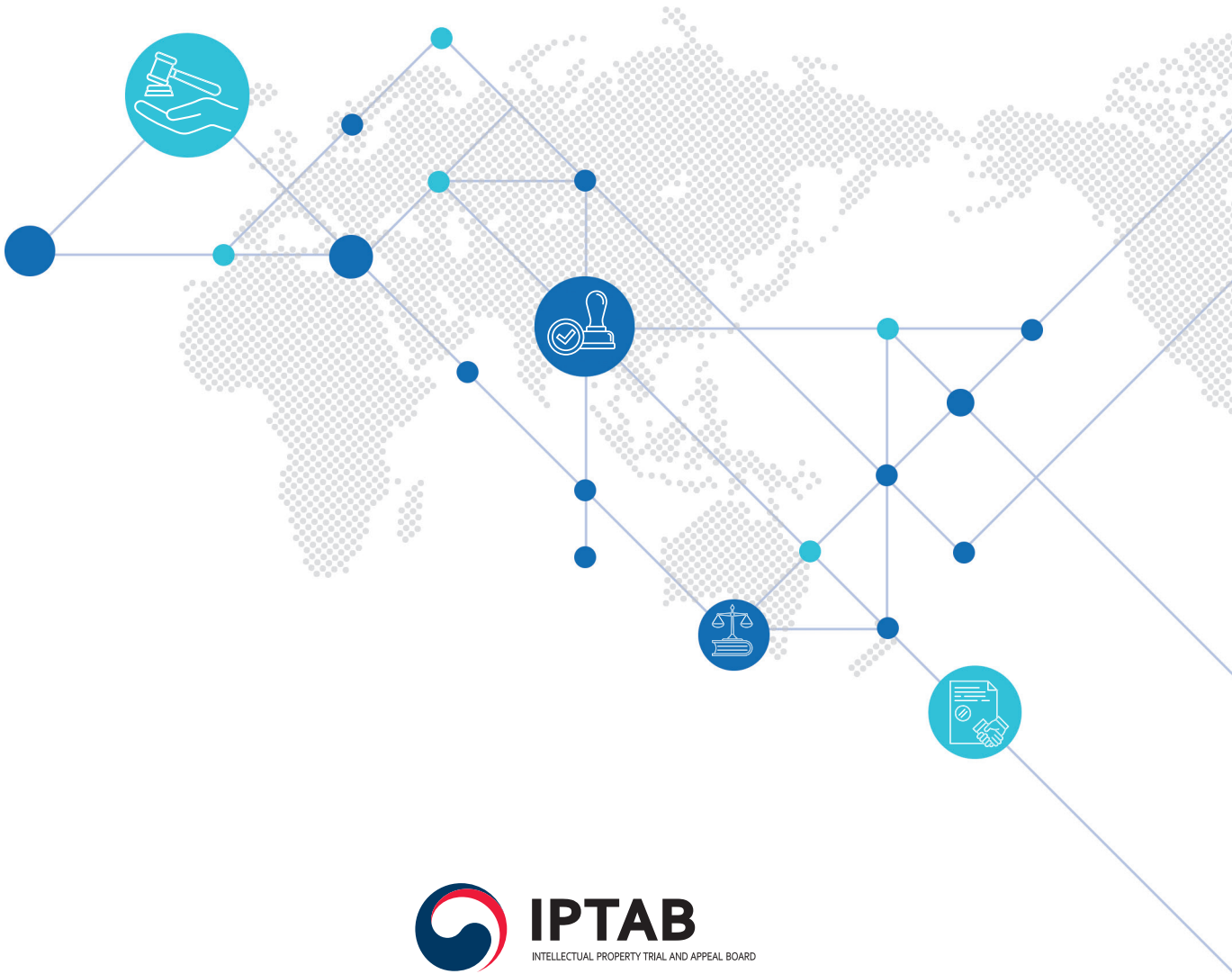


# IPTAB

Intellectual Property Trial and Appeal Board



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For Fair IP Dispute Resolution,  
IPTAB for the People



## Welcome Message

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## Welcome Message

### IPTAB will remain committed to providing fair, prompt, and reliable dispute resolution.



Greetings to all users of trials and appeals.

It gives me a great pleasure to send my greetings and message to you.

Intellectual Property Trial and Appeal Board (IPTAB) is a specialized IP tribunal that provides dispute resolutions which involve disputes over patent, utility model, trademark and design rights, under the quasi-judicial procedures. In recent years, as patent disputes heat up both within and between countries, we are now facing a rapidly changing reality in which the success or failure of a business depends on the outcome of the disputes.

Since its operations in March 1998, IPTAB has been committed to providing prompt and transparent dispute resolutions for people and business as a specialized IP jurisdiction.

In 2014, video oral hearing was introduced to allow users who live in Seoul and Metropolitan area to appear at Seoul Office to attend oral hearings remotely, without having to make a trip to Daejeon Headquarters Office.

In 2015, IPTAB launched a 'Fast-track trials and appeals' to advance the cases regardless of the existing filing order for which require more timely and expedited decisions.

In 2017, further efforts were made to enhance fairness in its decisions. To that end, IPTAB had advisors from the private sectors involved in the trial quality evaluation meeting for the first time and the Code of Judicial Ethics was established and enforced.

In 2019, IPTAB launched the IP pro bono program to allow fair and equitable competition for the disadvantaged and financially under-resourced groups. IPTAB also started to offer public services that provide information on trial and appeal proceedings using social media.

Furthermore, in an effort to advance and improve trial and appeal systems, IPTAB has established international cooperation framework with the world's largest IP offices, including the United States, China, Europe, Japan, etc. It is expected to further advance and strengthen the international cooperation in the field of trials and appeals.

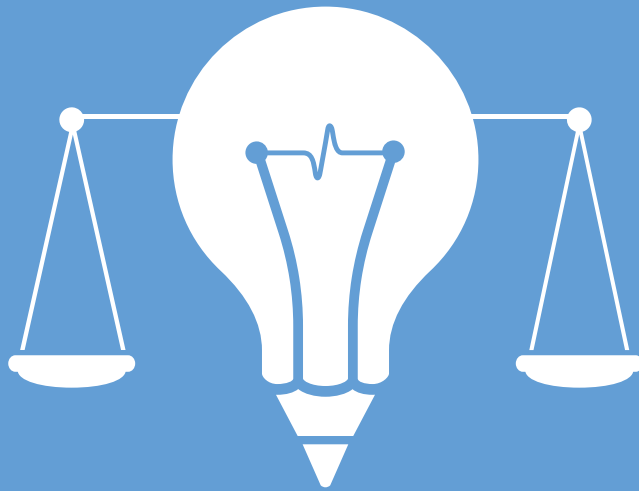
IPTAB will remain committed to positioning itself as the specialized IP tribunal by providing fair, prompt, and transparent dispute resolution.

We look forward to your continued support and interest in the future.

Thank you.

**President of the IPTAB, LEE Jae-woo**

<http://www.kipo.go.kr/ipt/>



## IPTAB

has been committed to providing  
fair and prompt dispute resolutions  
as a specialized IP tribunal  
since its operations in 1998.

# 1. IPTAB at a glance

## Establishment

Intellectual Property Trial and Appeal Board (IPTAB) is a quasi-judicial body of the Korean Intellectual Property Office (KIPO), established following the merger of the previous Trial Board and the Appellate Trial Board. In concurrence with the establishment of the Patent Court, the Board commenced its operations in March 1998.



## Organization

In its early years, under the leadership of the President of IPTAB, IPTAB had 13 Boards which consist of 13 presiding administrative judges and 26 administrative judges, along with a trial administration office. After years of constant efforts to increase the skilled workforce and to restructure the organization, the IPTAB now has 36 Boards with 11 chief presiding administrative judges, 40 presiding administrative judges and 56 administrative judges along with a Trial Policy Division and Litigation Division.

## Functions

The President of the IPTAB has managerial and organizational powers over Board's affairs and also supervises and leads the IPTAB officials. He may also act as the chief presiding administrative judge for cases acknowledged as being very important.

Each board reviews and decides on trial and appeal cases to address the issues at stake in disputes which require highly technical judgment and expertise, including the rejection of applications, invalidation, cancellation, correction and confirmation of the scope of granted industrial property rights (i.e. patents, utility models, designs and trademarks).

Trial Policy Division provides administrative supports for all proceedings before the IPTAB, which include trial and appeal policy initiatives, formality examination, trial quality evaluation, support for oral hearings, etc. Litigation Division deals with the litigation cases under the jurisdiction of the Patent Court, in which the Commissioner of the KIPO is the defendant.

## 2-1. Sharp Decline in Pendency (12 → 7.8 months)

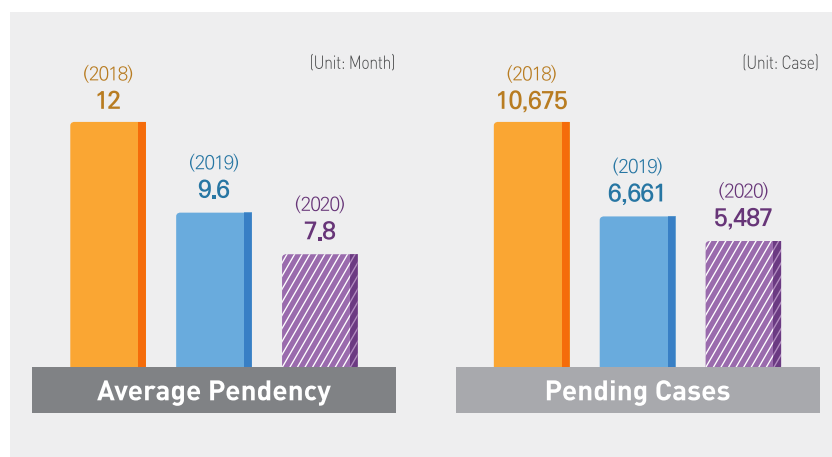
IPTAB strives to provide expedited measures to protect IP rights by reducing average pendency by 4.2 months and the number of pending cases by 49% compared to 2018.

### Prompt IP protection

In response to internal feedback that the delays in IPTAB proceedings impede timely protection of IP rights, IPTAB and administrative patent judges (APJs) have spared no efforts to reduce average pendency in its proceedings and the number of pending cases since early 2019.

To that end, IPTAB strives to support APJs with a variety of policy initiatives so that they can adjudicate cases in a prompt yet equitable manner. These initiatives include measures to encourage APJs with extensive experience in trials and appeals, have trial support staff help APJs in examination of evidence that is required for adjudicating a case, provide a trial practice guide for each type of proceeding for ensuring consistency, etc.

As a result of these constant efforts and increased efficiency in trial and appeal proceedings, IPTAB was able to handle more cases than the previous years and average pendency has been reduced by 4.2 months, compared to 12 months in 2018 and 7.8 months in 2020. Furthermore, IPTAB was also able to reduce the number of pending cases by 49%, compared to 10,675 cases in 2018 and 5,487 cases in 2020.



## 2-2. Structural Reform of the Boards

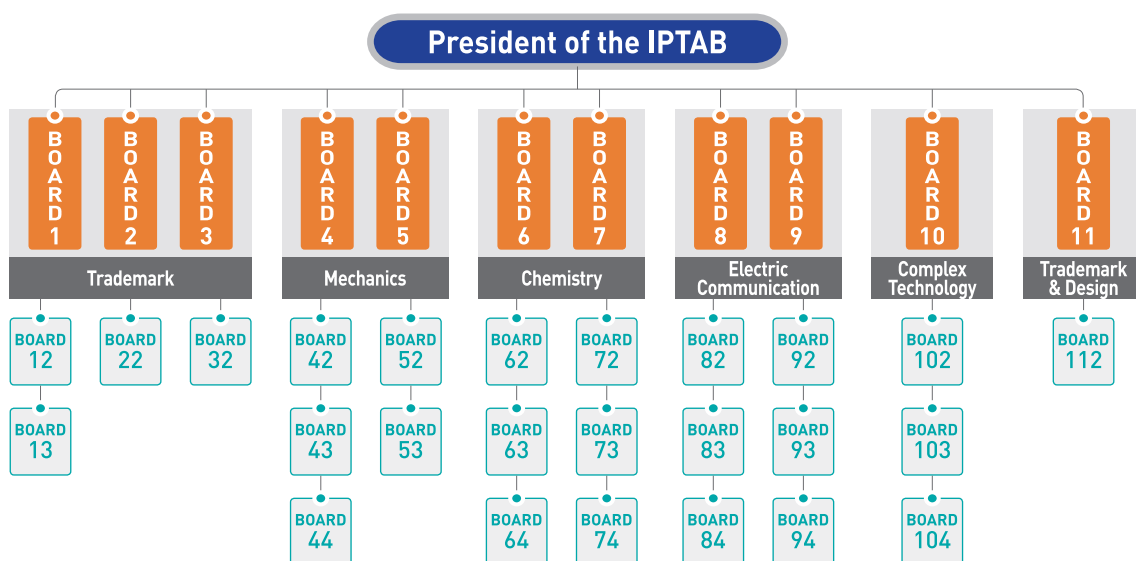
IPTAB has expanded its operations to 36 Boards to ensure independence, transparency, and expertise of its Boards.

**IPTAB endeavors to provide reliable and fair IP dispute resolution.**

As of July 2019, IPTAB restructured its Boards by expanding its operations to 36 Boards in order to ensure more faithful 3-member panel discussion and fairness in its decisions.

Since the IPTAB started its operations in 1998, the number of administrative judges has been increased in line with an increasing number of cases filed. However, there was a limited number of qualified presiding administrative judges due to strict qualification criteria, so that each presiding administrative judge had to lead and manage larger number of APJs. In that sense, it was necessary to manage the excessive workload and ensure more faithful 3-member panel discussion and due deliberation.

In this regard, IPTAB relaxed the eligibility requirements so that qualified director-level APJs who have extensive trial and litigation experience have been appointed to a presiding administrative judge and also expanded its operations accordingly from 11 Boards to 36 Boards. This reform will allow a larger number of cases to be heard with oral proceedings and thus, it is not only expected to have more just and due deliberation, but is also expected to enhance expertise in its Boards.



## 2-3. More Cases to be Heard by IPTAB

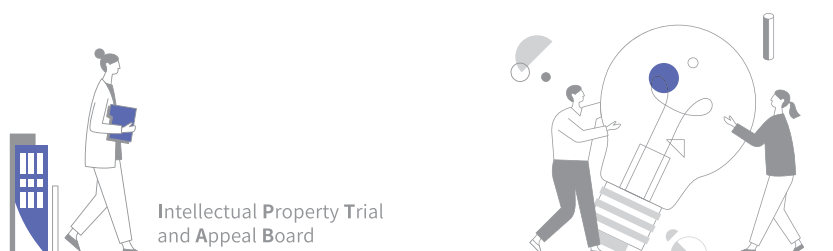
IPTAB plans to allow more cases to be heard in order to enhance the efficiency without compromising with the quality.

### Fact-intensive inquiry with more number of heard cases

IPTAB currently provides both written and oral hearings in its proceedings. A written hearing renders a decision solely based on trial documents filed before the IPTAB, such as petition for trial, written reply, written opinion, etc., while oral hearings allow parties to appear before the panel of judges and present their cases after filing relevant documents. The IPTAB plans to allow more cases to be heard to provide parties with sufficient opportunities to present their cases before the panel of judges so that they can be more willing to accept and respect final decisions of the IPTAB.

Oral hearings allow both parties to participate in hearings and clarify the scope of their invention to the other party or to the panel of judges by presenting supplementary information, including actual products, a video clip, etc. Also, if necessary, witness and expert testimony or their supplemental briefing may be granted to clarify the issues being discussed, which may allow more expedited case adjudication.

In that sense, in an effort to facilitate oral hearings, IPTAB revised the oral hearings guide in December 2020, and will continue to make constant efforts to improve trial and appeal system, including legal expert trainings for APJs, etc.





## 2-4. Trial Research Activities

IPTAB strongly encourages research activities in each Board. All court decisions to revoke IPTAB decisions are analyzed and the findings are shared with APJs in order to improve the quality in its decisions.

### Enhance its expertise with a variety of research projects

In order to build its research capacity as an IP-specialized tribunal and to continue academic and research exchanges within and across countries, IPTAB has continued systematic research activities since 2019 by organizing a trial quality consultative group led by presiding administrative judges.

In a trial quality consultative group, the presiding administrative judges monitor all cases filed at each Board, discover and select emerging issues and complex cases for each field to be analyzed. Then, the analysis is shared on a regular basis through case study and panel discussion led by each Board.

Moreover, for further trial quality improvement, research and trial quality team has been newly set within the trial policy division. The team performs trial quality management in a structured manner by collecting and analyzing Patent Court decisions by which IPTAB decisions have been revoked and sharing such information with examiners and APJs on a quarterly basis in order to improve efficiency and reliability in its decisions.



## 2-5. Recent Changes and Developments

In an effort to increase transparency in its proceedings, IPTAB records key issues discussed during the interview and explanatory session, which are now available in in-person, video and telephonic format.

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### More fact-intensive inquiries to ensure transparency and fairness in its decision-making process

As of January 2020, IPTAB has been recording main issues discussed during the technology, trademark and design explanatory sessions and make the records confirmed and signed by the both parties.

An explanatory session shall be held when the presiding administrative judge finds it necessary for effective dispute resolution, including when it is difficult to grasp the technological backgrounds or when the main points of disputes are ambiguous, etc. During the explanatory session, patent attorneys may present before the administrative judges and explain main issues of disputes.

Similar to oral hearing reports and transcript (stenographic records), issues presented during the explanatory session will also be documented and both parties will confirm and sign the records. Such record can be later used for evidence in case of further disputes.

In the meantime, when an interview or explanatory session is to be conducted for inter partes proceedings, both parties are advised to participate in order to ensure fairness in trial proceedings.

Furthermore, existing in-person interview and explanatory session have been made available in a variety of means, including video and telephonic format, for users' time efficiency and economic considerations.

In particular, if the video or telephonic interview and explanatory session is scheduled using On-nara cross-government video conferencing service or online Internet telephone service for a group meeting, the parties for such case may participate remotely from their home or offices, without having to make a trip to IPTAB Office.

## 2-6. User-friendly IPTAB Proceedings

IPTAB is committed to providing more convenient and accessible trial and appeal services that are tailored to users' needs.

### Remote Oral Hearing

As part of an effort to make the IPTAB's trial services more convenient and accessible, a video-conferencing system was set up for oral hearings in April 2014. The system allows trial parties and patent attorneys to take part in oral hearings remotely at KIPO's Seoul regional office, without having to make a trip to IPTAB Headquarters Office in Daejeon.

The video-conferencing system connects the IPTAB Headquarters Office in Daejeon and hearing rooms in Seoul regional office via dedicated network, allowing users to remotely participate in oral hearings. As a result, IPTAB has received a number of positive reviews from the users and patent practitioners in that it helps them to save time and money.

In particular, in response to an increasing demand in remote oral hearings, IPTAB has expanded its hearing facilities by having 2 additional video oral hearing rooms to KIPO's Seoul regional office.

Furthermore, since May 2020, telephonic and video conferences have also been made available for explanatory sessions and interviews with APJs for users' time efficiency and economic considerations.



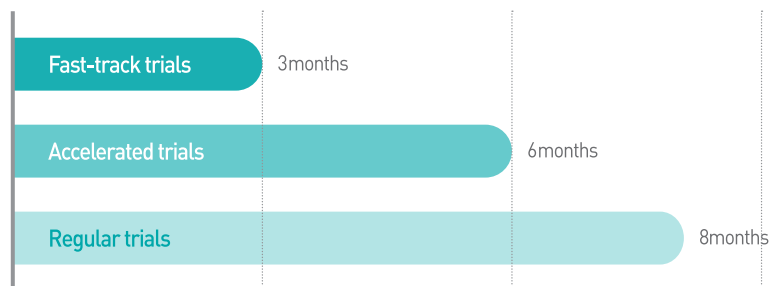
▲ Remote Oral Hearing

## Three-track Trial System

IPTAB runs a three-track trial system – fast, accelerated and regular – for the purpose of more efficient management of IP disputes. Such system enables IPTAB to hear trials that require expedited proceedings first, while ensuring the parties of regular trials to have enough time to make a full argument over the course of the trials for reliable trial decisions.

Unlike the regular track under which a trial is conducted in the order of date a petition for trial is filed, the accelerated trial system allows cases to advance regardless of the existing order. The cases eligible for the accelerated trial include where a trial decision made by the IPTAB was appealed to, and revoked by, the Patent Court.

The fast-track trials are for cases which require even more expedited conclusions than those for the accelerated trials, including trials with a pending infringement lawsuit. According to the standard procedure of fast-track trials, it aims to hold an oral hearing within one month from the expiry date of a written opinion submission and to issue a trial decision within two weeks after the oral hearings. Thus, it has set a target of issuing a decision within three months for parties on fast-track, unless there are any special circumstances.



### **Fast-track trials**

- Trials with pending infringement lawsuits
- Trials agreed to be treated as accelerated trials by both parties
- Trials that involves a start-up SMEs as an either party, trials which involves disputes between SMEs and large enterprises
- Trials which are related to Regulatory Sandbox cases, etc.

### **Accelerated trials**

- Re-Trials after revocation of trial decision from the Patent Court
- Trials with notice of infringement as measures to prevent patent disputes
- Appeal against a decision to reject application with accelerated examination
- Trials which involves materials, parts and equipment industries, etc.

## 2-7. IP Pro Bono Program

IPTAB will ensure fair and impartial trials and appeals by establishing an institutional framework to provide legal assistance for the public good.

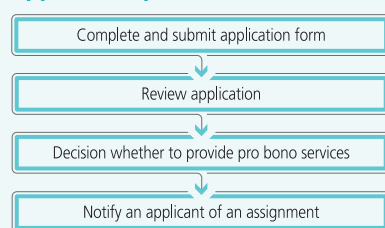
### IP Pro bono legal service in IPTAB proceedings for groups in need

The IPTAB launched the IP Pro Bono Program as of July 2019 for trial parties who may not be able to respond properly due to limited financial or human resources. Under this program, IPTAB aims to provide legal assistance free of charge by matching the government-appointed patent attorneys with the disadvantaged and financially under-resourced persons who meet the qualifying criteria.

Upon request, IPTAB provides free IP-related legal representation services for groups that meet certain financial thresholds and other qualification criteria listed below, including the recipients of medical benefits, persons with disabilities, financially under-resourced small businesses, etc. In addition, the IPTAB also grants further relief in the form of waiver or reduction of trial fees for those who government-appointed patent attorneys are assigned, so that financial support can be further expanded.

To date, more than 20 applicants have received pro bono legal assistance every year. It is expected to help facilitate access to patent system and allow socially and financially disadvantaged groups to compete and respond to IP disputes in a fair and equitable manner.

#### Application procedure



#### Application period

- petitioner: within 1 month from the date of trial is requested
- defendant: within the designated time period to submit written response

#### Required documents

- Application form for Pro Bono Program and supporting documents for proof of eligibility

#### How to apply

- Online application at [www.patent.go.kr](http://www.patent.go.kr)
- Paper application via mail

#### Eligibility Requirements

- Young entrepreneurs under the age of 39
- Small business
- Medium-sized companies that have an IP disputes with large enterprises
- Recipients of medical benefits
- Persons who have rendered distinguished service to the country, their bereaved families or families
- Persons of distinguished services to the 5.18 Democratization Movement, their bereaved families or families
- Patients suffering from actual or potential aftereffects of defoliants or second-generation patients suffering from actual aftereffects of defoliants
- Persons engaged in special military mission, their bereaved families and families
- Persons of distinguished services to Independence, their bereaved families and families
- Registered war veterans
- Registered persons with disabilities
- Students registered in elementary, middle and high school or students in special, international and alternative school
- Persons aged 6 and over and under the age of 19
- Military personnel in active duty service, social service personnel and secondment personnel

## 2-8. Domestic Cooperation

IPTAB will pay close attention to the voice of the people by providing a variety of opportunities to have meaningful dialogues with our users.

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### Providing a platform for communication

The IPTAB is holding a meeting with Korea Intellectual Property Association (KINPA) every six months to exchange and share information on IP disputes on a regular basis and to explore ways for mutual development along with a variety of companies who are primary users of trials and appeals.

Furthermore, IPTAB recently had a meeting with the Patent Court to exchange information and opinion on trial systems and policy initiatives. The meeting provided a platform to introduce and share recent structural reform at IPTAB, court proceedings in light of a larger number of heard cases and some common errors and mistakes IP practitioners often make to help them avoid such errors and better understand IPTAB and court procedures.



◀ IPTAB-KINPA Meeting



Meeting with the Patent Court ▶



▲ Meeting with Patent Attorneys

### Meeting with Patent Attorneys

IPTAB is holding a meeting with Patent Attorneys Association and continues to exchange information and cooperate with patent attorneys, who are major users of trials and appeals. The meeting aims to share information on current IPTAB initiatives including recent structural reform, remote hearings in light of COVID-19 pandemic. It also help us receive external feedbacks from IP practitioners on areas that could be further improved.



▲ Patent Litigation Study

### Patent Litigation Study

The Patent Litigation Study is held every two months, which is six times every year, co-hosted by the IPTAB, Daejeon District Prosecutor's Office, Daejeon High Public Prosecutor's Office, Hannam University and Korea Advanced Institute of Science and Technology (KAIST). The Study aims to improve qualities in trial and litigation proceedings and to discuss and study legal and technical issues related to IPR crimes together with academia.



### Support those in need - Volunteer Work

The IPTAB has shown the true spirit of giving and love in cold winter by providing free meals for our neighbors in need. Every year, the employees at IPTAB volunteer to help our neighbors by serving a meal, washing dishes and cleaning up the house, ensuring that no one is left behind.

## 2-9. International Cooperation

IPTAB is constantly promoting international cooperation to facilitate global IP dispute resolution and to achieve globally recognized quality standards.

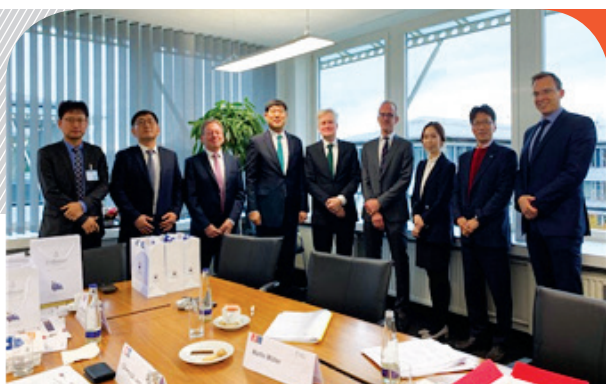
### IPTAB-EU Cooperation

Recently, IPTAB and the European Union Intellectual Property Office (EUIPO) Boards of Appeal (BoA) held a video conference to discuss ways to ensure and improve the quality of its decisions. During the meeting, IPTAB and EUIPO BoA shared their policy initiatives and had an in-depth discussion on oral hearings, evidence examination, well-known and famous marks, and Alternative Dispute Resolution (ADR), including mediation and settlement.

Furthermore, IPTAB also visited the European Patent Office (EPO) Boards of Appeal (BoA) and discussed to have bilateral administrative judge exchange programme on a regular basis and to newly establish the international cooperation framework in the field of patent trials and appeals among IP5 offices.



◀ IPTAB-EUIPO Heads of Boards Meeting  
(virtual meeting)



IPTAB-EPO Heads of Boards Meeting ▶





### **IPTAB-CNIPA Cooperation**

In view of the disruption caused by the COVID-19 pandemic, the IPTAB of KIPO and China National Intellectual Property Administration (CNIPA) held “2020 High-level Meeting between IPTAB and CNIPA” in a virtual format for the first time. The two sides exchanged information on trial quality managements and had an in-depth discussion on recent developments and changes in trials and appeal policies.



### **IPTAB-CNIPA-JPO Cooperation**

Affected by the COVID-19 outbreak, the IPTAB of KIPO, CNIPA and the Trial and Appeal Department (TAD) of Japan Patent Office (JPO) held the very first virtual “Trial and Appeal Experts Meeting between IPTAB and TAD of JPO” in 2020 to exchange information on current status and key statistical data. Furthermore, the meeting provided a platform for in-depth discussion on policy initiatives regarding oral hearings and measures taken against COVID-19.



### **High-level Meeting of the Patent Trial and Appeal Boards**

In celebration of its 20th anniversary, the IPTAB hosted the “International Symposium on Intellectual Property” in April 2018 in Seoul. During the symposium, IPTAB suggested establishing an international cooperation framework on trials and appeals among IP5 offices - IPTAB, CNIPA, European Patent Office (EPO), JPO and the United States Patent and Trademark Office (USPTO).



In that sense, “The Inaugural Meeting of the Heads of Patent Trial and Appeal Boards” among IPTAB, JPO, CNIPA and EPO Boards of Appeal, has been held to introduce major policy initiatives in each office and to explore future cooperation areas. “International Seminar” was also held to have domestic users more responsive to global IP disputes.

## 3-1. Overview of Trial and Appeal System

### Types of IPTAB proceedings

There are two types of proceedings before the IPTAB: an ex parte and inter partes proceedings. An ex parte case is an appeal against an examiner's decision to reject application and involves only the petitioner. In inter partes cases, a petitioner and a defendant make their own arguments over a granted right to settle a dispute. From March 2017, the IPTAB started hearing "patent opposition" challenges in conformity with the ex parte proceedings.



#### Types of IPTAB Proceedings

##### Ex Parte Proceedings

- Appeal against a decision to reject application
- Trial for correction (patent, utility model)
- Appeal against a decision to reject amendment (design, trademark)

\* Patent opposition (patent, utility model)

##### Inter Partes Proceedings

- Trial for invalidation
- Trial to confirm the scope of rights
- Trial for trademark registration cancellation

#### Appeal against a decision to reject application

When an applicant receives a decision of rejection from an examiner, he or she may pursue an appeal within 30 days of the date of receipt of the certified copy of the decision.

#### Trial for correction

A patent holder may pursue a petition for the correction of a granted patent or utility model for the reasons of narrowing a claim, correcting a clerical error, and/or clarifying an ambiguous description.

#### Appeal against a decision to reject amendment

When an applicant makes an amendment before the delivery of the copy of publication (trademark) or during examination (design, patent), and an examiner makes a decision to reject the amendment based on the presumption that the amendment has changed the subject matter, the applicant may pursue an appeal within 30 days from the date of receipt of the certified copy of the decision.

#### Trial for Invalidation

An interested party may seek a trial to retroactively invalidate the granted patent (design, trademark) right based on statutory invalidation grounds.

#### Trial to confirm the scope of rights

An interested party may seek a trial to confirm whether a technology or trademark that is being practiced or will be practiced by a third party falls within the scope of a granted patent, design or registered trademark.

#### Trial for trademark registration cancellation

A party may seek to remove the existing registration of a trademark from the register, based on a ground raised after registration. (For the petitions filed from September 2016, if determined to be cancelled, the registration of a trademark will be invalidated with retroactive effect from the date of filing the petition.)

#### Patent opposition

Any person may request a patent opposition, within 6 months of publication of the grant of the patent, claiming that the patent in question be revoked based on the prior art

## Panel of Judges

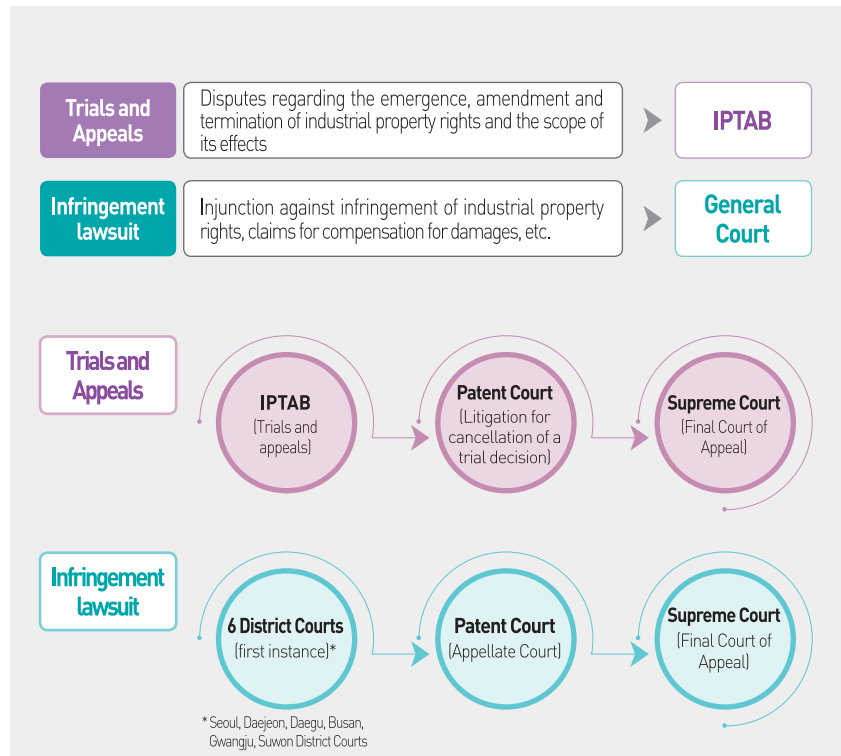
A panel of three or five administrative judges hears a case and participates in deliberations to make an agreement by a majority vote before rendering a final decision. The President of the IPTAB shall appoint one of the panel members as a presiding administrative judge to preside over a case.

## Hearings

Hearings may be held orally or in writing. Unless requested otherwise, hearings shall be conducted generally in writing. Oral hearings shall be held upon request from the parties or if the presiding administrative judge finds it necessary to hold an oral hearing.

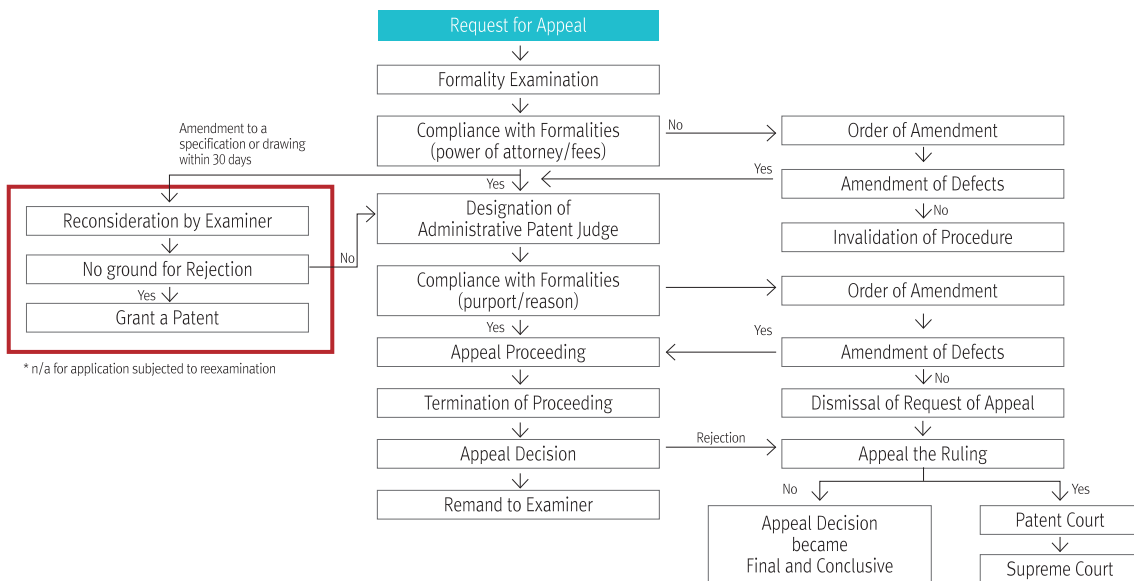
## Litigation Process of Appealing IPTAB Decisions

An applicant who is dissatisfied with the final decision of the IPTAB may appeal the Board's decision to the Patent Court, which is an IP specialized high court in Korea. An appeal against a decision of the Patent Court shall then be made to the Supreme Court. It therefore can be construed that, in practice, the IPTAB acts as the court of first instance for IP cases.

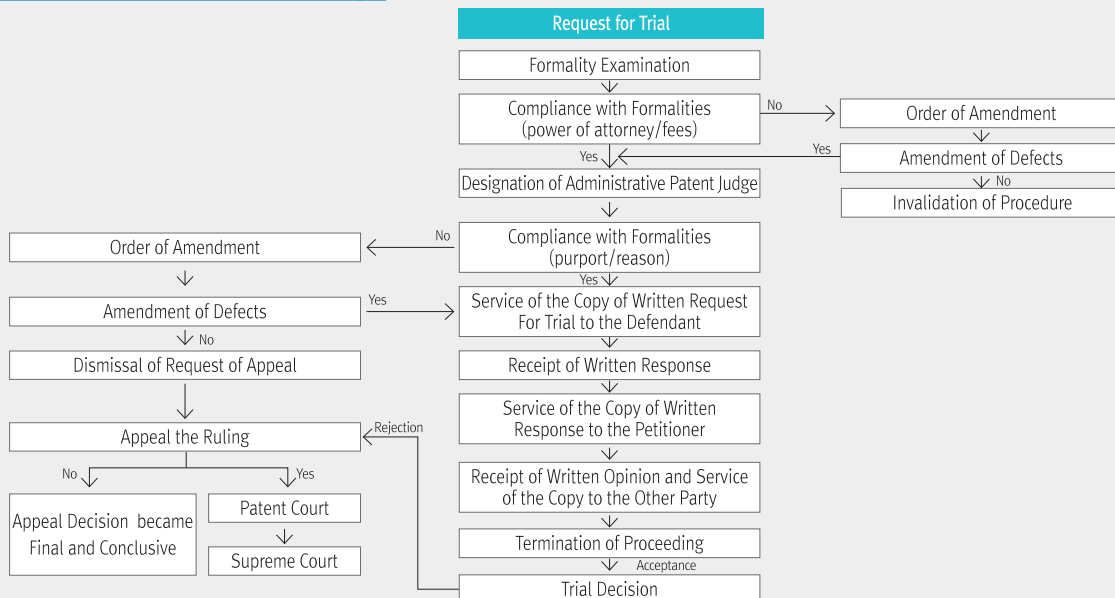


## 3-2. Trial and Appeal Proceedings

### Ex Parte Proceedings

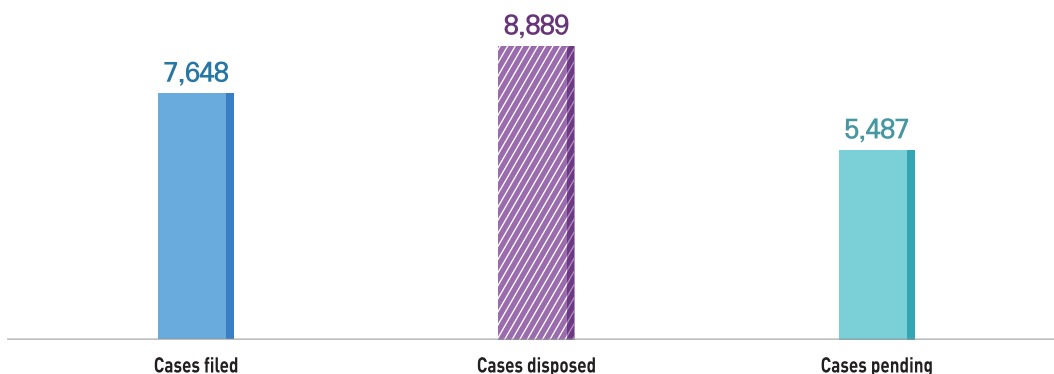


### Inter Partes Proceedings

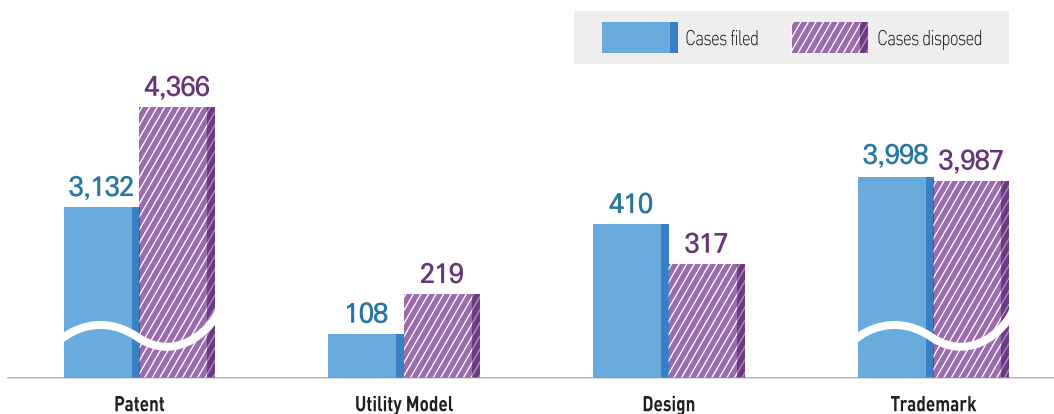


### 3-3. Key figures for 2020

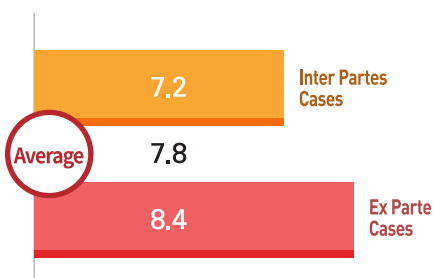
| Number of cases filed, disposed and pending in 2020 (unit: case) |



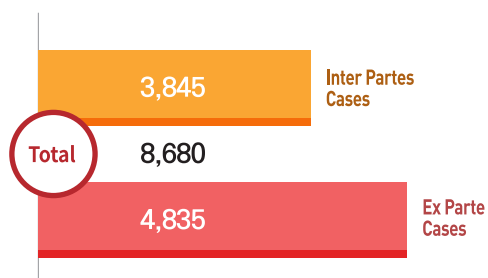
The number of cases disposed (i.e. proceedings being terminated) includes the trial decisions such as petitions allowed, denied, dismissed, or withdrawn, the dispositions invalidating the trial procedure itself, and the cases being sent back to an examiner to be granted after reconsideration.



| Average Pendency in 2020 (unit: month) |



| Number of Trial Decisions in 2020 (unit: case) |



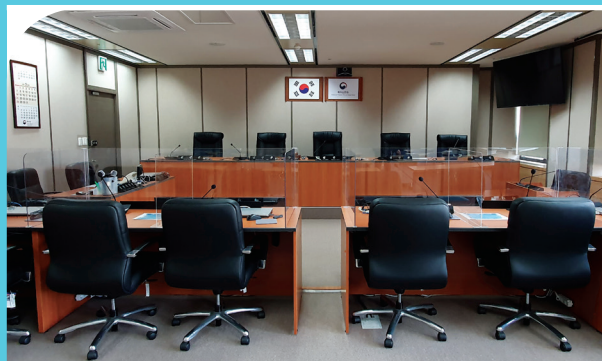
## VISIT IPTAB

IPTAB always welcomes anyone who is interested in patent trials and appeals to learn more about IPTAB proceedings.



### Group Tour and Observation of Oral Hearings

IPTAB welcomes a group tour to encourage people to learn more about IPTAB and to have more interests in patent trials and appeals. Almost all oral hearings at the IPTAB are open to public for observation and anyone can attend the public hearings upon prior request. Please visit the IPTAB website at <https://www.kipo.go.kr/ipt/> to request a group tour and observation of oral hearings.



### Visits from International Organizations

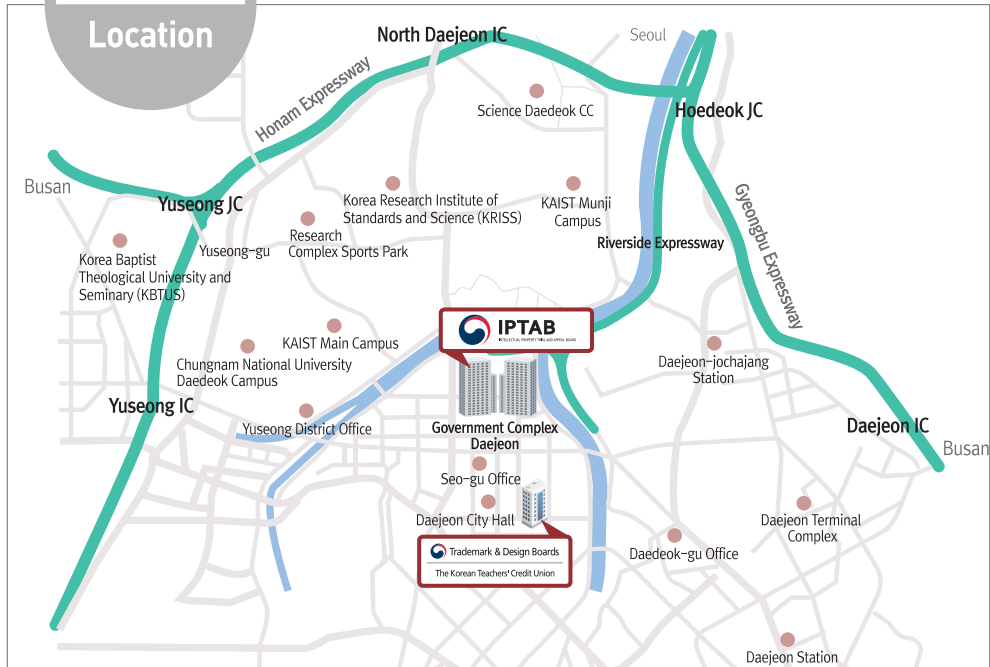
IPTAB continues to make efforts to expand its international cooperation framework by providing opportunities for national IP offices and international organizations who are interested in IPTAB to visit us and introduce trial and appeal systems in Korea, including remote oral hearings.



◀ Visits from KDI School



## Location



### • Address

**IPTAB** : Government Complex Daejeon Building 2, 189, Cheongsu-ro, Seo-gu, Daejeon, 35208, Republic of Korea

**Trademark & Design Boards** : The Korean Teachers' Credit Union Building 16F, 8, Dunsanjung-ro, Daejeon, 35260, Republic of Korea

• **Tel** : +82-42-481-8207      **Fax** : +82-42-472-3474

• **Website** : <https://www.kipo.go.kr/ipt/>

### Contact Information and Websites

• **Patent Customer Center** : +82-1544-8080

• **Public Patent Attorney Patent Consulting Center : Tel**) +82-2-6006-4300

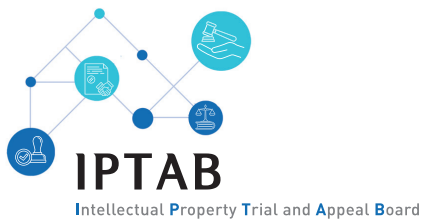
**Website**) <https://www.pcc.or.kr/>

• **Electronic Patent Service** : <https://www.patent.go.kr/>  
(electronic filing and management of patent applications & trial and appeal cases)

### Mailing Addresses (Filing documents)

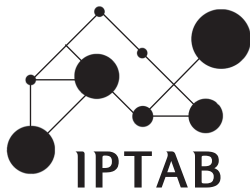
• **IPTAB** : Trial Policy Division, Government Complex Daejeon Building 2 17F, 189, Cheongsu-ro, Seo-gu, Daejeon, 35208, Republic of Korea

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