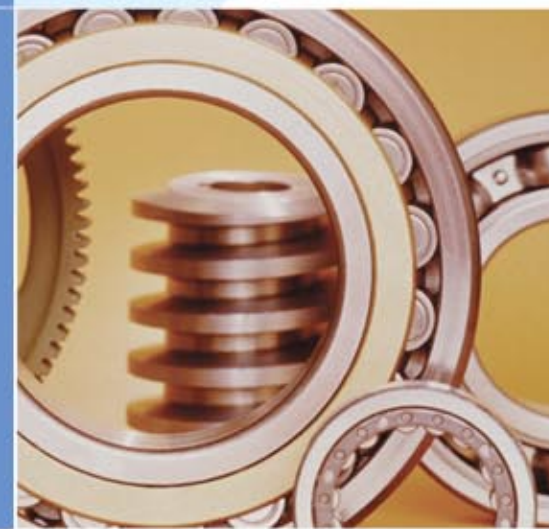


Advancement of the IP legal framework

Patents
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Advancement of the IP legal framework

Patents

In 2006, KIPO initiated a number of improvements to the patent system for the benefit of applicants. For instance, we simplified the documentary requirements of patent applications so that applicants can describe their inventions more easily. We also gave applicants more time to review and write their applications, by extending the deadline for submitting claims until the laying open of the application (that is, by up to 18 months). In addition, we obliged our examiners to elaborate the reason for refusing a claim in applications with two or more claims to ensure that applicants were kept informed of the reason for the refusal.

With regard to employee inventions, the law was changed to create a win-win situation for both employers and employees. In particular, we set up procedures for the notification of patent rights for employee inventions and for the transfer of rights to employers. These procedures were designed to clarify the rights of employers and employees and to prevent disputes over employee inventions. Secondly, we introduced an improved method of estimating the value of remunerations for employee inventions, and, in the new method, employees can participate more fully in the remuneration process. The basic principle of the new method is that employers and employees should have a reasonable and legally justifiable means of determining the remuneration for an employee invention.

Trademarks and industrial designs

The *Trademark Act* was revised in 2006 to reinforce the protection of trademarks. The revision, which takes effect in July 2007, covers several important areas such as registrable subject matter, restrictions on imitative trademarks, and extensions to the period of objection.

With regard to the first point, the subjects that can be protected and registered under the *Trademark Act* were expanded to cover all visually perceptible marks, including color trademarks, motion trademarks, and hologram trademarks.

As for restricting imitative trademarks, a new provision stipulates that when a certain trademark is recognized by domestic or foreign consumers as indicating the goods of a particular person, a third party may not register a trademark that is identical or similar to that trademark. Thus, the revised *Trademark Act* will drastically reduce the number of counterfeit trademarks and foster a culture of fair trade.

Thirdly, the period for opposing to trademarks has been extended from 30 days to 2 months from the publication date of applications. This extension is expected to boost protection for trademark holders, especially residents of foreign countries.

The opposing system is also expected to be enhanced to improve the quality of trademark examinations and prevent trademark disputes.

The *Industrial Design Protection Act* was also revised in 2006 to reinforce protection for industrial design holders. This revision, which takes effect in July 2007, greatly extends the period in which an applicant can limit the disclosure of a registered design. Before the revision, the period for requesting that a design be kept secret ended on the application date of the particular industrial design. Once the revised Act takes effect, however, that period will be extended from the application date until the payment date of the first design registration fees. The extension of this period should protect the rights of applicants by preventing others from counterfeiting a design following the disclosure of the design.

The trial system

To swiftly and accurately handle trials, we introduced the Intensive Trial System whereby the Intellectual Property Tribunal receives requests and evidence from opposing parties at the same time and organizes the evidence in preparation for an expeditious judgment.

The schedule for completing a trial used to be unknown for cases lasting less than 6 months from the request date of a trial. However, in 2006 we began providing information on the expected completion schedule of all *inter partes* trials so that the parties could submit their opinions in a timely manner and easily forecast the completion date of the trial.

We also introduced a registration system for the individual claims of a multclaim application. That is, we promoted the early settlement of disputes by allowing the registration of an individual claim of a multclaim application whenever a trial decision approves the individual claim.

If multiple trials are requested for a single right, the same judge is appointed to each trial as the chief judge. Whenever necessary, an advisory body of five judges can be appointed so that their collective wisdom minimizes controversial trial results and promotes consistency of decisions.

To prevent trial delays, we prepared a method of handling documents that are returned to our office due to a party's change of address. Under this method, the returned documents are resent, but not to a previous address listed in the original register; rather, they are sent to an address confirmed by the Korean government's information sharing system called Government for Citizens (G4C).