

declaration or finding referred to in the request is justified under the Patent Cooperation Treaty and its Regulations.

(4) Where the Commissioner of the Korean Intellectual Property Office decides under paragraph(3) that the refusal, declaration or finding under paragraph(1) is not justified under the Patent Cooperation Treaty and its Regulations, the international application concerned is considered to be a patent application filed on the date that would have been recognized as the international filing date if the refusal, declaration or finding had not been made.

(5) Articles 199(2), 200, 201(4) to (8), 202(1) and (2), 208, 210, 212 and 213 apply *mutatis mutandis* to an international application considered to be a patent application under paragraph (4).

(6) For the laying open of an international application considered to be a patent application under paragraph (4), "filing date of an application for a patent" in Article 64(1) reads "priority date referred to in Article 201(1)".

CHAPTER XI

SUPPLEMENTARY PROVISIONS

Article 215 Special Provisions for a Patent or Patent Right with Two or More Claims

Where Articles 65(6), 74(4), 84(1)(ii), 85(1)(i) (only for extinguishment), 101(1)(i), 104(1)(i), (iii) or (v), 119(1), 133(2) or (3), 136(6), 139(1), 181 and 182 of this Act and Article 40(1)(ii), (iv) or (v) of the Utility Model Act apply to a patent or patent right with two or more claims, a patent is deemed to have been granted, or a patent right is deemed to have been established, for each claim.

**Article 215bis Special Provisions for Registering a Patent
Application with Two or More Claims**

(1) Where a person who has received a decision to grant a patent for a patent application with two or more claims pays the registration fees, the person may abandon the individual claims.

(2) Matters necessary for abandoning the claim(s) under paragraph(1) are prescribed by ordinance of the Ministry of Commerce, Industry and Energy.

Article 216 Inspection of Documents etc.

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

(2) The Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal may not grant the request referred to in paragraph(1) if it relates to a patent application that has not been published or laid open for public inspection, or if it relates to matters liable to contravene public order or morality.

**Article 217 Prohibition on Opening or Removing Documents
Related to a Patent Application, Examination, Opposition,
Trial, Retrial or the Patent Register**

(1) The removal of documents related to a patent application, examination, opposition, trial, retrial or the Patent Register is prohibited unless documents related to a patent application or examination are removed under 58(1) or (2).

(2) A response may not be given to a request for an expert opinion, testimony or an inquiry on the contents of a pending patent application, examination, opposition, trial, or retrial that is in process, nor on the contents of an examiner's decision, trial decision or ruling.

Article 217bis Agency for Digitizing Patent Documents

(1) When considered necessary for dealing effectively with patent procedures, the Commissioner of the Korean Intellectual Property Office may entrust any person who meets the standards determined by ordinance of the Ministry of Commerce, Industry and Energy with digitizing documents related to patent applications, examinations, patent oppositions, trials, retrials or the Patent Register through an electronic information processing system and the technology for using the electronic information processing system.

(2) Article 217(1) does not apply when any documents related to patent applications, examinations, patent oppositions, trials, retrials or the Patent Register are removed to digitize patent documents.

(3) Officers or employees of a person entrusted with digitizing patent documents under paragraph (1) (referred to as "an agency for digitizing patent documents") may not divulge or appropriate an invention disclosed in a pending application to which they had access during the course of their duties.

(4) The Commissioner of the Korean Intellectual Property Office may, under paragraph (1), convert into electronic form a written application for a patent or other documents prescribed by ordinance of the Ministry of Commerce, Industry and Energy that were not submitted as electronic documents as prescribed in Article 28ter(1), and may save them in a file of an electronic information processing system operated by the Korean Intellectual Property Office or the Intellectual Property Tribunal.

(5) The contents of a file under paragraph (4) of this Article are deemed to be the same as the contents of the documents concerned.

(6) The method of digitizing patent documents under paragraph (1) and other matters necessary for digitizing patent documents are determined by ordinance of the Ministry of Commerce, Industry and Energy.

Article 218 Transmittal of Documents

In addition to the provisions in this Act, matters related to the transmittal of

documents and procedures of transmittal are prescribed by Presidential Decree.

Article 219 Transmittal by Public Notification

- (1) When documents cannot be transmitted because the residential or business address of the addressee is unclear, the addressee is notified by public notification.
- (2) Public notification is conducted by publishing a notice in the Patent Gazette that the documents to be transmitted are available at any time to the addressee.
- (3) Documents are deemed to have been served two weeks after the date on which the notice is published in the Patent Gazette; however, a subsequent public notification for the same party is deemed to have been served on the day after its publication in the Patent Gazette.

Article 220 Transmittal of Documents to Nonresidents

- (1) Documents to be transmitted to a nonresident who has a patent administrator must be transmitted to the patent administrator.
- (2) Documents to be transmitted to a nonresident who does not have a patent administrator may be sent to the nonresident by registered airmail.
- (3) When documents have been sent by registered airmail under paragraph (2), the documents are deemed to have been served on the mailing date.

Article 221 Patent Gazette

- (1) The Korean Intellectual Property Office shall publish the Patent Gazette.
- (2) The Patent Gazette may be published in electronic format under conditions determined by ordinance of the Ministry of Commerce, Industry and Energy.

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

Article 222 Submission of Documents etc.

The Commissioner of the Korean Intellectual Property Office or examiner may invite a concerned party to submit documents and articles necessary for dealing with proceedings unrelated to the proceedings of a trial or retrial.

Article 223 Patent Indication

A patentee or an exclusive or nonexclusive licensee may put on a manufactured product an identification of the patent for an invention of either a product or a process. If placing the identification on the product is not possible, the identification may be put on the product's container or package.

Article 224 Prohibition of False Indication

A person may not perform any of the following acts:

- (i) the act of marking an article with an indication that a patent has been granted or a patent application has been filed, or with any sign likely to cause confusion as to whether a patent has been granted or a patent application is pending, or upon an article manufactured by a process for which a patent has not been granted or for which a patent application is not pending, or the article's container or package;
- (ii) the act of assigning, leasing or displaying an article that has been marked with an indication referred to in subparagraph (i);
- (iii) for the purpose of manufacturing, using, assigning or leasing an article referred to in subparagraph (i), the act of marking an indication on advertisements, signboards or tags that a patent has been granted or a

patent application had been filed or that the article has been produced by a process for which a patent has been granted or a patent application is pending, or marking with any sign likely to cause confusion as to whether a patent has been granted or a patent application is pending; or

- (iv) for the purpose of using, assigning or leasing a process for which a patent has not been granted or a patent application is not pending, the act of marking an indication on advertisements, signboards or tags that a patent has been granted or a patent application had been filed for the process, or marking with any sign likely to cause confusion as to whether a patent has been granted or a patent application is pending.

Article 224bis Restriction on Objections

An objection may not be raised against a decision to reject an amendment, a decision to grant a patent, a decision to revoke a patent, a trial decision or the dismissal of a request for a trial or retrial under any other Act, and an objection may not be raised against any disposition against which an objection may not be raised under this Act or under any other Act.

CHAPTER XII

PENAL PROVISIONS

Article 225 Offense of Infringement

(1) A person who infringes a patent right or exclusive licensee is liable to imprisonment with labor not exceeding seven years or to a fine not exceeding 100 million won.

(2) Prosecution for offenses under paragraph (1) are initiated when an injured party files a complaint.