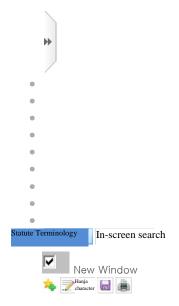
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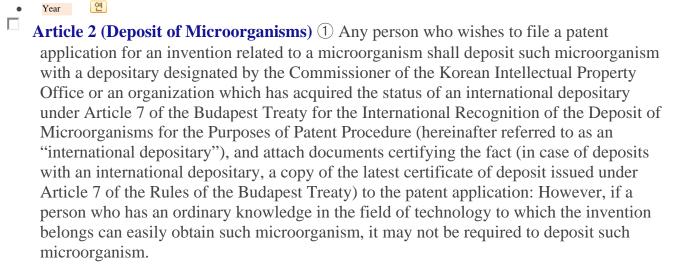
ENFORCEMENT DECREE OF THE PATENT ACT

[Effective January 1, 1994] [Partially Amended by Presidential Decree No. 14059, Dec. 31, 1993] 최종공포내용
Details of final announcement to Examination Division), 042-481-5397

CHAPTER I GENERAL PROVISIONS AND PATENT APPLICATION



Article 1 (Performance of Procedures by Nonresidents) For the purpose of Article 5 (1) of the Patent Act (hereinafter referred to as the "Act"), the term "case as prescribed by the Presidential Decree" means any case where a nonresident (in the case of a legal entity, its representative) has appointed a patent administrator and is staying in Korea.



- ② If a new deposit number is given to the deposit of a microorganism as referred to in paragraph (1) after a patent application is filed, the patent applicant or patentee shall report it without delay to the Commissioner of the Korean Intellectual Property Office. <Amended Dec. 31, 1993>
- Article 3 (Entry in Patent Specifications of Invention related to Microorganism) Any person who wishes to file a patent application for an invention related to a microorganism, shall enter in the specification as prescribed in Article 42 (2) of the Act, the name of the depositary or international depositary, number and date of deposit when he has deposited the microorganism under the text of Article 2 (1), and the method of

obtaining it, when he did not deposit it under the provisions of Article 2 (1).

- Article 4 (Apportionment of Samples of Microorganisms) ① Any person who desires to embody an invention related to microorganisms deposited under Article 2 for the purpose of a test or research, may have samples of such microorganism apportioned by the depositary or International Depositary, in any of the following cases:
 - 1. When a patent application for an invention related to a microorganism is published or notified publicly; and
 - 2. Where it is required for preparing a written opinion as prescribed in Article 63 of the Act (including the case where it is applicable mutatis mutandis under Articles 170 (3) and 174 (2) of the Act).
 - ② No person who has samples of a microorganism apportioned under paragraph (1), shall allow another person to use such microorganism.
 - Article 5 (Descriptive Method of Scope of Patent Claims) ① In a description of the scope of patent claims for a patent as prescribed in Article 42 (5) of the Act (hereinafter referred to as the "claims"), the description may be divided into independent claims (hereinafter referred to as the "independent claims") and dependent claims embodying the independent claim by limiting or adding to it (hereinafter referred to as "dependent claims"). In this case, the claims shall be described as independent claims, but may be described as dependent claims embodying the independent claims by limiting or adding to them
 - ② The independent claims shall be described in a proper number according to the nature of the invention.
 - 3 The dependent claims shall be described in such number as required for embodying any dependent or independent claim by limiting or adding to it.
 - 4 Each dependent claim shall refer to the independent claim to which it pertains, and one or two or more other dependent claims of the independent claim, and in this case, the number of the referred claim shall be mentioned.

- ⑤ Any dependent claim referring to two or more claims shall mention alternatively the number of referred claims.
- 6 No dependent claim referring to two or more claims may refer to another dependent claim in which two or more claims are referenced.
- 7 No independent claim or dependent claim referring to other dependent claims shall be mentioned ahead of referred independent claim or other dependent claims.
- ® Each claim shall begin in a new line, and bear a serial number in Arabic numbers according to the order in which it is described.



- **Article 6 (Requirement for Single Patent Application)** ① The requirements for a single patent application as prescribed in Article 45 (2) of the Act shall fall under any of the following subparagraphs:
- 1. Application containing description of one independent claim concerning a product or process;
- 2. In case where one independent claim concerning a product is described, an application selectively describing any of the following independent claims or all of them:
- a. One independent claim concerning a method for producing such product;
- b. One independent claim concerning a method for using such product;
- c. One independent claim concerning the method for handling such product;
- d. One independent claim concerning machine, instrument, equipment or other products for producing such product;
- e. One independent claim concerning the use of a particular feature exclusive to such product; and
- f. One independent claim concerning a product for handling such product.
- 3. In case where one independent claim concerning a method is described, an application describing an independent claim concerning machines, instruments, equipment or other products used directly in embodiment of such method.
 - ② In cases as referred to in subparagraphs of paragraph (1), if it is impossible to comprehensively describe the invention only with a single independent claim, the invention may be described with two or more independent claims only in such case where it falls under a group of inventions as prescribed in Article 45 (1) of the Act.

Article 7 (Inventions Subject to Application for Registration of Patent Right Duration Extension) In Article 89 of the Act, the term "invention as prescribed by the Presidential Decree" means any one of the following inventions:

1. Inventions of pharmaceuticals which are subject to the item license under Article 26 (1) of the Pharmaceutical Affairs Act for the purpose of embodying the patented invention; and

2. Invention of agricultural chemicals or raw materials of agricultural chemicals must be registered under Articles 8 (1), and Article 9 (1) of the same Act for the purpose of embodying the patented invention.

CHAPTER II EXAMINATION AND TRIAL EXAMINATION

- Edition 판
 - Article 8 (Qualification for Examiner, Trial Examiner, and Presiding Trial
 - **Examiner**) ① Any person eligible for an examiner shall be a state public official of Grade V or higher in the general service of the Korean Intellectual Property Office or any agency affiliated therewith, who has completed the prescribed training courses for the examiner at the international patent training center.
 - ② Any person eligible to be a trial examiner shall be a state public official of Grade IV or higher in the general service of the Korean Intellectual Property Office or any agency affiliated therewith, who falls under any one of the following subparagraphs, and has completed the prescribed training courses for the trial examiner at the International Patent Training Center:
 - 1. A person who has served as examiner at the Korean Intellectual Property Office for two or more years;
 - 2. A person who has been engaged in affairs concerning the industrial administration or science and technology (including any research) for eight or more years, and meanwhile engaged in affairs of examination or trial examination at the Korean Intellectual Property Office or any agency affiliated therewith for three or more years; and
 - 3 Any person eligible for a presiding trial examiner shall be a state public official of Grade III or higher in the general service of the Korean Intellectual Property Office or any agency affiliated therewith, who falls under any one of the following subparagraphs:
 - 1. A person who has served as trial examiner at the Patent Tribunal for two or more years; and
 - 2. A person who has been engaged in affairs concerning the industrial administration or science and technology (including any research) for twelve or more years, and meanwhile engaged in affairs concerning the examination or trial at the Korean Intellectual Property Office for three or more years and has completed the training courses for the trial examiner as referred to in paragraph (2).
 - ④ Notwithstanding the provisions of paragraphs (1) through (3), any person who is a public official falling under the grade of position of examiner, trial examiner or presiding trial examiner as set forth in paragraphs (1) through (3), and is qualified as a patent attorney, may be appointed as an examiner, trial examiner or presiding trial examiner.
 - ⑤ Matters necessary for the training of the examiner and the trial examiner as referred to in paragraphs (1) and (2) shall be determined separately by the Commissioner of the Korean Intellectual Property Office.
 - Edition 판

Article 8-2 (Requirements for Designation of Specialized Research Institution) 1
The Commissioner of the Korean Intellectual Property Office may, under Article 58 (3) of the Act, designate a national research institute which possesses literature, manpower, equipment, etc. necessary for research on any advanced technology related to patents, as a specialized research institution as prescribed in Article 58 (1) of the Act (hereinafter referred to as "specialized research institution").

② Any institution that wishes to be designated as a specialized research institution, shall file an application for designation as specialized research institution with the Commissioner of the Korean Intellectual Property Office together with documents specifying the actual status of literature, manpower, equipment, etc. which it possesses. [This Article Newly Inserted on Oct. 27, 1992]

• Edition 판

Article 8-3 (Procedure, etc. of Entrustment with Data Research) ① With respect to the patent application which is deemed required for a data research on the advanced technology under Article 58 (1) of the Act, the Commissioner of the Korean Intellectual Property Office may entrust a specialized research institution with a data research by field of technology.

- ② The head of the specialized research institution shall, upon receiving an entrustment with data research from the Commissioner of the Korean Intellectual Property Office under paragraph (1), notify promptly in writing the results of the research to the Commissioner of the Korean Intellectual Property Office.
- 3 If the Commissioner of the Korean Intellectual Property Office deems that the results of research as referred to in paragraph (2) are insufficient for grasping the advanced technology on the patent application, he may entrust the head of the specialized research institution with research within a specified range.
- 4 The provisions of paragraph (2) shall be applicable mutatis mutandis to the case of research as referred to in paragraph (3).

[This Article Newly Inserted on Oct. 27, 1992]

• Edition 판 • Year 연

Article 9 (Object of Preferential Examination) For the purpose of Article 61 of the Act, the term "patent application as prescribed by the Presidential Decree" means the patent application of those which are published, which is prescribed by the Commissioner of the Korean Intellectual Property Office, and falls under any of the following subparagraphs:

- 1. Patent applications in the field of the defense industry;
- 2. Patent applications useful for preventing any environmental pollution;
- 3. Patent applications related directly to the promotion of export; and
- 4. Patent applications related to the function of the government or local authorities and its funded research institutes.

[This Article Wholly Amended Dec. 31, 1993]

• Edition 판

- **Article 10 (Decision on Preferential Examination)** ① Any person who applies for a preferential examination, shall file an application for preferential examination as prescribed by the Ordinance of the Ministry of Trade, Industry and Energy, with the Commissioner of the Korean Intellectual Property Office. <Amended March 6, 1993>
- ② The Commissioner of the Korean Intellectual Property Office shall, upon receiving an application for preferential examination under paragraph (1), decide whether the preferential examination is conducted or not.
- 3 Matters necessary for the decision on preferential examination as referred to in paragraph (2) shall be determined by the Commissioner of the Korean Intellectual Property Office.

CHAPTER III CONFIDENTIAL TREATMENT, ETC. OF PATENT APPLICATIONS RELATED TO NATIONAL DEFENSE

- Edition 판
- Article 11 Criteria for Confidential Classification of Patent Application Related to National Defense) The Commissioner of the Korean Intellectual Property Office shall determine the criteria for classification necessary for selection of applications to be treated as confidential under Article 41 (1) of the Act (hereinafter referred to as the "criteria for classification") after consulting with the Minister of National Defense.
- Article 12 (Procedure for Confidential Treatment) ① If a patent application filed by a person having a domicile or business place in Korea is conformed to the criteria for classification as prescribed in Article 11, the Commissioner of the Korean Intellectual Property Office shall refer the Minister of National Defense to whether or not it is required to classify and treat such application as confidential.
 - ② In case where the Commissioner of the Korean Intellectual Property Office has made a reference to the Minister of National Defense under paragraph (1), he shall notify it to the inventor, the applicant and the attorney of the patent application, and a person who is deemed to be learned of the invention (hereinafter referred to as the "inventor, etc."), and request them to maintain the confidence thereof.
 - ③ The Minister of National Defense shall, upon receiving a reference under paragraph (1), make a reply within two months, and if it is deemed necessary to treat the patent application confidential, he shall request the Commissioner of the Korean Intellectual Property Office to classify and treat such application as confidential.
 - 4 The Commissioner of the Korean Intellectual Property Office shall, upon receiving a request to classify and treat any patent application as confidential under paragraph (3), take any necessary measure in conformity with the confidential service rules, and order the inventor, etc. of the patent application to classify and treat it as confidential, and if he is not requested so, he shall notify the inventor, etc. of the patent application of a

cancellation of the request for maintenance of confidentiality as referred to in paragraph (2).

⑤ The Commissioner of the Korean Intellectual Property Office shall, upon receiving a reply of the Minister of National Defense under paragraph (3), issue without delay an order to classify and treat the patent application as confidential, or notify a cancellation of the request for maintenance of confidence under paragraph (4).

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- Article 13 (Cancellation, etc. of Confidential Treatment) ① With respect to a patent application which is ordered to be classified and treated as confidential under Article 12 (4), the Commissioner of the Korean Intellectual Property Office shall take necessary measures after consulting twice or more times each year with the Minister of National Defense on the cancellation of confidence, extension of confidential maintenance period or whether or not the confidential classification is modified.
 - ② The inventor, etc. who is ordered to classify and treat the patent application as confidential under Article 12 (4), may request the Commissioner of the Korean Intellectual Property Office to release it from confidential treatment, to modify the confidential classification or to publish or license the invention for which a patent is applied, in a specified limit.
- Edition 판 Year 연
 - **Article 14 (Compensation)** ① With respect to a patent application which is classified and treated as confidential under Article 12 (3), the patent applicant may request to the Minister of National Defense for a compensation for any loss sustained by the confidential treatment under Article 12 (4) (hereinafter referred to as the "compensation"). <Amended Dec. 31, 1993>
 - ② If a patent applicant requests compensation under paragraph (1), he shall submit a written request for compensation and documentary evidence establishing the loss.
 - ③ The Minister of National Defense shall, upon receiving a request for compensation under paragraph (1), determine and pay the amount of compensation, and he may, if necessary, consult with the Commissioner of the Korean Intellectual Property Office.
- Article 15 (Prohibition and Permission on Patent Application to Foreign Country) ①
 If an invention for which a patent is applied by a person having the domicile or business office in Korea, is demanded by the Commissioner of the Korean Intellectual Property Office to be maintained as confidential under Article 12 (2), or is ordered to be classified and treated as confidential under paragraph (4) of said Article, it may be applied for patent in any foreign country only in case where it is permitted by the Commissioner of the Korean Intellectual Property Office.
 - ② Any person who desires to apply for permission on a patent application to a foreign country, shall submit to the Commissioner of the Korean Intellectual Property Office an application as prescribed by the Ordinance of the Ministry of Trade, Industry and Energy. <Amended Mar. 6, 1993>

- Article 16 (Consultation with Minister of National Defense) If the Commissioner of the Korean Intellectual Property Office desires to grant permission falling under any of the
 - Korean Intellectual Property Office desires to grant permission falling under any of the following subparagraphs, he shall consult in advance with the Minister of National Defense:
 - 1. Permission on a publication or license of an invention classified and treated as confidential under Article 13 (2) in a specified limit; and
 - 2. Permission on a patent application to a foreign country under Article 15 (2).

CHAPTER IV SUPPLEMENTARY PROVISIONS

- Edition 판
- **Article 17 (Documents to be Served)** Documents to be served under Article 218 of the Act shall be a notice on disposition of invalidation as prescribed in Article 16 (1) of the Act and a copy of decision as prescribed in Article 214 (3) of the Act.
- Edition 판 • Year 연
 - **Article 18 (Service, etc. of Documents)** ① Except in case where the documents to be served under the Act or Article 17 are received by the party or his representative at the Korean Intellectual Property Office or the Patent Tribunal, such documents shall be sent by a registered mail. <Amended Dec. 31, 1993>
 - ② In case where a party or his representative receives the documents at the Korean Intellectual Property Office or the Patent Tribunal, a receipt specifying the date of receipt and the name of recipient shall be received and kept by the Korean Intellectual Property Office, and in case where such documents are sent by a registered mail, the receipt of registered mail issued by the post office shall be kept by it. <Amended Dec. 31, 1993>
 ③If an adjudication or decision on a patent objection, trial, review, ruling on establishment of ordinary license and revocation of patent right is to be served, it shall be made by a special service method as prescribed in Articles 10 (1) 6 (a) of the Enforcement Decree of the Postal Service Act. <Amended Dec. 31, 1993>

- ④ Except as otherwise provided by the Act or this Decree, a copy of the document concerned shall be delivered to the person to whom it is to be served, and if a protocol is prepared in lieu of presentation of the document to be served, a copy or abstract of such protocol shall be delivered.
- ⑤ Any service to a person falling under the text of Article 3 (1) of the Act shall be made to his legal representative.
- 6 If several parties jointly exercise their rights as legal representative, service to one of these representatives shall be sufficient. < Amended Dec. 31, 1993>
- (7) Any service to a person who is in a prison or a detention facility, shall be made to the head of such prison or detention facility. <Amended Dec. 31, 1993>
- ® The place to be served shall be the domicile or business office of the person to be served. <Amended Dec. 31, 1993>
- 9 If the person who receives the service, changes his place, he shall report it without delay to the Commissioner of the Korean Intellectual Property Office. <Newly Inserted Dec. 31, 1993>
- ① If the person to be served refuses to receive the service without any justifiable reason and it is thereby impossible to make a service, the service shall be considered to have been made on the date that such service is sent.
- ① Sending, etc. of documents other than those to be served under the Act or Article 17, shall be made under the conditions as prescribed by the Commissioner of the Korean Intellectual Property Office. <Newly Inserted Dec. 31, 1993>
- Edition 🖭
 - **Article 19 (Patent Gazettes)** ① The Patent Gazettes as prescribed in Article 221 of the Act shall be divided into a Patent Gazette for public notice and a Patent Gazette for publication.
 - ②The Patent Gazette for public notice shall include the following matters: <Amended Dec. 31, 1993>
 - 1. Each of the following matters, as set forth in Article 66 (2) (including cases where it is applied *mutatis mutandis* in Article 170)
- a. Name and address of the patentee (in case of a legal entity, its title and business office, the name of its representative);
- b. Number of application, symbol of classification and date of application;
- c. Name and address of the inventor
- d. Number and date of the publication of the application
- e. Matters on a claim for the right of priority is claimed
- f. Specification, drawings and summary attached to the patent application

- g. Matters other than those referred to in items (a) through (f)
- 2. Matters other than those as referred to in subparagraph 1, which are described under the Act (excluding Articles 60 (2) and 64 of the Act) and this Decree
- 3. Matters relating to patents for which description is determined to be necessary by the Commissioner of the Korean Intellectual Property Office.
 - (3) The Patent Gazette for publication shall include the following matters: < Amended Dec. 31, 1993>
- 1. The fact that an examination of application is requested under Article 60 (2) of the Act. However, if the fact is not specified in the publication of application, the publication number, classification symbol and filing number of the application shall be specified in the Patent Gazette for publication issued thereafter together with the fact of request for examination therefor.
- 2. The following matters concern the publication of a patent application as prescribed in Article 64 of the Act. However, any matter which is deemed to disturb the public order or good manners and customs, or to be detrimental to the public health shall not be published.
- a. Name and address of the applicant (in case of a legal entity, its name and business office and the name of its representative)
- b. Number of application, symbol of classification and date of application
- c. Name and address of the inventor
- d. Application publication number and Date of publication
- e. Title of invention
- f. Scope of patent claims
- g. Drawings (Limited to those that are necessary)
- h. Matters on a claim for the right of priority is claimed;
- i. Summary
- j. Matters other than those as referred to in items (a) through (i) concerning the publication of patent application
- Edition 판
 - **Article 20 (Imposition of Fine for Negligence)** ① If the Commissioner of the Korean Intellectual Property Office imposes a fine for negligence under Article 232 (2) of the Act, he shall investigate and confirm the offense, and notify in writing the person who is subject to the fine for negligence, of payment of it with the fact of offense and the amount of the fine for negligence specified.
 - ② If the Commissioner of the Korean Intellectual Property Office desires to impose a fine for negligence under paragraph (1), he or she shall give the person who is subject to the fine for negligence, an opportunity to state orally or in writing his opinion in a fixed period of ten or more days. In this case, if the person does not state his opinion in a designated period without any justifiable reason, he or she shall be considered to have no opinion.

- ③ In determining the amount of the fine for negligence, the Commissioner of the Korean Intellectual Property Office shall take into consideration the motive and consequence of the offense.
- 4 The procedure of collection of the fine for negligence shall be determined by the Ordinance of the Ministry of Trade, Industry and Energy.<Amended Mar. 6, 1993> [This Article was newly inserted Oct. 27, 1992]
- ADDENDUM < Presidential Decree No.13078, Aug. 28, 1990>

This Decree shall enter into force on September 1, 1990.

ADDENDUM < Presidential Decree No.13744, Oct. 27, 1990>

This Decree shall enter into force on November 1, 1992.

ADDENDUM < Presidential Decree No.13870, Mar. 6, 1993 > (Deleted Ministry of Commerce Industry and Energy) Addenda (See all)

Article 1 (Enforcement Date) This Decree shall enter into force on the date of its promulgation.

Article 2 and Article 3 Omitted.

Article 4 (Amendment of Other Statutes) ① <118> Omitted

<119> The Enforcement Decree of the Patent Act is amended as follows.

Article 10 1, Article 15 (2) and Article 20 (4) shall each be amended from "Ordinance of the Ministry of Commerce and Industry" to "Ordinance of the Ministry of Commerce, Industry and Energy."

<120> to <188> Omitted

- ADDENDA < Presidential Decree No.14059, Dec. 31, 1993> Addenda (See all))
- ① (Enforcement Date) This Decree shall enter into force on January 1,1994.
- ② (Transitional Measures Concerning Object of Preferential Examination) With respect to another person's patent application for which the government or local authorities and their funded research institute requested the examination, before this Decree enters into force, the previous provisions shall be applicable.
- 3 (Special Case Concerning Request for Compensation) The amended provisions of Article 14 (1) shall also apply to any patent application classified and treated as confidential, before this Decree enters into force.
- (4) (Amendment of Other Statutes) The Enforcement Decree of the Utility Model Act shall be amended as follows.

Article 3(2) 1-e shall be as follows.

e. Date on the application as the basis for claim for the right of priority



City of New York, State of New York, County of New York

I, Julianne Marzulla, hereby certify that the following document is, to the best of my knowledge and belief, a true and accurate translation from Korean to English.

"Enforcement Decree of the Patent Act of the Republic of Korea"

Julianne Marzulla

Sworn to before me this

Thursday, May 07, 2015

Signature, Notary Public

AMY LEONG
Notary Public - State of New York
No. 01LE6314554
Qualified in Richmond County
Commission Expires Nov 10, 2018

Stamp, Notary Public