

Enforcement Rules of the Patent Act
(2017)

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Chapter 1 General Provisions

Rule 1

These Enforcement Rules are formulated pursuant to Article 158 of the Patent Act (hereinafter referred to as the Act).

Rule 2

Any application to be filed pursuant to the Act and these Enforcement Rules shall, except that to be filed by electronic means pursuant to Article 19 of the Act, be in written form and shall be affixed with the signature or seal of the applicant, or the signature or seal of the patent agent appointed by the applicant. The Specific Patent Agency may, as it deems necessary, request the applicant to submit the document(s) proving the identity of the natural or juristic person.

Any application to be filed in written form pursuant to the Act and these Enforcement Rules shall use the written forms designated by the Specific Patent Agency; the formats and number of copies thereof shall be prescribed by the Specific Patent Agency.

Rule 3

Where the Chinese translation of technical terminology has been made by the National Academy for Educational Research, such official translation shall prevail. However, in the absence of such official translation or as it deems necessary, the Specific Patent Agency may request the applicant to annotate the Chinese terminology with its original foreign version.

The document(s) for filing a patent application or other proceedings shall be in Chinese. In case any document(s) of proof is written in a foreign language, the Specific Patent Agency may, as it deems necessary, request the applicant to submit a full-text Chinese translation or a Chinese translation of an excerpt thereof.

Rule 4

Any document(s) of proof submitted pursuant to the Act and these Enforcement Rules shall be the original or the certified copy thereof.

Upon making preliminary showing that the photocopy of the document(s) of proof is identical to the original or the certified copy, except for the certified priority document, the parties involved may submit the photocopy instead. However, where a photocopy of the documentary evidence is submitted as evidence of invalidation, it shall be proved to be identical to the original or the certified copy thereof.

When the original or the certified copy of the document(s) of proof has been verified by the Specific Patent Agency, it may be returned to the applicant.

Rule 5

Where a person files a patent application or taking other proceedings in connection with patent matters in written form, the date of application and other proceedings shall be the date on which the Specific Patent Agency receives the written document; however, where the delivery thereof is made via post, the date of application and other proceedings shall be the postmark date.

The date of application and other proceedings whose postmark date appears to be ambiguous shall be the date of receipt by the Specific Patent Agency, unless otherwise proved by the parties involved.

Rule 6

With regard to the time period(s) specified by Specific Patent Agency pursuant to the Act and these Enforcement Rules, an applicant may, prior to the expiration thereof, make a request stating the reasons for the delay to the Specific Patent Agency for an extension.

Rule 7

Where a request is made for recordation of the change to the name, seal, domicile/residence, or business establishment of the applicant, the document(s) of proof shall accompany such request. This provision shall not apply where the change thereto needs not be proved by document(s).

Rule 8

Where a change of entitled applicant is requested due to a transfer of the right to apply for patent, the request shall be submitted and accompanied by the following documents:

1. in the event that the change of entitled applicant is due to an assignment, the deed of assignment of the right to apply for patent or document(s) of proof of the assignment; where the assignment is made due to amalgamation or acquisition of companies, however, the document(s) of proof of the amalgamation or acquisition should be submitted;
2. in the event that the change of entitled applicant is due to inheritance, the certificate of death and the instrument of succession.

Rule 9

Where the applicant designates an agent, the document specifying the extent of power conferred upon the agent and the address to receive service shall be submitted to the Specific Patent Agency.

Where agents for patent application and other proceedings are designated, the number of agents shall not exceed three (3).

Where two or more agents are designated, each of them may act on behalf of the applicant severally.

In the event that the designation violates the provision of the preceding paragraph, the agent still may act on behalf of the applicant severally.

Where the power or agent is changed, unless a written notice is submitted to the Specific Patent Agency, such change has no effect to the Specific Patent Agency.

Any change to the agent's address shall be reported to the Specific Patent Agency.

Rule 10

The agent may take any action within the extent of power conferred upon. However, actions of designating or discharging an agent, withdrawing a patent application, withdrawing a divisional patent application, withdrawing a converted patent application, withdrawing a request for reexamination, withdrawing a request for post-grant amendment, withdrawing an invalidation action, or abandoning a patent right shall not be taken without being specially empowered.

Rule 11

Where the application documents do not conform to statutory requirements but such nonconformance may be remedied, the Specific Patent Agency shall notify the applicant to complete the requirements within a specified time limit; where the requirements are not completed within the specified time limit or are still incomplete, the application shall be processed pursuant to Paragraph 1, Article 17 of the Act.

Rule 12

When requesting for reinstatement under Paragraph 2, Article 17 of the Act, a request form shall be submitted to the Specific Patent Agency stating the reasons for the delay and the date of extinguishment of such delay, and accompanied by the document(s) of proof.

Chapter 2 Application and Examination of Invention Patent

Rule 13

Where the priority is claimed pursuant to Paragraph 1, Article 28 or Paragraph 1, Article 30 of the Act, the so-called "prior to the filing of the patent application" in Article 22 of the Act, and the so-called "earlier-filed" in Article 23 of the Act shall mean prior to the priority date.

The so-called "printed publication" in Article 22 of the Act shall mean documents or other storage media carrying information that is open to the public.

The period of twelve (12) months in Paragraph 3, Article 22 of the Act is calculated from the day following the occurrence of the facts prescribed under the same paragraph to the filing date prescribed under Paragraph 2, Article 25 of the Act. Where there are more than one of the facts prescribed under

Paragraph 3, Article 22 of the Act, the above-mentioned period shall be calculated from the day following the occurrence of the first of these facts.

Rule 14

The so-called “a person ordinarily skilled in the art” in Article 22, Article 26, and Article 27 of the Act shall mean a person having general knowledge and ordinary skill in the art of the invention at the time of filing.

In the preceding paragraph, the time of filing shall mean the priority date where priority is claimed pursuant to Paragraph 1, Article 28 or Paragraph 1, Article 30 of the Act.

Rule 15

Where a person has obtained the right to apply for patent due to inheritance, assignment, employment or capital contribution, with respect to the disclosure of the invention made by the predecessor, assignor, employee or appointee prior to the filing, the provisions of Paragraphs 3 and 4, Article 22 of the Act shall apply.

Rule 16

When filing a patent application for invention, the application form shall specify the following items:

1. title of invention;
2. name and nationality of the inventor;
3. name, nationality, and domicile/residence or business establishment of the applicant; name of the representative, if any ; and
4. name and business establishment of the agent, if an agent is designated.

Under any of the following circumstances, a statement shall be made at the time of filing:

1. where the priority prescribed under Paragraph 1, Article 28 of the Act is claimed;
2. where the priority prescribed under Paragraph 1, Article 30 of the Act is claimed; and
3. where the declaration is made in respect of a patent application for invention and a patent application for utility model filed for the same creation on the same date as prescribed under Paragraph 1, Article 32 of the Act.

Rule 17

When filing a patent application for invention, the description shall contain the following items:

1. title of invention;
2. technical field;

3. background art: indicating the background art known to the applicant, where relevant materials reflecting such art may be submitted;
4. summary of invention: disclosing the problem(s) that the invention aims to solve and its technical solution adopted to solve the problem(s); and stating any advantageous effects of the invention with reference to the background art;
5. brief description of drawing(s): where the description is accompanied by drawing(s), description of the drawing(s) shall be made in concise wording according to the drawing sequence;
6. description of embodiments: describing at least one way of carrying out the invention, using examples where appropriate and referring to the drawing(s), if any; and
7. reference signs list: where the description is accompanied by drawing(s), major reference signs of the drawing(s) shall be listed and illustrated according to the drawing sequence or reference signs sequence.

The description shall be presented in the manner and order specified in each subparagraph of the preceding paragraph, and each of the parts shall be preceded by a heading; unless, owing to the nature of the invention, a different presentation would result in a better understanding.

The paragraphs of the description may be numbered consecutively with four Arabic numbers arranged in square brackets, so as to clearly identify each paragraph.

The title of invention should concisely state the contents of the claimed inventions, where no irrelevant wording is allowed.

When a patent application for invention involves a biological material or utilization of a biological material, where the biological material concerned has been deposited, the description shall specify the depository, date of deposit and deposit number. In the event that, prior to filing the patent application, the biological material concerned has been deposited in a foreign depository recognized by the Specific Patent Agency, the description shall also specify the foreign depository, date of deposit and deposit number.

Where a patent application for invention contains disclosure of one or more nucleotides and/or amino acids sequence, a sequence listing complying with the standard provided by the Specific Patent Agency shall be submitted as a separate part of the description, in addition thereto, a copy of the said sequence listing in computer-readable form may be submitted.

Rule 18

The claim(s) of an invention may be presented in more than one independent claim; the number of claim(s) shall be consistent with the disclosure of the invention; when necessary, the claim(s) may contain more than one dependent claim. The independent claim(s) and the dependent claim(s) shall

be consecutively arranged in Arabic numerical sequence according to their dependent relations.

An independent claim shall state the designation of the subject matter as claimed and the essential technical features of the invention that the applicant regards as his/her invention.

A dependent claim shall state the Arabic number(s) of the claim(s) on which it depends, the designation of the subject matter and the technical features other than those in the claim(s) on which it depends; whenever an interpretation of a dependent claim is made, it shall contain all the technical features of the claim(s) on which the dependent claim depends.

A dependent claim depending on two or more claims shall be referred to as a multiple dependent claim and shall be presented in alternative.

A dependent claim may only depend on the preceding dependent or independent claim(s). However, direct or indirect dependence is not allowed among multiple dependent claims.

An independent or a dependent claim shall be written in a single sentence.

Rule 19

Unless absolutely necessary, the technical features of all the claim(s) may not be defined by referring to the page number(s) or line number(s) of the description, drawing(s) or reference sign (s) in the drawing(s).

The technical features of the claim(s) may refer to the corresponding reference sign(s) in the drawing(s), and the reference sign(s) shall follow the corresponding technical features and be placed in parentheses; the reference sign(s) may not serve to limit the interpretation of the claim(s).

The claim(s) may contain the chemical or mathematical formulae but not drawing(s).

A technical feature in a claim for an invention which consists of a combination of multiple technical features may be expressed in means-plus-function or step-plus-function language. Such claim shall be interpreted to cover the corresponding structure, material, or acts described in the description and equivalents thereof.

Rule 20

Where an independent claim of an invention is presented in two-part form, the preamble portion shall contain the designation of the subject matter as claimed and those essential technical features that the subject matter as claimed and the prior art are in common; the characterizing portion shall state the essential technical features of the invention which distinguish the subject matter as claimed from the prior art in such phase as "characterized in that," "wherein the improvement comprises," or in similar expressions.

The technical features of the characterizing portion shall be in combination with those of the preamble portion in interpreting such independent claim.

Rule 21

An abstract shall concisely state the disclosure of the invention, and be limited to the technical problem(s) it intends to solve, the technical solution adopted to solve the problem(s), and the principal use of the invention; in principle, the text of abstract is not to exceed 250 words; for an invention involving chemical formula, its abstract shall disclose the formula that can best characterize the inventive feature(s).

An abstract may not contain any commercial advertisement wording.

For an abstract failing to comply with the preceding two paragraphs, the Specific Patent Agency may notify the applicant to make an amendment within a specified time limit, or notify the applicant of the amendment being made *ex officio*.

The applicant shall designate a representative drawing that can best characterize the technical feature(s) of the invention and list the primary reference sign(s) in the representative drawing accompanied by brief description(s).

In case of failure to designate a representative drawing or inappropriate designation of a representative drawing, the Specific Patent Agency may notify the applicant to complete the requirements within a specified time limit, or notify the applicant of the designation or deletion being made *ex officio*.

Rule 22

In a patent application for invention, the technical terminology and the reference sign(s) used in the description, claim(s), and abstract shall be consistent.

The description, claim(s), and abstract referred to in the preceding paragraph should be typed or printed.

Where the description, claim(s), and abstract are filed in a foreign language, the submitted Chinese translation thereof shall be precise and complete.

Rule 23

In a patent application for invention, the drawing(s) shall be made clearly with ink lines based on the engineering drawing method; when scaled down to two-thirds, all the details disclosed in each drawing shall still be clearly distinguished.

The drawing(s) shall be annotated with drawing designation(s) and reference sign(s), arranged according to the drawing sequence, and shall not specify descriptive words, unless otherwise indispensable.

Rule 24

In the event that parts of the description or the drawing(s) are missing from the patent application for invention, the filing date shall be the date on which the missing parts of the description or the drawing(s) are filed. However, the filing date shall be the date on which the application was first filed under any of the following conditions:

1. where the application claims priority of an earlier application, and the missing parts of the description or the drawing(s) are completely contained in the earlier application; or
2. where the applicant withdraws the earlier filed missing parts of the description or the drawing(s) within thirty days after being served with a notification confirming the filing date by the Specific Patent Agency.

Where the description or drawing(s) referred to in the preceding paragraph is submitted in a foreign language, the above provisions shall apply.

Rule 25

The period of twelve (12) months prescribed under Paragraph 1, Article 28 of the Act is calculated from the day following the filing date of first patent application in a country which reciprocally recognizes ROC-based priority claims or a member of the World Trade Organization (WTO) to the filing date prescribed under Paragraph 2, Article 25 of the Act.

The period of twelve (12) months prescribed under Subparagraph 1, Paragraph 1, Article 30 of the Act is calculated from the day following the filing date of the earlier patent application to the filing date prescribed under Paragraph 2, Article 25 of the Act.

Rule 26

The priority document to be submitted pursuant to Paragraph 2, Article 29 of the Act shall be the certified copy.

In the event that the priority document submitted by the applicant within the time limit prescribed under Paragraph 2, Article 29 of the Act is a photocopy, the Specific Patent Agency shall notify the applicant to submit the certified copy thereof within specified time limit; where such submission is not made within the specified time limit or the submission is still incomplete, the priority claim is deemed not to have been claimed pursuant to Paragraph 3, Article 29 of the Act. However, in the event that the certified priority document has already been submitted to the Specific Patent Agency, a photocopy specifying the number of the patent application to which the certified priority document appends may be submitted as a substitute.

In the event that the priority document referred to in Paragraph 1 has been exchanged between the Specific Patent Agency and the receiving patent authority of the country or the WTO member by means of electronic

communication, the priority document is deemed to have been submitted by the applicant.

The certified copy referred to in Paragraph 1 may be replaced with the electronic version thereof in compliance with the requirement of the Specific Patent Agency; an explanation that this electronic version is identical to the certified copy shall be made.

Rule 26-1

Where the priority is claimed pursuant to Paragraph 1, Article 30 of the Act, in the event the certificate fee and the first-year annuity with respect to the earlier patent application is paid pursuant to the Act, either at the same time, prior to or after the claiming of priority, the Specific Patent Agency shall notify the applicant to withdraw within the specified time period either the priority claim of the subsequent patent application or the request for patent certificate of the earlier patent application. If a withdrawal has not been made within the specified time period, the earlier patent application shall not be published and the Specific Patent Agency shall notify the applicant that the certificate fee and the first-year annuity may be refunded by request.

Rule 26-2

The so-called “on the same date” prescribed under Paragraph 1, Article 32 of the Act shall mean a patent application for invention and a patent application for utility model having been filed in accordance with, respectively, Paragraph 2, Article 25 and Paragraph 2, Article 106 of the Act, and having the same filing date. In the event that the priority claims are made, the priority dates shall also be the same.

The situation where the applicant has not made respective declarations as prescribed under Paragraph 1, Article 32 of the Act includes the applicant not having made any declaration for both the patent application for invention and the patent application for utility model, or the applicant not having made any declaration for either of the two applications.

In the event that the utility model patent becomes extinguished or is revoked finally and bindingly after the approval of the patent application for invention but prior to the publication of that invention patent, the invention patent shall not be published.

Rule 27

The so-called “linked as to form a single general inventive concept” in Paragraph 2, Article 33 of the Act shall mean that two or more inventions are technically related to one another.

The inventions that are technically related to one another referred to in the preceding paragraph shall contain one or more same or corresponding special technical features.

The so-called “special technical features” referred to in the preceding paragraph shall mean the technical features which define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

The determination of whether two or more inventions are technically related to one another shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

Rule 28

When requesting for division of a patent application for invention, a request form shall be submitted for each divisional patent application, accompanied by the following documents:

1. description, claim(s), abstract, and drawing(s); and
2. where the patent application for invention involves a biological material or utilization of a biological material, the certificate of deposit thereof.

Under any of the following circumstances, a statement shall be made at the time of filing the request form for each divisional patent application:

1. where the priority prescribed under Paragraph 1, Article 28 of the Act is claimed; or
2. where the priority prescribed under Paragraph 1, Article 30 of the Act is claimed.

The divisional patent application shall not differ from the original patent application in its type.

Rule 29

Where a request for division is filed pursuant to Subparagraph 2, Paragraph 2, Article 34 of the Act after the original patent application has been approved, the request shall be based on the invention(s) disclosed in the description or the drawing(s), but not those claims that have been approved in the original patent application.

When filing a request stated in the preceding paragraph, no alteration may be made to the description, claim(s), or drawing(s) of the original patent application that have been approved.

Rule 30

Where a patent application is filed pursuant to Article 35 of the Act, an application form shall be submitted and accompanied by the document(s) of proof showing that the invalidation decision revoking the patent has become final and binding.

Rule 31

Whenever a patent application for invention is laid open by the Specific Patent Agency, the following items shall be laid open to the public:

1. application number;
2. laying open number;
3. laying open date;
4. international patent classification;
5. filing date;
6. title of invention;
7. name(s) of the inventor(s);
8. name and domicile/residence or business establishment of the applicant;
9. name of the agent, if an agent is designated;
10. abstract;
11. the drawing that can best characterize the technical features of the invention, and description(s) of the reference sign(s) in the drawing accompanied;
12. where the priority prescribed under Paragraph 1, Article 28 of the Act is claimed, the reciprocal country or the WTO member receiving the respective first patent application(s), application number(s) and filing date(s) thereof;
13. where the priority prescribed under Paragraph 1, Article 30 of the Act is claimed, the respective application number(s) and filing date(s) thereof; and
14. status for whether a request for substantive examination has been applied.

Rule 32

When requesting for a substantive examination of a patent application for invention, a request form shall be submitted, specifying the following items:

1. application number;
2. title of invention;
3. name, nationality, and domicile/residence or business establishment of the applicant for substantive examination; the name of the representative, if any;
4. name and business establishment of the agent, if an agent is designated; and
5. identification of whether the requester for the substantial examination is the patent applicant.

Rule 33

When requesting for prioritized examination of a patent application for invention, a request form shall be submitted, specifying the following items:

1. application number and laying open number;
2. title of invention;

3. name, nationality, and domicile/residence or business establishment of the applicant for prioritized examination; the name of the representative, if any;
4. name and business establishment of the agent, if an agent is designated;
5. identification of whether the requester for prioritized examination is the patent applicant; and
6. a statement with respect to the status of commercial exploitation of the patent application for invention; where there is an agreement, the history of reaching the agreement.

Where a request for prioritized examination of the patent application for invention has been made but a request for substantive examination thereof has yet to be filed, a request for substantive examination as prescribed in the preceding article shall also be made.

The relevant document(s) of proof to be submitted pursuant to Paragraph 2, Article 40 of the Act shall include: advertising catalogues, other written materials reflecting the facts of commercial exploitation, or the written notice prescribed under Paragraph 1, Article 41 of the Act.

Rule 34

Where the Specific Patent Agency notifies the applicant to appear for an interview, to perform experiment, to supplement model(s) or sample(s), or to amend the description, claim(s), or drawing(s), in case of failure to act within the specified time limit, or to conduct any act pursuant to the contents of the notification, the Specific Patent Agency may continue the examination based on the materials available.

Rule 35

In case of obvious error(s) found in the description, claim(s), or text(s) or reference sign(s) in the drawing(s), the Specific Patent Agency may correct the error(s) *ex officio* and notify the applicant of the correction(s) being made.

Rule 36

When requesting for amending the description, claim(s), or drawing(s) of a patent application for invention, a request form shall be submitted and accompanied by the following documents:

1. the amended sheet(s) of the description or claim(s) on which the portions of the amendment are marked; the original disclosure to be deleted shall be presented by a strike line crossing out the deleted text(s); the added disclosure shall be presented by underlining the added text(s). However, deleting claim(s) may be presented by annotation of descriptive text(s).
2. the replacement sheet(s) of description, claim(s), or drawing(s) after the amendment without marks; in case the page sequence, claim sequence, or drawing sequence of the description, claim(s), or drawing(s) are not

continuous due to the amendment, a complete set of description, claim(s), or drawing(s) after the amendment shall be submitted.

The request form referred to in the preceding paragraph shall specify the following items:

1. where an amendment is made to the description, the page number(s), paragraph number(s), and line number(s) thereof and reasons for the amendment;
2. where an amendment is made to the claim(s), the number(s) thereof and reasons for the amendment;
3. where an amendment is made to the drawing(s), the designation(s) thereof and reasons for the amendment.

Where an amendment is made to the claim(s), if parts of the claims are deleted, number(s) of the remaining claim(s) should be rearranged with Arabic numeral(s) according to the claim sequence; where an amendment is made to the drawing(s), if parts of the drawings are deleted, the drawing designation(s) of the remaining drawing(s) should be rearranged according to the drawing sequence.

In the event that the Specific Patent Agency has issued a final notice to the patent application for invention, the amendment reasons set forth in Subparagraph 2, Paragraph 2 of this Rule shall state the respective grounds prescribed under Paragraph 4, Article 43 of the Act.

Rule 37

When requesting for correcting the description, claim(s), or drawing(s) due to translation errors, a request form shall be submitted and accompanied by the following documents:

1. the corrected sheet(s) of the description or claim(s) on which the portions of the correction are marked; the original disclosure to be deleted shall be presented by a strike line crossing out the deleted text(s); the added disclosure shall be presented by underlining the added text(s); and
2. the replacement sheet(s) of description, claim(s), or drawing(s) after correction without marks.

The request form referred to in the preceding paragraph shall specify the following items:

1. where a correction is made to the description, the page number(s), paragraph number(s), and line number(s) thereof, reasons for correction, and the page number(s), paragraph number(s), and line number(s) of the corresponding description in the application in foreign language;
2. where a correction is made to the claim(s), the number(s) thereof, reasons for the correction, and the claim number(s) of the corresponding claim(s) in the application in foreign language;

3. where a correction is made to the drawing(s), the designation(s) thereof, reasons for the amendment, and the designation(s) of the corresponding drawing(s) in the application in foreign language.

Rule 38

In case a correction of translation error(s) and an amendment are simultaneously made to the description, claim(s), or drawing(s) of the patent application for invention, the request for correction and the request for amendment may be submitted separately, or a request for correction specifying both the correction and amendment may be submitted.

In case a correction of translation error(s) and a post-grant amendment are simultaneously made to the description, claim(s), or drawing(s) of the invention patent, the above provision shall apply.

Rule 39

Subsequent to laying open but prior to issuing the examination decision, anyone considering that the claimed inventions shall not be granted may submit his/her comments to the Specific Patent Agency, which may be accompanied by reasons and evidence thereof.

Chapter 3 Application and Examination of Utility Model Patent

Rule 40

In the event that parts of the description or drawing(s) are missing from the patent application for utility model, the filing date shall be the date on which the missing parts of the description or the drawing(s) are filed. However, the filing date shall be the date on which the application was first filed under any of the following conditions:

1. where the applicant claims priority of an earlier application, and the missing parts of the description or the drawing(s) are completely contained in the earlier application; or
2. where the applicant withdraws the earlier filed missing parts of the description or parts of the drawing(s) within thirty (30) days after being served with a notification confirming the filing date by the Specific Patent Agency.

Where the description or drawing(s) referred to in the preceding paragraph are submitted in a foreign language, the above provisions shall apply.

Rule 41

The period of twelve (12) months prescribed under Paragraph 1 of Article 28 applicable *mutatis mutandis* under Article 120 of the Act is calculated from the day following the filing date of the first patent application in a country which reciprocally recognizes ROC-based priority claims or a member of the WTO to the filing date prescribed under Paragraph 2, Article 106 of the Act.

The period of twelve (12) months prescribed under Subparagraph 1, Paragraph 1 of Article 30 applicable *mutatis mutandis* under Article 120 of the Act is calculated from the day following the filing date of the earlier patent application to the filing date prescribed under Paragraph 2, Article 106 of the Act.

Rule 42

When requesting for a technical evaluation report of utility model patent pursuant to Paragraph 1, Article 115 of the Act, a request form shall be submitted specifying the following items:

1. application number;
2. title of utility model;
3. name, nationality, and domicile/residence or business establishment of the applicant for the technical evaluation report of utility model patent; the name of the representative, if any;
4. name and business establishment of the agent, if an agent is designated; and
5. identification of whether the requester is the patentee.

Rule 43

The relevant document(s) of proof to be submitted pursuant to Paragraph 5, Article 115 of the Act shall include: a written notice issued by the patentee to a party not entitled to exploit the patent for commercial purpose, advertising catalogues, or other written materials reflecting the facts of commercial exploitation.

Rule 44

The technical evaluation report of utility model patent shall specify the following items:

1. certificate number of the utility model patent;
2. application number;
3. filing date;
4. priority date;
5. the date that a request for rendering a technical evaluation report is made;
6. title of utility model;
7. name and domicile/residence or business establishment of the patentee;
8. name of the requester for the technical evaluation report of utility model patent;
9. name of the agent, if an agent is designated;
10. name of the patent examiner;

11. international patent classification;
12. range of prior art documents; and
13. comparative conclusions

Rule 45

Rules 13 to 23, Rules 26 to 28, Rule 30, and Rules 34 to 38 shall apply *mutatis mutandis* to utility model patent.

Chapter 4 Application and Examination of Design Patent

Rule 46

Where the priority is claimed pursuant to Paragraph 1, Article 28 of the Act applicable *mutatis mutandis* under Paragraph 1, Article 142 of the Act, the so-called “prior to the filing of the patent application” in Article 122 of the Act and the so-called “earlier-filed” in Article 123 of the Act shall mean prior to the priority date.

The so-called “printed publication” in Article 122 of the Act shall mean documents or other storage media carrying information that is open to the public.

The period of six (6) months in Paragraph 3, Article 122 of the Act is calculated from the day following the occurrence of the facts prescribed under the same paragraph to the filing date prescribed under Paragraph 2, Article 125 of the Act. Where there are more than one of the facts prescribed under Paragraph 3, Article 122 of the Act, the above-mentioned period shall be calculated from the day following the occurrence of the first of these facts.

Rule 47

The so-called “a person ordinarily skilled in the art” in Article 122 and Article 126 of the Act shall mean a person having general knowledge and ordinary skills in the art of the design at the time of filing.

In the preceding paragraph, the time of filing shall mean the priority date where priority is claimed pursuant to Paragraph 1, Article 28 of the Act applicable *mutatis mutandis* under Paragraph 1, Article 142 of the Act.

Rule 48

Where a person has obtained the right to apply for patent due to inheritance, assignment, employment or capital contribution, with respect to the disclosure of the design made by the predecessor, assignor, employee or appointee prior to the filing, the provisions of Paragraphs 3 and 4, Article 122 of the Act shall apply.

Rule 49

When filing a patent application for design, the application form shall specify the following items:

1. title of design;

2. name and nationality of the designer; and
3. name, nationality, and domicile/residence or business establishment of the applicant; the name of the representative, if any; and
4. name and business establishment of the agent, if an agent is designated;

Where the priority prescribed under Paragraph 1, Article 28 applicable *mutatis mutandis* under Paragraph 1, Article 142 of the Act is claimed, a statement thereof shall be made at the time of filing.

When filing a patent application for derivative design, the application number of the original patent application for design shall be specified in the request form, in addition to the items stated in the preceding two paragraphs.

Rule 50

When filing a patent application for design, the description shall contain the following items:

1. title of design;
2. purpose of article; and
3. description of design.

The description shall be presented in the manner and order specified in each subparagraph of the preceding paragraph, and each of the parts shall be preceded by a heading. However, the items stated in Subparagraph 2 or 3 of the preceding paragraph may be omitted where such items are clearly reflected by the title of design or the drawing(s).

Rule 51

The title of design shall clearly designate the article to which the design applied; irrelevant wording is not allowed.

The purpose of article serves to facilitate description of usage, function, and the like of the article to which the design applied.

The description of design serves to facilitate description of shape, patterns, colors, or any combination thereof. The following circumstances shall be stated, if any:

1. the disclosed content of the drawing(s) contains parts which do not form part of the claimed design;
2. for computer icons and graphic user interfaces applied to an article and whose appearance(s) may change, the change sequence; or
3. the omission of the drawing(s) due to identicalness of drawing(s), symmetry of drawing(s), or any other causes.

A concise statement may be made in the description of design when necessary under any of the following circumstances:

1. where the appearance of design changes because of the characteristics of different materials used, adjustment of function, or change in state of use;
2. where there is auxiliary drawing(s) or reference drawing(s); or
3. in a patent application for design claiming a set of articles, the title of each article constituting the set.

Rule 52

The terminology used in the title of design, purpose of article, and description of design in the description shall be consistent.

The description referred to in the preceding paragraph should be typed or printed.

Where foreign language document(s) is submitted pursuant to the Paragraph 3, Article 125 of the Act, the description shall contain the precise and complete translation.

Rule 53

In a patent application for design, the drawing(s) shall contain sufficient views so as to fully disclose the appearance of the claimed design; where the design is three-dimensional, the drawing(s) shall contain a perspective view; where the design is applied to a boundless plane in form, the drawing(s) shall contain an element view.

The views stated in the preceding paragraph may include a perspective view, a front view, a rear view, a left side view, a right side view, a top view, a bottom view, a plan view, an element view, or other auxiliary views.

The drawing(s) shall be made clear with ink lines, computer drafting, or photographs based on engineering drawing method; when scaled down to two-thirds, all the details disclosed in each drawing shall still be clearly distinguished.

Where colors are claimed, the drawing(s) stated in the preceding paragraph shall present the colors.

The parts in the drawing(s) which the design intends to claim and not to claim shall be presented in a manner by which the different parts can be clearly distinguished.

A drawing annotated as reference shall not be the scope of a design patent, but shall be used to describe an article to be applied or an environment of use.

Rule 54

In a patent application for design, each drawing shall be annotated with a title, and a perspective view or a drawing that can best characterize the design shall be designated as the representative drawing.

In case of failure to designate a representative drawing or inappropriate designation of a representative drawing, the Specific Patent Agency may

notify the applicant to complete the requirements within a specified time limit, or notify the applicant of designation being made *ex officio*.

Rule 55

In the event that parts of the description or parts of the drawing(s) are missing from the patent application for design, the filing date shall be the date on which the missing parts of the description or the drawing(s) are filed. However, the filing date shall be the date on which the application was first filed under any of the following conditions:

1. where the applicant claims priority of an earlier application, and the missing parts of description or parts of the drawing(s) are completely contained in the earlier application; or
2. where the applicant withdraws the earlier filed missing parts of the description or parts of the drawing(s) within thirty (30) days after being served with a notification confirming the filing date by the Specific Patent Agency.

Where the description or drawing(s) referred to in the preceding paragraph are submitted in a foreign language, the above provisions shall apply.

Rule 56

The period of six (6) months prescribed under Paragraph 2, Article 142 of the Act is calculated from the day following the filing date of the first patent application in a country which reciprocally recognizes ROC-based priority claims or a member of the WTO to the filing date prescribed under Paragraph 2, Article 125 of the Act.

Rule 57

The so-called “same class” prescribed under Paragraph 2, Article 129 of the Act shall mean articles categorized under the same Class in the International Classification for Industrial Designs.

Rule 58

When requesting division of a patent application for design, a request form for each divisional patent application shall be submitted and accompanied by description and drawing(s).

Where the priority prescribed under Paragraph 1, Article 28 applicable *mutatis mutandis* under Paragraph 1, Article 142 of the Act is claimed, a statement thereof shall be made at the time of filing the request form for each divisional patent application.

The divisional patent application shall not differ from the original patent application in its type.

Rule 59

When requesting for amending the description or drawing(s) of a patent application for design, a request form shall be submitted and accompanied by the following documents:

1. the amended sheet(s) of the description on which the portions of the amendment are marked; the original disclosure to be deleted shall be presented by a strike line crossing out the deleted text(s); the added disclosure shall be presented by underlining the added text(s); and
2. the complete set of replacement description or drawing(s) after the amendment without marks.

The request form referred to in the preceding paragraph shall specify the following items:

1. where an amendment is made to the description, the page number(s) and line number(s) thereof and reasons for the amendment;
2. where an amendment is made to the drawing(s), the title(s) thereof and reasons for the amendment.

Rule 60

When requesting for correcting the description or drawing(s) due to translation errors, a request form shall be submitted and accompanied by the following documents:

1. the corrected sheet(s) of the description on which the portions of the correction are marked; the original disclosure to be deleted shall be presented by a strike line crossing out the deleted text(s); the added disclosure shall be presented by underlining the added text(s); and
2. the complete set of replacement description or drawing(s) after correction without marks.

The request form referred to in the preceding paragraph shall specify the following items:

1. where a correction is made to the description, the page number(s) and line number(s) thereof, reasons for correction, and the page number(s) and line number(s) of the corresponding description in foreign language;
2. where a correction is made to the drawing(s), the title(s) thereof, reasons for the correction, and the title(s) of the corresponding drawing(s) in the application in foreign language.

Rule 61

Rules 26, 30, 34, 35 and 38 shall apply *mutatis mutandis* to design patent.

The provisions in this Chapter are applicable to derivative design patent.

Chapter 5 Patent Rights

Rule 62

Where priority is claimed pursuant to Paragraph 1, Article 28 or Paragraph 1, Article 30 of the Act, the so-called “prior to the filing of application” in Subparagraph 3, Paragraph 1, Article 59 and Paragraph 1, Article 99 of the Act shall mean prior to the priority date.

Rule 63

When requesting for recordation of patent right assignment, a request form shall be submitted by the assignor or the assignee and accompanied by deed of assignment or document(s) of proof with respect to the assignment.

When requesting for recordation of patent right succession due to amalgamation or acquisition of companies, the documents to be submitted in the preceding paragraph are document(s) of proof with respect to the amalgamation or acquisition.

Rule 64

In requesting for recordation of patent right entrustment, a request form shall be submitted by the patentee or the trustee and accompanied by the following documents:

1. for recordation of trust, the deed of trust or document(s) of proof with respect to such entrustment agreement;
2. for deletion of trust recordation upon termination of the trust relation and the acquisition of the patent right by the settlor, the deed of trust or document(s) of proof with respect to such termination of the trust relation;
3. for recordation of attribution of trusted patent right upon termination of the trust relation and the acquisition of patent right by a third party, the deed of trust or document(s) of proof with respect to such trust attribution;
4. for alteration of other matters in the recordation of trust, document(s) of proof with respect to such alteration.

Rule 65

In requesting for recordation of licensing of patent right, a request form shall be submitted by the patentee or the licensee and accompanied by the following documents:

1. for recordation of licensing, the license agreement or document(s) of proof with respect to such licensing;
2. for alteration of the recordation of licensing, document(s) of proof with respect to such alteration;
3. for deletion of licensing recordation, a letter consenting deletion of the licensing recordation issued by the licensee, a judgment of the court along with a certificate stating the judgment is final and binding, or documents

which legally have the equivalent effect as a final and binding judgment of the court. However, where the license is terminated due to expiration of the licensed term, the above documents need not be submitted.

The license agreement or document(s) of proof referred to in Subparagraph 1 of the preceding paragraph shall specify the following items:

1. title or certificate number of the invention, utility model, or design patent; and
2. type, scope, locality and term of license.

Where the patentee licenses others to exploit part of the claims, the scope referred to in Subparagraph 2 of the preceding paragraph shall specify the number(s) of the licensed claim(s).

The expiration date of the licensed term referred to in Subparagraph 2 of Paragraph 2 shall not be later than the expiration date of the patent term.

Rule 66

In requesting for recordation of sub-licensing of patent right, a request shall be submitted by the licensee or the sub-licensee and accompanied by the following documents:

1. for recordation of sub-licensing, the sub-license contract or document(s) of proof with respect to such sub-licensing;
2. for alteration of the recordation of sub-licensing, document(s) of proof with respect to such alteration;
3. for deletion of sub-licensing recordation, a letter consenting deletion of the sub-licensing recordation issued by the sub-licensee, a judgment of the court along with a certificate stating the judgment is final and binding, or documents which legally have the equivalent effect as a final and binding judgment of the court. However, where the sub-license is terminated due to expiration of the licensed term or sub-licensed term, the above documents need not be submitted.

Paragraph 2 of the preceding Rule shall apply *mutatis mutandis* to the items to be specified in the sub-license contract or the document(s) of proof thereof referred to in Subparagraph 1 of the preceding paragraph.

The sub-licensed scope is limited to the original licensed scope.

Rule 67

In requesting for recordation of pledge establishment of a patent right, a request form shall be submitted by the patentee or the pledgee and accompanied by the patent certificate and the following documents:

1. for recordation of pledge establishment, the pledge agreement or document(s) of proof with respect to such establishment;

2. for alteration of the recordation of pledge establishment, document(s) of proof with respect to such alteration;
3. for deletion of pledge establishment recordation, document(s) of proof with respect to the full discharge of pledged liabilities, a letter consenting deletion of pledge establishment recordation issued by the pledgee, a judgment of the court along with a certificate stating the judgment is final and binding, or documents which legally have the equivalent effect as a final and binding judgment of the court.

The agreement or document(s) of proof referred to in Subparagraph 1 of the preceding paragraph shall specify the following items:

1. title or certificate number of the invention, utility model or design patent; and
2. amount of credit pledged and the term of the pledge establishment.

The expiration date of the term of the pledge establishment referred in Subparagraph 2 of the preceding paragraph shall not be later than the expiration date of the patent term.

Upon recordation under the first paragraph with the Specific Patent Agency, the relevant items shall be annotated to the patent certificate and the Patent Registry.

Rule 68

Where, pursuant to the laws, consent from a third party is required for recordation referred to in the preceding five (5) rules, document(s) of proof with respect to such consent from the third party shall also be submitted.

Rule 69

In requesting for recordation of succession of patent right, a request form shall be submitted and accompanied by the certificate of death and the instrument of succession.

Rule 70

When requesting for amending the post-grant description, claim(s), or drawing(s) of a patent pursuant to Article 67 of the Act, a request form shall be submitted and accompanied by the following documents:

1. the replacement sheet(s) of the description and drawing(s) after the post-grant amendment without marks;
2. where a post-grant amendment is made to the claim(s), a complete set of the claims;
3. where consent from the licensee, pledgee, or all joint owners is required pursuant to Article 69 of the Act, document(s) of proof with respect to such consent.

The request form referred to in the preceding paragraph shall specify the following items:

1. where a post-grant amendment is made to the description, the page number(s), paragraph number(s), line number(s) thereof, the contents amended, and reasons for the post-grant amendment;
2. where a post-grant amendment is made to the claim(s), the claim(s) thereof, the contents amended, and reasons for the post-grant amendment;
3. where a post-grant amendment is made to the drawing(s), the designation(s) thereof and reasons for the post-grant amendment.

The contents amended shall specify the contents before and after the post-grant amendment; the original disclosure to be deleted shall be presented by a strike line crossing out the deleted text(s); the added disclosure shall be presented by underlining the added text(s).

The reasons for post-grant amendment referred to in Paragraph 2 shall specify the applied provision(s) of Paragraph 1, Article 67 of the Act.

Where a post-grant amendment is made to the claim(s), if parts of the claims are deleted, the claim sequence of the remaining claim(s) shall not be changed; where a post-grant amendment is made to the drawing(s), if parts of the drawing(s) are deleted, the drawing designation(s) of remaining drawing(s) shall not be changed.

When requesting for a post-grant amendment during invalidation proceedings, the patentee shall specify the number of invalidation action in the request form.

Rule 71

Where an invalidation action is initiated after the patent has become extinguished *ipso facto* pursuant to Article 72 of the Act, the document(s) evidencing recoverable legal interests as a result of revocation of the patent right shall be submitted.

Rule 72

Where an invalidation action is initiated, for an invention or a utility model, the invalidation statement prescribed under Paragraph 1, Article 73 of the Act shall state the objective to revoke all or parts of the claims; where an invalidation action is initiated against parts of the claims, the claim(s) against which the invalidation action is initiated shall be specifically identified; for a design, the invalidation statement shall state the objective to revoke the patent right of the design.

The reasons of invalidation prescribed under Paragraph 1, Article 73 of the Act shall state the ground(s) asserted by the invalidation action and specific facts, as well as explain the relationship between the respective specific facts and the evidence.

Rule 73

The invalidation proceedings and decisions concerned shall be conducted within the scope of the invalidation statement.

The syllabus of the invalidation decision shall specify the examination results; for an invention or a utility model, such results shall be rendered on a claim-by-claim basis.

Rule 74

When an invalidation action and a request for post-grant amendment are to be consolidated for examination pursuant to Paragraph 1, Article 77 of the Act, the post-grant amendment shall be first examined; if the post-grant amendment is rejected after examination, the Specific Patent Agency shall notify the patentee to make a response within a specified time limit; in case of failure to respond within the specified time limit or the post-grant amendment shall still be rejected despite the response, the Specific Patent Agency may proceed with the examination based on the materials available.

When an invalidation action and a request for post-grant amendment are to be consolidated for examination pursuant to Paragraph 1, Article 77 of the Act, the syllabus of the invalidation decision shall specify the examination results for the post-grant amendment and the invalidation action separately. However, where the post-grant amendment is rejected after examination, such rejection shall only be stated in the reasons of invalidation decision.

Rule 75

When more than one invalidation actions are to be consolidated for examination pursuant to Paragraph 1, Article 78 of the Act, the Specific Patent Agency shall notify the respective invalidation requesters and the patentee of the reasons and evidence on which the respective invalidation actions rely.

The invalidation requesters and the patentee may each submit their comments or a response with respect to the reasons and evidence on which the respective invalidation actions rely within a time limit specified by the Specific Patent Agency.

Rule 76

During the examination of an invalidation action, the Specific Patent Agency may, when necessary, consult with the invalidation requester and the patentee to formulate an examination plan.

Rule 77

When requesting for a compulsory license, a request form specifying the reasons for the request thereof shall be submitted and accompanied by a detailed project for exploitation and relevant document(s) of proof.

When requesting for repeal of a compulsory license, a request form specifying the ground(s) for the repeal thereof shall be submitted and accompanied by the document(s) of proof.

Rule 78

Where, pursuant to Paragraph 2, Article 88 of the Act, the exploitation under compulsory licensing shall be authorized predominantly for the supply of the domestic market, the Specific Patent Agency shall, in the decision approving compulsory licensing, specify that the following items be disclosed by the licensee in an appropriate manner:

1. information on the exploitation of the compulsory license; and
2. the quantity and flow of products manufactured.

Rule 79

Marking of a patent certificate number prescribed under Article 98 of the Act shall not be made after the patent is extinguished or its revocation becomes final and binding, unless a patent certificate number has been marked on the patented article and the patented article has been circulated into the market before the patent is extinguished or its revocation becomes final and binding.

Rule 80

Where a patent certificate is destroyed, lost or damaged to the extent that it is no longer usable, the patentee shall apply for issuance of a replacement or a substitution, stating the reasons in writing.

Rule 81

When requesting for a post-grant amendment to the description or drawing(s) pursuant to Article 139 of the Act, a request form shall be submitted and accompanied by a complete set of description or drawing(s) after the post-grant amendment without marks.

The request form referred to in the preceding paragraph shall specify the following items:

1. where a post-grant amendment is made to the description, the page number(s), line number(s) thereof, the contents amended and reasons for the post-grant amendment;
2. where a post-grant amendment is made to the drawing(s), the title(s) thereof and reasons for the post-grant amendment.

The contents amended shall specify the contents before and after the post-grant amendment; the original disclosure to be deleted shall be presented by a strike line crossing out the deleted text(s); the added disclosure shall be presented by underlining the added text(s).

The reasons for post-grant amendment referred to in Paragraph 2 shall specify the applied provision(s) of Paragraph 1, Article 139 of the Act.

When requesting for a post-grant amendment during invalidation proceedings, the patentee shall specify the number of invalidation action in the request form.

Rule 82

The Patent Registry shall specify the following information:

1. title of invention, utility model or design;
2. patent term;
3. name, nationality, and domicile/residence or business establishment of the patentee;
4. name and business establishment of the agent, if an agent is designated;
5. filing date and application number;
6. where the priority prescribed under Paragraph 1, Article 28 of the Act is claimed, the reciprocal country or the WTO member receiving the respective first patent application(s), application number(s) and filing date(s) thereof;
7. where the priority prescribed under Paragraph 1, Article 30 of the Act is claimed, the respective application number(s) and filing date(s) thereof;
8. publication date and patent certificate number;
9. name of the assignee or successor, and the date of recordation of patent assignment or inheritance;
10. name of the settlor or trustee, and the date of recordation of entrustment, deletion, or attribution of trust;
11. name of the licensee and date of recordation of license;
12. name of the pledgee and date of recordation of pledge establishment, alteration, or deletion of pledge;
13. name, nationality, and domicile/residence or business establishment of the compulsory licensee, and the date of approval or repeal of a compulsory license;
14. cause(s) and date of issuance of replacement of patent certificate;
15. extension or prolongation of patent term and the date of approval;
16. cause(s) and date of the extinguishment or revocation of a patent; for an invention or a utility model patent, where parts of the claims are deleted or revoked, the number(s) of such parts of claims shall be specified;
17. name of the depository, date of deposit, and depository number; and
18. any other matters with respect to the patent or prescribed by laws.

Rule 83

Whenever a patent is published by the Specific Patent Agency, the following items shall be listed in the Patent Gazette:

1. patent certificate number;
2. publication date;
3. laying open number and laying open date for an invention patent;
4. international patent classification or the international classification for industrial designs;
5. filing date;
6. application number;
7. title of invention, utility model or design;
8. name(s) of the inventor(s) of the invention, the creator(s) of the utility model or the designer(s) of the design;
9. name and domicile/residence or business establishment of the applicant;
10. name of the agent, if an agent is designated;
11. claim(s) and drawing(s) of the invention patent or the utility model patent; drawing(s) of the design patent;
12. brief description of drawing(s) or description of design;
13. where the priority prescribed under Paragraph 1, Article 28 of the Act is claimed, the reciprocal country or the WTO member receiving the respective first patent application(s), application number(s) and filing date(s) thereof;
14. where the priority prescribed under Paragraph 1, Article 30 of the Act is claimed, the respective application number(s) and filing date(s) thereof; and
15. for an invention involving a biological material or utilization of a biological material, name of the depository, the deposit date and the deposit number; and
16. the declaration that a patent application for invention in respect of the same creation is filed by the same person on the same date.

Rule 84

Whenever a request for a post-grant amendment is approved by the Specific Patent Agency, the following items shall be published in the Patent Gazette:

1. patent certificate number;
2. publication date of the patent;
3. application number;
4. title of invention, utility model or design;
5. name of the patentee; and
6. amended contents.

Rule 85

Whenever an invalidation decision is rendered by the Specific Patent Agency, the following items shall be published in the Patent Gazette:

1. number of invalidation action;
2. title of invention, utility model or design;
3. name and domicile/residence or business establishment of the patentee;
4. name of the invalidation requester;
5. name of the agent, if an agent is designated;
6. date of filing of the invalidation action;
7. syllabus of the decision; and
8. reasons of the decision.

Rule 86

Where the applicant has a need to postpone the publication of a patent, he or she may apply to the Specific Patent Agency for the postponement thereof at the time of paying the patent certificate fee and the first year patent annuity fee. The requested term of postponement shall not exceed a period of six (6) months.

Chapter 6 Supplementary Provisions

Rule 87

Where the Specific Patent Agency notifies the applicant to retrieve the model(s), sample(s) or documentary evidence submitted pursuant to the Act within a specified time limit but the applicant fails to retrieve such items within the specified time limit, the Specific Patent Agency may dispose of these items at its discretion.

Rule 88

For any application filed pursuant to the Act and these Enforcement Rules, the form, description, claim(s), abstract and drawing(s) thereof shall conform to the designated written format after the implementation of this amended Act.

Under any of the following circumstances, the description, drawing(s), and description of drawing(s), other than the request form, shall conform to the designated written format prior to the implementation of this amended Act:

1. a patent application for invention or utility model filed within three (3) months after implementation of this amended Act;
2. for an application filed in a foreign language prior to implementation of this amended Act, the description, claim(s), drawing(s) or description of

drawing(s) submitted within six (6) months after implementation of this amended Act; or

3. for an application filed prior to implementation of this amended Act or pursuant to Subparagraph 1, when applying for an amendment or a post-grant amendment after implementation of this amended Act, the amended description, claim(s), drawing(s) or description of drawing(s).

Rule 89

For a patent application for design filed pursuant to Paragraph 2, Article 121 or Paragraph 2, Article 129 of the Act, if the priority date thereof predates the implementation date of the amended Act, the implementation date of the amended Act shall be regarded as the priority date.

Rule 90

These Enforcement Rules shall enter into force on January 1, 2013.

The amendment of these Enforcement Rules, except that the April 19, 2017 amendment shall be effective on May 1, 2017, shall enter into force following its promulgation date.