

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.

### **Article 226 Offense of Perjury**

(1) A witness, expert witness or interpreter who, having taken an oath under the law, has made a false statement or given a false expert opinion or interpreted falsely before the Intellectual Property Tribunal is liable to imprisonment with labor not exceeding five years or to a fine not exceeding 10 million won.

(2) A person that has committed an offense under paragraph(1) who confesses it before the examiner's decision to an opposition or a trial decision becomes final may be partially or totally exempted from the application of the sentence.

### **Article 227 Offense of False Marking**

A person who violates Article 224 is liable to imprisonment with labor not exceeding three years or to a fine not exceeding 20 million won.

### **Article 228 Offense of Fraud**

A person who has obtained a patent, a decision on an opposition to the grant of a patent, the registration of an extension of the patent term, or a trial decision by means of a fraudulent or any other unjust act is liable to imprisonment with labor not exceeding three years or to a fine not exceeding 20 million won.

### **Article 229 Offense of Divulging Secrets**

Any present or former employees of the Korean Intellectual Property Office or the Intellectual Property Tribunal who have divulged or appropriated an invention disclosed in a pending application to which they had access during the course of their duties are liable to imprisonment with labor not exceeding two years or to a fine not exceeding 3 million won.

**Article 229bis Officers and Employees of Special Searching Agency as Public Officials and Irrefutable Presumption**

When applying Article 229, a person who is a present or former officer or employee of a special searching agency or agency for digitizing patent documents is deemed to be a present or former employee of the Korean Intellectual Property Office.

**Article 230 Dual Liability**

Where a representative of a legal entity or an agent, an employee or any other servant of a legal or natural person violates Articles 225(1), 227 or 228 with regard to the business of the legal or natural person, the legal person, in addition to the offender, is liable to a fine as prescribed in either of the following subparagraphs, and the natural person is liable to a fine prescribed in the relevant Article:

- (i) under Article 225(1), a fine not exceeding 300 million won;
- (ii) under Articles 227 or 228, a fine not exceeding 60 million won.

**Article 231 Confiscation etc.**

(1) Any article that is the subject of an infringing act under Article 225(1) or any article arising out of the infringing act must be confiscated or, upon request of the injured party, a judgment must be made requiring the article to be delivered to the injured party.

(2) Where an article is delivered to an injured party under paragraph (1), the injured party may claim compensation for damages in excess of the value of the article.

**Article 232 Administrative Fine**

(1) A person who commits any of the following acts is liable to an administrative fine not exceeding 500,000 won:

- (i) making a false statement before the Intellectual Property Tribunal after having taken an oath under Articles 299(2) and 367 of the Civil Procedure Act;
  - (ii) failing to comply, without justifiable reasons, with an order of the Intellectual Property Tribunal to submit or show documents or other materials related to taking or preserving evidence;
  - (iii) failing to comply, without justifiable reasons, with an order to report under Article 125 on matters related to working a patented invention; or
  - (iv) failing to comply, without justifiable reasons, with a subpoena of the Intellectual Property Tribunal to appear as a witness, expert witness or interpreter, or refusing to take an oath, make a statement, testify, give an expert opinion or interpret.
- (2) The administrative fine referred to in paragraph(1) is imposed and collected by the Commissioner of the Korean Intellectual Property Office as prescribed by Presidential Decree.
- (3) Any person who objects to the imposition of an administrative fine under paragraph(2) may lodge a protest with the Commissioner of the Korean Intellectual Property Office within thirty days of the date of being notified of the imposition.
- (4) The Commissioner of the Korean Intellectual Property Office, upon receipt of a protest under paragraph(3), shall immediately notify the competent court; the competent court shall adjudicate the case of the administrative fine under the Noncontentious Case Litigation Procedure Act.
- (5) Where no objection has been raised within the period prescribed in paragraph(3) and where the fine has not been paid, the Commissioner of the Korean Intellectual Property Office shall collect it in accordance with the rules of collecting national taxes in arrears through the head of the competent tax office.