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**ENFORCEMENT DECREE OF THE UNFAIR COMPETITION PREVENTION
AND TRADE SECRET PROTECTION ACT**

[Enforcement Date 01. Jan, 2019.] [Presidential Decree No.29421, 24. Dec, 2018.,
Amendment by Other Act]

특허청 (산업재산보호정책과)042-481-5899



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Article 1 (Purpose) The purpose of this Decree is to prescribe the matters delegated by the Unfair Competition Prevention and Trade Secret Protection Act and matters necessary for the enforcement thereof.

[This Article Wholly Amended by Presidential Decree No. 21691, Aug. 18, 2009]

Article 1-2 (Good Cause) "Without good cause prescribed by Presidential Decree, such as the purpose of noncommercial use" in subparagraph 1 (c) of Article 2 of the Unfair Competition Prevention and Trade Secret Protection Act (hereinafter referred to as the "Act") means any of the following cases:

1. Where a mark is used for non-commercial purposes;
2. Where a mark is used in a news report or commentary;
3. Where a person (including his/her successor), who has used any mark identical or similar to another person's name, trade name, trademark, or container or package of goods, or any other mark indicating another person's goods or business (hereinafter referred to as "mark") before such mark becomes widely known to the public in the Republic of Korea, continues to use it, not for any improper purpose;
4. Where the use of a mark is not deemed inconsistent with standard practices of fair commercial transactions.

[This Article Wholly Amended by Presidential Decree No. 21691, Aug. 18, 2009]

Article 1-3 (Methods of Investigation into Acts of Unfair Competition) (1) Before the Commissioner of the Korean Intellectual Property Office; the Special Metropolitan City Mayor, a Metropolitan City Mayor, a Special Self-Governing City Mayor, a Do Governor, or a Special Self-Governing Province Governor (hereinafter referred to as the "Mayor/Do Governor"); or the head of a Si/Gun/Gu (the head of a Gu means the head of an autonomous Gu; hereinafter the same shall apply) enters business or manufacturing facilities to examine relevant documents, books, products, etc. or collects the least amount of products necessary for inspecting them under Article 7 (1) of the Act, he/she may

ascertain whether an act of unfair competition provided in subparagraph 1 of Article 2 of the Act (excluding (h) and (k)) or an act violating Article 3 or 3-2 (1) or (2) (hereinafter referred to as "acts of unfair competition, etc.") has occurred in the following manner:

1. Requesting the submission of relevant documents, books, products, etc. regarding parties, interested parties, or reference witnesses;
2. Requesting the attendance of parties, interested parties, or reference witnesses and hearing advice and statement therefrom.

(2) Where the Commissioner of the Korean Intellectual Property Office, the Mayor/Do Governor, or the head of a Si/Gun/Gu intends to conduct investigations or inspections under Article 7 (1) of the Act, he/she shall notify the parties of the purpose, date and time and methods of investigation or inspection in advance: Provided, That this shall not apply where urgent action is required or where it is deemed that such advance notification can lead to destruction of evidence, etc., thereby making the purpose of said investigation or inspection unattainable.

(3) Where an act subject to investigation or inspection under Article 7 (1) of the Act falls under any of the following, the Commissioner of the Korean Intellectual Property Office, the Mayor/Do Governor, or the head of a Si/Gun/Gu shall not launch an investigation or inspection; and where an investigation or inspection is underway, he/she shall suspend it:

1. Where the act clearly does not constitute an act of unfair competition, etc.;
2. Where it is hard to pinpoint the subject matter of investigation or inspection due to a lack of basic materials or where it is impracticable to identify grounds for said investigation or inspection;
3. Where a final and conclusive judgment is issued affirming that the act does not constitute an act of unfair competition, etc.

[\[This Article Wholly Amended by Presidential Decree No. 29176, Sep. 18, 2018\]](#)

Article 1-4 (Disposal of Collected Goods) (1) Where the Commissioner of the Korean Intellectual Property Office, the Mayor/Do Governor, or the head of a Si/Gun/Gu collects the least amount of products necessary for investigating them under Article 7 (1) of the Act, he/she shall issue a certificate of collection in attached Form 1 to the owner or possessor of such products.

(2) The Commissioner of the Korean Intellectual Property Office, the Mayor/Do Governor or the head of a Si/Gun/Gu shall keep a record of and preserve information concerning the

current status and a list of products he/she collected under Article 7 (1) of the Act or of those submitted under Article 1-3 (1) 1.

(3) Where an inspection under Article 7 (1) of the Act or ascertainment under Article 1-3 (1) 1 is completed, the Commissioner of the Korean Intellectual Property Office, the Mayor/Do Governor, or the head of a Si/Gun/Gu shall immediately return the products he/she collected under Article 7 (1) of the Act or those submitted under Article 1-3 (1) 1 to the owner or possessor of such products at the time of collection or submission.

(4) The certificate prescribed in Article 7 (3) of the Act shall be as specified in attached Form 2.

[This Article Newly Inserted by Presidential Decree No. 29176, Sep. 18, 2018]

Article 2 (Methods of Corrective Recommendation) (1) A corrective recommendation prescribed in Article 8 of the Act shall be made in the form of a document that specifies the following: <Amended by Presidential Decree No. 29176, Sep. 18, 2018>

1. Grounds for corrective recommendation;
2. Details of corrective recommendation;
3. Deadline for correction.

(2) The Commissioner of the Korean Intellectual Property Office, the Mayor/Do Governor, or the head of a Si/Gun/Gu may require a related public official to confirm the actual site, where deemed necessary to issue a corrective recommendation as prescribed in paragraph (1) or to verify whether such corrective recommendation is implemented.<Amended by Presidential Decree No. 23153, Sep. 22, 2011>

(3) A public official who confirms the actual site under paragraph (2) shall carry a certificate indicating his/her authority and produce it to interested parties.

[This Article Wholly Amended by Presidential Decree No. 21691, Aug. 18, 2009]

Article 3 (Procedures for Hearing Opinions) (1) If the Commissioner of the Korean Intellectual Property Office, the Mayor/Do Governor, or the head of a Si/Gun/Gu intends to hear opinions pursuant to Article 9 of the Act, he/she shall provide a written notice to the relevant party, interested person or witness of the corrective recommendation or his/her agent at least ten days before a scheduled hearing date, and shall offer him/her an opportunity to state opinions. <Amended by Presidential Decree No. 23153, Sep. 22, 2011>

(2) The relevant party, interested person or witness of the corrective recommendation or his/her agent, who has received the notice under paragraph (1), may go to the designated

place at the designated date and time, and state opinions or submit written statements.

(3) If the relevant party, interested person or witness of the corrective recommendation or his/her agent has appeared and stated opinions pursuant to paragraph (2), the relevant public official shall prepare written gists and require those who have stated such opinions to verify, sign or seal the details thereof.

(4) The written notice as prescribed in paragraph (1) shall clarify that, if a person does not comply with the details of the notification without justifiable grounds, he/she shall be deemed to have renounced the opportunity to state his/her opinions.

[This Article Wholly Amended by Presidential Decree No. 21691, Aug. 18, 2009]

Article 3-2 (Criteria for Designation of Original Document Certification Agency) The

requirements for professional manpower and facilities that a person who intends to be designated as an original document certification agency shall fulfill under Article 9-3 (2) of the Act shall be as follows: <Amended by Presidential Decree No. 27751, Dec. 30, 2016>

1. Professional manpower: The agency shall have at least two persons in charge of the operation of facilities necessary for performing the duties of certifying electronic documents containing trade secrets as the original by using electronic fingerprints (hereinafter referred to as "duties of certifying original documents"), who shall meet all the following requirements:
 - (a) Each of them shall have national technical qualifications equivalent to or higher than those of the information communication engineer, information processing engineer, or computer system application engineer under the National Technical Qualifications Act;
 - (b) Each of them shall have served in the field of information technology or communications under the National Technical Qualifications Act for at least two years;
2. Facilities: The agency shall be equipped with the facilities necessary for performing the duties of certifying original documents, which meet the criteria prescribed and publicly notified by the Commissioner of the Korean Intellectual Property Office with respect to the following matters:
 - (a) Matters concerning the safekeeping, transmitting, and receiving of information related to the duties of certifying original documents;
 - (b) Matters concerning the securities of network and system;
 - (c) Matters concerning the prevention system against disasters, including fire and flood damage;

(d) Other matters necessary for the operation and management of the duties of certifying original documents, including facilities related to the system for performing the duties of certifying original documents.

[This Article Newly Inserted by Presidential Decree No. 25121, Jan. 28, 2014]

Article 3-3 (Procedures for Designation of Original Document Certification Agency) (1) A person who intends to be designated as an agency that performs the duties of certifying original documents under Article 9-3 (2) of the Act (hereinafter referred to as "original document certification agency") shall file with the Commissioner of the Korean Intellectual Property Office an application for designation of an original document certification agency in attached Form 3 (including applications in the form of electronic documents; hereinafter referred to as "application for designation"), along with the following documents (including electronic documents):

1. Business plan;
2. Documents verifying that the applicant is equipped with professional manpower and facilities under the subparagraphs of Article 3-2;
3. Articles of a corporation or articles of the organization (applicable only to cases where the applicant is a corporation or an organization).

(2) Upon receipt of an application for designation under paragraph (1), the Commissioner of the Korean Intellectual Property Office shall verify the corporation registration certificate (applicable only to cases where the applicant is a corporation) and the business registration certificate of the applicant through the shared use of administrative information under Article 36 (1) of the Electronic Government Act: Provided, That where the applicant fails to consent to the verification of the business registration certificate, it shall be required to append a copy thereof.

(3) Upon receipt of an application for designation under paragraph (1), where the application for designation is deemed to fulfill the criteria for designation under Article 3-2, the Commissioner of the Korean Intellectual Property Office shall designate the applicant as an original document certification agency and shall issue the written designation of an original document certification agency in attached Form 4.

(4) If necessary for the designation under paragraph (3), the Commissioner of the Korean Intellectual Property Office may require a person who has submitted an application for designation to submit data or may hear the opinions of the person or the related experts.

(5) Upon designating a person as an original document certification agency, the Commissioner of the Korean Intellectual Property Office shall post such designation on the website of the Korean Intellectual Property Office without delay.

[This Article Newly Inserted by Presidential Decree No. 25121, Jan. 28, 2014]

Article 3-4 (Measures to Secure Safety and Reliability of Original Document Certification Agency)

Matters to be complied with by an original document certification agency under Article 9-3 (4) of the Act shall be as specified in attached Table 1.

[This Article Newly Inserted by Presidential Decree No. 25121, Jan. 28, 2014]

Article 3-5 (Criteria for Administrative Dispositions against Original Document Certification Agency)

(1) The criteria for the administrative dispositions against an original document certification agency under Article 9-4 (3) of the Act shall be as specified in attached Table 2.

(2) Upon revoking the designation of an original document certification agency or ordering the suspension of all or part of the duties of certifying original documents under Article 9-4 (3) of the Act, the Commissioner of the Korean Intellectual Property Office shall publicly notify the following matters:

1. Name and address of the original document certification agency (referring to the name of its representative and the location of its main office, in cases where the original document certification agency is a corporation or an organization);
2. Details of the disposition.

[This Article Newly Inserted by Presidential Decree No. 25121, Jan. 28, 2014]

Article 3-6 (Handover and Takeover of Original Document Certification Agency Whose Designation Is Revoked)

(1) An original document certification agency whose designation has been revoked under the main sentence other than the subparagraphs of Article 9-4 (3) of the Act shall submit the following documents (including electronic documents) to the Commissioner of the Korean Intellectual Property Office:

1. Original copy of the written designation of the original document certification agency;
2. One copy of the contract for handover and takeover of the records related to the duties of certifying original documents under the main sentence of Article 9-4 (4) of the Act.

(2) Where it is impossible to hand over the records related to the duties of certifying original documents under the proviso to Article 9-4 (4) of the Act, a written report on

impossibility of handing over the duties of an original document certification agency in attached Form 5, along with the following documents, shall be submitted to the Commissioner of the Korean Intellectual Property Office. In such cases, the Commissioner of the Korean Intellectual Property Office shall keep such records until the records related to the duties of certifying original documents are handed over to another original document certification agency:

1. A copy of written reasons for impossibility of the handover;
2. Each copy of the records related to the duties of certifying original documents and the list thereof.

[This Article Newly Inserted by Presidential Decree No. 25121, Jan. 28, 2014]

- Article 3-7 (Imposition and Payment of Penalty Surcharges)** (1) The criteria for imposing penalty surcharges in terms of the types, gravity, etc. of violations of an original document certification agency under Article 9-5 (1) of the Act shall be as specified in attached Table 3.
- (2) Where the Commissioner of the Korean Intellectual Property Office intends to impose a penalty surcharge under Article 9-5 (1) of the Act, he/she shall give a written notice to make payment thereof, specifying the type of violation and the amount of the penalty surcharge.
- (3) A person who receives a notice under paragraph (2) shall pay the relevant penalty surcharge within 20 days from the receipt of the notice to the collecting agency specified by the Commissioner of the Korean Intellectual Property Office.
- (4) A collecting agency that has received a penalty surcharge under paragraph (3) shall issue a receipt to the payer and shall notify such fact to the Commissioner of the Korean Intellectual Property Office without delay.

[This Article Newly Inserted by Presidential Decree No. 25121, Jan. 28, 2014]

- Article 3-8 (Standards for Payment of Monetary Rewards for Reports)** (1) Monetary rewards for reports receivable under Article 16 (1) of the Act (hereinafter referred to as "monetary reward for a report") shall not exceed 10 million won per year per person.
- (2) A person who intends to receive a monetary reward for a report shall file an application therefor with the Commissioner of the Korean Intellectual Property Office.
- (3) Upon receipt of an application under paragraph (2), the Commissioner of the Korean Intellectual Property Office shall verify the details thereof, make decisions on whether to

pay a monetary reward for the report and the amount to be paid, and notify his/her decision to the applicant within 15 days from the date of such decision.

(4) In determining the amount of the monetary reward for a report, the Commissioner of the Korean Intellectual Property Office may take following matters into account:

1. Whether the relevant report has become a ground for the investigation by an investigation agency;
2. Profit acquired by a person who has conducted an act of unfair competition referred to in subparagraph 1 (a) of Article 2 of the Act and the gravity of damage suffered therefrom;
3. Results of the tasks performed by an investigation agency concerning the violation related to the relevant report.

(5) Matters necessary for the payment of monetary rewards for reports, such as the detailed standards for monetary rewards for reports and the methods and procedures for payment thereof, other than those prescribed in paragraphs (1) through (4), shall be prescribed by the Commissioner of the Korean Intellectual Property Office.

[\[This Article Newly Inserted by Presidential Decree No. 25121, Jan. 28, 2014\]](#)

Article 4 (Entrustment of Duties) (1) and (2) Deleted. [<by Presidential Decree No. 23153, Sep 22, 2011>](#)

(3) "Corporation or organization related to the duties of protection of industrial property rights or prevention of unfair competition prescribed by Presidential Decree" in Article 17 (2) of the Act means the following corporations or organizations:[<Amended by Presidential Decree No. 23153, Sep. 22, 2011>](#)

1. The Korea Invention Promotion Association established under the Invention Promotion Act;
2. A corporation or organization designated and publicly notified by the Commissioner of the Korean Intellectual Property Office from among those who are acknowledged as having expertise in the affairs referred to in Article 2-2 of the Act.

(4) Article 2 (2) and (3) shall apply mutatis mutandis to a person who engages in the support duties in accordance with Article 17 (3) and (4) of the Act.[<Amended by Presidential Decree No. 23153, Sep. 22, 2011>](#)

(5) A corporation or organization that intends to receive a subsidy to cover expenses under Article 17 (5) of the Act shall file with the Commissioner of the Korean Intellectual Property

Office an application for a subsidy to cover the expense incurred in performing the duties of unfair competition prevention and trade secret protection in attached Form 6, along with the following documents. In such cases, the Commissioner of the Korean Intellectual Property Office shall verify the corporation registration certificate (applicable only to a corporation) through the shared use of administrative information under Article 36 (1) of the Electronic Government Act: <Amended by Presidential Decree No. 22151, May 4, 2010; Presidential Decree No. 23153, Sep. 22, 2011; Presidential Decree No. 25121, Jan. 28, 2014>

1. Work plan for unfair competition prevention and trade secret protection;
2. Articles of incorporation (applicable only to a corporation).

(6) The Commissioner of the Korean Intellectual Property Office shall determine and publicly notify the standards and procedures for designation of a corporation or organization provided in paragraph (3) 2. <Amended by Presidential Decree No. 23153, Sep. 22, 2011>

[This Article Wholly Amended by Presidential Decree No. 21691, Aug. 18, 2009]

Article 4-2 (Procedures for Administering Common Affairs) The Commissioner of the Korean Intellectual Property Office shall determine and publicly notify the details which are necessary for the procedures for administering the affairs provided in Articles 7 through 9 and 20 of the Act and the guidance, etc. on such affairs.

[This Article Newly Inserted by Presidential Decree No. 23153, Sep. 22, 2011]

Article 5 (Education) The Commissioner of the Korean Intellectual Property Office may, where deemed necessary, provide education on duties to public officials engaged in unfair competition prevention.

[This Article Wholly Amended by Presidential Decree No. 21691, Aug. 18, 2009]

Article 5-2 (Re-Examination of Regulation) (1) The Commissioner of the Korean Intellectual Property Office shall examine the appropriateness of the criteria for imposing administrative fines under Article 6 and attached Table 4 every three years, counting from January 1, 2014 (referring to the period that ends on the day before January 1 of every third year) and shall take measures, such as making improvements. <Amended by Presidential Decree No. 25121, Jan. 28, 2014; Presidential Decree No. 25840, Dec. 9, 2014>

(2) The Commissioner of the Korean Intellectual Property Office shall examine the appropriateness of the following matters every two years, counting from the relevant base

date specified in the following (referring to the period that ends on the day before the base date of every second year) and shall take measures, such as making improvements:

<Newly Inserted by Presidential Decree No. 25840, Dec. 9, 2014>

1. Criteria for the designation of an original document certification agency under Article 3-2: January 1, 2015;
2. Deleted;<by Presidential Decree No. 29421, Dec. 24, 2018>
3. Matters to be observed by an original document certification agency under Article 3-4 and attached Table 1: January 1, 2015;
4. through 6. Deleted.<by Presidential Decree No. 29421, Dec. 24, 2018>

[This Article Newly Inserted by Presidential Decree No. 25050, Dec. 30, 2013]

Article 6 (Criteria for Imposing Administrative Fines) The criteria for imposing administrative fines under Article 20 (1) of the Act shall be as specified in attached Table 4. <Amended by Presidential Decree No. 25121, Jan. 28, 2014>

[This Article Wholly Amended by Presidential Decree No. 21691, Aug. 18, 2009]