

Patent Attorney Act

(Act No. 49 of April 26, 2000)

Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to provide for a system of patent attorneys and make their business proper, thereby contributing to such matters as the proper protection and the promotion of utilization of industrial property rights, and consequently contributing to the development of economy and industry.

(Definitions)

Article 2 (1) The term "International Application" as used in this Act means an international application as provided for in Article 2 of the Act on the International Applications under the Patent Cooperation Treaty (Act No. 30 of 1978).

(2) The term "Application for International Registration" as used in this Act means an application for international registration as provided for in Article 68-2 (1) of the Trademark Act (Act No. 127 of 1959).

(3) The term "Circuit Layout" as used in this Act means the circuit layout as provided for in Article 2 (2) of the Act Concerning the Circuit Layouts of a Semiconductor Integrated Circuit (Act No. 43 of 1985).

(4) The term "Specific Unfair Competitions" as used in this Act means acts of unfair competition as provided for in Article 2 (1) of the Unfair Competition Prevention Act (Act No. 47 of 1993) which are listed in items (i) to (ix) and items (xii) to (xv) of the same paragraph (However, said acts are limited to those relating to a technological secret (meaning information valuable to business activities such as a production method controlled as a secret, etc. and which is not publicly known. The same shall apply hereinafter) regarding those acts listed in items (iv) to (ix) of the same paragraph, limited to those relating to a trademark with regard to those listed in item (xiii) of the same paragraph, and limited to those relating to a false allegation concerning a technological secret or right regarding a patent, utility model, design, trademark or circuit layout with regard to those listed in item (xiv) of the same

paragraph).

(5) The term "Specific Infringement Lawsuit" as used in this Act means any lawsuit related to infringement of a right concerning a patent, utility model, design, trademark or circuit layout, or infringement of a business interest by specific unfair competitions.

(6) The term "Patent Professional Corporation" as used in this Act means a juridical person jointly established by patent attorneys, pursuant to the provision of this Act, for the purpose of organizationally conducting the business mentioned in Article 4 (1).

(Duties)

Article 3 A patent attorney shall at all times maintain his/her dignity, be knowledgeable about laws, regulations and practices concerning the business, and conduct his/her business in a fair and sincere manner.

(Business)

Article 4 (1) A patent attorney shall, in response to the request of others, engage in the business of representing others regarding procedures with the Japan Patent Office as pertaining to patents, utility models, designs or trademarks, or international applications or international applications for registration, and procedures with the Minister of Economy, Trade and Industry with regard to application an objection or to an award pertaining to patents, utility models, designs or trademarks, giving expert opinions and handling other affairs pertaining to the matters relating to the said procedures.

(2) In addition to the business as provided in the preceding paragraph, a patent attorney may, in response to the requests of others, also engage in the business of handling the following affairs:

(i) Representing such others with regard to procedures with the Chief Customs Inspector as related to the accreditation procedure provided in Article 69-3

(1) and Article 69-12 (1) of the Customs Act (Act No. 61 of 1954), procedures with Director-General of Custom-Houses or the Minister of Finance with regard to petitions as provided in Article 69-4 (1) and Article 69-13 (1) of the same Act, or such petitions to be submitted by persons making such petitions and persons who are to export or import the goods pertaining to such petitions;

- (ii) Representing such others with regard to alternative dispute resolution procedures (meaning alternative dispute resolution procedures as provided in Article 1 of the Act on Promotion of Use of Alternative Dispute Resolution (Act No. 151 of 2004). Hereinafter the same shall apply in this item.) pertaining to any cases related to patents, utility models, designs, trademarks, circuit layouts or specific unfair competition, or any cases related to a right concerning any works (meaning the works as provided in Article 2 (1) (i) of the Copyright Act (Act No. 48 of 1970). The same shall apply hereinafter.) to the extent that such procedures are performed by a body designated by the Minister of Economy, Trade and Industry as a body recognized to be capable of doing the business of performing alternative dispute resolution procedures for said cases in a fair and proper manner; and
- (3) In addition to what is provided for in the preceding two paragraphs, a patent attorney may, using the name of a patent attorney and in response to the request of others, also engage in the business of agency or mediation with regard to concluding contracts for selling any rights or technological secrets, or non-exclusive licensing or other contracts relating to patents, utility models, designs, trademarks, circuit layouts or works, the provision of consulting service with regard to such matters, or the preparation of materials or handling other affairs concerning procedures related to any rights pertinent to patents, utility models, designs or trademarks with any foreign administrative authorities or equivalent organizations (provided, however, that such procedures are limited to those to be performed by a party having a domicile or residence (or business office in case of a judicial person) in Japan); provided, however, that this shall not apply to any matters regarding which doing business is restricted by any other Acts.

Article 5 (1) A patent attorney may appear in court as an assistant in court accompanying the party concerned or as said party's counsel, present a statement, or examine matters related to patents, utility models, designs or trademarks, or international applications or international applications for registration, circuit layouts or specific unfair competitions.

- (2) The statement and examination specified in the preceding paragraph shall be deemed to be made by the party concerned or said party's counsel; provided,

however, that this shall not apply to cases where the said party concerned or said party's counsel immediately revokes or corrects such statement.

Article 6 A patent attorney may act as counsel with regard to a lawsuit as provided for in Article 178 (1) of the Patent Act (Act No. 121 of 1959), Article 47 (1) of the Utility Model Act (Act No. 123 of 1959), Article 59 (1) of the Design Act (Act No. 125 of 1959), or Article 63 (1) of the Trademark Act.

Article 6-2 (1) When a patent attorney has passed the specific infringement lawsuit counsel examination as provided in Article 15-2 (1) and has been granted the supplementary note registration of the fact pursuant to Article 27-3 (1), said patent attorney may act as counsel only for cases of specific infringement lawsuits in which an attorney has been entrusted by one and the same client.

- (2) When a patent attorney acting as counsel pursuant to the provision of the preceding paragraph appears in court, said patent attorney must be accompanied by an attorney.
- (3) Notwithstanding the provision of the preceding paragraph, a patent attorney may appear in court independently when the court finds it appropriate.

(Qualification)

Article 7 A person who falls under any of the following items and has completed the practical training as specified in Article 16-2 (1) is qualified to be a patent attorney:

- (i) A person who has passed the patent attorney examination;
- (ii) A person who is qualified to be an attorney at law; or
- (iii) A person who has engaged in the trial or examination affairs as a trial examiner or examiner at the Japan Patent Office for a total of seven or more years.

(Grounds for disqualification)

Article 8 Notwithstanding the provision of the preceding Article, a person who falls under any of the following items shall not be qualified to be a patent attorney:

- (i) Any person who has been sentenced to imprisonment without work or severer punishment;
- (ii) Excluding those who fall under the preceding item, any person who has committed

any of the offenses as prescribed in Articles 78 to 81 or 81-3 of this Act, Articles 196 to 198 or 200 of the Patent Act, Articles 56 to 58 or 60 of the Utility Model Act, Articles 69 to 71 or 73 of the Design Act, Articles 78 to 80 of the Trademark Act or Article 28 of the Supplementary Provisions for the same Act, and has been sentenced to a fine and has not yet passed five years from the date of completion of the execution of such punishment or the date on which the punishment becomes no longer executable;

- (iii) In addition to persons falling under any of the preceding two items, any person who has committed any of the offenses as prescribed in Article 108-4 (2) of the Customs Act (limited to the portions pertaining to Article 69-2 (1) (iii) and (iv) of the same Act. Hereinafter the same shall apply in this item), paragraph (3) (limited to the portions pertaining to Article 108-4 (2) of the same Act) or paragraph (5) (limited to the portions pertaining to Article 69-2 (1) (iii) and (iv) of the same Act), Article 109 (2) (limited to the portions pertaining to Article 69-11 (1) (ix) and (x) of the same Act. Hereinafter the same shall apply in this item), paragraph (3) (limited to the portions pertaining to Article 109 (2) of the same Act) or paragraph (5) (limited to the portions pertaining to Article 69-11 (1) (ix) and (x) of the same Act), or Article 112 (1) of the Customs Act (limited to the portions pertaining to Article 108-4 (2) and Article 109 (2) of the same Act), the offenses as prescribed in Articles 119 to 122 of the Copyright Act, the offenses as prescribed in Article 51 (1) or Article 52 of the Act Concerning the Circuit Layouts of a Semiconductor Integrated Circuit, or the offenses as prescribed in Article 21 (1) or Article 21 (2) (i) to (iv) or (vi) of the Unfair Competition Prevention Act (except for the portions pertaining to Article 18 (1) of the same Act), and has been sentenced to a fine and has not yet passed three years from the date of completion of the execution of such punishment or the date on which such execution has been remitted;
- (iv) A public officer who has been dismissed from being a public officer by disciplinary action and has not yet passed three years from the date of such disposition;
- (v) Any person who has been subjected to rescission of his/her registration pursuant to the provisions of Article 23 (1) and has not yet passed three years from the date of such disposition;
- (vi) Any person who has been subjected to prohibition of business pursuant to the

provision of Article 32 and has not yet passed three years from the date of such disposition;

- (vii) Any person who has been subjected to exclusion from membership in a bar association, deletion of registration as a certified public accountant, or prohibition of business as a tax accountant through disciplinary action pursuant to provisions of the Attorney Act (Act No. 205 of 1949) or the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers (Act No. 66 of 1986), the Certified Public Accountancy Act (Act No. 103 of 1948) or the Tax Accountant Act (Act No. 237 of 1951), and has not yet passed three years from the date of such a disposition;
- (viii) Any person who has been subjected to a suspension of business pursuant to the provision of Article 32, and whose registration has been deleted during the term of such suspension of business, and has not yet passed such term;
- (ix) Any minor, adult ward or person under curatorship; or
- (x) Any bankrupt whose rights have not been restored.

Chapter II Patent Attorney Examination, etc.

(Purpose and method of examination)

Article 9 The purpose of the patent attorney examination shall be to judge whether or not a person has knowledge and ability to apply it necessary to a person who intends to become a patent attorney, and the examination shall be conducted by the method of written examination comprising a short answer examination (including multiple-choice examination. The same shall apply hereinafter.) and an essay examination, and oral examination, pursuant to the provision of the following Article.

(Details of examination)

Article 10 (1) The short answer examination shall be conducted on the following subjects:

- (i) Laws and regulations relating to patents, utility models, designs, and trademarks (hereinafter referred to as "Industrial Property Rights" in this Article and items (iv) and (v) of the following Article);
- (ii) Treaties on the industrial property rights; and
- (iii) In addition to what is listed in the preceding two items, laws and regulations

necessary for performing the business of patent attorney which are provided by Ordinance of the Ministry of Economy, Trade, and Industry.

- (2) The essay examination shall be conducted on the following subjects, for persons who have passed the short answer examination:
- (i) Laws and regulations relating to industrial property rights; and
 - (ii) One of the subjects on technologies or Acts as prescribed by Ordinance of the Ministry of Economy, Trade and Industry which is selected by the examinee in advance.
- (3) The oral examination shall be conducted on laws and regulations relating to the industrial property rights, for persons who have passed the written examinations.

(Immunity from examination)

Article 11 A person who falls under any of the following items shall be exempted from the examination on the subjects as indicated in the relevant item, upon his/her application:

- (i) A person who has passed the short answer examination: Any short answer examination which is conducted by the day on which two years have elapsed from the date of announcement of the examination result pertaining to such passed short answer examination.
- (ii) A person who has attained such a grade in the essay examination on the subject listed in paragraph (2) (i) of the preceding Article as the councils, etc. (refer to organs provided in Article 8 of National Government Organization Act (Act No. 120 of 1948)) specified by Cabinet Order (hereinafter referred to as "Council") recognize appropriate: Any essay examination on the same subject which is conducted by the day on which two years have elapsed from the date of announcement of the examination result pertaining to such passed essay examination.
- (iii) A person who has attained such a grade in the essay examination on the subject listed in paragraph (2) (ii) of the preceding Article as the council recognizes appropriate: Any essay examination on the subject which is conducted thereafter.
- (iv) A person who has completed the course of a graduate school under the School Education Act (Act No. 26 of 1947) and has mastered required credits of such

subjects relating to industrial property rights as prescribed by Ordinance of the Ministry of Economy, Trade and Industry: Any short answer examination on the subjects listed in paragraph (1) (i) and (ii) of the preceding Article which is conducted by the day on which two years have elapsed from the date of completion of such course.

- (v) A person who has engaged in the trial or examination affairs at the Japan Patent Office for a total of five or more years: Any examination which is conducted on laws, regulations and treaties relating to industrial property rights.
- (vi) A person who is prescribed by Ordinance of the Ministry of Economy, Trade and Industry as a person having knowledge equivalent to or higher than that of a person who has passed the written examination on the subject elected by an examinee mentioned in paragraph (2) (ii) of the preceding Article: The essay examination which is conducted on the subject.

(Execution of examination)

Article 12 (1) The patent attorney examination shall be conducted by the council.

(2) The patent attorney examination shall be conducted one or more times per year.

(Certificate of passing)

Article 13 A person who has passed the patent attorney examination shall be given a certificate of passing in said examination.

(Rescission of passing, etc.)

Article 14 (1) The council may rescind the decision of passage or prohibit taking of the patent attorney examination for a person who has taken or attempted to take it by wrongful means.

(2) The council may prohibit a person who has been subjected to a disposition set forth in the preceding paragraph from taking the patent attorney examination for a specified period of time not exceeding three years, depending on the circumstances.

(Examination fee)

Article 15 (1) A person who intends to take the patent attorney examinations shall pay an examination fee in an amount provided by Cabinet Order considering of

actual cost.

- (2) The examination fee paid pursuant to the provision of the preceding paragraph shall not be refunded even if the payer does not take the patent attorney examination.

(Specific infringement lawsuits counsel examination)

Article 15-2 (1) The specific infringement lawsuit counsel examination shall be conducted for the patent attorneys who have completed such a training course relating to the necessary knowledge and practical ability to become a counsel concerning specific infringement lawsuits as prescribed by Ordinance of the Ministry of Economy, Trade and Industry, in order to judge whether or not such attorneys have such knowledge and practical ability by the method of essay writing examination.

- (2) The provisions of Articles 12 to 15 shall apply mutatis mutandis to the specific infringement lawsuit counsel examination.

(Details of examination)

Article 16 In addition to what is provided for in this Act, other necessary matters for the patent attorney examination and the specific infringement lawsuit counsel examination shall be specified by Ordinance of the Ministry of Economy, Trade and Industry.

Chapter II-2 Practical training

(Practical training)

Article 16-2 (1) The practical training shall be conducted by the Minister of Economy, Trade and Industry in order to allow persons as listed in each item of Article 7 to obtain necessary skill and advanced expertise to become a patent attorney.

- (2) The practical training shall be conducted in accordance with the following items:

- (i) It shall be conducted one or more times per year;
- (ii) It shall be conducted on laws, regulations and practices relating to the business of patent attorneys; and
- (iii) A trainer or leader of the practical training shall be a patent attorney who has an experience of engaging in the practice for seven or more years.

(Designation of the designated training agency)

Article 16-3 (1) The Minister of Economy, Trade and Industry may make the designated agency (hereinafter referred to as "Designated Training Agency") conduct the training affairs such as giving lectures and conducting training with respect to the implementation of the practical training (excluding those prescribed by Ordinance of the Ministry of Economy, Trade and Industry; hereinafter referred to as "Practical Training Affairs").

(2) Designation of the designated training agency, pursuant to the provision of Ordinance of the Ministry of Economy, Trade and Industry, shall be made when an application is filed by an agency which intends to conduct the practical training affairs.

(3) When the Minister of Economy, Trade and Industry has designated a designated training agency, he/she shall not conduct the practical training affairs.

(4) The Minister of Economy, Trade and Industry shall not designate a designated training agency unless the said application under paragraph (2) is recognized as conforming with all of the following items:

(i) The plans for implementation of the practical training affairs with respect to employees, equipment, method for implementation of the practical training affairs and other matters are appropriate for proper and certain implementation of the practical training affairs;

(ii) The applicant is a juridical person having accounting and technical foundations which are necessary for proper and certain implementation of the plan for implementation of the practical training affairs under the preceding item;

(iii) In case any other business than practical training is being carried on by the applicant, doing such business is unlikely to make the implementation of the practical training affairs unfair; and

(iv) Such designation will not result in any impediment of proper and certain implementation of the practical training affairs.

(5) The Minister of Economy, Trade and Industry shall not designate the designated training agency in the case where the application under paragraph

(2) falls under any of the following items:

(i) The applicant agency has been rescinded the designation pursuant to the provision

of Article 16-12 (1) or (2) and has not yet passed two years from the date of rescission; or

- (ii) Any of the officers of the applicant agency has committed any of the offenses as provided in this Act, and has been sentenced to punishment and has not yet passed two years from the date of completion of the execution of such punishment or the date on which the punishment becomes no longer executable.

(Public notice of designation, etc.)

Article 16-4 (1) When the Minister of Economy, Trade and Industry has designated a designated training agency, he/she shall publicly notify the name, address, location of the office of the practical training agency where the practical training affairs are conducted and the date of starting the handling of the designated training affairs.

- (2) In case the designated training agency is to change its name, address or location of the office where the practical training affairs are conducted, it shall notify the Minister of Economy, Trade and Industry of the fact no later than two weeks prior to the date on which it is to make such change.

- (3) The Minister of Economy, Trade and Industry shall, upon receipt of a notification made pursuant to the provision set forth in the preceding paragraph, publicly notify the fact.

(Obligation to protect secrecy, etc.)

Article 16-5 (1) Officers or employees of the designated training agency (including the trainers and leaders of the practical training agency. The same shall apply to the next paragraph.) or persons who have taken such positions in the past shall not divulge secret information gained through the practical training affairs.

- (2) Officers and employees who engage in the practical training affairs of the designated practical training agency shall be deemed to be officials engaging in public service pursuant to laws and regulations with respect to the application of the Penal Code (Act No. 45 of 1907) and other penal provisions.

(Rules of administration on practical training affairs)

Article 16-6 (1) The designated training agency shall provide rules with respect to the

implementation of the practical training affairs (hereinafter referred to as "Rules of Training Affairs") and obtain approval by the Minister of Economy, Trade and Industry prior to commencing the practical training affairs. The same shall apply to the case where the designated training agency intends to make change thereon.

- (2) The matters to be provided in the rules of training affairs shall be specified by Ordinance of the Ministry of Economy, Trade and Industry.
- (3) The Minister of Economy, Trade and Industry may order the designated training agency to change the rules of training affairs, when the Minister finds the approved rules of training affairs under paragraph (1) have become inappropriate for proper and certain implementation of the practical training affairs.
- (4) The standard for the approval specified in paragraph (1) shall be specified by Ordinance of the Ministry of Economy, Trade and Industry.

(Business plans, etc.)

Article 16-7 (1) The designated training agency shall prepare every fiscal year a business plan and a budget for income and expenditure, and shall obtain approval by the Minister of Economy, Trade and Industry prior to the start of the relevant business year (for the business year to which the date of designation belong, without delay after having been so designated). The same shall apply to the case where the designated training agency intends to make change on these.

- (2) The designated training agency shall prepare every fiscal year business report and settlement of income and expenditure, and shall submit those to the Minister of Economy, Trade and Industry within three months of the end of the relevant business year.

(Keeping books, etc.)

Article 16-8 The designated training agency shall keep and preserve, pursuant to the provision of Ordinance of the Ministry of Economy, Trade and Industry, books recording the matters with respect to the practical training affairs which are specified by Ordinance of the Ministry of Economy, Trade and Industry.

(Supervision orders)

Article 16-9 The Minister of Economy, Trade and Industry may, when he/she finds a

necessity for securing the proper and certain implementation of the practical training affairs, give the designated training agency a supervision order which is necessary to supervise the practical training affairs.

(Report and on-site inspection)

- Article 16-10 (1) The Minister of Economy, Trade and Industry may, when he/she finds a necessity for securing the proper and certain implementation of the practical training affairs, make the designated training agency report or submit materials to him/her on the situations of the practical training affairs, or make his/her official enter into the office of the designated training agency and inspect the situation or books and other materials of the said designated training agency.
- (2) The said official who conducts the on-site inspection pursuant to the provision of the preceding paragraph shall carry an identification card and produce it to the relevant person when requested.
- (3) The authority to conduct such an inspection as provided in paragraph (1) shall not be construed as being approved for a criminal investigation.

(Suspension or abolition of practical training affairs)

- Article 16-11 (1) The designated training agency shall not suspend or abolish whole or part of the practical training affairs without obtaining permission by the Minister of Economy, Trade and Industry.
- (2) The Minister of Economy, Trade and Industry shall, when he/she has given permission set forth in the preceding paragraph, publicly notify the fact.

(Rescission of designation, etc.)

- Article 16-12 (1) The Minister of Economy, Trade and Industry shall rescind the designation of the designated training agency when the designated training agency falls under the provision of Article 16-3 (5) (ii).
- (2) The Minister of Economy, Trade and Industry may rescind the designation of the designated training agency or order to suspend whole or a part of the practical training affairs for a specified period of time when the designated training agency falls under any of the following items:
- (i) When the designated training agency is found to be not compliant with any of the

- items (i) to (iii) of Article 16-3 (4);
 - (ii) When the designated training agency has violated any of the provisions of Articles 16-4 (2), 16-6 (1), 16-7, 16-8, or paragraph (1) of the preceding Article;
 - (iii) When the designated training agency has conducted the practical training affairs without complying with the rules of training affairs which were approved under Article 16-6 (1);
 - (iv) When the designated training agency has violated the order pursuant to the provision of Article 16-6 (3) or Article 16-9; or
 - (v) When the designated training agency were designated by deception or other wrongful means.
- (3) The Minister of Economy, Trade and Industry shall, when he/she has rescinded the designation pursuant to the provision of paragraph (1) or the preceding paragraph or has ordered to suspend whole or a part of the practical training affairs pursuant to the provision of the same paragraphs, publicly notify the fact.

(Implementation of practical training by the Minister of Economy, Trade and Industry)

- Article 16-13 (1) The Minister of Economy, Trade and Industry shall conduct whole or part of the practical training affairs by him/herself, when the designated practical training agency suspends whole or part of the practical training affairs pursuant to the provision of Article 16-11 (1) or when he/she ordered the designated practical training agency to suspend whole or part of the practical training affairs pursuant to the provision of paragraph (2) of the preceding Article, or when he/she finds necessity to conduct whole or part of the practical training affairs by him/herself in case that the designated practical training agency faces difficulties to conduct whole or part of the practical training affairs due to a natural disaster or other reasons notwithstanding the provision of Article 16-3 (3).
- (2) The Minister of Economy, Trade and Industry shall, when he/she intends to conduct the practical training affairs by him/herself pursuant to the provision of the preceding paragraph or is to decide not to conduct the practical training affairs which he/she is handling pursuant to the same paragraph, publicly notify the fact in advance.
- (3) The succession of the practical training affairs and other necessary matters in the

case where the Minister of Economy, Trade and Industry intends to conduct the practical training affairs by him/herself pursuant to the provision of paragraph (1), has permitted to abolish the practical training affairs pursuant to the provision of Article 16-11 (1) or has rescinded the designation pursuant to the provision of paragraph (1) or (2) of the preceding Article shall be specified by Ordinance of the Ministry of Economy, Trade and Industry.

(Fee)

Article 16-14 (1) A person who intends to participate in the practical training shall pay a fee to the State in an amount provided by Cabinet Order considering of actual cost.

(2) In case a designated training agency conducts the practical training affairs, a person who intends to participate in the practical training shall pay a fee to the designated training agency in an amount specified by the designated training agency upon authorization of the Minister of Economy, Trade and Industry pursuant to the provision of Cabinet Order.

(3) The fee paid to the designated training agency pursuant to the provision of the preceding paragraph shall be an income to the relevant designated training agency.

(Details of practical training)

Article 16-15 In addition to what is provided for in this Act, necessary matters relating to the practical training shall be prescribed by Ordinance of the Ministry of Economy, Trade and Industry.

Chapter III Registration

(Registration)

Article 17 (1) If a person who has qualified to become a patent attorney intends to become a patent attorney, he/she shall obtain a registration in the patent attorney's register kept in the Japan Patent Attorneys Association with name, date of birth, address of office and other particulars specified by Ordinance of the Ministry of Economy, Trade and Industry.

(2) Registration in the patent attorney's register shall be conducted by the Japan Patent

Attorneys Association.

(Application for registration)

Article 18 (1) A person who intends to obtain registration set forth in paragraph (1) of the preceding Article shall submit a written application for registration to the Japan Patent Attorneys Association.

(2) The written application for registration set forth in the preceding paragraph shall describe the name, date of birth, address of office, and other particulars specified by Ordinance of the Ministry of Economy, Trade, and Industry, and annex a document certifying that the applicant has qualified to become a patent attorney.

(Refusal of registration)

Article 19 (1) When the Japan Patent Attorneys Association deems that a person applying for registration pursuant to the provision of paragraph (1) of the preceding Article is not qualified to become a patent attorney or falls under any of the following items, it shall refuse the registration of such applicant. In this case, when the Japan Patent Attorney Association is to refuse registration on the grounds that the applicant falls under any of the following items, it shall do so based on a resolution of the Registration Screening Board provided in Article 70:

- (i) When there is a risk that it will be inappropriate to permit him/her to perform professional duties as a patent attorney due to mental or physical disorder.
- (ii) When there is a risk that the applicant will damage the reputation of patent attorneys.

(2) When the Japan Patent Attorneys Association is to refuse registration of an applicant on the grounds that such applicant falls under any of the items of the preceding paragraph, it shall notify the applicant of that fact in advance and provide him/her with an opportunity to explain by him/herself or through his/her agent within a reasonable period of time.

(Notice relating to registration)

Article 20 When the Japan Patent Attorneys Associations has received an application for registration pursuant to the provision of Article 18 (1) and

accepted or refused the registration, it shall notify the applicant thereof in writing.

(Request for examination in case of refusal of registration)

Article 21 (1) A person whose registration has been refused pursuant to the provision of Article 19 (1) may, if he/she is dissatisfied with such disposition, apply to the Minister of Economy, Trade and Industry for examination under the Administrative Appeal Act (Act No. 160 of 1962).

(2) A person who has applied for registration pursuant to the provision of Article 18 (1) may, if no disposition has been made on such application after three months have passed since the date of application, deem that the relevant registration has been refused and apply to the Minister of Economy, Trade and Industry for examination as specified in the preceding paragraph.

(3) When the request for examination pursuant to the provision of the preceding two paragraphs is reasonable, the Minister of Economy, Trade and Industry shall order the Japan Patent Attorneys Association to make a reasonable disposition.

(Notification of change of registered matters)

Article 22 A patent attorney shall notify the Japan Patent Attorneys Associations of any change in matters registered in the patent attorney register without delay.

(Rescission of registration)

Article 23 (1) When the Japan Patent Attorneys Associations has found that a person registered as a patent attorney received said registration by deception or other wrongful means, it shall rescind such registration.

(2) When the Japan Patent Attorneys Association has rescinded a registration pursuant to the provision of the preceding paragraph, it shall notify the person subjected to that disposition of the fact in writing.

(3) The provisions of the second sentence of Article 19 (1) and Article 21 (1) and (3) shall apply mutatis mutandis to the rescission of registration set forth in paragraph (1).

(Cancellation of registration)

Article 24 (1) When a patent attorney falls under any of the following items, the Japan Patent Attorneys Association shall cancel his/her registration:

- (i) When he/she has abolished his/her business;
 - (ii) When he/she has died;
 - (iii) When he/she falls under any of the items of Article 8 (except for item (v));
 - (iv) When he/she has received a disposition of rescission of his/her registration pursuant to the provision of paragraph (1) of the preceding Article; or
 - (v) When he/she has received a disposition of withdrawal from the Japan Patent Attorneys Association pursuant to the provision of Article 61.
- (2) When a patent attorney has become to fall under any of the items (i) to (iii) of the preceding paragraph, that patent attorney, his/her statutory agent or heir shall notify the Japan Patent Attorneys Association of the fact without delay.
- (3) The Japan Patent Attorneys Association shall, when it has cancelled registration of a patent attorney pursuant to the provision of item (i), (iii) or (v) of paragraph (1), notify that patent attorney thereof in writing.

Article 25 (1) The Japan Patent Attorneys Association may cancel registration of a patent attorney when there is a risk that it will be inappropriate to permit such patent attorney to perform professional duties as a patent attorney due to mental or physical disorder.

- (2) The provisions of the second sentence of Article 19 (1) and paragraph (3) of the preceding Article shall apply mutatis mutandis to the cancellation of registration pursuant to the provision of the preceding paragraph.

(Mutatis mutandis application of provisions for refusal of registration) Article 26
The provisions of Article 21 (1) and (3) shall apply mutatis mutandis to the cancellation of registration under the provisions of Article 24 (1) (i), (iii) or (v), or paragraph (1) of the preceding Article.

(Public notice of registration and cancellation of registration)

Article 27 When the Japan Patent Attorneys Association has registered a patent attorney or canceled registration of a patent attorney, it shall make a public notice thereof in

the Official Gazette without delay.

(Application for supplementary note of specific infringement lawsuit counsel) Article 27-2 (1) When a patent attorney intends to have the supplementary note that he/she has passed a specific infringement lawsuit counsel examination as provided in Article 15-2 (1) (hereinafter referred to as "Supplementary Note of Specific Infringement Lawsuit Counsel") to his/her registration, he/she shall submit a written application for supplementary note to the Japan Patent Attorneys Association.

(2) The written application for the supplementary note mentioned in the preceding paragraph shall describe the applicant's name and other particulars specified by Ordinance of the Ministry of Economy, Trade, and Industry, and shall be attached with a certificate of success in the specific infringement lawsuit counsel examination.

(Making supplementary note of specific infringement lawsuit counsel) Article 27-3

(1) When the Japan Patent Attorneys Association has received an application pursuant to the provision of the preceding paragraph, it shall promptly make the supplementary note of specific infringement lawsuit counsel to the registration of the relevant patent attorney.

(2) The provision of Article 20 shall apply mutatis mutandis to cases where the supplementary note was made pursuant to the provision of the preceding paragraph.

(Cancellation of supplementary note of specific infringement lawsuit counsel) Article 27-4 (1) When the Japan Patent Attorneys Association has found that a person who has been granted the supplementary note of specific infringement lawsuit counsel had such supplementary note made by deception or other wrongful means, it shall cancel such supplementary note.

(2) The provision of Article 23 (2) shall apply mutatis mutandis to cancellation of supplementary note pursuant to the provision of the preceding paragraph.

(Public notice of supplementary note of specific infringement lawsuit counsel, etc.)

Article 27-5 The provision of Article 27 shall apply mutatis mutandis to making supplementary note of specific infringement lawsuit counsel and to cancellation of the supplementary note.

(Details of registration)

Article 28 In addition to what is provided for in this Act, necessary matters concerning the registration of patent attorney shall be specified by Ordinance of the Ministry of Economy, Trade and Industry.

Chapter IV Duty of Patent Attorney

(Prohibition of dishonorable act)

Article 29 A patent attorney shall not engage in any act which would harm the reputation or dignity of patent attorneys.

(Duty to protect secret)

Article 30 A patent attorney or a person who was previously a patent attorney shall not divulge or misappropriate any secret which he/she came to know in connection with matters that he/she dealt with in the course of his/her business without any justifiable grounds.

(Cases in which a patent attorney may not conduct business)

Article 31 A patent attorney shall not conduct business with regard to a case falling under any of the following items; provided, however, that this shall not apply to any case falling under item (iii) that the patent attorney was entrusted to undertake and the client of which has agreed thereupon:

- (i) Cases in which the patent attorney has been consulted by the adverse party and supports the adverse party or has accepted the adverse party as his/her client;
- (ii) Cases in which the patent attorney has been consulted by the adverse party and the extent and method of such consultation are recognized to be based on a relationship of mutual trust;
- (iii) Cases which the patent attorney is requested to undertake by the adverse party to another case that he/she has already been entrusted to undertake;
- (iv) Cases which the patent attorney has handled in the course of his/her duties as a public officer;
- (v) Cases which the patent attorney has handled as an arbitrator in arbitration

procedures;

- (vi) Cases in which a patent professional corporation has been consulted by the adverse party and supports the adverse party or has accepted the adverse party as its client during the period in which the patent attorney is engaged in the business of such patent professional corporation as a member or an employed patent attorney thereof; or
- (vii) Cases in which a patent professional corporation has been consulted by the adverse party and the extent and method of such consultation are recognized to be based on a relationship of mutual trust during the period in which the patent attorney is engaged in the business of such patent professional corporation as a member or an employed patent attorney thereof.

(Training)

Article 31-2 A patent attorney shall participate in the training conducted by the Japan Patent Attorneys Association to improve his/her qualification and quality pursuant to the provision of Ordinance of the Ministry of Economy, Trade and Industry.

(Prohibition of lending name to non-patent attorney)

Article 31-3 A patent attorney shall not allow any person who is in violation of the provision of Article 75 or 76 to utilize his/her name as a patent attorney.

Chapter V Responsibilities of a Patent Attorney

(Kinds of the disciplinary action)

Article 32 If a patent attorney is in violation of this Act or any order based thereupon, or has committed misconduct which is materially inappropriate for a patent attorney, the Minister of Economy, Trade, and Industry may make one of the dispositions listed below:

- (i) Admonition;
- (ii) Suspension of all or part of business for not more than two years; or
- (iii) Prohibition of business.

(Disciplinary procedure)

Article 33 (1) Any person who considers that there are grounds for a patent attorney to

fall under the preceding paragraph may report to the Minister of Economy, Trade and Industry of the fact and request that appropriate measures be implemented.

- (2) In cases where report pursuant to the provision of the preceding paragraph has been made, the Minister of Economy, Trade and Industry shall conduct the necessary investigation of the case.
- (3) The Minister of Economy, Trade and Industry may, upon considering that there are grounds for a patent attorney to fall under the preceding Article, conduct the necessary investigation ex officio.
- (4) When the Minister of Economy, Trade and Industry is to make a disposition of admonition or suspension of business for not more than two years pursuant to the provision of the preceding Article, the Minister shall conduct a hearing irrespective of the class of procedures for the submission of opinions provided for in Article 13 (1) of the Administrative Procedure Act (Act No. 88 of 1993).
- (5) The disciplinary disposition pursuant to the provision of the preceding Article shall be made after hearing the opinions of the council in a case where it has been recognized that there are grounds for a patent attorney to fall under the preceding Article with reasonable evidence after having conducted a hearing.

(Authority for conducting investigation)

Article 34 In order to conduct the necessary investigation regarding a case pursuant to the provision of paragraph (2) of the preceding Article (including cases where applied mutatis mutandis pursuant to Article 69 (2)) or paragraph (3), the Minister of Economy, Trade and Industry may order the relevant patent attorney to make a necessary report or submit books and documents relating to his/her business.

(Restriction of cancellation of registration)

Article 35 In case a patent attorney has become subject to the disciplinary procedure, the Japan Patent Attorneys Association may not cancel the registration of the relevant patent attorney under the provisions of Article 24

- (1) (i) or (v), or Article 25 (1) until such disciplinary procedure has been completed.

(Public notice of disciplinary disposition)

Article 36 When the Minister of Economy, Trade and Industry has made a disciplinary disposition pursuant to the provision of Article 32, the Minister shall make a public notice thereof in the Official Gazette.

Chapter VI Patent Professional Corporation

(Incorporation)

Article 37 Patent attorneys may incorporate a patent professional corporation pursuant to the provisions of this Chapter.

(Name)

Article 38 A patent professional corporation shall use the term "Tokkyo-Gyomu-Hojin" (patent professional corporation) in its name.

(Qualifications of members)

Article 39 (1) Members of a patent professional corporation shall be patent attorneys.

(2) The following persons may not act as members:

- (i) Any person who has been subjected to suspension of business pursuant to the provision of Article 32 and not yet passed said period of suspension of business;
or
- (ii) In case a patent professional corporation has been ordered to dissolve or suspend its business pursuant to the provision of Article 54, any person who was its member within 30 days prior to the date of disposition and three years have not yet passed from the date of such disposition (or the period of suspension of business in case of an order to suspend business).

(Scope of business)

Article 40 In addition to the business set forth in Article 4 (1), a patent professional corporation may engage in all or part of the business provided by paragraphs (2) and (3) of the same Article pursuant to the provision of articles of incorporation.

Article 41 In addition to what is provided for in the preceding Article, a patent

professional corporation may be entrusted to undertake the affairs that a patent attorney may handle pursuant to the provisions of Articles 5 to 6 (2), and in which the patent professional corporation shall engage its members or employed patent attorneys (regarding affairs provided for in Article 6 (2), limited to patent attorneys granted the supplementary note of specific infringement lawsuit counsel; hereinafter referred to as "Members, etc."). In this case, such patent professional corporation shall let the entrusting party select its assistant in court or counsel from among the members, etc. of the patent professional corporation.

(Registration)

Article 42 (1) A patent professional corporation shall register itself pursuant to the provision of Cabinet Order.

(2) The matters that shall be registered pursuant to the provision of the preceding paragraph may not be asserted against a third party, unless such matters have been registered.

(Procedures of incorporation)

Article 43 (1) In order to incorporate a patent professional corporation, the patent attorneys who intend to be members of the corporation shall jointly establish the articles of incorporation.

(2) The articles of incorporation shall specify at least the following matters:

- (i) Purpose;
- (ii) Name;
- (iii) Location of the office;
- (iv) Names and addresses of members;
- (v) Matters related to contribution by the members; and
- (vi) Matters related to the execution of business

(3) The provision of Article 30 (1) of the Companies Act (Act No. 86 of 2005) shall apply mutatis mutandis to articles of incorporation of patent professional corporations.

(Time of incorporation)

Article 44 A patent professional corporation shall be incorporated by registering its

incorporation at the location of its principal office.

(Notification of incorporation)

Article 45 A patent professional corporation shall, upon being incorporated, notify the Minister of Economy, Trade and Industry thereof together with a certificate of registered matters and articles of incorporation within two weeks from the date of incorporation.

(Authority to execute business)

Article 46 All members of a patent professional corporation shall have the right and obligation to execute the business of the patent professional corporation.

(Change in articles of incorporation)

Article 47 (1) Unless otherwise provided by articles of incorporation, a patent professional corporation may make changes to its articles of incorporation by the consent of all its members.

(2) When a patent professional corporation has made a change to its articles of incorporation, it shall notify the Minister of Economy, Trade, and Industry of the matters pertaining to said change within two weeks from the date of change.

(Representatives of a juridical person)

Article 47-2 (1) Members of a patent professional corporation shall respectively represent the patent professional corporation.

(2) The provision set forth in the preceding paragraph shall not preclude appointing, by articles of incorporation or by the consent of all the members, any of the members as a member or members who shall specifically represent the patent professional corporation.

(3) Members who represent a patent professional corporation shall have authority to do any and all act in or out of court in connection with the business of the patent professional corporation.

(4) No limitation on the authority set forth in the preceding paragraph may be asserted against a third party without knowledge of such limitation.

(5) Members who represent a patent professional corporation may entrust others with

agency in particular acts, unless prohibited by articles of incorporation.

(Designated members)

Article 47-3 (1) A patent professional corporation may designate one or more members who shall take charge of business regarding a specific case.

(2) Regarding a case for which the designation set forth in the preceding paragraph has been effected (hereinafter referred to as "Designated Case"), the member or members who has or have been designated as such (hereinafter referred to as "Designated Member(s)") shall only have the right and obligation to execute the relevant business.

(3) Regarding the designated cases, the designated member(s) shall only represent the patent professional corporation, notwithstanding the provision of the preceding Article.

(4) When a patent professional corporation has effected the designation set forth in paragraph (1), it shall notify the client of the designated case thereof in writing.

(5) The client may require the patent professional corporation, by fixing a reasonable period of time, to clarify whether the patent professional corporation will effect the designation set forth in paragraph (1) within such period of time. In this case, if the patent professional corporation fails to notify within said period of time pursuant to the provision of the preceding paragraph, the patent professional corporation may not effect the designation after said period of time; provided, however, that this shall not preclude to effect such designation after obtaining the consent of the client.

(6) With regard to a designated case, if the office of relevant designated member(s) becomes vacant before the completion of business pertaining to the case, the patent professional corporation shall newly designate other member(s) to handle the case. If said designation is not effected, all members of the patent professional corporation shall be deemed to have been so designated.

(Liability of members)

Article 47-4 (1) In cases where the obligations of a patent professional corporation may not be fully performed with its assets, all members of the patent professional corporation shall be jointly and severally liable for the performance of obligations thereof.

- (2) The provision set forth in the preceding paragraph shall also apply to the cases where compulsory execution against the assets of a patent professional corporation has not been successful.
- (3) The provision of the preceding paragraph shall not apply if members of the patent professional corporation have proven that the patent professional corporation has financial resources to pay and that the execution can be effected at ease.
- (4) In case where the designation pursuant to the provision of paragraph (1) of the preceding Article has been effected and notice made pursuant to the provision of paragraph (4) of the same Article (including cases where the designation shall be deemed to have been effected pursuant to the provision of paragraph (6) of the same Article. The same shall apply to the following paragraph and paragraph (6)), if the obligations of a patent professional corporation which it has become to bear to its client in connection with a designated case may not be fully performed with the assets of the patent professional corporation, the designated members (including persons who were previously designated members. Hereinafter the same shall apply in this Article) shall be jointly and severally liable for performance of the obligations, notwithstanding the provision of paragraph (1); provided, however, that this shall not apply to cases where such obligations are proved to have been caused by a reason which arose after the withdrawal of relevant designated members.
- (5) In case where the designation pursuant to the provision of paragraph (1) of the preceding Article has been effected and notice made pursuant to the provision of paragraph (4) of the same Article, if compulsory execution against the assets of a patent professional corporation based on claims that have arisen to the benefit of the client in connection with the designated case has not been successful, the same provision as in the preceding paragraph shall apply, unless the designated members have proven that the patent professional corporation has financial resources to pay and that the execution can be effected at ease.
- (6) In case where the designation pursuant to the provision of paragraph (1) of the preceding Article has been effected and notice made pursuant to the provision of paragraph (4) of the same Article, if an undesignated member has participated either before or after said designation in business pertaining to a designated case, such

member shall assume the same liability as assumed by designated members pursuant to the provision of the preceding two paragraphs, unless the undesignated member has proven that he/she was not careless in participation in the business. The same shall apply to similar cases occurring after a member has withdrawn from a patent professional corporation.

- (7) The provision of Article 612 of the Companies Act shall apply *mutatis mutandis* to the withdrawal of members of a patent professional corporation; provided, however, that this shall not apply to the obligations of a patent professional corporation which it has become to bear to its client in the case set forth in paragraph (4).

(Liability of a person who performed an act that causes misunderstanding as if he/she were a member of a patent professional corporation)

Article 47-5 In case a non-member of a patent professional corporation has performed an act that causes misunderstanding as if he/she were a member, the non-member shall assume the same liability as members to persons who have transacted with the patent professional corporation based on said misunderstanding.

(Restriction of business concerning specific cases)

Article 48 (1) A patent professional corporation shall not engage in cases falling under any of the following items; provided, however, that this shall not apply to any case provided in item (iii) that the patent attorney was entrusted to undertake and the client of which has agreed thereupon:

- (i) Cases in which the patent professional corporation has been consulted by the adverse party and supports the adverse party, or has accepted the adverse party as its client;
- (ii) Cases in which the patent professional corporation has been consulted by the adverse party, and the extent and method of such consultation are recognized to be based on a relationship of mutual trust;
- (iii) Cases in which the patent professional corporation is requested to undertake by the adverse party to another case that it has already been entrusted to undertake; or
- (iv) Cases in which a half or more of the members of a patent professional

corporation shall not participate as cases listed in the items of paragraph (3) below.

- (2) A member or the like of a patent professional corporation shall not engage in business of the cases listed in items of the preceding paragraph on their own behalf or for a third party.
- (3) A member or the like of a patent professional corporation shall not participate in business being engaged in by such patent professional corporation, pertaining to cases falling under any of the following items:
 - (i) Cases in which the member or the like was consulted by the adverse party and supported the adverse party or accepted the adverse party as a client before said member or the like joined the relevant patent professional corporation;
 - (ii) Cases in which the member or the like was consulted by the adverse party and the extent and method of such consultation were recognized to be based on a relationship of mutual trust before he/she became a member or the like of the relevant patent professional corporation;
 - (iii) Cases in which the member or the like has handled in the course of duties as a public officer;
 - (iv) Cases in which the member or the like has served as an arbitrator in arbitration procedures;
 - (v) Cases in which another patent professional corporation was consulted by the adverse party and supported the adverse party or accepted the adverse party as its client during the period in which the member or the like engaged in that business as a member or the like of said patent professional corporation, before he/she became a member or the like of the relevant patent professional corporation; or
 - (vi) Cases in which another patent professional corporation was consulted by the adverse party, and the extent and method of such consultation were recognized to be based on a relationship of mutual trust during the period in which the member or the like engaged in that business as a member or the like of such patent professional corporation, before he/she became a member or the like of the relevant patent professional corporation.

(Method of executing business)

Article 49 A patent professional corporation shall not let any person who is not a patent

attorney engage in its business.

(Mutatis mutandis application of provisions relating to the duty of patent attorney)

Article 50 The provisions of Articles 29 and 31-3 shall apply mutatis mutandis to patent professional corporations.

(Statutory withdrawal)

Article 51 Members of a patent professional corporation shall withdraw for the following reasons:

- (i) Cancellation of registration as a patent attorney;
- (ii) Occurrence of any of the reasons set forth in articles of incorporation;
- (iii) Consent of all members; or
- (iv) Expulsion.

(Dissolution)

Article 52 (1) A patent professional corporation shall be dissolved for the following reasons:

- (i) Occurrence of any of the reasons set forth in articles of incorporation;
 - (ii) Consent of all members;
 - (iii) Merger with other patent professional corporation(s);
 - (iv) Decision to commence bankruptcy procedures;
 - (v) Judicial Decision to order dissolution; or
 - (vi) Order of dissolution pursuant to the provision of Article 54.
- (2) In addition to cases pursuant to the provision of the preceding paragraph, if a patent professional corporation only has one member and does not increase to two or more members for six consecutive months from the date on which it came to have only one member, the patent professional corporation shall be dissolved when said six months have passed.
- (3) When a patent professional corporation has been dissolved for a reason other than those set forth in paragraph (1) (iii) and (vi), it shall notify the Minister of Economy, Trade and Industry thereof within two weeks from the date of its dissolution.

(Supervision by court)

Article 52-2 (1) The dissolution and liquidation of patent professional corporations shall be subject to the supervision of a court.

(2) A court may conduct inspections necessary for the supervision set forth in the preceding paragraph at any time by the court's own authority.

(3) A court supervising the dissolution and liquidation of a patent professional corporation may ask for the opinions of, or commission an investigation to the Minister of Economy, Trade and Industry.

(4) The Minister of Economy, Trade and Industry may express its opinions to the court prescribed in the preceding paragraph.

(Notification of the completion of liquidation)

Article 52-3 Upon the completion of liquidation of a patent professional corporation, the liquidator shall notify the Minister of Economy, Trade and Industry thereof.

(Jurisdiction of cases relating to the supervision of dissolution and liquidation)

Article 52-4 Cases relating to the supervision of the dissolution and liquidation of a patent professional corporation shall be subject to the jurisdiction of a court having jurisdiction over the location of the principal office of the patent professional corporation.

(Appointment of inspector)

Article 52-5 (1) The court may appoint an inspector to conduct necessary investigations for the supervision of the dissolution and liquidation of a patent professional corporation.

(2) No appeal may be entered against the judicial decision to appoint an inspector set forth in the preceding paragraph.

(3) When the court has appointed an inspector as set forth in paragraph (1), it may decide the amount of compensation to be paid by the patent professional corporation to such inspector. In this case, the court shall hear statements of the relevant patent professional corporation and inspector.

(4) Against the judicial decision set forth in the preceding paragraph, immediate appeal

may be lodged.

(Merger)

Article 53 (1) A patent professional corporation may, with the consent of all its members, merge with other patent professional corporation(s).

(2) The merger shall become effective by the registration thereof made by the patent professional corporation which is to survive the merger or the patent professional corporation to be established by the merger at the location of its principal office.

(3) When a patent professional corporation has merged, it shall notify the Minister of Economy, Trade and Industry thereof within two weeks from the date of merger, together with a certificate of registered matters (as well as articles of incorporation in case of a patent professional corporation to be established by the merger).

(4) The patent professional corporation which survives the merger or the patent professional corporation established by the merger shall succeed the rights and obligations of the patent professional corporation(s) extinguished by the merger.

(Objection by creditors, etc.)

Article 53-2 (1) The creditors of a merging patent professional corporation may raise objections about the merger against the patent professional corporation.

(2) A merging patent professional corporation shall make public notice of the matters listed below in Official Gazette and give notice thereof separately to each known creditor; provided, however, that the period of time set forth in item (iii) may not be less than one month:

(i) That the patent professional corporation will merge;

(ii) Names and addresses of principal offices of the patent professional corporation to be extinguished by the merger, and the patent professional corporation which is to survive the merger or be established by the merger; and

(iii) That creditors may raise objections within a certain period of time.

(3) Notwithstanding the provision of the preceding paragraph, if the merging patent professional corporation makes public notice set forth in the same paragraph by, in addition to Official Gazette, the method listed in Article 939

(1) (ii) or (iii) of the Companies Act in accordance with the provision of the articles of

- incorporation pursuant to the provision of Article 939 (1) of the same Act, as applied mutatis mutandis pursuant to paragraph (6), separate notice to each known creditor pursuant to the provision of the preceding paragraph shall not be required to be given.
- (4) In case creditors do not raise any objections within the period of time set forth in paragraph (2) (iii), such creditors shall be deemed to have approved of the merger.
- (5) In case where creditors raise objections within the period of time set forth in paragraph (2) (iii), the merging patent professional corporation shall make payment or provide equivalent security to such creditors, or entrust equivalent property to a trust company, etc. (meaning trust companies and financial institutions that engage in trust business (referring to financial institutions approved under Article 1 (1) of the Act on the Concurrent Undertaking of Trust Business by Financial Institutions (Act No. 43 of 1943))) for the purpose of making such creditors receive the payment; provided, however, that this shall not apply if there is no risk of harm to such creditors by such merger.
- (6) The provisions of paragraphs (1) (limited to portions pertaining to items (ii) and (iii)) and (3) of Article 939, paragraphs (1) (limited to portions pertaining to item (iii)) and (3) of Article 940, Articles 941, 946, 947, 951 (2), 953 and 955 of the Companies Act shall apply mutatis mutandis to cases where a patent professional corporation makes notice pursuant to the provision of paragraph (2) . In this case, the term "method of public notice" in Article 939 (1) and (3) of the same Act shall be deemed to be replaced with "method of public notice of the merger", and the term "trade name" in Article 946 (3) of the same Act shall be deemed to be replaced with "name".

(Claim seeking invalidation of merger)

Article 53-3 The provisions of Article 828 (1) (limited to portions pertaining to items (vii) and (viii)) and (2) (limited to portions pertaining to items (vii) and (viii)), Article 834 (limited to portions pertaining to items (vii) and (viii)), Article 835 (1), Article 836 (2) and (3), Articles 837 to 839, Article 843 (except for paragraph (1) (iii) and (iv) and proviso in paragraph (2)), and Article 846 of the Companies Act shall apply mutatis mutandis to claims seeking invalidation of the merger of a patent professional corporation, and the provisions of Article 868 (5), Article 870 (limited to portions pertaining to item (xv)), main text of Article 871, Article 872 (limited to portions

pertaining to item (iv)), main text of Article 873, Articles 875 and 876 of the same Act shall apply mutatis mutandis to the petitions set forth in Article 843 (4) of the same Act, as applied mutatis mutandis pursuant to this Article.

(Disposition relating to illegal acts)

Article 54 (1) In case where a patent professional corporation is in violation of this Act or any order based thereupon, or where its operations are found to be extremely unjust, the Ministry of Economy, Trade and Industry may admonish or order the patent professional corporation to suspend all or part of its business for a specified period of time not more than two years, or order it to dissolve.

(2) The provisions of Articles 33, 34 and 36 shall apply mutatis mutandis to the disposition set forth in the preceding paragraph.

(3) In making a disposition of a patent professional corporation pursuant to the provision of paragraph (1), in case there is a fact falling under Article 32 with regard to the members, etc. of such patent professional corporation, the provision set forth in the same paragraph shall not be construed to preclude taking disciplinary action also against the patent attorneys who are members, etc. of the patent professional corporation.

(Mutatis mutandis application of the Act on General Incorporated Association and General Incorporated Foundation and the Companies Act, etc.)

Article 55 (1) The provisions of Article 4 of the Act on General Incorporated Association and General Incorporated Foundation (Act No. 48 of 2006) and Articles 600, 614 to 619, 621 and 622 of the Companies Act shall apply mutatis mutandis to patent professional corporations; the provisions of Articles 581, 582, 585 (1) and (4), 586, 593 to 596, 601, 605, 606, 609 (1) and (2), 611 (except for the proviso in paragraph (1)) and 613 of the Companies Act shall apply mutatis mutandis to members of patent professional corporations; and the provisions of Articles 859 to 862 of the Companies Act shall apply mutatis mutandis to the expulsion and claims seeking extinguishment of right to execute business and the authority of representation of members of patent professional corporations. In this case, the term "trade name" in Article 613 of the Companies Act shall be deemed to be replaced

with "name", the term "Ordinance of the Ministry of Justice" in Articles 615 (1), 617 (1) and (2), and 618 (1) (ii) of the Companies Act shall be deemed to be replaced with "Ordinance of the Ministry of Economy, Trade and Industry", and the term "electromagnetic records" in Article 617 (3) of the Companies Act shall be deemed to be replaced with "electromagnetic records (meaning the electromagnetic records provided by Article 75 of the Patent Attorney Act. The same shall apply in paragraph (1) (ii) of the following Article.)"

(2) The provisions of Articles 644 (except for item (iii)), 645 to 649, 650 (1) and (2), 651 (1) and (2) (except for portions pertaining to mutatis mutandis application of Article 594 of the Companies Act), 652, 653, 655 to 659, 662 to 664, 666 to 673, 675, 863, 864, 868 (1), 869, 870 (limited to portions pertaining to items (ii) and (iii)), 871, 872 (limited to portions pertaining to items (iv)), 874 (limited to portions pertaining to items (i) and (iv)), 875 and 876 of the Companies Act shall apply mutatis mutandis to the dissolution and liquidation of patent professional corporations. In this case, the term "Article 641 (v)" in Article 644

(i) of the Companies Act shall be deemed to be replaced with "Article 52 (1) (iii) of the Patent Attorney Act"; the term "Article 641 (iv) or (vii)" in Article 647 (3) of the Companies Act shall be deemed to be replaced with "paragraph (1) (v) or

(vi) or paragraph (2) of Article 52 of the Patent Attorney Act"; the term "Ordinance of the Ministry of Justice" in Articles 658 (1) and 669 of the Companies Act shall be deemed to be replaced with "Ordinance of the Ministry of Economy, Trade and Industry"; the term "items (i) to (iii) of Article 641" in Article 668 (1) and 669 shall be deemed to be replaced with "Article 52 (1) (i) or

(ii) of the Patent Attorney Act"; the term "Article 939 (1)" in Article 670 (3) of the Companies Act shall be deemed to be replaced with "Article 939 (1), as applied mutatis mutandis pursuant to Article 53-2 (6) of the Patent Attorney Act"; and the term "Article 580" in Article 673 (1) of the Companies Act shall be deemed to be replaced with "Article 47-4 of the Patent Attorney Act".

(3) The provisions of Articles 824, 826, 868 (1), 870 (limited to portions pertaining to item (xiii)), main text of Article 871, Article 872 (limited to portions pertaining to item (iv)), main text of Article 873, Articles 875, 876, 904 and 937 (1) (limited to portions pertaining to item (iii) (b)) of the Companies Act shall apply mutatis mutandis to orders to dissolve patent professional corporations; and the

provisions of Articles 825, 868 (1), 870 (limited to portions pertaining to item (ii)), 871, 872 (limited to portions pertaining to items (i) and (iv)), 873, 874 (limited to portions pertaining to items (ii) and (iii)), 875, 876, 905 and 906 of the same Act shall apply *mutatis mutandis* to the preservation of assets of patent professional corporations in cases where a petition set forth in Article 824 (1) of the same Act, as applied *mutatis mutandis* pursuant to this paragraph, has been filed.

- (4) The provisions of Article 828 (1) (limited to portions pertaining to item (i)) and (2) (limited to portions pertaining to item (i)), Articles 834 (limited to portions pertaining to item (i)), 835 (1), 837 to 839 and 846 of the Companies Act shall apply *mutatis mutandis* to claims seeking invalidation of the incorporation of patent professional corporations.
- (5) The provisions of Articles 833 (2), 834 (limited to portions pertaining to item (xxi)), 835 (1), 837, 838, 846 and 937 (1) (limited to portions pertaining to item (i) (i)) of the Companies Act shall apply *mutatis mutandis* to claims seeking the dissolution of patent professional corporations.
- (6) With regard to the application of the provision of Article 16 of the Bankruptcy Act (Act No. 75 of 2004), a patent professional corporation shall be deemed a general partnership company.

Chapter VII Japan Patent Attorneys Association

(Establishment, Purpose and Juridical Personality)

Article 56 (1) Patent attorneys shall establish the Japan Patent Attorneys Association which shall be the only organization of its kind in Japan (hereinafter referred to as the "Patent Attorneys Association" in this Chapter) pursuant to the provision of this Act.

- (2) The purpose of the Patent Attorneys Association shall be to engage in affairs of guiding, communicating with, and supervising its members in order to maintain the dignity of patent attorneys, advance and improve the business of patent attorneys in consideration of the missions and duties of patent attorneys, as well as affairs relating to the registration of patent attorneys.
- (3) The Patent Attorneys Association shall be a judicial person.

(Regulations)

Article 57 (1) The Patent Attorneys Association shall establish its Regulations by specifying the matters listed below:

- (i) Name, and location of its office(s);
- (ii) Provisions relating to admission to and withdrawal from membership in the Association;
- (iii) Provisions relating to the types of members, and the rights and duties thereof;
- (iv) Provisions relating to officers;
- (v) Provisions relating to meetings;
- (vi) Provisions relating to branches;
- (vii) Provisions relating to the registration of patent attorneys;
- (viii) Provisions relating to the Registration Screening Board;
- (ix) Provisions relating to maintaining the dignity of members;
- (x) Provisions relating to the training of members;
- (xi) Provisions relating to practical training;
- (xii) Provisions relating to the mediation of disputes in connection with members' business;
- (xiii) Provisions relating to the provision of information concerning the Patent Attorneys Association and its members;

- (xiv) Provisions relating to the membership fee;
- (xv) Provisions relating to accounting and assets;
- (xvi) Provisions relating to the secretariat; and
- (xvii) Provisions relating to other matters necessary to achieve the purpose of the Patent Attorneys Association.

(2) Establishment or changes (limited to changes pertaining to important matters prescribed by Cabinet Order) of the Regulations shall not become effective without obtaining the approval of the Minister of Economy, Trade and Industry.

(Branches)

Article 58 The Patent Attorneys Association may establish its branches if

necessary for achieving its purposes.

(Registration)

Article 59 (1) The Patent Attorneys Association shall register itself pursuant to the provision of Cabinet Order.

(2) The matters that shall be registered pursuant to the provision of the preceding paragraph may not be asserted against a third party unless such matters have been registered.

(Admission and withdrawal)

Article 60 A patent attorney or patent professional corporation shall automatically be admitted to the Patent Attorneys Association; a patent attorney shall automatically withdraw from the Association upon cancellation of said patent attorney's registration; and a patent professional corporation shall automatically withdraw from the Association upon being dissolved.

(Disposition of withdrawal by the Patent Attorneys Association)

Article 61 The Patent Attorneys Association may, by obtaining approval of the Minister of Economy, Trade and Industry, remove any member from its membership who presents a risk of damaging the order or reputation of the Patent Attorneys Association.

(Duty to observe the regulations)

Article 62 Members shall observe the Regulations of the Patent Attorneys Association.

(Officers)

Article 63 (1) The Patent Attorneys Association shall have a President, Vice President and other officers as prescribed by the Regulations.

(2) The President shall represent and preside over all affairs of the Patent Attorneys Association.

(3) The Vice President shall assist the President in accordance with decisions made by the President, represent the President in the event of an accident involving the President, and perform the duties of the President when the office of President is

vacant.

- (4) Officers may delegate others to represent them in taking certain acts unless it is prohibited to do so by the Regulations or a resolution of a general meeting.

(General meeting)

Article 64 (1) The Patent Attorneys Association shall hold an annual general meeting every year.

- (2) The Patent Attorneys Association may hold temporary general meetings when it finds it necessary.

(Matters requiring resolution of general meeting)

Article 65 Any changes in the Regulations, budgets and settlements of accounts shall be decided by a resolution of a general meeting.

(Report of resolutions of general meeting, etc.)

Article 66 The Patent Attorneys Association shall report to the Commissioner of the Japan Patent Office the resolutions of its general meetings, and its officers' assumption of and retirement from office.

(Mediation of disputes)

Article 67 The Patent Attorneys Association may mediate a dispute regarding the business of its members in response to a request from any of its members, the parties to disputes, and/or other persons concerned.

(Proposals and reports to consultations)

Article 68 The Patent Attorneys Association may make proposals to the Minister of Economy, Trade and Industry or the Commissioner of the Japan Patent Office, or submit reports to consultations of the same, with regard to the business or systems pertaining to patent attorneys.

(Report of facts falling under grounds for disciplinary action)

Article 69 (1) The Patent Attorneys Association shall, if it finds a fact on the side of a member that falls under the provisions of Article 32 or 54, report such fact to the Minister of Economy, Trade and Industry.

- (2) The provision of Article 33 (2) shall apply mutatis mutandis to cases where a report set forth in the preceding paragraph has been made.

(Registration Screening Board)

Article 70 (1) The Patent Attorneys Association shall have a Registration Screening Board.

- (2) The Registration Screening Board shall, upon request of the Patent Attorneys Association, conduct necessary screening regarding the refusal of registration pursuant to the provision of Article 19 (1), rescission of registration pursuant to the provision of Article 23 (1), and cancellation of registration pursuant to the provision of Article 25 (1).
- (3) The Registration Screening Board shall be organized with a Chairperson and four Board Members.
- (4) President of the Patent Attorneys Association shall serve as Chairperson.
- (5) The Chairperson shall, by obtaining authorization of the Minister of Economy, Trade and Industry, appoint Board Members from among patent attorneys, officials of the Ministry of Economy, Trade and Industry engaged in administrative affairs pertaining to patent attorneys, and persons with relevant knowledge and experience.
- (6) The term of office of Board Members shall be two years; provided, however, that the term of office of a Board Member appointed to fill a vacancy shall be the remaining term of office of his/her predecessor.
- (7) In addition to what is provided for in each of the preceding paragraphs, necessary matters relating to the organization and operation of the Registration Screening Board shall be provided for by Cabinet Order.

(Report and inspection)

Article 71 (1) The Minister of Economy, Trade and Industry may, when he/she finds a necessity for securing the proper and certain operation of the Patent Attorneys Association, make the Association report or submit materials to him/her, or make his/her official enter into the office of the Patent Attorneys Association and inspect its books and other materials.

- (2) The said official who conducts the on-site inspection pursuant to the provision of the preceding paragraph shall carry an identification card and produce it to the

relevant person when requested.

- (3) The authority to conduct such an inspection as provided in paragraph (1) shall not be construed as being approved for a criminal investigation.

(Rescission of resolution of general meeting and dismissal of officers)

Article 72 The Minister of Economy, Trade and Industry may order the rescission of a resolution of a general meeting or dismissal of an officer of the Patent Attorneys Association when such resolution or an act committed by such officer violates any of the laws and regulations or Regulations of the Patent Attorneys Association, or otherwise damages public interest.

(Mutatis mutandis application of the Act on General Incorporated Association and General Incorporated Foundation)

Article 73 The provisions of Articles 4 and 78 of the Act on General Incorporated Association and General Incorporated Foundation shall apply mutatis mutandis to the Patent Attorneys Association.

(Delegation to Ordinance of the Ministry of Economy, Trade and Industry) Article

74 In addition to the matters provided for in this Act, any necessary matters concerning the Patent Attorneys Association shall be prescribed by Ordinance of the Ministry of Economy, Trade and Industry.

Chapter VIII Miscellaneous Provisions

(Restriction of business by a person who is not a patent attorney or a patent professional corporation)

Article 75 A person who is not a patent attorney or a patent professional corporation shall not, in response to request of others and by receiving compensation, engage in the business of representing others regarding procedures with the Japan Patent Office as pertaining to patents, utility models, designs or trademarks, or international applications or international applications for registration, or procedures with the Minister of Economy, Trade and Industry with regard to filing an objection or to an award pertaining to patents, utility models, designs or trademarks (except for

representing others regarding procedures of paying patent fees and applying for registration in the patent registry and other acts specified by Cabinet Order) or giving expert opinions regarding other affairs pertaining to the matters relating to the said procedures or making documents or electromagnetic records (meaning records made by an electronic form, a magnetic form, or any other form not recognizable to human perception, which is provided in information processing by computers) specified by Cabinet Order.

(Restriction on use of names)

- Article 76 (1) A person who is not a patent attorney or patent professional corporation shall not use the name "Benri-Shi" (patent attorney), "Tokkyo-Jimusho" (patent office) or similar names thereto.
- (2) A person who is not a patent professional corporation shall not use the name "Tokkyo-Gyomu-Hojin" (patent professional corporation) or similar names thereto.
- (3) A body which is not the Japan Attorneys Association shall not use the name "Nihon Benri-Shi-Kai" (Japan Patent Attorneys Association) or similar names thereto.

(Duty of employees of patent attorneys, etc. to protect secrecy) Article 77

An employee or other worker of a patent attorney or a patent professional corporation, or a person who previously was in such a position shall not divulge or misappropriate any secret which he/she came to know in providing assistance for the business set forth in Articles 4 to 6-2 without any justifiable grounds.

(Publication of information relating to patent attorneys)

- Article 77-2 (1) The Minister of Economy, Trade and Industry and the Japan Patent Attorneys Association shall publicize, from among information retained by them respectively, such information as specified by Ordinance of the Ministry of Economy, Trade and Industry, in consideration of the necessity of protecting personal information of patent attorneys, as information specifically required for persons who intend to request a patent attorney to engage in relevant affairs on their behalf to properly select a patent attorney.
- (2) The method and procedure of publication set forth in the preceding paragraph shall

be specified by Ordinance of the Ministry of Economy, Trade and Industry.

- (3) A patent attorney shall endeavor to provide persons who intend to request a patent attorney to engage in relevant affairs on their behalf with such information that would contribute to their proper selection of a patent attorney.

Chapter IX Penal Provisions

Article 78 Any person who is not qualified to be a patent attorney but registered with the Japan Patent Attorney Association by making a false application as to his/her qualification shall be punished by imprisonment with work for a term not more than one year or by a fine of not more than 1,000,000 yen.

Article 79 Any person who falls under any of following items shall be punished by imprisonment with work for a term not more than one year or by a fine of not more than 1,000,000 yen:

- (i) Any person who has violated the provision of Article 31-3 (including cases where applied mutatis mutandis pursuant to Article 50);
- (ii) Any person who has violated the disposition of suspension of business under the provision of Article 32 or 54 (1); or
- (iii) Any person who has violated the provision of Article 75.

Article 80 (1) Any person who has violated the provision of Article 16-5 (1), 30 or 77 shall be punished by imprisonment with work for a term not more than 6 months or by a fine of not more than 500,000 yen.

- (2) The crime set forth in the preceding paragraph shall be prosecuted only upon complaint.

Article 80-2 Any officer or official of a designated training agency who has violated an order of suspension of its practical training affairs pursuant to the provision of Article 16-12 (2) shall be punished by imprisonment with work for a term not more than 6 months or by a fine of not more than 500,000 yen.

Article 81 Any person who falls under any of following items shall be punished by a

fine of not more than 1,000,000 yen:

- (i) A person who does not report or submit materials pursuant to the provision of Article 71 (1), or has made a false report or submitted false materials, or refused, disturbed or recused the on-site inspection provided for in the provision of the same paragraph; or
- (ii) A person who has violated the provision of Article 76.

Article 81-2 Any person who, in violation of the provision of Article 955 (1) of the Companies Act as applied mutatis mutandis pursuant to Article 53-2 (6), has failed to make a statement or record, or has made a false statement or record of what is provided by Ordinance of the Ministry of Justice with regard to the Electronic Public Notice provided in the same paragraph in the investigation register provided in the same paragraph, or failed to preserve such register, shall be punished by a fine of not more than 300,000 yen.

Article 81-3 When any designated training agency falls under any of the following items, the officer or employee of such designated training agency who has committed the relevant violation shall be punished by a fine of not more than 300,000 yen:

- (i) When the designated training agency failed to keep the books or make statement in the books, has made a false statement in the books, or failed to preserve the books, in violation of Article 16-8;
- (ii) When the designated training agency failed to report or submit materials pursuant to the provision of Article 16-10 (1), made a false report or submitted a false material, or has refused, disturbed or recused the on-site inspection provided for in the provision of the same paragraph; or
- (iii) When the designated training agency has abolished all of its practical training affairs, without obtaining permission set forth in Article 16-11 (1).

Article 82 When a representative of a juridical person or an agent, worker or employee of a juridical person, or an individual has committed a violation of Article 79 (i) (limited to the portion pertaining to Article 31-3, as applied mutatis mutandis pursuant to Article 50), (ii) (limited to the portion pertaining to Article 54 (1)), or (iii) or Articles 81 or 81-2 with regard to the business of such juridical person or

individual, not only the offender shall be punished but also said juridical person or individual shall be punished by the fine prescribed in the respective Articles.

Article 83 Any person who failed to report or made a false report, or failed to submit books and documents in violation of any order pursuant to the provision of Article 34 (including cases where the same applies mutatis mutandis pursuant to Article 54 (2)), shall be punished by the non-penal fine of not more than 300,000 yen.

Article 84 Any person who falls under any of the following items shall be punished by a non-penal fine of not more than 1,000,000 yen:

- (i) A person who failed to report or made a false report in violation of the provision of Article 946 (3) of the Companies Act, as applied mutatis mutandis pursuant to Article 53-2 (6); or
- (ii) A person who has refused the requests listed in each item of Article 951 (2) or each item of Article 955 (2) of the Companies Act, as applied mutatis mutandis pursuant to Article 53-2 (6), without justifiable grounds.

Article 85 Any member or liquidator of a patent professional corporation, or any officer of the Japan Patent Attorneys Association who falls under any of the following items shall be punished by a non-penal fine of not more than 300,000 yen:

- (i) When he/she failed to complete registration in violation of the provision of Cabinet Order under this Act;
- (ii) When he/she has effected a merger in violation of Article 53-2 (2) or (5);
- (iii) When he/she failed to request an investigation in violation of the provision of Article 941 of the Companies Act, as applied mutatis mutandis pursuant to Article 53-2 (6);
- (iv) When he/she failed to make a statement or record, or has made a false statement or record of what should be stated or recorded in the accounting books set forth in articles of incorporation or Article 615 (1) of the Companies Act, as applied mutatis mutandis pursuant to Article 55 (1), or in the balance sheet set forth in Article 617 (1) or (2) of the same Act, as applied mutatis mutandis in Article 55 (1);
- (v) When he/she failed to petition for the commencement of bankruptcy proceeding in violation of the provision of Article 656 (1) of the Companies Act, as applied

- mutatis mutandis pursuant to Article 55 (2);
- (vi) When he/she has distributed assets in violation of the provision of Article 664 of the Companies Act, as applied mutatis mutandis pursuant to Article 55 (2); or
 - (vii) When he/she has disposed of assets in violation of the provision of Article 670 (2) or (5) of the Companies Act, as applied mutatis mutandis pursuant to Article 55 (2).

Source: World Intellectual Property Organization

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