Tribunal, a presiding trial examiner, a trial examiner, a presiding examiner or an examiner may do so through a communication network.

(2) Notification of any pertinent documents through a communication network under paragraph (1) has the same effect as notification given in writing.

(3) Where the notification of any pertinent documents under paragraph (1) is saved in a file of a computer system operated by a person who receives the notification, the notification is considered to be the same as the contents saved in a file of a computer system operated by the Korean Intellectual Property Office or the Intellectual Property Tribunal for the transmission of documents.

(4) Matters necessary for the classification and methods of notification through a communication network under paragraph (1) are prescribed by ordinance of the Ministry of Commerce, Industry and Energy.

CHAPTER II

REQUIREMENTS FOR PATENT REGISTRATION AND PATENT APPLICATIONS

Article 29 Requirements for Patent Registration

(1) Inventions that have industrial applicability are patentable unless they fall under either of the following subparagraphs:

(i) inventions publicly known or worked in the Republic of Korea before the filing of the patent application; or

(ii) inventions described in a publication distributed in the Republic of Korea or in a foreign country before the filing of the patent application or inventions published through electric telecommunication lines as prescribed by Presidential Decree.

(2) Notwithstanding paragraph (1), where an invention referred to in each subparagraph of paragraph (1) could easily have been made before the filing of a patent application by a person with ordinary skill in the art to which the invention pertains, the patent for such an invention may not be granted.

(3) Notwithstanding paragraph (1), where an application is filed for an invention that is identical to an invention or device described in the description or drawing(s) originally attached to another patent application that has already been laid open or published, or where the invention is identical to a utility model application that has already been published, the patent may not be granted. However, if the inventor of the concerned patent application and the inventor of the other patent or utility model application are the same person, or if the applicant of the concerned patent application and the applicant of the other patent or utility model application are the same person at the time of filing, the patent may be granted.

(4) In applying paragraph (3), where the other patent or utility model application is an international application considered to be either a patent application under Article 199(1) of this Act or a utility model application under Article 57(1) of the Utility Model Act (including an international application considered to be a patent application under Article 214(4) of this Act or a utility model application under Article 71(4) of the Utility Model Act), "laid open" reads "laid open or was the subject of an international publication under Article 21 of the Patent Cooperation Treaty", and "an invention or device described in the description or drawing(s) originally attached" reads "an invention or device described in the description, claim(s) or drawing(s) of the international application as of the international filing date and in the translated version".

Article 30 Inventions Not Considered to be Publicly Known etc.

(1) A patentable invention that falls under any of the following subparagraphs is recognized as being novel where Article 29(1) or (2) applies to the invention claimed in the patent application, if the patent application is filed within six months of the applicable date:

(i) when a person with the right to obtain a patent causes the invention to fall under either subparagraph of Article 29(1) by conducting any of the following acts:

(a) conducting tests on the invention;

(b) publishing the invention in printed matter;

(c) publishing the invention through electric telecommunication lines as prescribed by Presidential Decree; or

(d) presenting the invention in writing before an academic organization as prescribed by ordinance of the Ministry of Commerce, Industry and Energy.

(ii) when, against the intention of a person with the right to obtain a patent, the invention falls under either subparagraph of Article 29(1); or

(iii) when a person with the right to obtain a patent causes the invention to fall under either subparagraph of Article 29(1) by displaying the invention at an exhibition.

(2) A person intending to take advantage of paragraph (1)(i) or (iii) shall submit a written statement of that intention to the Commissioner of the Korean Intellectual Property Office when filing a patent application; the person shall also submit a document proving the relevant facts to the Commissioner of the Korean Intellectual Property Office, within thirty days of the filing date of the patent application.

Article 31 Patent for a Plant Invention

A person who invents a variety of plant that reproduces itself asexually may obtain a plant patent.

Article 32 Unpatentable Inventions

Notwithstanding Article 29(1) to (2), an invention likely to contravene public order or morality or to injure public health may not be patented.

Article 33 Persons Entitled to Obtain a Patent

(1) A person who makes an invention or the person's successor is entitled to obtain a patent under this Act. However, employees of the Korean Intellectual Property Office and the Intellectual Property Tribunal may not obtain patents during their employment at the office or tribunal except by inheritance or bequest.

(2) Where two or more persons jointly make an invention, they are entitled to jointly own the patent.

Article 34 Patent Application Filed by an Unentitled Person and Protection of the Lawful Holder of a Right

Where a patent cannot be granted because an application was filed by a person who is not the inventor or a successor to the right to obtain a patent (referred to as "an unentitled person") under Article 33(1) as prescribed in Article 62(ii), a subsequent application filed by the lawful holder of the right is deemed to have been filed on the filing date of the earlier application filed by the unentitled person. This provision does not apply, however, if the subsequent application is filed by the lawful holder of the right more than thirty days after the date on which the application filed by the unentitled person was rejected.

Article 35 Patent Granted to an Unentitled Person and Protection of the Lawful Holder of a Right

Where a decision to revoke a patent becomes final for lack of entitlement to obtain a patent under Article 33(1) as prescribed in Article 69(1)(ii) or a decision to invalidate becomes final due to a lack of entitlement under Article 33(1) as prescribed in Article 133(1)(ii), a subsequent application filed by the lawful holder of the right is deemed to have been filed on the filing date of the revoked or invalidated application. However, this provision does not apply if the subsequent application is filed more than two years after the publication date of the first application or more than thirty days after the decision to revoke or invalidate becomes final.

Article 36 First-to-File Rule

(1) Where two or more applications related to the same invention are filed on different dates, only the applicant of the application with the earlier filing date may obtain a patent for the invention.

(2) Where two or more applications related to the same invention are filed on the same date, only the person agreed upon by all the applicants after consultation may obtain a patent for the invention. If no agreement is reached or no consultation is possible, none of the applicants may obtain a patent for the invention.

(3) Where a patent application has the same subject matter as a utility model application and the applications are filed on different dates, paragraph (1) applies *mutatis mutandis*. However, if they are filed on the same date, paragraph (2) applies *mutatis mutandis* as a dual application as prescribed in Article 53, unless a patent application is filed on the same date as a utility model application (including a patent application deemed to have been filed on the same date as a utility model application under Article 53(3)).

(4) For the purposes of paragraphs (1) to (3), where a patent application or utility model application is invalidated or withdrawn, or a utility model application is rejected, the application is deemed never to have been filed.

(5) For the purposes of paragraphs (1) to (3), a patent application or utility model application filed by a person who is not the inventor, creator or successor in title to the right to obtain the patent or utility model registration is deemed never to have been filed.

(6) When paragraph (2) applies, the Commissioner of the Korean Intellectual Property Office shall instruct the applicants to report on the results of the consultation within a designated period. If the report is not submitted to the Commissioner of the Korean Intellectual Property Office within the designated period, the applicants are deemed not to have reached an agreement within the meaning of paragraph (2).

Article 37 Transfer of the Right to Obtain a Patent etc.

(1) The right to obtain a patent may be transferred.

(2) The right to obtain a patent may not be the subject of a pledge.

(3) Where a patent right is jointly owned, the owners may not assign their individual share without the consent of the other owners.

Article 38 Succession to the Right to Obtain a Patent

(1) Succession to the right to obtain a patent before filing the patent application is not effective against third persons unless the successor in title files the patent application.

(2) Where two or more applications for a patent are filed on the same date on the basis of a right to obtain a patent for the same invention derived by succession from the same person, the succession to the right to obtain the patent by any person other than the person agreed upon by all the patent applicants is not effective.

(3) Paragraph (2) also applies where a patent application and a utility model application are filed on the same date on the basis of the right to obtain a patent and utility model registration for the same invention and device derived by succession from the same person.

(4) Succession to the right to obtain a patent after filing a patent application does not take effect unless a notice of change of applicant is filed, except for inheritance or other general succession.

(5) Upon inheritance or other general succession of the right to obtain a patent, the successor in title shall immediately notify the Commissioner of the Korean Intellectual Property Office.

(6) Where two or more notifications of change of applicant are made on the same date, on the basis of a right to obtain a patent for the same invention that has been derived by succession from the same person, a notification

made by any person other than the person agreed upon after consultations among all the persons who made notifications is not effective.

(7) Article 36(6) applies *mutatis mutandis* to the cases under paragraphs (2), (3) or (6).

Article 39 Employees' Inventions

(1) An employer, a legal entity, the Government or a local government (referred to as "an employer") is entitled to have a nonexclusive license to a patent right when an employee, an executive officer of the legal entity or a public official (referred to as "an employee"), or a successor in title, has obtained a patent for an invention that by nature falls within the scope of the employer's business and an act that resulted in the invention (referred to as "an employee's invention") was part of the present or past duties of the employee.

(2) Notwithstanding paragraph (1), an employee's invention made by a public official must pass to the State or a local government and the patent right thereby reverts to the State or the local government. However, an employee's invention of the teachers and staff of a State or public school under the Higher Education Act (referred to as "a State or public school") must pass to the responsible organization under the latter part of Article 9(1) of the Technology Transfer Promotion Act (referred to as "the responsible organization"); furthermore, when the patent right on an employee's invention of the teachers and staff of a State or public school has passed to the responsible organization, the patent right is considered the possession of the responsible organization.

(3) When an employee makes an invention that is not an employee's invention, any contractual or service regulation provision stipulating in advance that the right to obtain a patent or the patent right must pass to the employer or that the employer is entitled to have an exclusive license on the invention is invalid.

(4) Notwithstanding Article 6 of the National Property Act, the disposal and management of a patent right that has reverted to the State under

paragraph (2) is governed by the Commissioner of the Korean Intellectual Property Office.

(5) The disposal and management of a patent right under paragraph (4) that has reverted to the State is prescribed by Presidential Decree.

Article 40 Remuneration for Employees' Inventions

(1) Where an employee has transferred to an employer the right to obtain a patent or a patent right for an employee's invention, or has given the employer an exclusive license in accordance with a contract or service regulation, the employee is entitled to reasonable remuneration.

(2) The amount of remuneration allowed in paragraph (1) is calculated according to the profits to be realized by the employer from the invention and the extent of the employer and the employee's contribution to creating the invention. In such cases, matters of remuneration are prescribed by Presidential Decree or by ordinance of the local government.

(3) Where the State, a local government entity or a responsible organization succeeds to an employee's invention made by a public official under Article 39(2), the State shall provide reasonable remuneration to the public official; matters of paying remuneration are prescribed by Presidential Decree or by ordinance of the local government.

(4) Deleted.

Article 41 Inventions Necessary for National Defense etc.

(1) If an invention is necessary for national defense, the Government may order an inventor, an applicant or an agent not to file a patent application for the invention in the foreign patent offices concerned or to keep the invention confidential. However, if such persons obtain permission from the Government, they may file an application in foreign patent offices.

(2) If an invention filed with the Korean Intellectual Property Office is

considered necessary for national defense, the Government may refuse to grant a patent and, for reasons of national defense such as in time of war, incident or other similar emergency, may expropriate the right to obtain a patent.

(3) The Government shall pay reasonable compensation for losses arising from its prohibition of filing a patent application in a foreign patent office or from the maintenance of secrecy under paragraph (1).

(4) The Government shall pay reasonable compensation if a patent is not granted or the right to obtain a patent is expropriated under paragraph (2).

(5) When a person violates an order prohibiting the filing of an application for an invention in a foreign patent office or an order to maintain secrecy under paragraph (1), the person's right to obtain a patent for that invention is deemed to be abandoned.

(6) When a person violates an order to maintain secrecy under paragraph (1), the person's right to request payment of compensation for the loss arising from maintaining secrecy is deemed to be abandoned.

(7) Matters related to such procedures as prohibiting the filing of an application in foreign patent offices, trials for maintaining secrecy under paragraph (1) or for expropriation or payment of compensation under paragraphs (2) to (4) are prescribed by Presidential Decree.

Article 42 Patent Application

(1) A person seeking to register a patent shall file a patent application with the Commissioner of the Korean Intellectual Property Office, stating the following:

(i) the name and address of the applicant (and, if a legal entity, the name and address of the business);

(ii) the name and residential or business address of the agent, if any (and, if the agent is a patent legal entity, the name and address of the business and the name of the designated patent attorney);

(iii) deleted;

(iv) the title of the invention;

(v) the name and address of the inventor;

(vi) deleted.

(2) A patent application under paragraph (1) must be accompanied by an abstract, drawing(s) (if necessary) and a description stating the following:

(i) the title of the invention;

(ii) a brief explanation of the drawing(s);

(iii) a detailed explanation of the invention; and

(iv) the patent claim(s).

(3) The detailed explanation of the invention under paragraph (2)(iii) must state the purpose, construction and effect of the invention in such a manner that it may easily be carried out by a person with ordinary skill in the art to which the invention pertains.

(4) The claim(s) under paragraph (2)(iv) must describe the matter for which protection is sought in one or more claims (referred to as "claim(s)") and the claim(s) must comply with each of the following subparagraphs:

(i) the claim(s) must be supported by a detailed explanation of the invention;

(ii) the claim(s) must define the invention clearly and concisely; and

(iii) the claim(s) must define only the features indispensable for the construction of the invention.

(5) Details on the drafting of claim(s) under paragraph (2)(iv) are prescribed by Presidential Decree.

(6) Details on the description of an abstract under paragraph (2) are prescribed by ordinance of the Ministry of Commerce, Industry and Energy.

Article 43 Abstract

An abstract under Article 42(2) may not be interpreted to define the scope of an invention for which protection is sought but it serves as technical information.

Article 44 Joint Applications

Where the right to obtain a patent is jointly owned under Article 33(2), the owners shall jointly apply for the patent application.

Article 45 Scope of a Patent Application

(1) A patent application must relate to a single invention only. However, a group of inventions that form a single general inventive concept may be the subject of a patent application.

(2) The requirements for a patent application under paragraph (1) are prescribed by Presidential Decree.

Article 46 Amendment of Procedure

The Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal shall order an amendment to a patent-related procedure within a designated period if the procedure falls under any of the following subparagraphs:

(i) where the procedure does not comply with Articles 3(1) or 6;

(ii) where the procedure does not comply with the formalities prescribed in this Act or by Presidential Decree; or

(iii) where fees required under Article 82 have not been paid.

Article 47 Amendment of Patent Application

(1) An applicant may amend the description or drawing(s) attached to a patent application before the examiner issues a certified copy of a decision to grant a patent under Article 66. However, in the following circumstances, if the applicant makes an amendment, the amendment must be made within the periods designated in the following subparagraphs:

(i) where an applicant first receives notification of the reasons for refusal under Article 63 (referred to as "a notice of the reasons for refusal") or receives a notice of the reasons for refusal that does not apply under paragraph (ii), the period is that designated for submitting arguments against the notice of the reasons for refusal;

(ii) where an applicant receives a notice of the reasons for refusing an amendment made in response to a notice of the reasons for refusal issued under paragraph (i), the period is that designated for submitting arguments in response to the notice; or

(iii) where an applicant requests a trial against a decision to refuse a patent under Article 132*ter*, the period is thirty days after the filing date of the request.

(2) An amendment to a description or drawing(s) under paragraph (1) must be within the scope of the features disclosed in the description or drawing(s) originally attached to the application.

(3) An amendment to the claim(s) made under paragraphs (1)(ii) and (iii) must be limited to the scope prescribed in any of the following subparagraphs, and where an amendment is made under subparagraph (iii), it must be limited to the scope indicated by the examiner in the notice of the reasons for refusal:

(i) to narrow a claim;

(ii) to correct a clerical error; or

(iii) to clarify an ambiguous description.

(4) An amendment made within the period designated in paragraph 1(ii) and (iii) must meet the following requirements:

(i) an amendment to a description or drawing(s) must neither substantially expand nor modify the scope of the claim(s); and

(ii) the matters described in the claim(s) after an amendment must have been patentable when the patent application was filed.

Article 48 Deleted

Article 49 Treatment of an Amendment to a Dual Application etc.

(1) Deleted.

(2) If a dual application, as prescribed in Article 53, is considered to extend beyond the scope described in the claim(s) of the utility model registration in the description originally attached to the application for a utility model registration after registration of the patent right has been established, the dual application is deemed to have been filed on the date on which the written application was submitted.

Article 50 Deleted

Article 51 Rejection of an Amendment

(1) Where an amendment under Article 47(1)(ii) is considered to violate paragraphs (2) to (4) of Article 47, the examiner shall reject the amendment by decision.

(2) A decision to reject an amendment under paragraph (1) must be in writing and must state the reasons for the decision.

(3) An appeal may not be made against a decision to reject under paragraph (1), except in an appeal against the final rejection of the patent under Article 132*ter*.

Article 52 Divisional Application

(1) An applicant who has filed a patent application comprising two or more inventions may divide the application into two or more applications within the amendment period prescribed under Article 47(1).

(2) A divided patent application under paragraph (1) (referred to as "a divisional application") is deemed to have been filed when the original patent application was filed. However, when any of the following subparagraphs applies to the divisional application, the divisional application is deemed to have been filed when the divisional application was filed:

(i) where Article 29(3) of this Act or Article 5(3) of the Utility Model Act applies because the divisional application falls under another patent application under Article 29(3) of this Act or a patent application under Article 5(3) of the Utility Model Act;

(ii) where Article 30(2) applies;

(iii) where Article 54(3) applies; or

(iv) where Article 55(2) applies.

(3) A person who files a divisional application under paragraph (1) shall indicate the purpose of the divisional application as well as the patent application that forms the basis of the division.

(4) When filing a divisional application, a person claiming priority under Article 54 shall file the documents prescribed in paragraph (4) of Article 54 with the Commissioner of the Korean Intellectual Property Office within three months of filing the divisional application, regardless of the period prescribed in paragraph (5) of Article 54.

Article 53 Dual Application

(1) A person who applies for a utility model registration may apply for a patent (referred to as "a dual application") within the scope of matters stated in the claim(s) of the description originally attached to the utility model application. The dual application must be filed after the date on which the utility model application was filed and not later than one year after the date on which the utility model right was registered.

(2) When applying for a patent, a person who files a dual application under paragraph (1) shall indicate the purpose of the patent and the utility model application that form the basis of the dual application.

(3) When a person files a dual application under paragraph (1), the patent application is deemed to have been filed on the filing date of the utility model application. However, when any of the following subparagraphs applies to the patent application, the patent application is deemed to have been filed when the dual application was filed:

(i) where Article 29(3) of this Act or Article 5(3) of the Utility Model Act applies because the application for a patent falls under another patent application under Article 29(3) of this Act or a patent application under Article 5(3) of the Utility Model Act;

(ii) where Article 30(2) applies

(iii) where Article 54(3) applies; or

(iv) where Article 55(2) applies

(4) Notwithstanding Article 54(5), a person who claims a priority under Article 54 when applying for a patent under paragraph (1) shall submit the documents prescribed in paragraph (4) of Article 54 to the Commissioner of the Korean Intellectual Property Office within three months of filing the dual application.

Article 54 Priority Claim Under Treaty

(1) If a national of a country that recognizes under a treaty the right of priority for a patent application filed by a national of the Republic of Korea claims the right of priority for a patent application in the Republic of Korea based on the earlier application for the same invention in the national's country or in another country that recognizes the treaty, the filing date of the earlier application in the foreign country is deemed to be the filing date in the Republic of Korea under Articles 29 and 36. Where a national of the Republic of Korea who has filed a patent application in a country that recognizes under a treaty the right of priority for patent applications filed by nationals of the Republic of Korea claims the right of priority for a patent application in the Republic of Korea based on the earlier application for the same invention in that country, this provision also applies.

(2) A person claiming the right of priority under paragraph (1) shall file a patent application claiming the right of priority within one year from the filing date of the earlier application.

(3) A person claiming the right of priority under paragraph (1) shall specify the claim, the name of the country in which the earlier application was filed and the filing date of the application in the patent application that the person files in the Republic of Korea.

(4) A person who has claimed the right of priority under paragraph (3) shall submit to the Commissioner of the Korean Intellectual Property Office the documents prescribed in paragraph (i) or the written statement prescribed in paragraph (ii). However, the written statement referred to in paragraph (ii) must be submitted only if the country is prescribed by ordinance of the Ministry of Commerce, Industry and Energy:

(i) a written statement setting forth the filing date of the application and a copy of the description and drawing(s) certified by the government of the country where the earlier application was filed; or

(ii) a written statement setting forth the file number of the application in the country where the earlier application was filed.

(5) Documents under paragraph (4) must be submitted within one year and four months of the earliest date prescribed in the following subparagraphs:

(i) the date on which the application was first filed in a country that is a party to a treaty;

(ii) the filing date of an earlier application that would be the basis for claiming a priority right if a patent application contains other priority claims under Article 55(1); or

(iii) the filing date of the application that is to be the basis for claiming a priority right if a patent application contains other priority claims under paragraph (3).

(6) Where a person who has claimed the right of priority under paragraph (3) fails to submit the document prescribed under paragraph (4) within the designated period under paragraph (5), the claim to the right of priority loses its effect.

(7) A person who is eligible to claim the right of priority under paragraph (1) and who complies with the requirements of paragraph (2) may amend or add the priority claim(s) within one year and four months of the earliest date prescribed under paragraph (5).

Article 55 Priority Claim Based on a Patent Application etc.

(1) An applicant for a patent may claim the right of priority for an invention claimed in a patent application disclosed in the description or drawing(s) originally attached to an earlier patent or utility model application (referred to as "an earlier application") for which the person has the right to obtain a patent or utility model registration, except in any of the following cases:

(i) where the patent application concerned is filed more than one year after the filing date of the earlier application;

(ii) where the earlier application is a divisional application under Article 52(2) or a dual application under Article 53 of this Act or a divisional application

under Article 16(2) of the Utility Model Act or a dual application under Article 17 of the Utility Model Act;

(iii) where the earlier application has been abandoned, invalidated, withdrawn or rejected when the patent application is filed;

(iv) where an examiner's decision to grant or refuse a patent, or a trial decision, on the earlier application has become final; or

(v) where the earlier application is registered under Article 35(2) of the Utility Model Act when the patent application is filed.

(2) A person claiming the right of priority under paragraph (1) shall simultaneously make the claim with the patent application, and identify the earlier application in the patent application.

(3) If a patent application that contains a priority claim under paragraph (1) describes inventions that have been disclosed in the description or drawing(s) originally attached to an earlier application that is the basis for claiming a priority right, the patent application is considered to have been filed when the earlier application was filed under Articles 29(1) or (2), and 29(3) (main sentence), 30(1), 36(1) to (3), 47(4)(ii), 96(1)(iii), 98, 103, 105(1) and (2), 129 and 136(4) (including cases that apply *mutatis mutandis* to Article 77(3) or 133*bis*(3)) of this Act, Articles 8(3) to (4) and 39 of the Utility Model Act or Articles 45 and 52(3) of the Industrial Design Act. However, this provision excludes inventions disclosed in the description or drawing(s) submitted when filing an application whose priority is claimed for an earlier application where the earlier application contains a priority claim under paragraph (1) of this Article or under Article 4D(1) of the Paris Convention for the Protection of Intellectual Property.

(4) For inventions described in the description of drawing(s) originally attached to a patent application containing a priority claim under paragraph (1) and disclosed in the description or drawing(s) originally attached to an earlier application that is the basis for claiming a priority right (excluding inventions disclosed in the description or drawing(s) submitted when filing an application whose priority is claimed for an earlier application where that earlier application contains a priority claim under paragraph (1) of

this Article or under Article 4D(1) of the Paris Convention for the Protection of Intellectual Property), the laying open of the earlier application for public inspection is considered to have been effected when the publication of the patent right registration or the laying open of the patent application for public inspection was effected under the main sentence of Article 29(3) of this Act and the main sentence of Article 5(3) of the Utility Model Act. In this case, where the earlier application is an international application deemed to be a patent application under Article 199(1) of this Act or deemed to be a utility model application under Article 57(1) of the Utility Model Act (including an international application considered to be a patent application or a utility model application under Article 214(4) of this Act or Article 71(4) of the Utility Model Act), "an invention or device described both in the description, claim(s) or drawing(s) of the international application as of the international filing date and in the translated version" in Article 29(4) of this Act reads "an invention or device described in the description, claim or drawing(s) of the international application as of the international filing date".

(5) A person who is eligible to claim the right of priority under paragraph (1) and who complies with the requirements referred to in paragraph (2) may amend or add the priority claim(s) within one year and four months of the filing date of the earlier application (the earliest filing date if two or more earlier applications exist).

Article 56 Withdrawal of an Earlier Application etc.

(1) Where an application is filed claiming the right of priority from an earlier application under Article 55(1), the earlier application is deemed to have been withdrawn when priority is claimed for an earlier utility model application, and when more than one year and three months has elapsed after the filing date of the earlier patent application, unless the earlier application falls under any of the following subparagraphs:

(i) if the earlier application has been abandoned, invalidated, withdrawn or rejected;

(ii) if an examiner's decision of patentability or a trial decision rejecting the application has become final;

(iii) if priority claims based on the earlier application concerned have been withdrawn; or

(iv) if the earlier application has been registered under Article 35(2) of the Utility Model Act.

(2) The applicant of a patent application containing a priority claim under Article 55(1) may not withdraw the priority claim more than one year and three months after the filing date of the earlier application.

(3) Where a patent application containing a priority claim under Article 55(1) is withdrawn within one year and three months of the filing date of an earlier application, the priority claim is deemed to have been withdrawn simultaneously.

CHAPTER III

EXAMINATION

Article 57 Examination by Examiner

(1) The Commissioner of the Korean Intellectual Property Office shall have applications for patents and oppositions to the grant of patents examined by an examiner.

(2) The qualifications for examiners are prescribed by Presidential Decree.

Article 58 Search for Prior Art etc.

(1) If considered necessary for the examination process, the Commissioner of the Korean Intellectual Property Office may assign prior art searches to a specialized search organization.