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Act on Collection of Evidence Relating to Alleged Violations of Intellectual Property Rights

2006, No. 53, 13 June

Chapter I. General Provisions.

Article 1. As provided for in this Act, evidence can be collected relating to alleged infringement of the legal protection afforded the following intellectual property rights:

- a. Copyright protection and related rights as provided for in Articles 3; 4; 11, the third paragraph; 45; 46, and 48-52 of the Copyright Act;
- b. design protection;
- c. trademark protection;
- d. collective mark protection;

- e. patent protection;
- f. protection under the Act on Legal Protection of Micro-Circuit Topographies in Semiconductor Devices, and
- g. protection of plant varieties.

Article 2. Sheriffs and their assistants trained in law shall render assistance in collecting evidence on the basis of this Act following a court order, cf. Article 9, the first paragraph. The provisions governing the competency of judges to hear and adjudicate civil cases shall also apply, as applicable, to the competency of sheriffs and their assistants trained in law for taking measures in accordance with this Act.

If a sheriff lacks competency to take measures in accordance with this Act, the Minister of Justice shall appoint another competent person to perform the task in his stead. His remuneration shall be paid by the State Treasury as decided by the Minister.

Article 3. If a person claiming to enjoy any intellectual property rights enumerated in Article 1, or a person entitled by law to make use of such rights, establishes a likelihood that they have been violated, evidence may, upon the

request of the entitled person as a petitioner in an enforcement action, be collected in accordance with this act from the alleged violator as a respondent in an enforcement action.

Evidence shall not be collected on the basis of this Act:

- a. On account of violations considered of minor nature, if the request relates to an individual person and the violation was not related to a business operation, or
- b. in cases of great discrepancy between the interest of the respondent in not having evidence collected, and the interest of the petitioner in having evidence collected.

Article 4. Evidence can be collected in any place in the respondent' s control by an examination of any documents and equipment which offers a possibility of assessing whether and to what extent a violation has taken place of the intellectual property rights enumerated in Article 1.

Such an examination may include merchandise, machinery and production equipment, accounting documents, order slips, promotion material, electronic data, and computer software.

An examination of documents, data and equipment shall not have the aim of ascertaining whether the respondent' s production equipment or machinery infringe any patents. Proof is not to be adduced by means of evidence containing information on which a witness would be barred from testifying in a civil legal action.

Chapter II. Procedure in Court.

Article 5. A petitioner' s request for collection of evidence shall be sent to the district court of the respondent' s home venue.

The request shall be made in writing. It shall state as clearly as possible:

- a. The petitioner' s full name, National Registry number, and legal domicile;
- b. the respondent' s full name, National Registry number, legal domicile, and information relating to his business operation, as applicable;
- c. what intellectual property rights have allegedly been violated, and the manner of the alleged violation;
- d. the petitioner' s requests as to what evidence should be

collected;

- e. where the evidence is to be sought and why the petitioner considers the evidence to be found there, and
- f. any other information necessary for the proceedings.

The request shall be accompanied by any documents the petitioner deems to support it.

The request, and its attachments, shall be sent the district court in duplicate.

Article 6. Having received the petition, the district court judge shall decide on the place and time of a court session, and shall notify the parties of this on a suitable notice in a manner offering proof. The notification to the respondent shall state the consequences of a failure to appear, and the case documents shall be attached.

If there is a danger that evidence will be secreted, destroyed or altered, or that a delay due to notification may be detrimental to a party's rights, notification as provided for in the first paragraph may be dispensed with upon a request of the petitioner.

Article 7. If the petitioner fails to make an appearance at the