

ADDENDUM

Article 1 Date of Entry into Force

This Act enters into force on the date of its promulgation. (Proviso deleted.)

Articles 2 to 5 Deleted

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Article 1 Date of Entry into Force

This Act enters into force on January 1, 1994.

**Article 2 Transitional Measures on the Period for Refunding
Patent Fees etc.**

The previous provisions govern the refund of patent and other fees paid by mistake before this Act enters into force.

Article 3 Application Examples on Refunding Patent Fees

Amended Article 84(1)(ii) and (iii), which concerns refunding patent fees due to a final decision on the invalidation of a patent, apply to final decisions on invalidation made after this Act enters into force.

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Article 1 Date of Entry into Force

This Act enters into force on the date of its promulgation.

Articles 2 to 5 Deleted

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Article 1 Date of Entry into Force

This Act enters into force on March 1, 1998.

Article 2 Transitional Measures on Pending Cases

(1) Any case in which a request has been made before this Act enters into force for a trial or an appeal against a ruling of refusal, a decision of revocation, against a decision to dismiss a correction is deemed to be continued with the Intellectual Property Tribunal under this Act and to be pending at the Intellectual Property Tribunal.

(2) Any case in which a request has been made before this Act enters into force for an appeal against the decision of a trial or for an immediate appeal against a decision to dismiss the request is deemed to be continued with the Patent Court under this Act and to be pending at the Patent Court.

Article 3 Transitional Measures on Cases that May Be Appealed

(1) Litigation may be brought against a case on which a trial, a decision to reject a request for a trial, a ruling of rejection, or a decision to reject an amendment by the examiner when this Act enters into force, and against which a dissatisfaction has not been brought to the Patent Tribunal under the previous provisions within 30 days of the enforcement date of this Act, the litigation referred to in Article 186(1) may be brought against a trial, the decision of a trial and a decision to reject a request for a trial, and a trial referred to in Article 132^{ter} or 132^{quater} may be requested against a ruling of rejection, or a decision to dismiss a correction by the examiner unless any period for dissatisfaction has expired under the previous provisions when this Act enters into force.

(2) Any dissatisfaction may be brought against a case on which a trial and a trial decision, a decision to reject a request for an appeal and a decision to reject an amendment by the appellate trial examiner when this Act enters into force has been served with the Supreme Court, unless any period for dissatisfaction has expired under the previous provisions when this Act enters into force.

(3) Any case against which a dissatisfaction has been brought to the Supreme Court and which is pending at the Supreme Court before this Act enters into force and any case against in which a dissatisfaction has been brought under paragraph(2) is deemed to be pending or to have been brought against the Supreme Court.

Article 4 Transitional Measures on Retrials

Articles 2 and 3 of the addendum apply *mutatis mutandis* to a pending retrial.

Article 5 Transfer etc. of Documents

(1) The Commissioner of the Korean Intellectual Property Office shall immediately transfer the documents of a pending case referred to in Article 2(1) of this addendum (including those applied *mutatis mutandis* under Article 4 of this addendum) to the President of the Intellectual Property Tribunal.

(2) The Commissioner of the Korean Intellectual Property Office shall immediately transfer the documents of a pending case referred to in Article 2(2) of this addendum (including those applied *mutatis mutandis* under Article 4 of this addendum) to the presiding trial examiner. In this case, matters necessary for the transfer and so on of documents are prescribed by Supreme Court regulations.

Article 6 Amendment of Other Acts

In Article 37(5) of the Government Organization Act, "examination, trial and appellate trial business" reads "examination and trial business".

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Article 1 Date of Entry into Force

This Act enters into force on July 1, 1996.

Article 2 Transitional Measures on the Invention of Substances to be Manufactured by a Nuclear Conversion Method

(1) When applying to patent the invention of a substance manufactured by a nuclear conversion method indicated in the description or drawing(s) appended to an original patent application pending before the Korean Intellectual Property Office (except when an exemplified copy of a patent ruling is served), the applicant may correct the description or drawing(s) within six months of this Act entering into force.

(2) The correction referred to in paragraph (1) is considered as that made before a copy of the decision on the public notice of application has been served.

Article 3 Transitional Measures on the Term of a Patent Right

(1) This Act does not apply to a patent whose the term has been terminated under the previous provisions before this Act enters into force.

(2) The previous provisions govern the term of an unexpired patent right and applications whose term is shortened by the enforcement of this Act and which are pending before the Korean Intellectual Property Office when this Act enters into force.

Article 4 Special Case of Recognizing an Ordinary License for those Preparing an Embodiment Project

(1) If a patent on an invention of a substance to be manufactured by a nuclear conversion method is established under amended Article 32, the person conducting or preparing to work the invention in the Republic of Korea

before January 1, 1995, is entitled to have an ordinary license to the patent on the invention, limited to the object of the invention or the working.

(2) If the duration of a patent is extended by the enforcement of this Act, a person who is preparing to work the invention in the Republic of Korea before January 1, 1995, in anticipation of the termination of the patent under the previous provisions, is entitled to have an ordinary license for the patent, limited to the object of the invention and business that the person is preparing, during the period extended by the enforcement of this Act from the expiry of the period prescribed by the previous provisions.

(3) A person who holds an ordinary license under paragraphs (1) and (2) shall pay a reasonable compensation to the patentee or exclusive licensee.

(4) Article 118(2) applies *mutatis mutandis* to the ordinary license referred to in paragraphs (1) and (2).

Article 5 Transitional Measures on the Procedure and Expenses of Trials and Compensation for Damages etc.

The previous provisions govern the procedure, expenses, compensation for damages and so on for a trial, appeal, retrial and lawsuit requested against any act committed before this Act enters into force.

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Article 1 Date of Entry into Force

This Act enters into force on July 1, 1997. However, Articles 15(2), 16(1) and (2), 46, 132*ter*, 140*bis*, 164(1), 170, 171(2), 172, 176(1) and (2), 224*bis* and Articles 2(1) and 3(1) of the addendum of the amended Patent Act, Act No. 4892, enter into force on March 1, 1998.

Article 2 Special Example on Oppositions Against a Patent

(1) In applying Article 6, "request an appeal against a ruling of rejection under Article 167" reads "request an appeal against a ruling to reject or revoke under Article 167" until February 28, 1998.

(2) In applying Article 164(1), "until the decision of other trials or appeals has become final" reads "a decision on an opposition to a patent, of other trials or appeals, has become final" until February 28, 1998.

(3) In applying Article 170(1), "Articles 50, 51, 63 and 66 to 75" in the first part of the same paragraph reads "Articles 51, 63 and 66", and the latter part of the same paragraph is deemed to be deleted until February 28, 1998; in applying paragraph (3) of the same Article, "Article 51(4) to (6)" in the same paragraph reads "Article 51(1) and (5)" until February 28, 1998.

(4) In applying Article 171(3) and (4), "ruling of rejection" in the same paragraph reads "ruling to reject or revoke" until February 28, 1998.

(5) In Article 172, "procedure for the patent, which was taken for the examination or trial" reads "procedure for the patent, which was taken for the examination, patent objection or trial" until February 28, 1998.

(6) In Article 176, "shall reverse the ruling of rejection or decision on a trial" reads "shall reverse or revoke the ruling of rejection, decision of revocation or decision on a trial" until February 28, 1998.

Article 3 Transitional Measures on Modification of the Patent Objection System

(1) The previous provisions govern a patent application that has been pending at the Korean Intellectual Property Office before this Act enters into force and on which a copy of a decision to publish the application, and a patent, patent right, trial or review related to a patent application on which a copy of a decision to publish the application has been served before this Act enters into force.

(2) Notwithstanding amended Article 29(3), the previous provisions govern a patent application on which a copy of a decision to publish an application has been served or a patent application applying for the same invention as an invention or device described in the description or drawing(s) appended to the original patent application after the application date of the utility model registration.

Article 4 Transitional Measures on Penal Provisions

The previous provisions govern the application of penal provisions to acts committed before this Act enters into force.

Article 5 Amendment of Other Acts

The following provisions of the Trademark Act are amended as follows:

Article 16(2) is amended as follows and paragraph (3) in the same Article is newly created as follows:

(2) If an amendment of a trademark or the list of designated goods in an application for trademark registration has been made before the transmittal of a certified copy of the decision to publish the application and is recognized to have caused a material change after the establishment of the trademark right, the trademark application is deemed to have been filed when the written amendment was submitted.

(2) If an amendment of a trademark or the list of designated goods in an application for trademark registration has been made after the transmittal of a certified copy of the decision to publish the application and is deemed to have violated Article 15 after the establishment of the trademark right, the trademark application that has not been amended is deemed to establish the trademark right.

Article 89(2) becomes paragraph (4), and paragraphs (2) and (3) in the same Article are newly created as follows:

(2) The Trademark Gazette may be published in electronic media as prescribed by ordinance of the Ministry of Commerce, Industry and Energy.

(3) When publishing the Trademark Gazette in electronic media, the Commissioner of the Korean Intellectual Property Office shall publicize on a communication network matters regarding the Trademark Gazette's publication, main contents and service.

(2) The following provisions of the Industrial Design Act are amended as follows:

"Articles 77 and 78(1) in this Act" in Article 30 reads "Articles 68 and 78 in this Act", and the later part of the same Article is deleted.

Article 78(2) becomes paragraph (4), and paragraphs (2) and (3) in the same Article are newly created as follows:

(2) The Design Gazette may be published in electronic media as prescribed by ordinance of the Ministry of the Commerce, Industry and Energy.

(3) When publishing the Design Gazette in electronic media, the Commissioner of the Korean Intellectual Property Office shall publicize on a communication network matters regarding the Design Gazette's publication, main contents and service.

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Article 1 Date of Entry into Force

This Act enters into force on January 1, 1999. However, Articles 193(1) and 198*bis*, amendments concerning the effect of the description, claim(s), drawing(s) and abstract of an international patent application made in the Korean language under Article 201(6), amendments concerning the exemption of submission of translations for an international patent application made in the Korean language under Article 208(1) and amendments concerning the exemption of submission of translations for an international patent application made in the Korean language under Article 210, enter into force on the day on which a convention that the Government of the Republic of Korea concludes with the International

Bureau in connection with the appointment of an international searching authority enters into force, and amended Articles 6, 11, 29, 36, 49, 53, 55, 56, 59, 69, 87, 88, 102, 104, 133, 202, 209 and 215 of this Act and Articles 21 and 22 of the Industrial Design Act in Article 5(2) of the addendum enter into force on July 1, 1999.

Article 2 General Transitional Measures

When this law enters into force, the previous provisions apply to an examination, patent registration, a patent right, an opposition to a patent, a trial, review and litigation related to a patent application filed after January 1, 1999.

Article 3 Application of Disposition of Procedures Related to Filing a Patent Application by Means of Electronic Documents

The provisions on procedures related to filing a patent application and oppositions to the grant of a patent among amended Articles 28*ter* and 217*bis*(5) apply to a patent application filed after January 1, 1999.

Article 4 Application of Requirements for Patents

Amended Article 29(3) applies when an invention for which a patent application filed after this Act enters into force (referred to as "a later-filed invention" in this Article) is the same as a device described in the description or drawing(s) attached to a written application for utility model registration filed before this Act enters into force and laid open after the filing date of the patent application for a later-filed invention.

Article 5 Amendment of Other Acts

(1) The following provisions of the Industrial Design Act are amended as follows:

"Articles 3 to 28 of the Patent Act" in Article 4 reads "Article 3 to 28*quinquies* of the Patent Act";

Articles 21 and 22 are deleted;

"Article 218 of the Patent Act" in Article 81 reads "Article 217*bis* of the Patent Act", and "Article 213 of the Patent Act" in Article 89 reads "Articles 229*bis* and 231 of the Patent Act".

(2) The following provisions of the Trademark Act are amended as follows:
"Article 28 of the Patent Act" in Article 5 reads "Article 28 to 28*quinquies* the Patent Act", and "Article 218 of the Patent Act" in Article 92 reads "Article 217*bis* of the Patent Act".

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Article 1 Date of Entry into Force

This Act enters into force on October 1, 2000. (Proviso deleted.)

Articles 2 to 13 Deleted

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Article 1 Date of Entry into Force

This Act enters into force on July 1, 2001. However, amended Articles 56(1), 84(2) and (3), Article 217(1) and Article 229*bis* enter into force on the day this Act is promulgated.

Article 2 Application of Requirements for Patents

Amended Articles 29(1)(ii) and 30(1)(i)(c) apply to a patent application initiated after this Act enters into force.

Article 3 General Transitional Measures

The previous provisions apply to an examination, patent registration, patent right, opposition to a patent, trial, retrial and litigation related to a patent application made under the previous provisions when this Act enters into force, except under any of the following circumstances:

- (i) where an opposition to a patent is made, Article 136(9) as applied *mutatis mutandis* under amended Article 77(3) applies;
- (ii) where a patent application or patent right is deemed to have retroactive effect, amended Article 81*bis* applies;
- (iii) where a trial to invalidate a patent is requested, amended Article 133*bis*(1) and (2), amended Articles 136(3) to (5), (7) to (11), 139(3), 140(1), (5) and 136(1) as applied *mutatis mutandis* under amended Article 133*bis*(3) applies;
- (vi) where a trial against a ruling to reject a patent application is requested, the exception of amended Article 140*bis*(1) and (3) applies; or
- (v) where individual claims of a patent application with two or more claims are abandoned, amended Article 215*bis* applies

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Article 1 Date of Entry into Force

This Act enters into force six months after its promulgation.

Article 2 Transitional Measures on National and Public Patent Rights

A patent right and the right to obtain a patent for official inventions created by the faculty of national and public schools owned by the State and local

government entities may be transferred to the organization of the school concerned when this Act enters into force.

Article 3 Transitional Measures on National and Public Utility Model Rights

For official utility models and a utility model right for an official creation, the right to obtain a utility model, the utility model right and transferring the right to obtain a utility model by the faculty of national and public schools owned by the State and local government entities, amended Article 39 and the addendum as applied *mutatis mutandis* under Article 20 of the Utility Model Act and Article 24 of the Industrial Design Act apply when this Act enters into force.

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Article 1 Date of Entry into Force

This Act enters into force on July 1, 2002.

Articles 2 to 5 Deleted

Article 6 Amendment of Other Acts

(1) to (22) deleted.

(23) The following provisions of the Patent Law are amended as follows:

"Article 9 of the Civil Procedure Act" in Article 13 reads "Article 11 of the Civil Procedure Act".

"Articles 142, 143 and 145 to 149 of the Civil Procedure Act" in Article 154(7) reads "Articles 153, 154 and 156 to 160 of the Civil Procedure Act", and "Articles 133, 271 and 339 of the Civil Procedure Act" in Article 154(8) reads "Articles 143, 299 and 367".

"Articles 89 to 94, 98(1) and (2), 99, 101, 102 and 106 of the Civil Procedure Act" in Article 165(2) reads "Articles 98 to 103, 107(1) and (2), 108, 111, 112 and 116 of the Civil Procedure Act" and "Article 93 of the Civil Procedure Act" in Article 165(4) reads "Article 102 of the Civil Procedure Act".

"Articles 422 and 424 of the Civil Procedure Act" in Article 178(2) reads "Articles 451 and 453 of the Civil Procedure Act".

"Article 429(1) of the Civil Procedure Act" in Article 185 reads "Article 459(1) of the Civil Procedure Act".

"Articles 38 to 41, 43 and 44 of the Civil Procedure Act" in Article 188*ter*(1) reads "Articles 42 to 45, 47 and 48 of the Civil Procedure Act".

"Articles 271(2) and 339 of the Civil Procedure Act" in Article 232(1)(i) reads "Articles 299(2) and 367 of the Civil Procedure Act".

Article 7 Deleted

ADDENDUM

Article 1 Date of Entry into Force

This Act enters into force five months after its promulgation.

Article 2 Application of Treatment of Oppositions against the Grant of a Patent

Amended Article 78*bis* applies to an opposition against the granting of a patent initially filed after the enforcement of this Act.

Article 3 Transitional Measures on Domestic Period for Submitting the Documents of an International Patent Application

Notwithstanding amended Article 201(1), the previous provisions apply to an international patent application of which the domestic period for submitting documents expires when this Act enters into force.