

# Strengthening IP Protection

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Korean traditional lock  
This is a Korean traditional lock made by a metal craftsman. It was attached to furniture or door.

# Protecting IPRs through Administrative and Legislative Measures

## Expanding Enforcement of Industrial Property

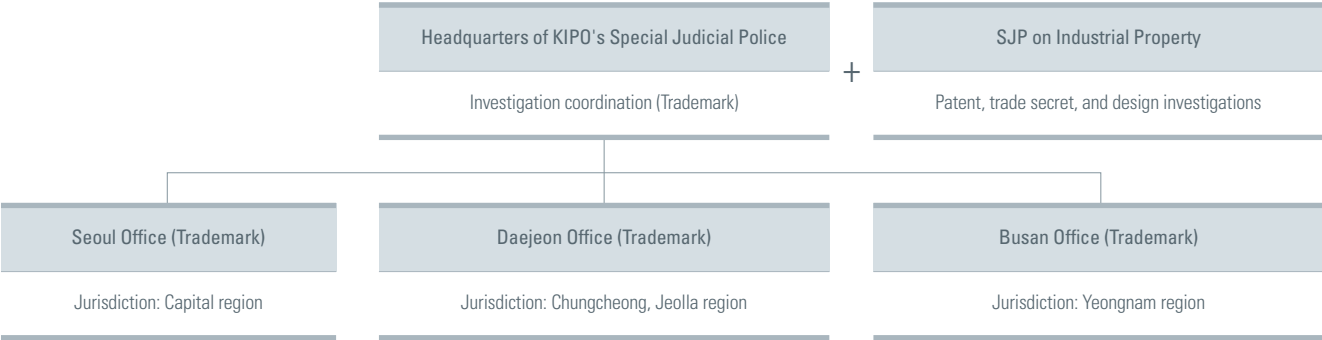
With more than 1,000 cases per year concerning IP, conventional police officers are limited in their capacity to be proficient in all technological areas and sufficiently enforce IP protection. As such, a special judicial police (SJP) system was established in the Republic of Korea in order to grant investigative authority to administrative public officials and increase the efficiency of law enforcement in fields that require specialization. Although initially established to be an SJP on trademarks, KIPO's SJP now carries out enforcement on all industrial property through an amendment to the "Act on the Persons Performing the Duties of Judicial Police Officers and the Scope of their Duties."

The investigative authority of KIPO's SJP was drastically expanded to include patents, trade secrets, design rights, and trademarks which is carried out through a headquarters based in KIPO and three branch offices located in Seoul, Daejeon, and Busan. KIPO retains more than 1,100 professionals with experience in examination and trials, including 450 with doctoral degrees. With the necessary technological knowledge, experts from KIPO are able to participate in primary investigations to adequately resolve crimes of IP infringement and technological theft, effectively helping companies that have been victimized by infringement and supporting their innovate growth.



Special Judicial Police on Industrial Property

Organization of KIPO's Special Judicial Police



## Amending Laws and Systems Related to IP Protection

Coming into effect in 2019, legislative amendments were made in order to further strengthen IPR protection. In particular, the policy for strengthened punitive measures under both the Patent Act and the Unfair Competition Prevention and Trade Secret Protection Act was enacted in July 2019. The amendments allow the courts to award compensation up to three times the actual damages incurred for an intentional infringement. Moreover, the suspected infringer has responsibility to present their technology in order to deny infringement allegations, which alleviates the burden of proof on the right holder.

Additional amendments of the Unfair Competition Prevention and Trade Secret Protection Act were also enacted in July 2019. The scope of trade secrets

was amended from needing to have had "reasonable effort to maintain its secret" to simply to have been "managed as a secret." And, several actions of trade secret infringement have been stipulated in Article 18 which are subject to criminal penalties.

The severity of penalties for those crimes involving infringement of trade secrets were significantly strengthened as well. The unauthorized domestic disclosure of trade secrets was previously punishable by "imprisonment up to 5 years or fines not exceeding 50 million won" which changed to a more severe "imprisonment up to 10 years or fines not exceeding 500 million won." And overseas disclosure with "imprisonment for up to 10 years or fines not exceeding 100 million won" was increased to "imprisonment up to 15 years or fines not exceeding 1.5 billion won."

Article 18 of the Unfair Competition Prevention and Trade Secret Protection Act, as amended on January 8, 2019.

Original Law	Amendment
Article 18(1). Any person who has acquired, used, or leaked to any third party, trade secrets for the purpose of making an improper profit or causing damage to a person who possesses trade secrets shall be punished...	18(1)1. Any of the following actions taken for the purpose of making improper profits or causing damage to a person who possess trade secrets: a. An act of acquiring or leaking of trade secrets to a third party b. An act of unauthorized disclosure of trade secrets outside of the designated area c. An act of continuing to possess trade secrets even after request for removal or return of the trade secret 2. An act of acquiring trade secrets by theft, deception, coercion, or other improper means 3. An act of acquiring or disclosing the trade secrets with the knowledge that acquisition has occurred in a manner referred in 18(1)1 and 18(1)2.
*unofficial translation	

Penalties for Unauthorized Domestic & Overseas Disclosure of Trade Secrets

Category	Imprisonment		Fine	
	Domestic	Overseas	Domestic	Overseas
Previous	5 years	10 years	KRW 50 million	KRW 100 million
Amendment	10 years	15 years	KRW 500 million	KRW 1.5 billion

Operating Trade Secret Protection Systems

To support businesses manage their trade secrets, KIPO had developed a trade secret management system that allows trade secret management with minimal costs and personnel. Consultations on protecting trade secrets have also been provided by dispatching experts. In 2019, the consultation service was expanded and reorganized to provide more in-depth consulting services. Legal experts will conduct a diagnosis and recommend improvement measures even checking its implementation to help companies preemptively block unauthorized trade secret disclosure.

Additionally, KIPO has been operating a Trade Secret Certification Service to prove the authenticity and origin of trade secrets. The system was designed to generate time stamps by combining the unique identification value on electronic documents and the time value of a public certification agency. After registration with an authorized agency, the original existence and retention of the trade secret can be proven. Under the Unfair Competition Prevention and Trade Secrets Protection Act, the authentication certificates by the certification agency are allowed to be used as evidence in

trade secret dispute cases. Since its introduction in November 2010, the use of original certificates has gradually increased to achieve a total of 151,613 cases by December 2019.

Moreover, the Trade Secret Protection Center ([www.tradesecret.or.kr](http://www.tradesecret.or.kr)) has been managed to support SMEs protect their trade secrets and to promote various

assistance projects, such as consulting, education, seminars, and counseling. Local briefing sessions and seminars are held in order to help businesses understand the trade secret protection system. Educational materials are also produced and distributed on/offline to inform on the seriousness of unauthorized trade secret disclosure and their protection.

Raising Consumer Awareness of IP Protection

KIPO has continually implemented various promotional activities to raise consumer awareness on the illegality of counterfeit products and help increase IPR protection. In 2019, an essay contest was held on difficult experiences involving IP-related failings, such as improper IPRs protection, insufficient trade secret management and technology protection, and unsuccessful IP dispute prevention and response. KIPO plans to publish an essay collection with the five winning essay which will be distributed to SMEs and startups. Also, an experiential learning program was administered to about 700 middle school students to educate them on the present state of IPR infringement and the importance of its protection.

Meanwhile, KIPO is working in cooperation with local governments of regions with frequent counterfeit distribution to provide education programs and street campaigns and to inform the public about the illegality of counterfeit goods. Hands-on programs were also organized to educate general consumers and online sellers on distinguishing genuine and counterfeit goods. Furthermore, KIPO produced public service advertisements which were broadcasted on TVs, radios, and subways, and promotional activities were publicized on blogs, social media, and other online platforms in order to improve public opinion and to create a culture of respect for IP protection.

# Protecting Korean Brands Overseas

Along with the recent rising popularity of Korean cultural products (the Korean Wave or K-wave), many Korean companies have experienced infringements to their brands. Infringements and counterfeit products can affect a company’s reputation and hinder advancement into overseas markets. Therefore, KIPO has been working to protect the reliability of Korean brands and prevent damage to Korea’s national image in regions where frequent

infringement has occurred, especially in neighboring countries such as China and ASEAN. In 2019, KIPO discovered 738 cases and 66 cases with suspected bad faith registrations of trademarks of Korean company brands in China and Vietnam, respectively. The related companies were notified and provided with assistance in order to take action.

Notably, KIPO helped form a consultative group in 2018 with 53 Korean companies affected by bad-faith registrations by trademark brokers. The consultative group comprised of Korean SMEs from major industries including franchises, toy figures, clothing, and cosmetics. To invalidate the bad-faith registrations, joint actions were taken such as petition submission, combined hearings, etc. By September 2019, the dishonest intention of the trademark brokers was proved. Eventually, the Korean companies were able to win all 53 trademark dispute cases.

KIPO also worked in cooperation with a large e-commerce company in China to

block about 20,000 items counterfeiting Korean company products which were being distributed through online shopping malls. Meanwhile, IP-DESKs have been operating in various parts of the world in order to protect IPRs and prevent damage to Korean companies currently active in or preparing to enter foreign markets. These IP-DESKs provide support and consultation for securing trademark rights overseas, responding to infringement disputes, and hosting educational sessions on dealing with foreign trademark brokers. As of 2019, there are 15 IP-DESKs established among eight countries where frequent IP disputes occur.

IP-DESKS Established Around the World



Process for Supporting Joint Legal Actions against Trademark Brokers

