

# Advancement of the IP legal framework

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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. These initiatives culminated with the successful revision of the *Patent Act* on January 3, 2007, and the *Enforcement Regulations of the Patent Act* on June 29, 2007. The new and convenient patent system took effect on July 1, 2007, with several benefits.

One benefit was the simplification of the documentary requirements of patent applications. For instance, we relaxed the requirements for describing an invention, allowing applicants to write specifications more accurately and conveniently. Furthermore, to eliminate the inconvenience of rewriting a specification for an international application and to help applicants describe their inventions more easily, we changed the format of the specifications to follow the format of PCT documents and foreign documents.

In addition, by extending the deadline for submitting claims until the laying open of the application (that is, by up to 18 months), we have given applicants more time to review and write their applications. We also obliged our examiners to elaborate the reasons for refusing a claim in applications with two or more claims, to ensure that applicants were kept informed of the reasons for the refusal.

Another benefit is the expanded opportunity for correcting mistakes pertaining to the description of the inventor. Even after a decision has been made to grant a patent, the applicant now has more time to rectify mistakes pertaining to the description of the inventor.

Applicants also have the benefit of requesting the reservation of patent decisions. By giving applicants the right to request the reservation of patent decisions for up to 12 months after the filing of an application, we have expanded the opportunities for filing a claim in Korea.

## Trademarks and industrial designs

The *Trademark Act* and the *Industrial Design Protection Act* were both revised in 2006 to reinforce the rights of those who own trademarks and designs. The revisions took effect in July 2007.

With regard to the registrable subject matter, 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 objecting to a trademark has been extended from 30 days to two months from the publication date of the application. This extension is expected to boost protection for trademark holders, especially residents of foreign countries. The objection 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 took 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. That period now extends from the application date until the payment date of the first design registration fees. The extension of this period protects the rights of applicants by preventing others from counterfeiting a design following the disclosure of the design.



Counterfeit goods at the 2007 Trademark and Design Exhibition

## Advancement of the IP legal framework

### 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 parties of a trial previously had two opportunities to postpone the due date for submitting trial documents, for up to a month at a time. However, to minimize the intentional postponement of trials, we have imposed restrictions on this system. Now the parties can postpone the due date only once and only for a period of 15 days.

We also introduced a system of notifying the parties of the expected completion date of an examination. This system applies in cases where the statements and evidence of the parties are all submitted during an oral hearing or technology presentation.

To prevent any unnecessary delay in the resolution of patent disputes in cases where the patentee falsely cites the working article of another party during the trial to confirm the scope of a right, we now allow the patentee to change the working article.

Furthermore, in the interests of fairness to all parties, we allow patentees to correct their statements whenever a claimant in an invalidation trial submits new evidence. Previously, the parties could only correct a statement after submitting a request to the judge in writing or via a telephone call. For the convenience of all parties, we now accept such requests 24-7 through our Web site. Thus, the procedure of applying for a consultation with a judge has been greatly improved.

### The registration system

The schedule for completing a trial used to be unknown for cases lasting less than six 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 multiclaim application. That is, we promoted the early settlement of disputes by allowing the registration of an individual claim of a multiclaim 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).