

## CHAPTER IV

### REGISTRATION FEES AND UTILITY MODEL REGISTRATION ETC.

#### Article 29 Registration Fees

(1) The owner of a utility model right or a person seeking to register a utility model right under Article 35(1) shall pay the registration fees.

(2) Registration fees for the first year of registration under paragraph (1) must be paid simultaneously with a utility model application (or a divisional application for a division under Article 16 of this Act or a dual application for a co-filing under Article 17 of this Act).

(3) Matters necessary for 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 29bis Late Payment of Registration Fees

(1) The owner of a utility model right has a period of six months after the expiry of the payment period as prescribed under Article 29(3) 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 utility model right fails to pay the registration fees within the period of late payment under paragraph(1) (or an owner who fails to pay the remaining portion within the period of remaining payment when the period of remaining payment under Article 29ter(2) has not expired although the period of late payment has expired), the utility model right is deemed to have been extinguished retroactively from the expiry date of the period for paying the registration fees.

**Article 29<sup>ter</sup> Remaining Payment of Registration Fees**

(1) Where the owner of a utility model right fails to pay any portion of the registration fees within the period designated under Articles 29(3) or 29<sup>bis</sup>(1), the Commissioner of the Korean Intellectual Property Office shall order the owner to pay the remaining balance.

(2) A person who has been ordered to pay the remaining balance under paragraph (1) has a period of one month after the date of receiving the order in which to pay the remaining balance.

(3) Where payment of the remaining portion falls under either of the following subparagraphs, a person who pays the remaining portion under paragraph (2) shall pay an amount equivalent to twice the remaining balance:

- (i) where the remaining portion of the registration fees is paid after the expiry of the payment period under Article 29(3);
- (ii) where the remaining portion of the registration fees is paid after the expiry of the period for late payment under Article 29<sup>bis</sup>(1).

**Article 29<sup>quater</sup> Restoration etc. of a Utility Model Right by Late Payment or Remaining Payment of the Registration Fees**

(1) Where the owner of a utility model right fails to pay the registration fees within the period for late payment under Article 29<sup>bis</sup>(1) or fails to pay the remaining portion within the period for remaining payment under Article 29<sup>ter</sup>(2) for unavoidable reasons, the owner may pay the registration fees or the remaining registration fees within fourteen days of the date on which the reasons for the delay cease to exist. However, this provision does not apply if six months have elapsed since the expiry date of the period of late payment or the period for remaining payment, whichever comes later.

(2) Where the late payment or remaining payment of the registration fees is made under paragraph 1, the right of the utility model is deemed

to have existed retroactively when the period for paying the registration fees under Article 29(3) expired.

(3) The effects of a utility model right under paragraph (2) do not extend to the act of working the utility model by other persons from the date on which the period for paying the registration fees expired to the date of payment or remaining payment (referred to in this Article as "the period of limited effect").

(4) During the period of limited effect, a person who has in good faith, under the utility model right prescribed in paragraph (2), commercially or industrially worked or prepared to work a device claimed in the utility model application is entitled to have a nonexclusive license for the utility model right for the device claimed in the utility model application within the scope of the device and the purpose of the business for which the utility model invention is being worked or being prepared to be worked.

(5) A person granted a nonexclusive license under paragraph (4) shall pay reasonable remuneration to the owner of the utility model right or exclusive license.

### **Article 30 Official Fees**

(1) A person initiating a utility model-related procedure registration or requesting a technical evaluation for a utility model shall pay official fees.

(2) Matters necessary for 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 31 Refund of Registration Fees etc.**

(1) Registration fees and official fees that have been paid may not be refunded, except in the following cases when requested by the person who paid them:

- (i) registration fees or official fees paid by mistake;
- (ii) portions corresponding to the registration fees for years subsequent to the year in which a decision to revoke a utility model registration has become final under Article 25(1) of this Act or Article 74(3) of the Patent Act as applied *mutatis mutandis* under Article 48 of this Act, or a decision to invalidate a utility model registration has become final;
- (iii) registration fees paid for a utility model application that has been invalidated under Article 3(1) of this Act; or
- (iv) registration fees paid for a utility model application that has been dismissed under Article 12(3).

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

(3) A refund of the registration fees and official fees under subparagraph (1)(i) may not be claimed where one year has elapsed from the date of being notified that payment was made by mistake; and the refund of the portions corresponding to registration fees under subparagraphs (1)(ii) and (iii) may not be claimed after one year has elapse from the date on which a decision to invalidate or revoke a utility model registration becomes final.

### **Article 32 Utility Model Register**

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

- (i) the establishment, transfer, extinguishment, restoration or restriction on the disposal of a utility model right;
- (ii) the establishment, maintenance, transfer, modification, extinguishment or restriction on the disposal of an exclusive or nonexclusive license;

- (iii) the establishment, transfer, extinguishment or restriction on the disposal of a pledge on a utility model right or on an exclusive or nonexclusive license; and
- (iv) matters equivalent to those stated in subparagraphs (1)(i) to (iii) as prescribed by Presidential Decree.

(2) All or parts of the Utility Model Register under paragraph (1) may be stored on magnetic tapes and so on.

(3) The description and drawing(s) of registered utility models and other documents prescribed by Presidential Decree are considered to be part of the Utility Model Register.

(4) Necessary matters related to the procedures of registration and the maintenance of the register are prescribed by Presidential Decree.

### **Article 33 Issuance of a Utility Model Registration Certificate**

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

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

(3) When a trial decision for a correction under Article 51(1) of this Act has become final, the Commissioner of the Korean Intellectual Property Office shall issue a new utility model registration certificate in accordance with the trial decision.

### **Article 34 *Mutatis Mutandis* Application of the Patent Act**

Articles 80 and 83 of the Patent Act apply *mutatis mutandis* to registration fees and utility model registrations.