the preceding paragraph, the court may take into consideration compensation which the holder of the utility model right or the exclusive licensee would obtain if the holder of the utility model right or the exclusive licensee agreed on the compensation of the working of the registered utility model relating to the utility model right or the exclusive license with the infringer on the premise that the utility model right or exclusive license had been infringed.

5 第三項の規定は、同項に規定する金額を超える損害の賠償の請求を妨げない。この場合において、実用新案権又は専用実施権を侵害した者に故意又は重大な過失がなかつたときは、裁判所は、損害の賠償の額を定めるについて、これを参酌することができる。

(5) 4) The provisions of Paragraph (3) do not preclude a claim for compensation of damages exceeding the amount provided therein. In such a case, the court may consider the absence of intent or gross negligence by the person that has infringed the utility model or exclusive license, in determining the amount of compensation.

(実用新案技術評価書の提示)

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

第二十九条の二 実用新案権者又は専用実施権者は、その登録実用新案に係る実用新案技術評価書を提示して警告をした後でなければ、自己の実用新案権又は専用実施権の

侵害者等に対し、その権利を行使することができない。

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

(実用新案権者等の責任)

(Liability of the Utility Model Holder)

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

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

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

(2) The provisions of the preceding paragraph apply mutatis mutandis if the utility model holder or the exclusive licensee exercises rights, or gives warning of the same with respect to an device that has come to fall outside the confines

of what is described in the utility model registration claims at the time of the registration that establishes the utility model, due to a correction as referred to in Article 14-2, paragraph (1) or (7) that is made to description, utility model claims, or drawings accompanying the request in the application for the utility model registration.

(特許法の準用)

(Application Mutatis Mutandis of the Patent Act)

第三十条 特許法第百四条の二から第百五条まで（具体的態様の明示義務、特許権者等の権利行使の制限、主張の制限及び書類の提出等）及び第百五条の二の十一から第百六条まで（第三者の意見、損害計算のための鑑定、相当な損害額の認定、秘密保持命令、秘密保持命令の取消し、訴訟記録の閲覧等の請求の通知等、当事者尋問等の公開停止及び信用回復の措置）の規定は、実用新案権又は専用実施権の侵害に準用する。この場合において、同法第百四条の四中「次に掲げる決定又は審決が確定した」とあるのは「第一号に掲げる審決が確定した又は第三号に掲げる訂正があつた」と、「当該決定又は審決が確定した」とあるのは「当該審決が確定した又は訂正があつた」と、同条第三号中「訂正をすべき旨の決定又は審決」とあるのは「実用新案法第十四条の二第一項又は第七項の訂正」と読み替えるものとする。

Article 30 The provisions of Articles 104-2 through 105 (Opinions of Third Parties, Duty to Clarify the Specific Circumstances; Restriction on Exercise of Rights by the Patentee; Restriction on Assertion; Submission of Documents), and Articles 105-2-11 to 106 (Expert Opinion for Calculation of Damage; Approval of a Reasonable Amount as the Value of Damages; Confidentiality Protective Orders; Notice of a Request for Inspection of Record; Ban on Open Examination of Parties; and Measures to Restore Credibility) of the Patent Act apply mutatis mutandis to infringement of utility model or exclusive license. In this case, the terms "the following decision or trial decision has become final and binding" and "the relevant decision or trial decisions becomes final and binding" in Article 104-4 of that Act is deemed to be replaced with "the trial decision set forth in item (i) becomes final and binding, or the correction set forth in item (iii) is made" and the phrase "the relevant trial decision has become final and binding, or that a correction has been made," respectively, and the phrase "a decision or a trial decision as provided by Cabinet Order correcting the description" in item (iii) of the relevant Article is deemed to be replaced with "a correction referred to in Article 14-2, paragraph (1) or (7) of the Utility Model Act and as provided by Cabinet Order, to the description."

### 第三節 登録料

#### Section 3 Registration Fees

(登録料)

**(Registration Fees)**

第三十一条 実用新案権の設定の登録を受ける者又は実用新案権者は、登録料として、実用新案権の設定の登録の日から第十五条に規定する存続期間の満了の日までの各年について、一件ごとに、一万八千百円を超えない範囲内で政令で定める額に一請求項につき九百円を超えない範囲内で政令で定める額を加えた額を納付しなければならない。

Article 31 (1) The person obtaining the registration that establishes a utility model or the utility model holder must pay the amount specified by Cabinet Order not exceeding 18,000 yen plus the amount specified by Cabinet Order not exceeding 900 yen per claim , for each registered utility model and in each year from the date of the registration that establishes the utility model to the expiration of the duration of protection prescribed in Article 15:

2 前項の規定は、国に属する実用新案権には、適用しない。

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

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

(3) Notwithstanding the provisions of paragraph (1), if a utility model is held under joint ownership with the national government or with a person or persons receiving a reduction in or exemption from the registration fees as under Article 32-2 or the provisions of any other laws and regulations (hereinafter referred to as a "Reduction or Exemption"), and the joint owners' shares have been agreed upon the amount of the registration fee provided for in paragraph (1) is the sum total calculated by first multiplying, for each joint owner other than the national government, the applicable patent fee provided for in that paragraph (for a person receiving a reduction or exemption, this means the amount of the registration fee provided for in that paragraph after deducting the reduction or exemption) by the percentage that represents that person's share, and then adding together the amounts so arrived at and this sum total is the amount that the persons other than the national government must pay.

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

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

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

るところにより、現金をもって納めることができる。

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

(登録料の納付期限)

**(Due Date for the Payment of Registration Fees)**

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

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

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

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

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

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

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

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

(登録料の減免又は猶予)

**(Reduction, Exemption or Deferment of Registration Fees)**

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

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

(登録料の追納)

**(Late Payment of Registration Fees)**

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

Article 33 (1) If the utility model holder is unable to pay a registration fee within the time frame provided for in Article 32, paragraph (2) or the time frame for deferred payment as under the provisions of Article 32-2, the holder may make a late payment for the registration fee even after the end of that time frame, if this is done within six months after the end of that time frame.

2 前項の規定により登録料を追納する実用新案権者は、第三十一条第一項の規定により納付すべき登録料のほか、その登録料と同額の割増登録料を納付しなければならない。ただし、当該実用新案権者がその責めに帰することができない理由により第三十二条第二項に規定する期間又は前条の規定による納付の猶予後の期間内にその登録料を納付することができないときは、その割増登録料を納付することを要しない。

(2) A utility model holder making a late payment for a registration fee pursuant to the provisions of the preceding paragraph must pay, a registration surcharge in the same amount as the registration fee, beyond the registration fee to be paid pursuant to Article 31, paragraph (1); provided, however, that if the utility model holder is unable to pay the registration fee within the time frame provided for in Article 32, paragraph (2) or within the time frame for deferred payment as under Article 32-2 due to reasons beyond the utility model holder's control, the utility model holder is not required to pay the registration surcharge.

3 前項の割増登録料の納付は、経済産業省令で定めるところにより、特許印紙をもつ

てしなければならない。ただし、経済産業省令で定める場合には、経済産業省令で定めるところにより、現金をもつて納めることができる。

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

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

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

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

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

(登録料の追納による実用新案権の回復)

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

第三十三条の二 前条第四項の規定により消滅したものとみなされた実用新案権又は同条第五項の規定により初めから存在しなかつたものとみなされた実用新案権の原実用新案権者は、同条第四項又は第五項に規定する登録料及び割増登録料を納付することができるようになった日から二月以内に同条第一項の規定により登録料を追納することができる期間の経過後一年以内に限り、経済産業省令で定めるところにより、その登録料及び割増登録料を追納することができる。ただし、故意に、同項の規定により登録料を追納することができる期間内にその登録料及び割増登録料を納付しなかつたと認められる場合は、この限りでない。

Article 33-2 (1) The original holder of the utility model that is deemed to have been forfeited pursuant to Article 33, paragraph (4), or that is deemed never to have existed pursuant to Article 33, paragraph (5) may make a late payment

for the registration fee and the registration surcharge provided in Article 33, paragraph (4) or (5) pursuant to Order of the Ministry of Economy, Trade and Industry within two months after the date on which the original holder becomes able to pay the registration fee and the registration surcharge, but not later than one year after the end of the time frame during which the original holder is permitted to make a late payment for a registration fee pursuant to Article 33, paragraph (1); provided, however, that this does not apply if the original holder is found to have intentionally failed to pay the registration fee and the registration surcharge within the time frame during which the original holder is permitted to make a late payment for a registration fee pursuant to Article 33, paragraph (1).

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

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

(回復した実用新案権の効力の制限)

**(Restriction on the Effect of a Restored Utility Model)**

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

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

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

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

一 当該考案の実施

(i) working the device;

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

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

三 当該登録実用新案に係る物品を譲渡、貸渡し又は輸出のために所持した行為  
(iii) possessing the product covered by the registered utility model with the objective of transferring ownership of it, lending it out or exporting it.

(既納の登録料の返還)

(Refunding of Registration Fees)

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

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

一 過誤納の登録料

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

二 実用新案登録出願を却下すべき旨の処分が確定した場合の登録料

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

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

四 実用新案権の存続期間の満了の日の属する年の翌年以後の各年分の登録料

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

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

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

3 第一項の規定による登録料の返還を請求する者がその責めに帰することができない理由により前項に規定する期間内にその請求をすることができないときは、同項の規

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

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

### 第三十五条 削除

#### Article 35 Deleted

（特許法の準用）

(Mutatis Mutandis Application of the Patent Act)

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

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

## 第五章 審判

### Chapter V Trials and Appeals

（実用新案登録無効審判）

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

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

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

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

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

二 その実用新案登録が第二条の五第三項において準用する特許法第二十五条、第三条、第三条の二、第四条、第七条第一項から第三項まで若しくは第六項又は第十一条第一項において準用する同法第三十八条の規定に違反してされたとき（その実用

新案登録が同項において準用する同法第三十八条の規定に違反してされた場合にあつては、第十七条の二第一項の規定による請求に基づき、その実用新案登録に係る実用新案権の移転の登録があつたときを除く。 ) 。

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

三 その実用新案登録が条約に違反してされたとき。

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

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

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

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

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

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

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

七 その実用新案登録の願書に添付した明細書、実用新案登録請求の範囲又は図面の訂正が第十四条の二第二項から第四項までの規定に違反してされたとき。

(vii) a correction to the description, utility model registration claims, or

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

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

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

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

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

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

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

(審判請求の方式)

(Formal Requirements for a Demand for Trials)

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

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

一 当事者及び代理人の氏名又は名称及び住所又は居所

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

二 審判事件の表示

(ii) an identification of the trial case; and

三 請求の趣旨及びその理由

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

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

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

(審判請求書の補正)

(Amendment of a Written Demand for Trial)

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

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

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

(2) If the amendment of the grounds for the demand set forth in Article 38, paragraph (1), item (iii) changes the outline thereof, the chief administrative judge may rule to allow the amendment will unreasonably delay of the proceedings and that the circumstances fall under one of the following items:

一 第十四条の二第一項の訂正があり、その訂正により請求の理由を補正する必要が生じたこと。

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

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

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

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

(3) Allowances for an amendment as referred to in the preceding paragraph may not be made if the procedural amendment form for that amendment is submitted prior to the service of a copy of the written demand under the

provisions of Article 39, paragraph (1).

4 第二項の決定又はその不作為に対しては、不服を申し立てることができない。

(4) No appeal may be filed against the ruling referred to in paragraph (2) or inaction thereof.

(答弁書の提出等)

(Submission of a Written Answer)

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

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

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

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

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

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

4 審判長は、審判に関し、当事者及び参加人を審尋することができる。

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

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

(5) If a patent application under the provisions of Article 46-2, paragraph (1) of the Patent Act is filed based on the utility model registration after a demand is

filed for a trial for invalidation of the registration of a utility model, the chief administrative judge must notify the demandant and the intervenors of this.

(審判の請求の取下げ)

(Withdrawal of Demand For Trial or Appeal)

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

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

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

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

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

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

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

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

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

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

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

(6) If a demand for a trial for invalidation of the registration of a utility model is filed in respect of two or more claims in a utility model registration that covers

two or more claims, the demand may be withdrawn on a claim-by-claim basis.

(訴訟との関係)

(Connection with Litigation)

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

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

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

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

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

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

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

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

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

(5) If the civil court is notified pursuant to the preceding paragraph that a demand for a trial or appeal has been filed with regard to the relevant utility model, it must notify the Commissioner of the Patent Office if a document

containing an allegation or defense as under Article 104-3, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 30 has already been submitted in the litigation prior to that notice and must notify the commissioner if the document is submitted for the first time after that notice.

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

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

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第四十一条 特許法第二百二十五条、第三百二十二条から第三百三十条の二まで、第三百三十五条から第三百五十四条まで、第三百五十六条第一項、第三項及び第四項、第三百五十七条、第三百六十七条、第三百六十七条の二、第三百六十九条第一項、第二項、第五項及び第六項並びに第七十条の規定は、審判に準用する。この場合において、同法第三百五十六条第一項中「特許無効審判以外の審判においては、事件が」とあるのは、「事件が」と読み替えるものとする。

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

## 第六章 再審及び訴訟

### Chapter VI Retrial and Litigation

(再審の請求)

(Demand for Retrial)

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

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

2 民事訴訟法（平成八年法律第九号）第三百三十八条第一項及び第二項並びに第三百三十九条（再審の事由）の規定は、前項の再審の請求に準用する。

(2) The provisions of Articles 338, paragraphs (1) and (2) and Article 339 (Grounds for retrial) of the Code of Civil Procedure (Act No109 of 1996) apply mutatis mutandis to a demand for a retrial as referred to in the preceding paragraph.

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

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

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

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

(再審により回復した実用新案権の効力の制限)

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

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

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

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

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

一 当該考案の善意の実施

(i) working the device in good faith;

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

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

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

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

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

第四十五条 特許法第一百七十三条（再審の請求期間）、第一百七十四条第三項及び第五項（審判の規定等の準用）並びに第一百七十六条（再審の請求登録前の実施による通常実施権）の規定は、再審に準用する。この場合において、同法第一百七十四条第三項中「第一百三十一条第一項、第一百三十一条の二第一項本文」とあるのは「実用新案法第三十八条第一項、同法第三十八条の二第一項本文」と、「第一百三十四条第一項、第三項及び第四項」とあるのは「同法第三十九条第一項、第三項及び第四項」と、「から第一百六十八条まで」とあるのは「、第一百六十七条の二、同法第四十条」と読み替えるものとする。

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

2 特許法第四条の規定は、前項において準用する同法第一百七十三条第一項に規定する期間に準用する。

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

第四十六条 削除

Article 46 Deleted

(審決等に対する訴え)

(Action Seeking to Overturn Trial Decisions)

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

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

2 特許法第一百七十八条第二項から第六項まで（出訴期間等）及び第一百七十九条から第

百八十二条の二まで（被告適格、出訴の通知等、審決取消訴訟における特許庁長官の意見、審決又は決定の取消し、裁判の正本等の送付及び合議体の構成）の規定は、前項の訴えに準用する。

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

（対価の額についての訴え）

(Action Protesting the Amount of Consideration)

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

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

2 特許法第百八十三条第二項（出訴期間）及び第百八十四条（被告適格）の規定は、前項の訴えに準用する。

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

（不服申立てと訴訟との関係）

(Relationship between (administrative) objection and litigation)

第四十八条の二 削除

Article 48-2 Deleted

## 第七章 特許協力条約に基づく国際出願に係る特例

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

（国際出願による実用新案登録出願）

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

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

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

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

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

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

（外国語でされた国際実用新案登録出願の翻訳文）

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

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

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

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

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

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

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

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

4 前項の規定により取り下げられたものとみなされた国際実用新案登録出願の出願人は、当該明細書等翻訳文を提出できるようになつた日から二月以内に国内書面提出期間の経過後一年以内に限り、経済産業省令で定めるところにより、明細書等翻訳文並びに第一項に規定する図面及び要約の翻訳文を特許庁長官に提出することができる。ただし、故意に、国内書面提出期間内に当該明細書等翻訳文を提出しなかつたと認められる場合は、この限りでない。

(4) An applicant filing an international application for utility model registration

that is deemed to be withdrawn pursuant to the provisions of the preceding paragraph may submit the translation of the description, etc. and the translations of the drawings and the abstract provided in paragraph (1) to the Commissioner of the Patent Office pursuant to Order of the Ministry of Economy, Trade and Industry within two months after the date on which the applicant becomes able to submit the translation of the description, etc., but not later than one year after the end of the time limit for submitting national documents; provided, however, that this does not apply if the applicant is found to have intentionally failed to submit the translation of the description, etc. within the time limit for submitting national documents.

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

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

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

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

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

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

（書面の提出及び補正命令等）

(Submission of Documents and Order to Amend Procedures)

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

Article 48-5 (1) An applicant filing an international application for utility model

registration must submit a document to the Commissioner of the Patent Office within the time limit for submitting national documents, stating the following particulars:

一 出願人の氏名又は名称及び住所又は居所

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

二 考案者の氏名及び住所又は居所

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

三 国際出願番号その他の経済産業省令で定める事項

(iii) the international application number and other particulars specified by Order of the Ministry of Economy, Trade and Industry.

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

(2) In the following cases, the Commissioner of the Patent Office may order that a procedural amendment be made within a reasonable, specified period of time:

一 前項の規定により提出すべき書面を、国内書面提出期間内に提出しないとき。

(i) the document that must be submitted pursuant to the provisions of the preceding paragraph is not submitted within the time limit for submitting national documents;

二 前項の規定による手続が第二条の五第二項において準用する特許法第七条第一項から第三項まで又は第九条の規定に違反しているとき。

(ii) the procedure under the provisions of the preceding paragraph violate the provisions of Articles 7, paragraphs (1) through (3) or Article 9 of the Patent Act as applied mutatis mutandis pursuant to Article 2-5, paragraph (2);

三 前項の規定による手続が経済産業省令で定める方式に違反しているとき。

(iii) the procedure under the provisions of the preceding paragraph violates the formal requirements specified by an Order of the Ministry of Economy, Trade and Industry;

四 前条第一項の規定により提出すべき要約の翻訳文を、国内書面提出期間（前条第一項ただし書の外国語実用新案登録出願にあつては、翻訳文提出特例期間）内に提出しないとき。

(iv) the translation of the abstract that must be submitted pursuant to provisions of paragraph (1) of the preceding Article is not submitted within the time limit for submitting national documents (or, if the application is a foreign language application for utility model registration as referred to in the proviso to paragraph (1) of the preceding Article, the special time limit for submitting translations);

五 第三十二条第一項の規定により納付すべき登録料を国内書面提出期間内に納付しないとき。

(v) a fee that must be paid pursuant to Article 32, paragraph (1) not paid within the time limit for submitting national documents;

六 第五十四条第二項の規定により納付すべき手数料を国内書面提出期間内に納付し

ないとき。

(vi) a fee that must be paid pursuant to the provisions of Article 54, paragraph (2) are not paid within the time limit for submitting national documents.

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

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

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

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

（国際出願に係る願書、明細書等の効力等）

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

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

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

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

び外国語実用新案登録出願に係る要約の翻訳文は同項の規定により願書に添付して提出した要約書とみなす。

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

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

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

（図面の提出）

(Submission of Drawings)

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

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

2 特許庁長官は、国内処理基準時の属する日までに前項の規定による図面の提出がな

いときは、国際実用新案登録出願の出願人に対し、相当の期間を指定して、図面の提出をすべきことを命ずることができる。

(2) If a drawing as under the provisions of the preceding paragraph is not submitted within the standard time for national processing, the Commissioner of the Patent Office may order the applicant filing the international application for utility model registration to submit one within a reasonable period of time.

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

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

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

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

（補正の特例）

(Special Provisions Concerning Amendment)

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

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

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

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

3 外国語実用新案登録出願に係る明細書、実用新案登録請求の範囲又は図面について

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

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

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

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

（実用新案登録要件の特例）

**(Special Provisions Concerning Requirements for Utility Model Registration)**

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

Article 48-9 In applying the provisions of Article 3-2, to a case in which another application for utility model registration as provided in Article 3-2 or a patent application as provided in that Article is an international application for utility model registration or an international patent application as referred to in Article 184-3, paragraph (2) of the Patent Act, the phrase "in another application for utility model registration or for patent" in Article 3-2 is deemed to be replaced with "in another application for utility model registration or in a patent application (other than one that is a foreign language application for utility model registration as referred to in Article 48-4, paragraph (1) of the Utility Model Act or a foreign language patent application as referred to in Article 184-4, paragraph (1) of the Patent Act, and which is deemed to have been withdrawn pursuant to Article 48-4, paragraph (3) of the Utility Model Act or Article 184-4, paragraph (3) of the Patent Act"; the phrase "the issuance or" is deemed to be replaced with "the issuance," the term "or the publication of the patent application" is deemed to be replaced with "or the publication of the patent application, or the international publication provided in Article 21 of the Patent Cooperation Treaty signed in Washington on June 19, 1970," and the term "the description, claims for a utility model registration or drawings originally accompanying the written application" is deemed to be replaced with "the description, claims,, or drawings in an international application, as of the international filing date referred to in Article 48-4, paragraph (1) of this Act or Article 184-4, paragraph (1) of the Patent Act."

(実用新案登録出願等に基づく優先権主張の特例)

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

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

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

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

(2) In applying the provisions of Article 8, paragraph (3) to a Japanese language application for utility model registration, the phrase "at the time that the application for utility model registration is published in the gazette in which the utility model appears" in Article 8, paragraph (3) is deemed to be replaced with "at time that the application for the utility model registration is published in the gazette in which the utility model appears or at the time that

the international publication prescribed in Article 21 of the Patent Cooperation Treaty done at Washington on June 19, 1970 is effected".

- 3 外国語実用新案登録出願についての第八条第三項の規定の適用については、同項中「実用新案登録出願の願書に最初に添付した明細書、実用新案登録請求の範囲又は図面」とあるのは「第四十八条の四第一項の国際出願日における国際出願の明細書、請求の範囲又は図面」と、「実用新案掲載公報の発行が」とあるのは「実用新案掲載公報の発行又は千九百七十年六月十九日にワシントンで作成された特許協力条約第二十一条に規定する国際公開が」とする。

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

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

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

request" in Articles 8, paragraphs (1) and (2) is deemed to be replaced with "the description, claims, or drawings in an international application, as of the international filing date referred to in Article 48-4, paragraph (1) of the Utility Model Act or Article 184-4, paragraph (1) of the Patent Act," the phrase "the description, utility model registration claims, patent claims, or drawings originally accompanying the request in the earlier application" in Article 8, paragraph (3) is deemed to be replaced with "the description, claims, or drawings in an international application, as of the international filing date referred to in Article 48-4, paragraph (1) of this Act or Article 184-4, paragraph (1) of the Patent Act," the phrase "publication of unexamined application" in Article 8, paragraph (3) is deemed to be replaced with "the international publication provided in Article 21 of the Patent Cooperation Treaty done at Washington on June 19, 1970," and the phrase "when a period specified by Order of the Ministry of Economy, Trade and Industry has lapsed from the application date" in Article 9, paragraph (1) is deemed to be replaced with "at the standard time for national processing standard time referred to in Article 48-4, paragraph (6) of this Act or Article 184-4, paragraph (6) of the Patent Act or at the time when a period specified by Order of the Ministry of Economy, Trade and Industry has passed from the international filing date referred to in Article 48-4, paragraph (1) of this Act or Article 184-4, paragraph (1) of the Patent Act, whichever is later."

(出願の変更の特例)

(Special Provisions on the Conversion of Applications)

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

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

for utility model registration until after the fees that must be paid pursuant to Article 195,, paragraph (2) of that Act have been paid (or, if the international application is deemed to be a patent application pursuant to Article 184-20, paragraph (4) of that Act, until after the ruling provided for in Articles 184-20, paragraph (4) of that Act, until after the ruling provided for in Article 184-20, paragraph (4)).

(登録料の納付期限の特例)

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

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

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

(実用新案技術評価の請求の時期の制限)

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

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

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

(訂正の特例)

(Special Provisions Concerning Correction)

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

Article 48-13-2 With respect to a correction under the provisions of Article 14-2,

paragraph (1) to a foreign language application for utility model registration, the phrase "the description, utility model registration or drawings accompanying the request" in Article 14-2, paragraph (3) is deemed to be replaced with "the description, claims or drawings in the international application, as of the international filing date referred to in Article 48-4, paragraph (1)."

(無効理由の特例)

(Special Provisions Concerning Grounds for Invalidation)

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

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

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

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

Article 48-15 (1) Provisions of Articles 184-7 (Amendments based on Article 19 of the Treaty Japanese Language Patent Application) and Article 184-8, paragraphs (1) through (3) (Amendment under Article 34 of the Treaty) of the Patent Act apply mutatis mutandis to the amendment of an international application for utility model registration based on the Treaty. In this case, the

term "Article 17-2, paragraph (1)" in Articles 184-7, paragraph (2) and 184-8, paragraph (2) is deemed to be replaced with "Article 2-2. paragraph (1) of the Utility Model Act."

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

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

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

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

（決定により実用新案登録出願とみなされる国際出願）

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

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

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

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

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

- (2) A person filing a petition as referred to in the preceding paragraph in connection with an international application that has been filed in a foreign language must submit Japanese translations of the description, claims, drawings (but only the descriptive text in the drawings), and abstract and of other documents linked with the international application that are specified by Order of the Ministry of Economy, Trade and Industry to the Commissioner of the Patent Office at the time of the petition.
- 3 特許庁長官は、第一項の申出があつたときは、その申出に係る拒否、宣言又は認定が条約及び特許協力条約に基づく規則の規定に照らして正当であるか否かの決定をしなければならない。
- (3) Upon the filing of a petition as referred to in paragraph (1), the Commissioner of the Patent Office must decide whether the refusal, declaration or finding to which the petition pertains is justified in the light of the provisions of the Treaty and based on the Regulations on the Patent Cooperation Treaty.
- 4 前項の規定により特許庁長官が同項の拒否、宣言又は認定が条約及び特許協力条約に基づく規則の規定に照らして正当でない旨の決定をしたときは、その決定に係る国際出願は、その国際出願につきその拒否、宣言又は認定がなかつたものとした場合において国際出願日となつたものと認められる日にされた実用新案登録出願とみなす。
- (4) If the Commissioner of the Patent Office, pursuant to the preceding paragraph, decides that the refusal, declaration or finding, referred to in that paragraph was not justified in the light of the provisions of the Treaty and Regulations based on the Patent Cooperation Treaty, the international application subject to that decision is deemed to be an application for a utility model registration filed on the day that it is found would have been the international filing date if no such refusal, declaration, or finding had been made with respect to the international application.
- 5 第四十八条の六第一項及び第二項、第四十八条の七、第四十八条の八第三項、第四十八条の九、第四十八条の十第一項、第三項及び第四項、第四十八条の十二から第四十八条の十四まで並びに特許法第百八十四条の三第二項、第百八十四条の九第六項、第百八十四条の十二第一項及び第百八十四条の十四の規定は、前項の規定により実用新案登録出願とみなされた国際出願に準用する。この場合において、これらの規定の準用に関し必要な技術的読替えは、政令で定める。
- (5) The provisions of Article 48-6, paragraphs (1) and (2), Article 48-7, Article 48-8, paragraph (3), Article 48-9, Article 48-10, paragraphs (1), (3) and (4), and Articles 48-12 through 48-14 of the Utility Model Act and Article 184-3, paragraph (2), Article 184-9, paragraph (6), Article 184-12, paragraph (1) and Article 184-14 of the Patent Act apply mutatis mutandis to international applications that are deemed to be an application for utility model registration under the provisions of the preceding paragraph. In this case, the technical replacement of the necessary terms for the mutatis mutandis application of the relevant provisions is specified by Cabinet Order.

## 第八章 雑則

### Chapter VIII Miscellaneous Provisions

(実用新案原簿への登録)

(Registration in the Utility Model Register)

第四十九条 次に掲げる事項は、特許庁に備える実用新案原簿に登録する。

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

一 実用新案権の設定、移転、信託による変更、消滅、回復又は処分の制限

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

二 専用実施権の設定、保存、移転、変更、消滅又は処分の制限

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

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

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

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

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

3 この法律に規定するもののほか、登録に関して必要な事項は、政令で定める。

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

(実用新案登録証の交付)

(Issuance of a Certificate of Utility Model Registration)

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

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

Article 17-2, paragraph (1).

2 実用新案登録証の再交付については、経済産業省令で定める。

(2) The re-issuance of a certificate of utility model registration is provided by Order of the Ministry of Economy, Trade and Industry.

(二以上の請求項に係る実用新案登録又は実用新案権についての特則)

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

第五十条の二 二以上の請求項に係る実用新案登録又は実用新案権についての第十二条第二項、第十四条の二第八項、第二十六条において準用する特許法第九十七条第一項若しくは第九十八条第一項第一号、第三十四条第一項第三号、第三十七条第三項、第四十一条において準用する同法第二百五条、第四十一条において、若しくは第四十五条第一項において準用する同法第七十四条第三項において、それぞれ準用する同法第一百三十二条第一項、第四十四条、第四十五条第一項において準用する同法第七十六条、第四十九条第一項第一号又は第五十三条第二項において準用する同法第九十三条第二項第五号の規定の適用については、請求項ごとに実用新案登録がされ、又は実用新案権があるものとみなす。

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

(実用新案登録表示)

(Utility Model Registration Mark)

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

Article 51 The utility model holder, exclusive licensee or non-exclusive licensee must endeavor to mark, pursuant to Order of the Ministry of Economy, Trade

and Industry, products covered by the registered utility model or the packaging of the same with a mark (hereinafter referred to as an "utility model registration mark") indicating the product to be covered by a registered utility model.

(虚偽表示の禁止)

(Prohibition of a False Marking)

第五十二条 何人も、次に掲げる行為をしてはならない。

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

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

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

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

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

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

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

(実用新案公報)

(Utility Model Gazette)

第五十三条 特許庁は、実用新案公報を発行する。

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

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

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

(手数料)

(Fees)

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

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

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

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

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

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

三 実用新案登録証の再交付を請求する者

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 実用新案権又は実用新案登録を受ける権利が国又は第八項の規定若しくは他の法令の規定による実用新案技術評価の請求の手数料の軽減若しくは免除（以下この項において「減免」という。）を受ける者を含む者の共有に係る場合であつて持分の定めがあるときは、これらの者が自己の実用新案権又は実用新案登録を受ける権利について

第二項の規定により納付すべき実用新案技術評価の請求の手数料は、同項の規定にかかわらず、国以外の各共有者ごとに同項に規定する実用新案技術評価の請求の手数料の金額（減免を受ける者にあつては、その減免後の金額）にその持分の割合を乗じて得た額を合算して得た額とし、国以外の者がその額を納付しなければならない。

- (5) Notwithstanding the provisions of paragraph (2), if a utility model or a right to obtain a utility model registration is held under joint ownership with the national government or a person or persons receiving a reduction or exemption under paragraph (8) or the provisions of any other laws and regulations from the fee for filing for a technical opinion about a utility model (hereinafter referred to in this paragraph as a "reduction or exemption") and their shares have been agreed upon, the amount of the fee for filing for the technical opinion about the utility model which is payable by such persons pursuant to paragraph (2) in respect of their utility model or right to obtain a utility model registration is the sum total arrived at by first multiplying, for each joint owner other than the national government, the applicable fee for filing for the technical opinion about a utility model provided for in paragraph (2) (for a person receiving a reduction or exemption, this means the fee provided for in that paragraph less that reduction or exemption) by the percentage that represents that person's share, and then adding together the amounts so arrived at, and this sum total is the amount that the person or persons other than the national government must pay.
- 6 前二項の規定により算定した手数料の金額に十円未満の端数があるときは、その端数は、切り捨てる。
- (6) If the amount of a fee calculated pursuant to one of the two preceding paragraphs is not a multiple of ten yen, that fee is rounded down to the nearest multiple of ten yen.
- 7 第一項及び第二項の手数料の納付は、経済産業省令で定めるところにより、特許印紙をもつてしなければならない。ただし、経済産業省令で定める場合には、経済産業省令で定めるところにより、現金をもつて納めることができる。
- (7) Payment of a fee referred to in paragraph (1) or (2) must be made with patent revenue stamps, pursuant to Order of the Ministry of Economy, Trade and Industry; provided, however, that if so stipulated by an Order of the Ministry of Economy, Trade and Industry, a cash payment may be made.
- 8 特許庁長官は、自己の実用新案登録出願に係る考案又は登録実用新案について実用新案技術評価の請求をする者がその実用新案登録出願に係る考案若しくは登録実用新案の考案者又はその相続人である場合において、貧困により第二項の規定により納付すべき実用新案技術評価の請求の手数料を納付する資力がないと認めるときは、政令で定めるところにより、その手数料を軽減し、又は免除することができる。
- (8) If the person requesting a technical opinion about a utility model in connection with an device claimed in the application for utility model registration or in connection with a registered utility model is the creator of

that device claimed in that application for a utility model registration, the creator of that registered utility model, or the heir of the same, and the Commissioner of the Patent Office finds that, due to financial hardship, it would be difficult for the person to pay the fee that pursuant to paragraph (2), must be paid for filing the request for the technical opinion about a utility model the commissioner pursuant to the provisions specified by Cabinet Order, may reduce that fee or exempt the person from paying it.

(手数料の返還)

**(Return of Fees)**

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

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

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

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

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

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

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

**(4)** If the intervenor in a trial for invalidation of the registration of a utility model withdraws the application for intervention within 30 days from the receipt of notice under Article 39, paragraph (5), the fee that the intervenor

has paid pursuant to Article 54, paragraph (2) for applying to intervene is refunded to the intervenor upon request.

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

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

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

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

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

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

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

(8) If the intervenor in a trial for invalidation of the registration of a utility model does not withdraw the application for intervention, but the demand for the trial is withdrawn within the time frame provided in paragraph (4) or (6) (or, if the frame provided in paragraph (4) has been extended pursuant to Article 4 of the Patent Act as applied mutatis mutandis pursuant to paragraph (5), within the extended time frame), the fees that the intervenor has paid

pursuant to Article 54, paragraph (2) for filing the application to intervene are refunded to the intervenor upon request; provided, however, that this does not apply if the trial procedure have been continued pursuant to Article 148, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 41.

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

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

10 過誤納の手数料は、納付した者の請求により返還する。

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

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

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

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

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

(特許法の準用)

(Mutatis Mutandis Application of the Patent Act)

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

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

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

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

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

読み替えるものとする。

(3) The provisions of Article 194 of the Patent Act apply mutatis mutandis to procedures. In this case, the term "the examination" in paragraph (2) of the relevant Article is deemed to be replaced with "the preparation of a technical opinion about a utility model provided for Article 12, paragraph (1) of the Utility Model Act."

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

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

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

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

## 第九章 罰則

### Chapter IX Penal Provisions

(侵害の罪)

(The Crime of Infringement)

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

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

(詐欺の行為の罪)

(The Crime of Fraud)

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

Article 57 A person who has obtained a utility model registration or a trial decision by means of a fraudulent act

(虚偽表示の罪)

(The Crime of False Marking)

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

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

(偽証等の罪)

(The Crime of Perjury)

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

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

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

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

(秘密を漏らした罪)

(The Crime of Disclosing Confidential Information)

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

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

(秘密保持命令違反の罪)

(The Crime of Violating a Protective Order)

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

Article 60-2 (1) A person that violates a protective order under the provisions of Article 105-4, paragraph 1 of the Patent Act as applied mutatis mutandis

pursuant to Article 30 of this Act is subject to imprisonment with required labor for a term not exceeding five years, a fine not exceeding 5,000,000 yen, or both.

2 前項の罪は、告訴がなければ公訴を提起することができない。

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

3 第一項の罪は、日本国外において同項の罪を犯した者にも適用する。

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

(両罰規定)

(Dual Liability)

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

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

一 第五十六条又は前条第一項 三億円以下の罰金刑

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

二 第五十七条又は第五十八条 三千万円以下の罰金刑

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

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

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

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

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

(過料)

**(Non-Criminal Fines)**

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

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

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

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

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

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

別表 (第五十四条関係)

Appended table (relating to Article 54)

	納付しなければならない者 A person(s) who shall pay fees	金額 Amounts
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一 1	<p>実用新案登録出願をする者 A person filing an application for utility model registration</p>	<p>一件につき一万四千元 14,000 yen per case</p>
二 2	<p>第四十八条の五第一項の規定により手続をすべき者 A person responsible for the procedures under Article 48-5(1)</p>	<p>一件につき一万四千元 14,000 yen per case</p>
三 3	<p>第四十八条の十六第一項の規定により申出をする者 A person making a request under Article 48-16(1)</p>	<p>一件につき一万四千元 14,000 yen per case</p>
四 4	<p>第二条の五第一項において準用する特許法第五条第三項の規定による期間の延長を請求する者 A person requesting extension of the time limit under Article 5(3) of the Patent Act as applied mutatis mutandis pursuant to Article 2-5(1)</p>	<p>一件につき四千二百円 4,200 yen per case</p>
五 5	<p>実用新案技術評価の請求をする者 A person filing a petition requesting Utility Model Technical Opinion</p>	<p>一件につき四万二千元に一請求項につき千三百円を加えた額 42,000 yen per case plus 1,300 yen per claim</p>
六 6	<p>明細書、実用新案登録請求の範囲又は図面の訂正をする者 A person correcting a description, scope of claims or drawings</p>	<p>一件につき千四百円 1,400 yen per case</p>

七 7	<p>第八条第一項第一号括弧書、第十一条第一項において準用する特許法第四十三条の二第一項（第十一条第一項において準用する同法第四十三条の三第三項において準用する場合を含む。）、第三十三条の二第一項、第四十八条の四第四項又は第四十八条の十五第二項において準用する同法第百八十四条の十一第六項の規定により手続をする者（その責めに帰することができない理由によりこれらの規定による手続をすることとなつた者を除く。）</p> <p>A person undertaking any of the procedures pursuant to the provisions in parentheses of Article 8, paragraph (1), item (i), Article 43-2, paragraph (1) of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1) (including the case where it is applied mutatis mutandis pursuant to Article 43-3, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 11, paragraph (1)), Article 33-2, paragraph (1), Article 48-4, paragraph (4), or Article 184-11, paragraph (6) of the Patent Act as applied mutatis mutandis pursuant to Article 48-15, paragraph (2) (excluding a person who needs to undertake any of the procedures prescribed in these provisions due to reasons beyond the person's control)</p>	<p>一件につき五万円 50,000 yen per case</p>
八 8	<p>第二十六条において準用する特許法第七十一条第一項の規定により判定を求める者</p> <p>A person requesting an advisory opinion under Article 71(1) of the Patent Act as applied mutatis mutandis pursuant to Article 26</p>	<p>一件につき四万円 40,000 yen per case</p>
九 9	<p>裁定を請求する者</p> <p>A person requesting an award</p>	<p>一件につき五万五千円 55,000 yen per case</p>
十 10	<p>裁定の取消しを請求する者</p> <p>A person requesting the cancel of an award</p>	<p>一件につき二万七千五百円 27,500 yen per case</p>
十一 11	<p>審判又は再審を請求する者</p> <p>A person filing a request for a trial or retrial</p>	<p>一件につき四万九千五百円に一請求項につき五千五百円を加えた額 49,500 yen per case plus 5,500 yen per claim</p>

十二 12	審判又は再審への参加を申請する者 A person applying to intervene in a trial or retrial	一件につき五万五千 円 55,000 yen per case
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