

(2) Articles 72, 73, 75, 76, 78, 141(1) to (3), 142, 148(i) to (v) and (vii), 154(8), 157, 165(3) to (6) and 166 of the Patent Act apply *mutatis mutandis* to an examination or decision on an opposition to an unexamined design registration.

## CHAPTER IV

### REGISTRATION FEES AND REGISTRATION OF DESIGNS

#### Article 31 Design Registration Fees

(1) The owner of a design right or a person seeking to register the establishment of a design right shall pay the design registration fees (referred to as "the registration fees").

(2) Matters related to paying registration fees, including the method and period of payment under paragraph(1), are prescribed by ordinance of the Ministry of Commerce, Industry and Energy.

#### Article 31bis Abandonment for Each Design at the Time of Paying Registration Fees

(1) A person who receives a decision to grant design registration for an application for multiple design registration may abandon some individual designs when paying the registration fees.

(2) Necessary matters related to the abandonment of a design under paragraph(1) are prescribed by ordinance of the Ministry of Commerce, Industry and Energy.

### **Article 32 Payment of Registration Fees by an Interested Party**

- (1) Regardless of the intent of a person responsible for paying registration fees, any interested party may pay the fees.
- (2) An interested party who has paid the registration fees under paragraph (1) may demand reimbursement of the fees from the responsible party if the party is currently making a profit.

### **Article 33 Late Payment of Registration Fees**

- (1) The owner of a design right or a person seeking to register the establishment of a design right has a period of six months after the expiry of the payment period prescribed under Article 31(2) to pay the registration fees.
- (2) Where registration fees are paid late under paragraph(1), an amount equivalent to twice the registration fees must be paid.
- (3) Where the owner of a design right or a person seeking to register the establishment of a design right fails to pay the registration fees within the extended period prescribed under paragraph(1), the application for design registration is deemed to have been abandoned or the design right concerned is deemed to have been extinguished retroactively from the date on which the initial period for paying the fees expired.

### **Article 33bis Remaining Payment of Registration Fees**

- (1) If the owner of a design right or any person seeking to register a design right fails to pay any portion of the registration fees within the period of late payment under Article 31(2) or 33(1), the Commissioner of the Korean Intellectual Property Office shall order payment of the remaining balance.
- (2) A person who has been ordered to pay the remaining balance in accordance with paragraph (1) may pay the remaining portion of the registration fees within one month of the date of receiving the order.

(3) A person who pays the remaining portion of the registration fees shall pay an amount equivalent to twice the remaining balance if payment of the remaining balance under paragraph (2) falls under either of the following subparagraphs:

- (i) where the remaining portion of the registration fees is paid after the payment period under Article 31(2) expires; or
- (ii) where the remaining portion of the registration fees is paid after the late payment period under Article 33(1) expires.

**Article 33ter Restoration of an Application for Design Registration or a Design Right by Late Payment of Registration Fees etc.**

(1) Where the owner of a design right or a person seeking to register a design right is unable to pay late registration fees within the period of late payment under Article 33(1) for unavoidable reasons, the person has a period of fourteen days from the date on which the reasons cease to exist in which to pay the late registration fees. However, this provision does not apply where six months have elapsed since the expiry of the period for late payment under Article 33(1).

(2) Notwithstanding Article 33(3), where late registration fees are paid in accordance with paragraph (1), the application for the design registration is deemed not to have been abandoned and the design right concerned is deemed to have existed retroactively to the date on which the period for paying the registration fees expired.

(3) The effects of an application for design registration or a design right under paragraph(2) do not extend to the act of working the design or a similar design by another person from the date on which the period for late payment of the registration fees expires to the date on which the registration fees are paid (referred to as "the term of limited effect").

(4) During the term of limited effect, where a person has, in good faith, been commercially or industrially working or preparing to work in the Republic of Korea a design for which an application for design registration has been filed,

or for which a design or similar design is registered under paragraph (2), the person is entitled to have a nonexclusive license for the design right concerned. However, the nonexclusive license must be within the scope of the object of the design or business that the person is working or preparing to work.

(5) A person who has a nonexclusive license under paragraph (4) shall pay reasonable remuneration to the owner of the design right or the exclusive licensee.

### **Article 34 Official Fees**

(1) A person who files an application for design registration, makes a request or initiates any other procedure shall pay the official fees.

(2) Matters related to paying official fees, including the method and period of payment under paragraph (1), are prescribed by ordinance of the Ministry of Commerce, Industry and Energy.

### **Article 35 Reduction or Exemption of Registration Fees or Official Fees**

(1) Notwithstanding Articles 31 and 34, the Commissioner of the Korean Intellectual Property Office shall grant an exemption from paying registration fees or official fees in the following situations:

- (i) official fees or registration fees for an application for design registration or for a design right belonging to the State; or
- (ii) fees for requesting an invalidation trial by an examiner under Article 60(1).

(2) Notwithstanding Articles 31 and 34, where an application for design registration has been filed by an entitled person under Article 3 of the National Assistance Act, or a person prescribed by ordinance of the Ministry of Commerce, Industry and Energy, the Commissioner of the Korean Intellectual Property Office may reduce or exempt from payment, the

registration fees equivalent to the first three years for the registration of the establishment of a design right and official fees as prescribed by ordinance of the Ministry of Commerce, Industry and Energy.

(3) A person taking advantage of reduced registration fees or exemption from paying registration fees or official fees under paragraph(2) shall submit the documents prescribed by ordinance of the Ministry of Commerce, Industry and Energy to the Commissioner of the Korean Intellectual Property Office.

### **Article 36 Refund of Registration Fees etc.**

(1) In either of the following cases, registration fees and official fees that have been paid may not be refunded unless requested by the person making payment:

- (i) registration fees and official fees paid by mistake; or
- (ii) the amount corresponding to the registration fee for the year following the year in which the decision on revocation or invalidation of the design registration becomes final.

(2) Where a person pays registration fees and official fees incorrectly, the Commissioner of the Korean Intellectual Property Office shall notify the person.

(3) A refund of the registration fees and official fees referred to in paragraph(1)(i) may be requested not later than one year after the payment, and the amount corresponding to the registration fees referred to in paragraph(1)(ii) is not subject to a refund after the date on which the decision to revoke the design registration becomes final.

### **Article 37 Design Register**

(1) The Commissioner of the Korean Intellectual Property Office shall keep a Design Register at the Korean Intellectual Property Office and shall register the following matters:

- (i) the establishment, transfer, extinguishment or restriction on disposal of a design right;
- (ii) the establishment, maintenance, transfer, modification, extinguishment or restriction on disposal of an exclusive or nonexclusive license; and
- (iii) the establishment, transfer, modification, extinguishment or restriction on disposal of a pledge on a design right or on an exclusive or nonexclusive license.

(2) The Design Register under paragraph(1) may be stored electronically in whole or in part in format such as an electronic recording medium.

(3) Relevant matters related to the particulars and procedures of registration not stipulated in paragraphs (1) and (2) are prescribed by Presidential Decree.

### **Article 38 Issuance of a Design Registration Certificate**

(1) When the establishment of a design right has been registered, the Commissioner of the Korean Intellectual Property Office shall issue a design registration certificate to the owner of the registered design.

(2) When a design registration certificate does not coincide with the Design Register or other documents, the Commissioner of the Korean Intellectual Property Office shall, upon request or *ex officio*, reissue the design registration certificate with amendments or issue a new design registration certificate.