

CHAPTER VI

PROTECTION OF OWNER OF UTILITY MODEL RIGHT

Article 43 Acts Considered to be an Infringement

Commercial acts of manufacturing, assigning, leasing or importing, or the act of offering for commercial or industrial assignment or lease, of goods used exclusively for manufacturing a product related to a utility model registration are considered to infringe a utility model right or an exclusive license under the utility model registration.

Article 44 Presentation of a Certified Copy of the Decision to Maintain a Utility Model Registration

The owner of a utility model right or an exclusive licensee may exercise the right against a person who infringes the utility model right or exclusive license only after warning the person by presenting a certified copy of the decision to maintain a utility model registration under Article 25(2) of this Act.

Article 45 Liability of the Owner of a Utility Model Right

(1) Where the decision to revoke a utility model right under Article 74(3) of the Patent Act as applied *mutatis mutandis* under Article 48 of this Act, or the decision to invalidate a utility model right (except for a trial decision under Article 49(1)(iv) of this Act), has become final, and after exercising the right or warning a person who has infringed the utility model right or exclusive license, the owner or exclusive licensee of the utility model right is liable to compensate a person who suffers from the exercise of the right or the warning. However, where the utility model registration is based on a decision of maintenance under Article 25(2) of this Act or where the owner or exclusive licensee has paid substantial and diligent attention to the exercise of the right or the warning, this provision does not apply.

(2) Paragraph (1) applies *mutatis mutandis* when a right is exercised or a warning is given for that portion of a right excluded from the scope of a device described in the claim(s) when a utility model application was registered because of a correction to the description and drawing(s) attached to the utility model application in accordance with a request and trial for a correction.

Article 46 *Mutatis Mutandis* Application of the Patent Act

Articles 126, 128, 130, 131 and 132 of the Patent Act apply *mutatis mutandis* to protection of the owner of a utility model right. In such cases, "a person who has infringed a patent right or exclusive license of another person" in Article 130 of the Patent Act is deemed "a person who has infringed a utility model right or exclusive license of another person who has been granted a decision to maintain a utility model registration under Article 25(2) of this Act".

CHAPTER VII

OPPOSITION TO REGISTRATION OF A UTILITY MODEL

Article 47 Opposition to Registration of a Utility Model

(1) Within three months of the publication of a utility model registration, any person may file an opposition to the utility model registration with the Commissioner of the Korean Intellectual Property Office on the grounds that the utility model registration falls under any of the following subparagraphs. Where the registered utility model contains two or more claims, an opposition may be filed for each claim:

- (i) where the utility model has been registered contrary to Article 25