

## CHAPTER VIII

### RETRIAL AND LITIGATION

#### Article 73 Request for a Retrial

- (1) Any party may request a retrial against a trial decision that has become final.
- (2) Articles 451 and 453 of the Civil Procedure Act apply *mutatis mutandis* to a request for a retrial under paragraph (1).

#### Article 74 Restriction on Effects of Design Rights Restored by a Retrial

(1) The effects of a design right related to an invalidated design registration that has been restored through a retrial do not extend to any product that was, in good faith, imported into or manufactured or acquired in the Republic of Korea after the trial decision became final but before a request for a retrial has been registered if the design right falls under any of the following subparagraphs:

- (i) where a design right (including a design right that has been finally revoked in a trial against a decision to revoke design registration) has been invalidated but restored by a retrial;
- (ii) where a trial decision ruling that a product is outside the scope of a design right became final but a decision to the contrary at a retrial has become final; or
- (iii) where the establishment of a design right for an application for design registration previously rejected by a trial decision has been registered through a retrial.

(2) Where a design right falls under paragraph (1), the effects of the design right do not extend to the following acts:

- (i) working a design in good faith after a trial decision becomes final but before the registration of a request for a retrial;
- (ii) manufacturing, assigning, leasing, importing, or offering for assignment or lease products for which an application for design registration has been made, after a trial decision becomes final but before the registration of a request for a retrial.

### **Article 75 *Mutatis Mutandis* Application of the Patent Act**

Articles 179, 180 and 182 to 185 of the Patent Act apply *mutatis mutandis* to a retrial for a design, and Articles 186 to 191 of the Patent Act apply *mutatis mutandis* to litigation for a design. In such cases, "action against a trial decision" in Article 186(1) of the Patent Act reads "action against a trial decision and a decision to reject an amendment under Article 18*bis*(1) as applied under Article 71(1) of this Act (including Article 184 of the Patent Act as applied under Article 75 of this Act)", and "action under Article 186(1)" in Article 188(1) of the Patent Act reads "action against a trial decision and a decision to reject an amendment under Article 18*bis*(1) as applied *mutatis mutandis* under Article 71(1) (including Article 184 of the Patent Act as applied *mutatis mutandis* under Article 75)".

## **CHAPTER IX**

### **SUPPLEMENTARY PROVISIONS**

#### **Article 76 Inspection of Documents**

(1) A person may request the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal for a certified copy of an application for design registration or a trial certificate, a certified copy or extract of documents, or to inspect or copy of the Design Register or other documents.