

<Relevant Provisions>

Utility Model Act

(Order to amend)

Article 6-2

The Commissioner of the Patent Office may order the applicant to amend the description, scope of claims or drawing(s) attached to the request, designating an adequate time limit, in any of the following cases:

- (i) where the device claimed in the application for utility model registration does not pertain to the shape or structure of an article or combination of articles;
- (ii) where the device claimed in the application for utility model registration is not registrable under Article 4;
- (iii) where the application for utility model registration does not satisfy the requirement prescribed in Article 5(6)(iv) or in the preceding Article; or
- (iv) where the description, scope of claims or drawing(s) attached to the request does not state all of the necessary matters or is extremely unclear.

(Request for Utility Model Technical Opinion)

Article 12

With regard to an application for a utility model registration or a utility model registration, any person may file with the Commissioner of the Patent Office a petition requesting a technical opinion as to the registrability of the device claimed in the application or of the registered utility model in the light of the provisions of Article 3(1)(iii) and (2) (limited to its application based on a device falling under Article 3(1)(iii)), Article 3-2, and Articles 7(1) to (3) and (6) (such opinion is hereinafter referred to as "Utility Model Technical Opinion"). In this case, in respect of an application or registered utility model that contains two or more claims, such a petition may be filed on a claim-by-claim basis.

(2) A petition under the preceding paragraph may be filed even after the lapse of the utility model right; provided, however, that this shall not apply after the utility model right is invalidated in a trial for invalidation of utility model registration.

(3) Notwithstanding the provisions of the preceding two paragraphs, a petition under paragraph 1 shall not be allowed after a patent application based on the utility model registration is filed under Article 46-2(1) of the Patent Act.

(4) Where a petition under paragraph 1 is filed, the Commissioner of the Patent Office shall direct an examiner to prepare a written report containing a Utility Model Technical Opinion (hereinafter referred to as "Report of Utility Model Technical Opinion").

(5) The provision of Article 47(2) of the Patent Act shall apply *mutatis mutandis* to the preparation of Reports of Utility Model Technical Opinion.

(6) A petition under paragraph 1 may not be withdrawn.

(7) Where a petition under paragraph 1 was filed by a person who is neither the applicant of the application for a utility model registration nor the holder of utility

model right, and then, a patent application under Article 46-2(1) of the Patent Act is filed based on the utility model registration with regard to which the petition under paragraph 1 was filed (including the utility model registration which has been granted based on the application for a utility model registration with regard to which the petition under paragraph 1 was filed), the petition shall be deemed not to have been filed. In this case, the Commissioner of the Patent Office shall notify thereof to the person who filed the petition.

(Order to amend relating to correction)

Article 14-3

Where matters stated in the corrected description, scope of claims or drawings attached to a statement of correction (limited to correction under paragraph (1) of the preceding Article) fall under any of the following, the Commissioner of the Patent Office may order the amendment of the corrected description, scope of claims or drawings attached to the statement of correction, designating an adequate time limit:

- (i) where the device identified by the matters stated in the corrected scope of claims attached to the statement of correction is not pertaining to the shape or structure of an article or combination of articles;
- (ii) where the device identified by the matters stated in the corrected scope of claims attached to the statement of correction is not registrable under Article 4;
- (iii) where the matters stated in the corrected description, scope of claims or drawings attached to the statement of correction do not satisfy the requirement prescribed in Article 5(6)(iv) or Article 6; or
- (iv) where the corrected description, scope of claims or drawings attached to the statement of correction does not state all the necessary matters or is extremely unclear.