

# UNFAIR COMPETITION PREVENTION AND TRADE SECRET PROTECTION ACT

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Wholly Amended by Act No. 3897, Dec. 31, 1986  
Amended by Act No. 4478, Dec. 31, 1991  
Act No. 5454, Dec. 13, 1997  
Act No. 5621, Dec. 31, 1998  
Act No. 5814, Feb. 5, 1999  
Act No. 6421, Feb. 3, 2001  
Act No. 7095, Jan. 20, 2004  
Act No. 7289, Dec. 31, 2004  
Act No. 8767, Dec. 21, 2007  
Act No. 9225, Dec. 26, 2008  
Act No. 9537, Mar. 25, 2009  
Act No. 9895, Dec. 30, 2009  
Act No. 10810, Jun. 30, 2011  
Act No. 11112, Dec. 2, 2011

## CHAPTER I GENERAL PROVISIONS

### Article 1 (Purpose)

The purpose of this Act is to maintain orderly trade by preventing acts of unfair competition such as improper use of domestically well-known trademarks and trade names, and by preventing infringement of trade secrets.

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

### Article 2 (Definitions)

The terms used in this Act shall be defined as follows: <Amended by Act No. 10810, Jun. 30, 2011>

1. The term "acts of unfair competition" means any of the following acts:

- (a) An act of causing confusion with another person's goods by using signs identical or similar to another person's name, trade name, trademark, container or package of goods or any other sign widely known in the Republic of Korea as an indication of goods, or by selling, distributing, importing or exporting goods with such signs;
- (b) An act of causing confusion with another person's commercial facilities or activities by using signs identical or similar to another person's name, trade name, emblem or any other sign widely known in the Republic of Korea as an indication of commerce;
- (c) In addition to the act of causing confusion provided in item (a) or (b), an act of doing damage to distinctiveness or reputation attached to another person's sign by using the sign identical or similar to another person's name, trade name, trademark, container or package of goods; or any other sign widely known in the Republic of Korea as an indication of goods or commerce, or by selling, distributing, importing or exporting goods with such signs, without due cause as prescribed by Presidential Decree for instance noncommercial use;
- (d) An act of causing confusion about the source of origin by falsely marking the source of origin on goods or in an advertisement, on the trade documents communicated to the public or in communications, or by selling, distributing, importing or exporting goods falsely marked with the source of origin;
- (e) An act of making a mark on goods, advertisements, trade documents communicated to the public or in communications, or selling, distributing, importing or exporting goods marked with a mark that would mislead the public into believing that the place of production, manufacture or processing is different from the actual place of

- production, manufacture or processing;
- (f) An act of falsely assuming another person's goods, or an act of advertizing any goods or making a mark in any manner of leading the public to misunderstand their quality, content, manufacturing process, usage, or quantity, in latter goods or advertisement thereof, or selling, distributing, importing or exporting goods using such method or mark;
- (g) An act of using a trademark, without due cause, on goods identical or similar to the designated goods of the trademark, or an act of selling, distributing, exporting, or importing goods with such trademark by an agent or a representative of the owner of the trademark that is identical or similar to a trademark registered in any of the following countries or by a person who was an agent or a representative within one year of the date of such act:
- ( i ) Any party to the Paris Convention for the Protection of Industrial Property (hereinafter referred to as the "Paris Convention");"
- ( ii ) Any member state of the World Trade Organization;
- ( iii ) Any signatory state of the Trademark Law Treaty;
- (h) An act of registering, holding, transferring or using a domain name identical or similar to another person's name, trade name, trademark, or other mark, which is widely recognized in the Republic of Korea, by an unlawful holder for any of the following purposes:
- ( i ) The purpose of selling or renting a mark, including a trademark, to an lawful holder or a third party;
- ( ii ) The purpose of preventing a lawful holder from registering or using a domain name;
- ( iii ) Other purpose of obtaining any commercial profits;
- (i) An act of transferring, renting, exhibiting, importing or exporting goods whose shape has been copied (referring to the form, image, color, gloss or any combination of these, including the shape of any test product and the shape in goods brochure; hereinafter the same shall apply) from the goods manufactured by any other person: *Provided*, That either of the following acts shall be excluded herefrom:
- ( i ) An act of transferring, renting, exhibiting, importing or exporting goods whose shape has been manufactured by counterfeiting the shape of the other goods for which three years elapse from the date on which the shape of the other goods, including when the prototype was produced, was completed;
- ( ii ) An act of transferring, renting, exhibiting, importing or exporting goods whose shape has been manufactured by counterfeiting the common shape of goods that are identical to the goods manufactured by any other person (where the goods of the same kind are nonexistent, referring to other goods whose function or utility is identical or similar to the relevant goods);
2. The term "trade secret" means information, including a production method, sale method, useful technical or business information for business activity, that is not known publicly, is the subject of considerable effort to maintain its secrecy and has independent economic value;
3. The term "infringement of trade secrets" means any of the following:
- (a) Acquiring trade secrets by theft, deception, coercion or other improper means (hereinafter referred to as "act of improper acquisition"), or subsequently using or disclosing the improperly (including informing any specific person of the trade secret while under a duty to maintain secrecy; hereinafter the same shall apply);
- (b) Acquiring trade secrets or using or disclosing them with the knowledge that an act of improper acquisition of the trade secrets has occurred or when the lack of such knowledge was caused by gross negligence;
- (c) After trade secrets have been acquired, using or disclosing them with knowledge that an act of improper acquisition of the trade secrets has occurred or when the lack of such knowledge was caused by gross negligence;
- (d) Using or disclosing trade secrets to obtain improper benefits or to damage the owner of the trade secrets while under a contractual or other duty to maintain secrecy of the trade secrets;
- (e) Acquiring trade secrets, or using or disclosing them with the knowledge that the trade secrets have been disclosed in the manner provided in item (d) or when gross negligence was the cause of the disclosure or the lack of such knowledge;
- (f) After acquiring trade secrets, using or disclosing them with the knowledge that they had been disclosed in a manner provided in item (d), or when gross negligence was the cause of the disclosure or the lack of such knowledge;
4. The term "domain name" means a number, a letter, or a sign, or any combination of these, which falls under an Internet address composed of numbers.

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### Article 2-2 (Business for Unfair Competition Prevention and Trade Secret Protection)

The Commissioner of the Korean Intellectual Property Office may, for prevention of unfair competitive act and protection of trade secret, engage in research, education and public relations, construction and operation of an information management system for unfair competition prevention, and other business prescribed by Presidential Decree. [This Article Newly Inserted by Act No. 9537, Mar. 25, 2009]

## CHAPTER II PROHIBITION OF UNFAIR COMPETITIVE ACTS

### Article 3 (Prohibited Use of National Flags and National Emblems, etc.)

- (1) A person may not use as a trademark a symbol that is identical or similar to the national flag, emblem or other insignia of any contracting state to the Paris Convention, a member of the World Trade Organization, or contracting state to the Trademark Law Treaty, a mark of an international organization: Provided, That the same shall not apply where such use is authorized by the State or international organization concerned.
- (2) A person may not use as a trademark a symbol that is identical or similar to any indication of inspection or certification of the government of any contracting state to the Paris Convention, a member of the World Trade Organization or contracting state to the Trademark Law Treaty: *Provided*, That the same shall not apply where such use is authorized by the government of the state concerned.

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

### Article 3-2 (Prohibition of Use of Geographic Mark Protected Under Free Trade Agreement, etc.)

- (1) As to a geographic mark protected under a free trade agreement which is concluded on a bilateral or multilateral level and takes effect between or among the Republic of Korea, of the one party, and a foreign country or foreign countries, of the other party (hereafter referred to as "geographic mark" in this Article), in addition to the act of unfair competition under subparagraphs 1 (d) and (e) of [Article 2](#), no unlawful holder may conduct any act falling under the following subparagraphs with respect to the goods having the place of origin other than the one indicated in the geographic mark concerned (limited to goods that are identical to or recognized to be identical to the goods with the relevant geographic mark):
  1. Using a geographic mark separately, in addition to the authentic place of origin;
  2. Using a geographic mark which is translated or trans literated;
  3. Using a geographic mark with the expression of "kind", "type", "mode", "counterfeit" or other expressions.
- (2) No unlawful holder may conduct any act falling under the following subparagraphs:
  1. An act of transferring or delivering goods with a geographic mark in a manner falling under each subparagraph of paragraph (1), or an act of exhibiting, importing or exporting such goods for any aforementioned purpose;
  2. An act of delivering goods with a geographic mark in a manner falling under subparagraph 1 (d) or (e) of [Article 2](#), or an act of exhibiting for any aforementioned purpose.
- (3) Notwithstanding the provisions of paragraph (1), a person who uses a trademark in a manner falling under any subparagraph of paragraph (1) and has satisfied all the following requirements may continue to use the relevant trademark on the goods that have been used by the person:
  1. That the relevant trademark shall be used at home prior to the date when the protection of a geographic mark commences;
  2. The outcome of the use of the trademark pursuant to subparagraph 1 shall reveal that domestic consumers recognize the relevant trademark as the one indicated on any particular person's goods on the date when the protection of a geographic mark commences.

[Newly Inserted by Act No. 10810, Jun. 30, 2011]

### Article 4 (Injunction against Acts of Unfair Competition, etc.)

- (1) A person whose business interest is injured or threatened by an act of unfair competition or a violation of [Article 3-2](#) (1) or (2) may seek a court injunction or preventive order against a person who engages in an act of unfair competition or a violation of [Article 3-2](#) (1) or (2) or intends to do so. <Amended by Act No. 10810, Jun. 30, 2011>
- (2) When a person seeks legal action as referred to in paragraph (1), he/she may also do so for the following measures: <Amended by Act No. 10810, Jun. 30, 2011>
  1. Destruction of the goods that promote an act of unfair competition or a violation of [Article 3-2](#) (1) or (2);
  2. Removal of the facilities used during an act of unfair competition or a violation of [Article 3-2](#) (1) or (2);

3. Cancellation of registration of the domain name which is the object of an act of unfair competition or a violation of [Article 3-2](#) (1) or (2);
4. Any other measures necessary to prohibit or prevent an act of unfair competition or a violation of [Article 3-2](#) (1) or (2).

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### **Article 5 (Liability for Compensation of Damages from Acts of Unfair Competition, etc.)**

A person who causes damage to another person's business interest by intentionally or negligently engaging in an act of unfair competition or an act of violation of [Article 3-2](#) (1) or (2) (only referring to an act of unfair competition committed intentionally in the case of subparagraph 1 (c) of [Article 2](#)) shall be liable for compensation of damages.

<Amended by Act No. 10810, Jun. 30, 2011>

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### **Article 6 (Restoration of Credit Damaged by Unfair Competitive Act, Etc.)**

The court may order a person who has damaged the business reputation of another person by intentionally or negligently engaging in an act of unfair competition or an act of violation of [Article 3-2](#) (1) or (2) (only referring to any unfair competitive act committed intentionally in the case of subparagraph 1 (c) of [Article 2](#)) to take a measure necessary for restoring the business reputation in addition to or in lieu of compensation for damages as prescribed in [Article 5](#), upon receiving a claim from a person whose business interest is infringed by the act of unfair competition or the act of violation of [Article 3-2](#) (1) or (2).

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### **Article 7 (Investigation, etc. of Unfair Competitive Act, etc.)**

- (1) If deemed necessary to ascertain where or not an act of unfair competition as provided for in subparagraph 1 (a) through (g) of [Article 2](#) or a violation as referred to in [Article 3](#), and [Article 3-2](#) (1) or (2) has occurred, the Commissioner of the Korean Intellectual Property Office, the Special Metropolitan City Mayor, a Metropolitan City Mayor, a *Do* Governor, a Special Self-Governing Province Governor (hereinafter referred to as the "Mayor/*Do* Governors") or the head of a *Sil/Gun/Gu* (referring to the head of an autonomous *Gu*; hereinafter the same shall apply) may have a public official enter a business or manufacturing facilities to examine relevant documents, books, or products, or to collect the least amount of products necessary for testing and inspecting them. <Amended by Act No. 10810, Jun. 30, 2011>
- (2) Where the Commissioner of the Korean Intellectual Property Office, a Mayor/*Do* Governor, or the head of a *Sil/Gun/Gu* conducts the investigation under paragraph (1), he/she shall avoid overlapping investigations pursuant to [Article 15 of the Framework Act on Administrative Investigations](#). <Newly Inserted by Act No. 10810, Jun. 30, 2011>
- (3) A public official who conducts the investigation, etc. under paragraph (1) shall carry a certificate indicating his/her authority and produce it to interested parties. <Amended by Act No. 10810, Jun. 30, 2011>

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### **Article 8 (Corrective Recommendation to Violations)**

If the Commissioner of the Korean Intellectual Property Office, a Mayor/*Do* Governor, or the head of a *Sil/Gun/Gu* recognizes that an act of unfair competition as provided for in subparagraph 1 (a) through (g) of [Article 2](#) or a violation as referred to in [Article 3](#) and [Article 3-2](#) (1) or (2) has occurred, he/she may issue a corrective recommendation to the person to cease the act or to remove or destroy the mark used in the act within a specific period not exceeding 30 days. <Amended by Act No. 10810, Jun. 30, 2011>

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### **Article 9 (Hearing of Opinions)**

If deemed necessary to issue a corrective recommendation as prescribed in [Article 8](#), the Commissioner of the Korean Intellectual Property Office, a Mayor/*Do* Governor, or the head of a *Sil/Gun/Gu* shall hear the opinions of the relevant party, interested persons or witnesses as prescribed by Presidential Decree. <Amended by Act No. 10810, Jun. 30, 2011>

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

## **CHAPTER III PROTECTION OF TRADE SECRETS**

#### **Article 10 (Injunction against Infringement of Trade Secrets, etc.)**

- (1) A person who possesses trade secrets may seek a court prohibition or preventive order against a person who infringes or is likely to infringe trade secrets, if the business interest of the person who possesses the trade secrets is damaged or is likely to be damaged by the infringement.
- (2) If a person who possesses trade secrets files a claim under paragraph (1) of this Article, the person may request the destruction of goods used in the infringement, the removal of facilities used in the infringement or any other measures necessary to prohibit or prevent the infringement.

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### **Article 11 (Liability for Damages for Infringement on Trade Secrets)**

A person who damages the business interest of a person who possesses trade secrets through an intentional or negligent infringement of trade secrets shall be liable for compensation for such damages.

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### **Article 12 (Restoration of Reputation of Person Possessing Trade Secrets)**

For a person who damages the business reputation of a person possessing trade secrets through an intentional or negligent infringement of trade secrets, the person possessing the trade secrets may request the court for necessary measures to restore the business reputation in lieu of or in addition to compensation for damages under [Article 11](#).

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### **Article 13 (Special Cases on Bona Fide Persons)**

- (1) The provisions of [Articles 10 through 12](#) shall not apply to an act by a person who has properly acquired trade secrets through a transaction or uses or discloses the trade secrets within the scope of the rights the person has properly acquired through the transaction.
- (2) "A person who has properly acquired trade secrets" in paragraph (1) means a person who has obtained trade secret without the knowledge and without gross negligence that the trade secrets were improperly disclosed or that an act of improper acquisition or of improper disclosure of the trade secrets occurred when acquired under subparagraph 3 (c) or (f) of [Article 2](#).

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### **Article 14 (Prescription)**

When an infringement of trade secrets continues, the right to request the prohibition or prevention of the infringement of trade secrets under [Article 10](#) (1) expires unless the right is exercised within three years of the date of actual knowledge that the business interest of the person possessing the trade secrets was damaged or threatened to be damaged by an infringing person and of the actual knowledge of the infringing person's identity. The same shall also apply where ten years have elapsed after the date on which the act of infringement first occurred.

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

## **CHAPTER IV SUPPLEMENTARY PROVISIONS**

#### **Article 14-2 (Presumption, etc. on the Amount of Damages)**

- (1) Where a person whose business interests have been infringed by an act of unfair competition, a violence as referred to in [Article 3-2](#) (1) or (2) or infringement of trade secrets claims compensation for damages under [Article 5](#) or [11](#), and where the person who has infringed the business interests transfers the goods causing the act of unfair competition, violence as referred to in [Article 3-2](#) (1) or (2) or infringement of trade secrets, the amount obtained by multiplying the transferred amount in subparagraph 1 by the presumed profit per unit in subparagraph 2, may be set as damages for the person whose business interest has been infringed. In such cases, the compensation may not exceed an amount calculated by multiplying the estimated profit per unit by the number of articles that the person whose business interest has been infringed could have produced subtracted by the number of units actually sold: *Provided*, That where a person whose business interest has been infringed was unable to sell the product for reasons other than the act of unfair competition, violence referred to in [Article 3-2](#) (1) or (2), or infringement of trade secrets, a sum calculated according to the number of articles subject to the reasons shall be deducted: <Amended by Act No. 10810, Jun. 30, 2011>

1. The amount of goods transferred;

2. Profit per unit quantity of the goods which a person whose business interest has been infringed would have been able to sell, if there had been no such act of unfair competition, violence as referred to in [Article 3-2](#) (1) or (2) or infringement of trade secrets.
  - (2) Where a person whose business interests have been infringed by an act of unfair competition, violence as referred to in [Article 3-2](#) (1) or (2) or infringement of trade secrets claims compensation for damages under [Article 5](#) or [11](#), the profits gained by the infringer through the infringement, if any, are presumed to be the amount of damages suffered by the person whose business interests have been infringed. <Amended by Act No. 10810, Jun. 30, 2011>
  - (3) Where a person whose business interests have been infringed by an act of unfair competition, violence as referred to in [Article 3-2](#) (1) or (2) or infringement of trade secrets claims compensation for damages under [Article 5](#) or [11](#), he/she may claim as damages the amount of money that the person would normally be entitled to receive for using a mark applied to goods if the mark was the object of an act of unfair competition or a violence referred to in [Article 3-2](#) (1) or (2), or for using trade secrets that were the object of the infringement. <Amended by Act No. 10810, Jun. 30, 2011>
  - (4) Where the amount of actual damages caused by an act of unfair competition, violence as referred to in [Article 3-2](#) (1) or (2) or infringement of trade secrets exceeds the amount under paragraph (3), the excess amount may also be claimed as compensation for damages. In such cases, when awarding damages, the court may consider whether the person who has infringed the business interest was willful or grossly negligent. <Amended by Act No. 10810, Jun. 30, 2011>
  - (5) Where the court recognizes the difficulty of proving the amount of damage that has occurred in litigation related to an act of unfair competition, violence referred to in [Article 3-2](#) (1) or (2) or infringement of trade secrets owing to the nature of the case, the court may determine a reasonable amount after examining the evidence and reviewing all the arguments of damage on the basis of the entire tenor of oral proceedings and the results of evidence investigations, notwithstanding paragraphs (1) through (4). <Amended by Act No. 10810, Jun. 30, 2011>
- [This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### Article 14-3 (Submission of Materials)

In litigation related to the infringement of business interests through an act of unfair competition, violation as referred to in [Article 3-2](#) (1) or (2) or infringement of trade secrets, the court may, upon the request of either party, order the other party to submit materials necessary for the assessment of damages caused by the infringement: *Provided*, That the same shall not apply where the holder of such materials has a justifiable reason for the refusal of the submission thereof.

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### Article 14-4 (Confidentiality Order)

- (1) In litigation related to the infringement of business interests through an act of unfair competition, violation as referred to in [Article 3-2](#) (1) or (2) or infringement of trade secrets, where the relevant party has verified the accuracy of both of the following information as to the trade secrets held by him/her, the court may order, by decision, the other party (in cases of a juristic person, its representative), the relevant party's legal counsel, or any other person who has acquired such trade secrets due to said litigation neither to use such trade secrets for purposes other than for continuing said litigation nor to disclose such secrets to persons other than those who have been ordered in relation to such secrets pursuant to this paragraph, upon the request of the relevant party: *Provided*, That the same shall not apply where the other party (in cases of a juristic person, its representative), the relevant party's legal counsel, or any other person who has acquired the trade secrets due to said litigation has already been aware of such secrets by a method other than inspection of the legal brief or investigation of the evidence as referred to in subparagraph 1 as at the time such request is made.
    1. That the legal brief already submitted or to be submitted, or the evidence already investigated or to be investigated contains business secrets;
    2. The business secrets referred to in subparagraph 1, if used or disclosed for purposes other than for conducting said litigation, are likely to impede the business operation of the relevant party, so that it is required to place a restriction on the use or disclosure of such business secrets in order to prevent the impediment.
  - (2) A request for issuing an order under paragraph (1) (hereinafter referred to as "confidentiality order") shall be made in a written form that indicates the following:
    1. A person who will be subject to the confidentiality order;
    2. The facts sufficient to specify the trade secrets to be protected by the confidentiality order;
    3. The facts that correspond to the causes described in the subparagraphs of paragraph (1).
  - (3) Where the court has determined to issue a confidentiality order, it shall serve the written decision on the person subject to the confidentiality order.
  - (4) A confidentiality order shall take effect when the written decision referred to in paragraph (3) is served on the person subject to the confidentiality order.
  - (5) A relevant party may lodge an immediate complaint against a trial that has dismissed or rejected his/her application for a confidentiality order.
- [This Article Newly Inserted by Act No.11112, Dec. 2, 2011]

#### Article 14-5 (Revocation of Confidentiality Order)

- (1) A person who has requested a confidentiality order or a person subject to a confidentiality order may, if he/she fails or ceases to satisfy the requirements of [Article 14-4 \(1\)](#), apply for the revocation of the confidentiality order to the court that maintains the relevant trial record (where no such court exists, the court that has issued the confidentiality order).
- (2) Where a trial is held in relation to a request for revocation of a confidentiality order, the court shall serve the written decision on the person who has requested the revocation and the other party.
- (3) A relevant party may lodge an immediate complaint against a trial related to his/her request for the revocation of a confidentiality order.
- (4) A trial revoking a confidentiality order shall take effect when it becomes final and conclusive.
- (5) If there exists any person subject to a confidentiality order as to relevant trade secrets, other than the person who has requested the revocation of the confidentiality order or the other party, the court that has rendered a judgment to revoke the confidentiality order shall notify such person of the existence of the trial revoking the confidentiality order.

[This Article Newly Inserted by Act No.11112, Dec. 2, 2011]

#### Article 14-6 (Notification, etc. of Request for Inspection, etc. of Trial Record)

- (1) Where a decision under [Article 163 \(1\) of the Civil Procedure Act](#) has been rendered for the trial record respecting a trial that has issued a confidentiality order (excluding trials revoking any and all confidentiality orders) and there was a request by the relevant party to inspect the part containing the trade secrets specified in the same paragraph or take any other similar action, but the procedures for such request have been taken by a person not subject to a confidentiality order in the litigation at issue, a court administrative officer, junior administrative officer, chief or senior clerk (hereafter referred to as "junior administrative officer, etc. of a court" in this Article) shall notify the person who has made a request under [Article 163 \(1\) of the Civil Procedure Act](#) (excluding the person who has requested the inspection, etc. thereof: hereafter the same shall apply in paragraph (3)) of the fact that a request for the inspection, etc. thereof was made immediately after such request.
- (2) In cases falling under paragraph (1), until two weeks have elapsed from the date a request under paragraph (1) was made (where a request for issuing a confidentiality order to the person who has taken procedures for such request was made within the said period, until the time a trial regarding such request has become final and conclusive), no junior administrative officer, etc. of a court shall permit the person who has taken procedures for such request to inspect the part containing the trade secrets specified in paragraph (1) or take any other similar action.
- (2) The provisions of paragraph (2) shall not apply where all the parties who have filed a request under [Article 163 \(1\) of the Civil Procedure Act](#) give their consent to permitting the person who has requested inspection, etc. under paragraph (1) to inspect the part containing the trade secrets specified in paragraph (1) or take any other similar action.

[This Article Newly Inserted by Act No.11112, Dec. 2, 2011]

#### Article 15 (Relation to other Acts)

- (1) If any provision of the [Patent Act](#), the [Utility Model Act](#), the [Design Protection Act](#), the [Trademark Act](#), the [Agricultural Products Quality Control Act](#), or the [Quality Control of Fishery Products Act](#) is inconsistent with the provisions of [Articles 2 through 6](#) and [18 \(3\)](#) of this Act, such provisions of the relevant Acts shall preferentially apply.  
<Amended by Act No. 10810, Jun. 30, 2011>
- (2) If any provision concerning the national flag or emblem referred to in the [Monopoly Regulation and Fair Trade Act](#), the Act on Fair Indication and Advertisement, or the [Criminal Act](#) is inconsistent with the provisions of subparagraph 1 (d) through (f) of [Article 2](#) and [Articles 3 through 6](#) and [18 \(3\)](#) of this Act, such provisions of the relevant Acts shall preferentially apply.

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### Article 16 Deleted.<by Act No. 5621, Dec. 31, 1998>

#### Article 17 (Entrustment of Duties, etc.)

- (1) Deleted.<by Act No. 10810, Jun. 30, 2011>
- (2) The Commissioner of the Korean Intellectual Property Office may entrust the duties of research, education, public relations, and construction and operation of an information management system provided for in [Article 2-2](#) to a corporation or organization (hereafter referred to as the "specialized organization" in this Article) related to the duties of protection of industrial property rights or prevention of unfair competition prescribed by Presidential Decree. <Newly Inserted by Act No. 9537, Mar. 25,

2009>

- (3) The Commissioner of the Korean Intellectual Property Office, Mayor/*Do* Governors, or heads of Sis/Guns/Gus may receive support from a specialized organization if necessary for performing the duties under [Article 7](#) or [8](#). <Newly Inserted by Act No. 9537, Mar. 25, 2009; Act No. 10810, Jun. 30, 2011>
- (4) The provisions of [Article 7](#) (3) shall apply *mutatis mutandis* to those who engage in the support duties under paragraph (3). <Newly Inserted by Act No. 9537, Mar. 25, 2009>
- (5) The Commissioner of the Korean Intellectual Property Office may fully or partially subsidize the expenses incurred in the duties entrusted under paragraph (2) and the support duties under paragraph (3) within budgetary limits. <Newly Inserted by Act No. 9537, Mar. 25, 2009>

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### Article 17-2 (Legal Fiction as Public Officials in Application of Penal Provisions)

Those who engage in support duties under [Article 17](#) (3) shall be deemed public officials in application of penal provisions under [Articles 127 and 129 through 132 of the Criminal Act](#).

[This Article Newly Inserted by Act No. 9537, Mar. 25, 2009]

#### Article 18 (Penal Provisions)

- (1) Any person who has used useful trade secrets of any enterprise abroad for the purpose of making an illegal profit or causing damage to such enterprise or has acquired, used, or leaked such trade secrets to any third party with knowing that they are used or will be used overseas shall be punished by imprisonment with prison labor for not more than ten years or by a fine equivalent to the amount ranging from not less than two times to not more than ten times the amount of the profit in property. <Amended by Act No. 9895, Dec. 30, 2009>
- (2) Any person who has acquired or used useful trade secrets of any enterprise for the purpose of making an illegal profit or causing damage to such enterprise or has leaked the trade secrets to any third party shall be punished by imprisonment with prison labor for not more than five years or by a fine equivalent to the amount ranging from not less than two times to not more than ten times the amount of the profit in property.
- (3) Any person who falls under any of the following subparagraphs shall be punished by imprisonment for not more than three years or by a fine not exceeding 30 million won:
  1. Any person who engages in an act of unfair competition under subparagraph 1 of [Article 2](#) (excluding items (h) and (i));
  2. Any person who, in violation of [Article 3](#), uses as a trademark a symbol that is identical or similar to the insignia or indication of the following:
    - (a) The national flag, national emblem or other insignia of a party to the Paris Convention, a member state of the World Trade Organization, or a signatory state of the Trademark Law Treaty;
    - (b) The mark of an international organization;
    - (c) The mark of inspection or certification of a party to the Paris Convention, a member state of the World Trade Organization, or a signatory state of the Trade mark Law Treaty.
- (4) The imprisonment and fine referred to in paragraphs (1) and (2) may be concurrently imposed.

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### Article 18-2 (Attempted Crime)

Any person who has attempted to commit a crime provided for in [Article 18](#) (1) and (2) shall be punished.

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### Article 18-3 (Criminal Intent and Conspiracy)

- (1) Any person who intends or conspires to commit a crime under [Article 18](#) (1) shall be punished by imprisonment with prison labor for not more than three years or by a fine not exceeding 20 million won.
- (2) Any person who intends or conspires to commit a crime under [Article 18](#) (2) shall be punished by imprisonment with prison labor for not more than two years or by a fine not exceeding ten million won.

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### Article 18-4 (Crime of Violating Confidentiality Order)



(1) Any person who has violated a confidentiality order issued under [Article 14-4](#) (1) without due cause in the Republic of Korea or overseas shall be punished by imprisonment for not more than five years or by a fine not exceeding fifty million won.

(2) A public action against a crime under paragraph (1) shall be instituted only if a complaint thereof is filed by any interested party.

[This Article Newly Inserted by Act No.11112, Dec. 2, 2011]

#### **Article 19 (Joint Penal Provisions)**

If a representative of a juristic person or an agent, employee or any other servant of a juristic person or individual commits an offence falling under any of [Article 18](#) (1) through (3) in connection with the activities of such juristic person or individual, not only shall such actor be punished accordingly, but such juristic person or individual shall also be imposed by a fine prescribed in the relevant Articles: *Provided*, That this shall not apply where such juristic person or individual is not negligent in giving due care and supervision to prevent such offence with regard to the relevant activities.

[This Article Wholly Amended by Act No. 9225, Dec. 26, 2008]

#### **Article 20 (Fines for Negligence)**

(1) A person who refuses, interferes with, or evades investigation or collection by the relevant public official under [Article 7](#) (1) shall be imposed by a fine for negligence not exceeding 20 million won.

(2) Fines for negligence referred to in paragraph (1) shall be imposed and collected by the Commissioner of the Korean Intellectual Property Office, Mayor/*Do* Governors, or heads of *Sis/Guns/Gus*, as prescribed by Presidential Decree. <Amended by Act No. 10810, Jun. 30, 2011>

(3) through (5) Deleted. <by Act No. 9895, Dec. 30, 2009>

[This Article Wholly Amended by Act No. 8767, Dec. 21, 2007]

#### **ADDENDUM**

This Act shall enter into force on January 1, 1987.

#### **ADDENDA <Act No. 4478, Dec. 31, 1991>**

(1) (Enforcement Date) This Act shall enter into force on the date determined by Presidential Decree within one year after the date of its promulgation.

[This Act shall enter into force on December 15, 1992 under Presidential Decree No. 13781, December 14, 1992]

(2) (Transitional Measures concerning Act, etc. of Infringing on Trade Secret prior to Enforcement of this Act) The amended provisions of [Articles 10 through 12](#), and [18](#) (1) 3 shall not apply to any act of infringing on a trade secret, which has been committed before this Act enters into force. The same shall also apply where any person who has obtained or used a trade secret before this Act enters into force uses such trade secret after this Act enters into force.

#### **ADDENDUM <Act No. 5454, Dec. 13, 1997>**

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

#### **ADDENDA <Act No. 5621, Dec. 31, 1998>**

(1) (Enforcement Date) This Act shall enter into force on January 1, 1999.

(2) (Transitional Measures concerning Penal Provisions) In the application of penal provisions to any act of infringing on trade secrets which has been committed before this Act enters into force, the former provisions shall apply.

(3) (Transitional Measures concerning Extinctive Prescription) Notwithstanding the amended provisions of [Article 14](#), with respect to the extinctive prescription of the right to file a claim for prohibition or prevention of any act of infringing on trade secrets which has been committed before this Act enters into force, the former provisions shall apply.

#### **ADDENDA <Act No. 5814, Feb. 5, 1999>**

**Article 1 (Enforcement Date)**

This Act shall enter into force on July 1, 1999.

**Articles 2 through 5 Omitted.****ADDENDA <Act No. 6421, Feb. 3, 2001>**

(1) (Enforcement Date) This Act shall enter into force on July 1, 2001.

(2) (Special Cases concerning Application of Penal Provisions) With respect to the persons who have committed any unfair competitive act under the amended provisions of subparagraph 1 (c) and (g) of [Article 2](#), notwithstanding the provisions of [Article 18](#) (3), the penal provisions under the same paragraph of the same Article shall not apply not later than December 31, 2001.

**ADDENDA<Act No. 7095, Jan. 20, 2004>**

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.

(2) (Transitional Measures) Any person who has violated the former provisions of [Article 18](#) (1) and (2) before this Act enters into force shall be governed by the former provisions.

**ADDENDA<Act No. 7289, Dec. 31, 2004>****Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Articles 2 through 5 Omitted.****ADDENDUM<Act No. 8767, Dec. 21, 2007>**

This Act shall enter into force on the date of its promulgation.

**ADDENDUM<Act No. 9225, Dec. 26, 2008>**

This Act shall enter into force on the date of its promulgation.

**ADDENDUM <Act No. 9537, Mar. 25, 2009>**

This Act shall enter into force on the date of its promulgation.

**ADDENDUM <Act No. 9895, Dec. 30, 2009>**

This Act shall enter into force three months after the date of its promulgation.

**ADDENDUM <Act No. 10810, Jun. 30, 2011>**

This Act shall enter into force three months after the date of its promulgation: *Provided*, That the amended provisions of [Article 3-2](#), [Articles 4 through 6](#), "[Article 3-2](#) (1) or (2)" referred to in [Article 7](#) (1), "[Article 3-2](#) (1) or (2)" referred to in [Article 8](#), and [Articles 14-2](#), [14-3](#) and [15](#) shall enter into force on the date when the Free Trade Agreement Between the Republic of Korea and the European Union and its Member States enters into force.

**ADDENDUM <Act No.11112, Dec. 2, 2011>**

This Act shall enter into force on the date the Free Trade Agreement between the Republic of Korea and the United States of America (hereinafter referred to as the Agreement) and Exchange of Letters related to the Agreement enters into force.

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