

# IPTAB

Intellectual Property Trial and Appeal Board

Fair IP Dispute Resolution,  
IPTAB for the people



The Inaugural Meeting of  
the Heads of Patent Trial and Appeal Boards  
한·중·일·유럽 특허심판원장 회의



**IPTAB**

INTELLECTUAL PROPERTY TRIAL AND APPEAL BOARD

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## Welcome Message



## We are committed to 'making IP trials and appeals trusted by people'

Greetings to all users of trials and appeals.

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

Under our mission to **'make IP trials and appeals trusted by the people'**, IPTAB is committed to providing fair and prompt IP dispute resolution.

In the era of the Fourth Industrial Revolution where rapid technical changes cause a growing uncertainty, **'trust'** in public institutions has become ever more significant.

In that sense, IPTAB introduced 'government-appointed attorney system' in an effort to allow fair competition for socially and economically disadvantaged groups. Furthermore, in an effort to promote fairness in trials and appeals, IPTAB established and enforced the code of judicial ethics for administrative judges, and made advisors from the private sector involved in the trial quality evaluation meeting. Moreover, 11 presiding administrative judges and 96 administrative judges are making constant efforts to provide best trial services with their expertise.

Likewise, IPTAB is committed to providing reliable and fair dispute resolution based on our expertise. Furthermore, we aim to make the IPTAB more interactive by having active communication with users.

We sincerely hope for your active participation and continued attention and interest in the future.

Thank you.

**President of IPTAB, PARK Seong-joon**



# Intellectual **P**roperty **T**rial and **A**ppeal **B**oard

**IPTAB** has been committed to providing fair and prompt trials as IP specialized trial and appeal board since its operations in 1998.



# 1. Overview of the IPTAB

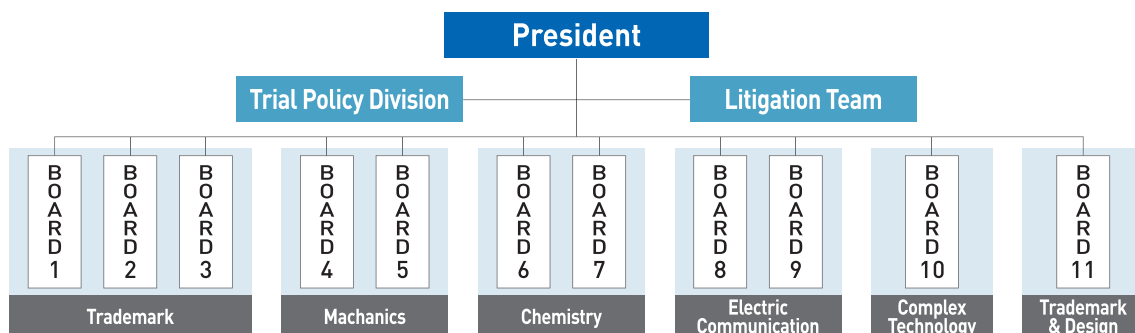
## Establishment

Intellectual Property Trial and Appeal Board (IPTAB) is a quasi-judicial body of 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 from 1998.



## Organization

In its early days, the IPTAB had Trial Policy Division along with 13 Boards which consist of 13 presiding administrative judges and 26 administrative judges. After years of constant efforts to increase the skilled workforce and to restructure the organization, the IPTAB now has 11 Boards with 11 presiding administrative judges and 96 administrative judges, Trial Policy Division and Litigation Team.



## Functions

**The President of the IPTAB** oversees and directs management plans and affairs and also supervises and leads the Board's officials and employees. He also may act as the presiding administrative judge for cases acknowledged as being very important.

**Each board** hears trials and appeals to address the issues at stake in disputes which require highly technical judgment and expertise, including the rejection and allowance of applications, invalidation, cancellation, correction and confirmation of the scope of a granted industrial property right (i.e. patents, utility models, designs and trademarks).

**Trial Policy Division** conducts formality examination and trial quality evaluation, and is also responsible for trial and appeal policies and oral hearings. **Litigation Team** deals with the litigation cases under the jurisdiction of the Patent Court, in which the Commissioner of the KIPO is the defendant.

## Main Issues on Trials and Appeals

# 2-1. User-friendly Trial Proceedings

**IPTAB is committed to providing more convenient and accessible trial service that is tailored to users' needs.**

### Video Oral Hearings

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 to take part in oral hearings remotely at KIPO's Seoul branch office without having to make a trip to KIPO headquarter in Daejeon.

The video-conferencing system connects the KIPO headquarter office in Daejeon and hearing rooms in Seoul branch office via dedicated network, allowing users to remotely participate in oral hearings. As a result, IPTAB has received many positive reviews from the users and patent attorneys in that it helps them to save time and money.

Moreover, since January 2016, a video-conferencing system has also been expanded for technology presentations and interviews with the judges. Video-conferencing system was additionally set up in the "Grand Hearing Room", which opened in November 2016, and it is expected to activate even more oral hearings in the future.



Daejeon Hearing Room



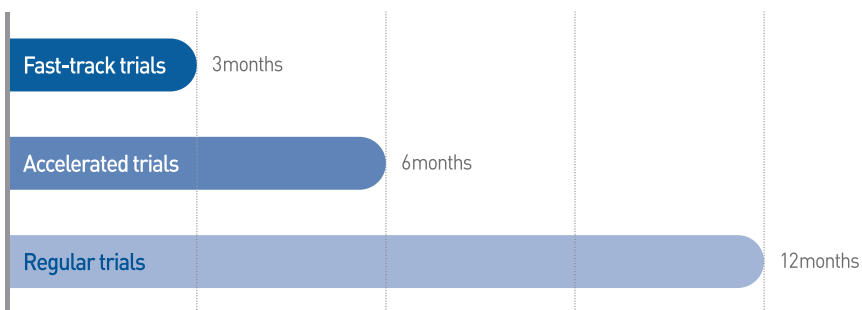
Seoul Hearing Room

## Three-track Trial System

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

Unlike the regular trial system under which a trial is conducted in the order of date a request for trial is filed, the accelerated trial system allows cases to advance regardless of the existing order. The cases eligible for the accelerated trial system 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 a faster conclusion than those for the accelerated trials, including trials with a pending patent-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 make a trial decision within two weeks after the oral hearings. Thus, it is planned to allow parties on this track to receive their trial decision within three months, unless there are special circumstances.



### Fast-track trials

- Trials with pending infringement lawsuits
- Trials agreed to be treated as accelerated trials by both parties
- Trials with a (one-person) start-up as a party
- Trials requested by an SME in a dispute between SME vs. large company, 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 prioritized examination, etc.

## Main Issues on Trials and Appeals

# 2-2. Government-appointed Attorney System

**IPTAB will ensure fair and equitable trials and appeals by providing institutional support for socially and economically disadvantaged groups.**

### Trial services for underprivileged groups

The IPTAB introduced government-appointed attorney system as of July 2019 for trial parties who may not be able to respond properly due to limited financial or human resources.

Socially and economically disadvantaged individuals have complained about the cost and time which are required for IP dispute resolution and these sometimes may impede fair trials and appeals.

In that sense, the IPTAB aims to provide IP-related legal representation services for underprivileged groups, including recipients of medical benefits, persons with disabilities and small business vendors. In addition, the IPTAB also plans to exempt the payment of trial fees for those who government-appointed agent is assigned, so that financial support can be further expanded.



<https://www.kipo.go.kr/ipt/> "Fair IP Dispute Resolution, IPTAB for the people"





## Application Procedure



## Required documents for applicants

- Application form for government-appointed attorney
- Certificates for eligibility requirements



## When to apply

- Petitioner: within 1 month from the date the trial is requested
- Defendent: Until the submission deadline for a written response (This allows more effective management of a case by encouraging agents to be engaged in trials and appeals in early stage)



## Eligibility Requirements

- Persons who have rendered distinguished service to the State, 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 (only those who are registered in elementary, middle and high school)
- Persons aged 6 and over and under the age of 19
- Military personnel in active duty service, social service personnel and secondment personnel
- Small enterprises
- Middle enterprises that have an intellectual property disputes with a large enterprise
- Young entrepreneurs under the age of 39
- Persons who the President of the IPTAB deems necessary for the assistance

## Main Issues on Trials and Appeals

# 2-3. Domestic Cooperation

**IPTAB will pay close attention to the voice of the people by providing a variety of opportunities to communicate with the people.**

### 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 with a variety of companies who are primary users.

Furthermore, the IPTAB also held an information session in January 2019 for patent attorneys in order to exchange opinions on the trial system and policy. During the session, IPTAB introduced newly adopted systems and services, including government-appointed attorney system, and reflected their opinions. Moreover, the session also provided an opportunity to introduce and share common errors and mistakes to help better understandings in trial proceedings.

Meeting with the Korea Intellectual Property Association (KINPA) (May 2019)



Information Session on Trial Systems (January 2019)



## Meeting with the Patent Court

The meeting with the Patent Court was held in February 2019 to discuss areas of institutional and procedural aspects which need to be improved. Both sides have agreed to hold a meeting on a regular basis for continued mutual cooperation and for more active communication.



## Patent Litigation in Practice Research Society

The Patent Litigation in Practice Research Society is held every two months, which is six times every year, 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 Society aims to improve the trial litigation quality and to discuss and study legal and technical issues related to IPR crimes with academia.



## Volunteer Work

The IPTAB has shown the true spirit of giving and love in cold winter by providing free meals to people less fortunate. Every year, the employees from the IPTAB volunteer to help those in need, the homeless and homebound seniors living alone, by serving a meal, washing dishes or cleaning up the house.



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## Main Issues on Trials and Appeals

# 2-4. International Cooperation

**IPTAB is constantly promoting international cooperation to ensure global IP dispute resolution and international-level trial quality.**

### International Cooperation among 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 international cooperation framework on trials and appeals among 5 offices, including Korea, China, Europe, Japan and the United States.

In that sense, “The Inaugural Meeting of the Heads of Patent Trial and Appeal Boards” among 4 offices, including Korea, China, Europe and Japan, has been held to introduce major policy initiatives in each office and to discuss future cooperation areas. “International Seminar” was also held to help domestic users more responsive to global IP-related disputes.



The Inaugural Meeting of the Heads of Patent Trial and Appeal Boards (June 2019)

## KIPO-CNIPA-JPO Cooperation

“KIPO-CNIPA-JPO User Seminar” was held in June 2018 in Seoul to introduce trial systems of CNIPA and JPO to IP users in Korea. The Seminar has attracted a number of participants and received many positive reviews. Moreover, “KIPO-CNIPA-JPO Trial and Appeal Experts Meeting and User Seminar” which took place in September 2018 in China provided an opportunity to compare patent invalidation trials among three offices and to share a wide variety of experiences and ideas with IP users in China.



## KIPO-CNIPA Cooperation

The IPTAB of KIPO and China National Intellectual Property Administration (CNIPA) held the “2018 High-level Meeting between IPTAB and CNIPA” in June 2018 in Seoul to share information on current trends and issues in patent trials and appeals. Furthermore, the two sides discussed the precedential and informative trial decisions and the results of comparative studies on trial systems in two countries.



## KIPO-JPO Cooperation

The IPTAB of KIPO and Japan Patent Office (JPO) held “The 9th Trial and Appeal Experts Meeting between KIPO and JPO” in June 2018 to discuss ways for future mutual cooperation in trials and appeals. Furthermore, the meeting provided a platform for discussion for major trial policies to improve trial qualities.



## KIPO-EPO and KIPO-EUIPO Cooperation

In order to promote international cooperation on trials and appeals with European countries, IPTAB visited the European Patent Office (EPO) Boards of Appeal (BoA) in June 2018 and discussed the establishment of international cooperation framework on trials and appeals among 5 offices. Furthermore, it was agreed to have regular cooperation activities with European Union Intellectual Property Office (EUIPO) in 2018 and visited EUIPO BoA in June 2019 to analyze and discuss the results of the bilateral benchmarking study.



## General Information on Trials and Appeals

# 3-1. Overview of Trials Systems

### Types of Trial

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

#### Types of Trial

Ex Parte Trial	Inter Partes Trial
<ul style="list-style-type: none"> <li>• Appeal against a decision to reject application</li> <li>• Trial for correction (patent, utility model)</li> <li>• Appeal against a decision to reject amendment (design, trademark)</li> </ul>	<ul style="list-style-type: none"> <li>• Invalidation trial</li> <li>• Trial to confirm the scope of a right</li> <li>• Trial for trademark registration cancellation</li> </ul>

\* Patent opposition (patent, utility model)

<b>Appeal against a decision to reject application</b>	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.
<b>Trial for correction</b>	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.
<b>Appeal against a decision to reject amendment</b>	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.
<b>Invalidation trial</b>	An interested party may seek a trial to retroactively invalidate the granted patent (design, trademark) right based on statutory invalidation grounds.
<b>Trial to confirm the scope of a right</b>	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.
<b>Trial for trademark registration cancellation</b>	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.)
<b>Patent opposition</b>	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

## Panels of Judges

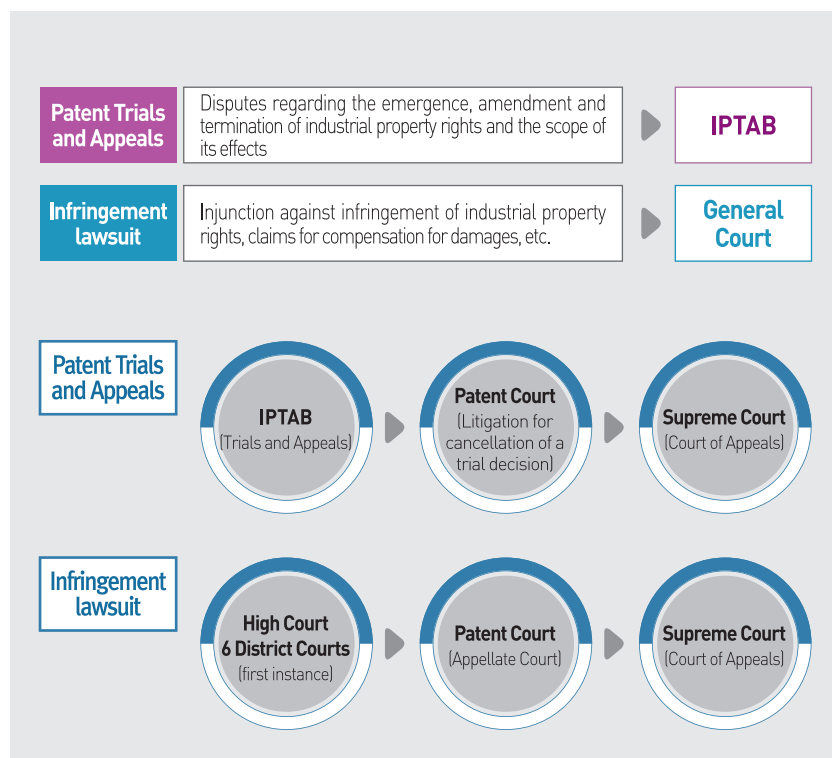
A panel of three or five administrative judges hears a trial and makes an agreement by majority vote before rendering a final decision. One of panel members can be appointed by the IPTAB president as a presiding administrative judge to manage a specific case.

## Hearings

Trial hearings may be held orally or in writing. The latter is normally more prevalent, and the former is held when a party makes a request for it or the presiding administrative judge deems it necessary to have an oral hearing.

## Revocation Proceedings

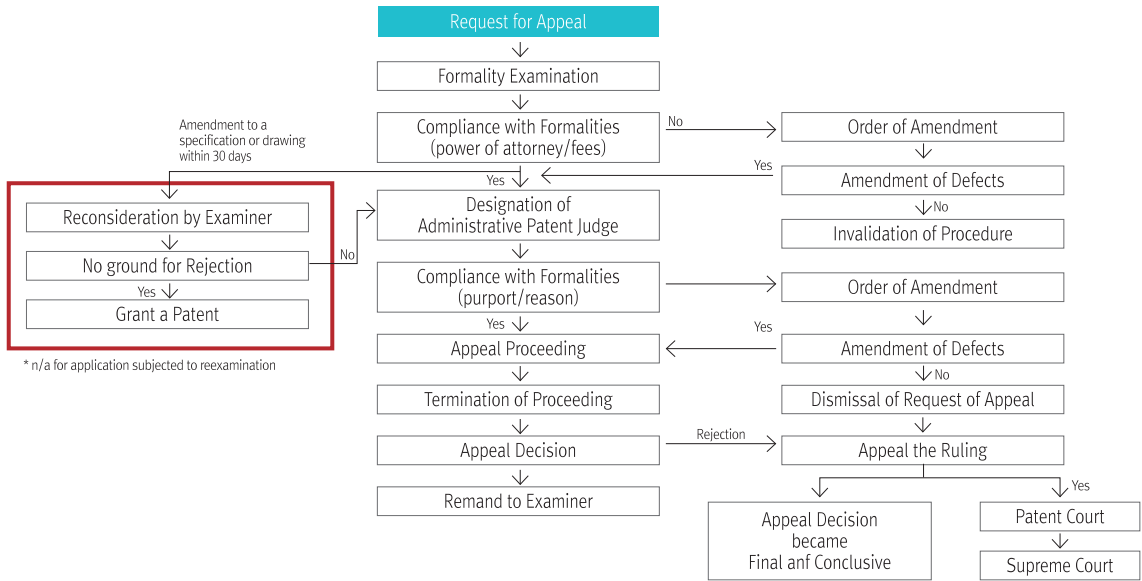
A party may file an appeal against a decision of the IPTAB to the Patent Court, which is an IP specialized high court in Korea. An appeal against a decision of the Patent Court shall then be made to the Supreme Court. It therefore can be construed that, in practice, the IPTAB acts as the court of first instance for IP cases.



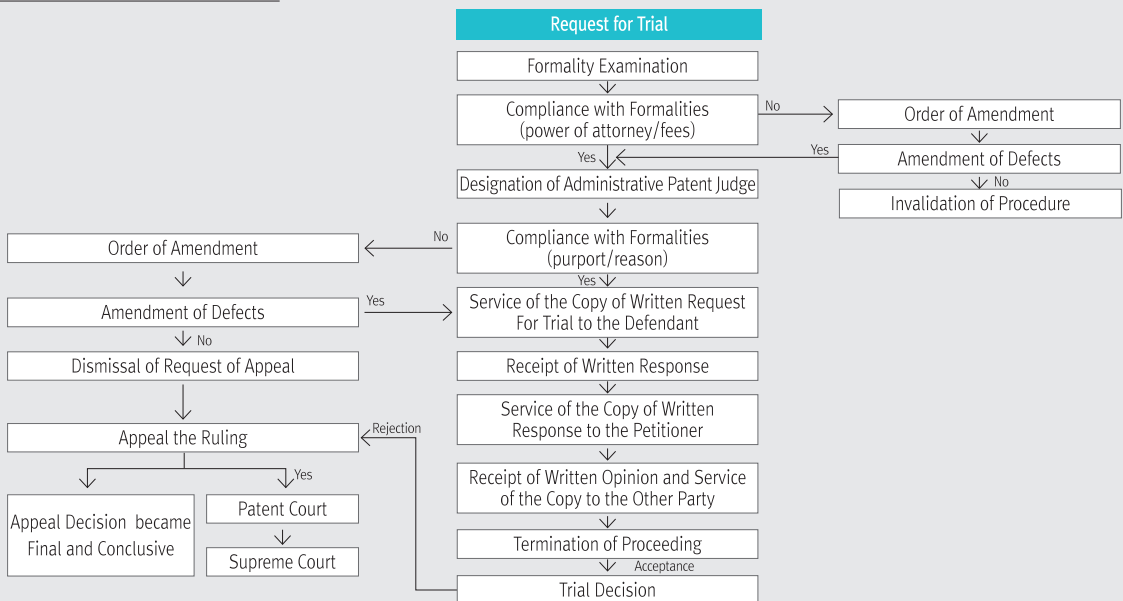
## General Information on Trials and Appeals

# 3-2. Trial and Appeal Proceedings

### Ex Parte Cases



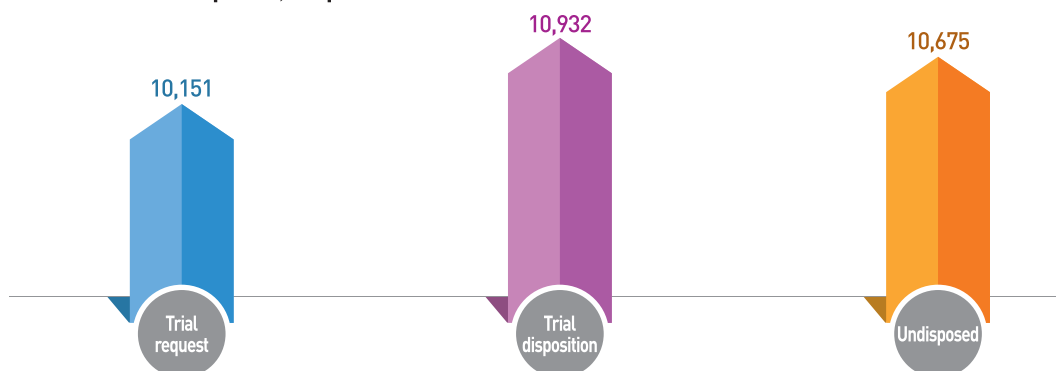
### Inter Partes Cases



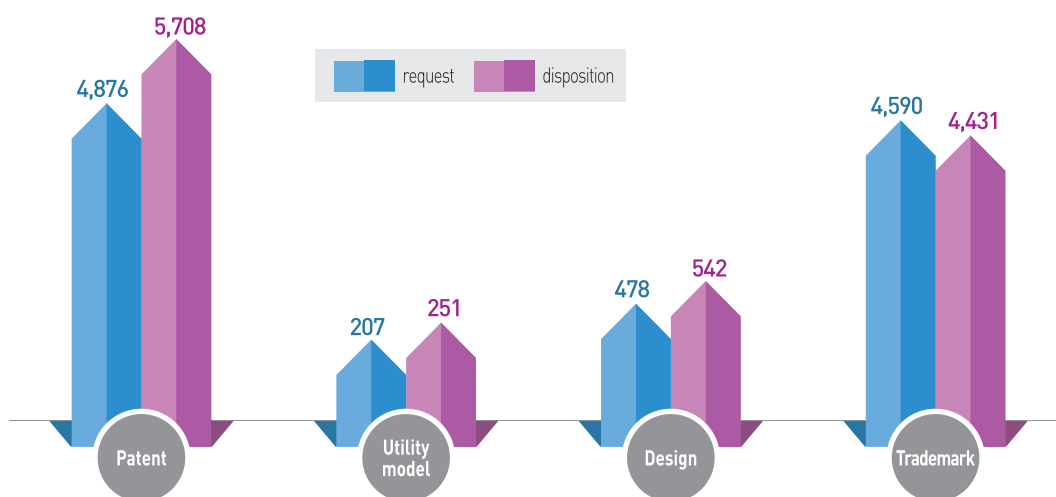


## 3-3. Current Trends in Trials and Appeals

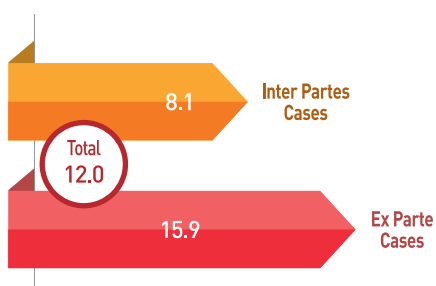
| Number of Trial Requests, Dispositions and Decisions in 2018 (unit: case) |



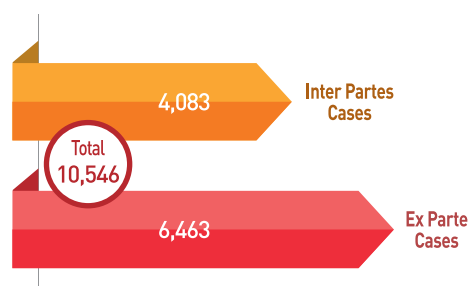
The number of trial disposition (i.e. proceedings being terminated) includes the trial decisions such as petitions allowed, denied, dismissed, or withdrawn, the dispositions invalidating the trial procedure itself, and the cases being sent back to an examiner to be granted after reconsideration.



| Trial Pendency Period in 2018 (unit: month) |



| Number of Trial decision in 2018 (unit: case) |



## VISIT IPTAB

**IPTAB welcomes anyone who is interested in patent trials and appeals.**

### **Group Tour of IPTAB and Observation of Oral Hearings**



IPTAB welcomes group tour to promote patent trials and appeals and inspire people to have more interests in patent trials and appeals. Almost all oral hearings at the IPTAB are open to public and anyone can attend the hearings upon prior request. Anyone who is interested can visit the IPTAB website (<https://www.kipo.go.kr/ipt/>) to request for group tour and observation of oral hearings.



observation of oral hearings

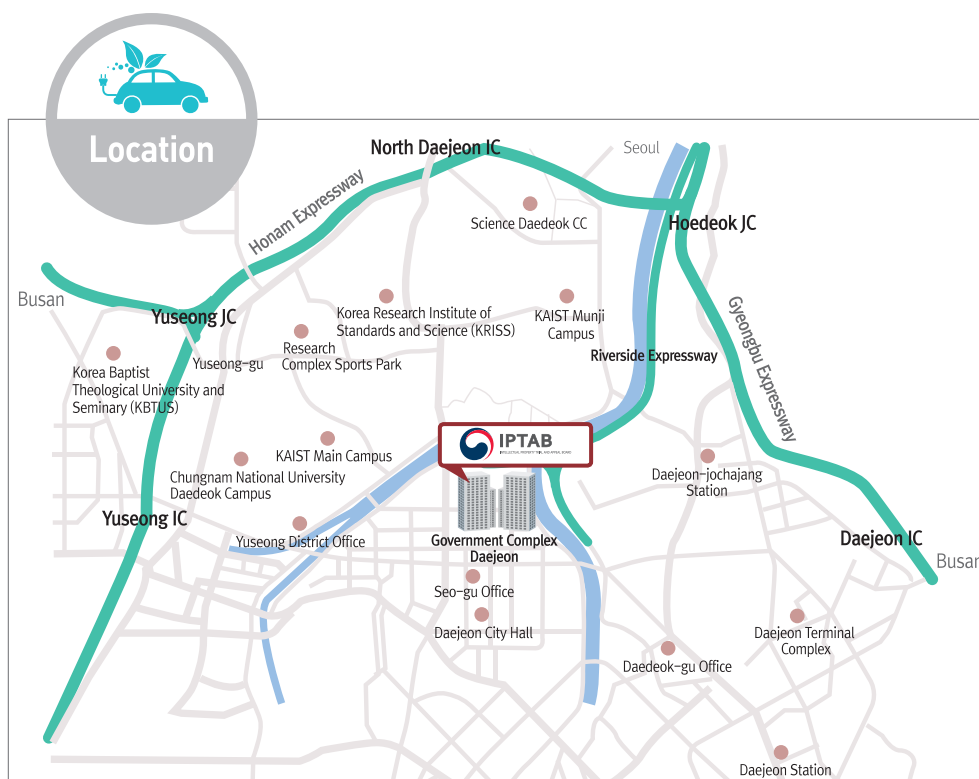
### **Inviting International Institutions**



IPTAB provides opportunities for international institutions who are interested in IPTAB to introduce trial and appeal systems in Korea, including video oral hearings, and to expand its international cooperation framework.



Visit of Central Intellectual Property  
and International Trade Court  
of Thailand (CIPITC)  
(March 2018)



- Government Complex 2, 189, Cheongsaro, Seo-gu, Daejeon, 35208, Republic of Korea
- Tel : 042-481-8207 Fax : 042-472-3474
- <https://www.kipo.go.kr/ipt/>

### Contacts and Websites



- KIPO : <http://www.kipo.go.kr/>
- IPTAB : <http://www.kipo.go.kr/ipt/>
- Electronic Patent Service : <http://www.patent.go.kr/>  
(electronic filing of patent applications and requests for trial and appeal)

### Mailing Addresses



- **IPTAB :**  
Trial Policy Division, 17th floor, Daejeon Government Complex 2, 189, Cheongsaro, Seo-gu, Daejeon, 35208, Republic of Korea
- **Seoul Office, KIPO :**  
Korean Intellectual Property Center Building, 5th floor, 131, Teheran-ro, Gangnam-gu, Seoul, 06133, Republic of Korea



Intellectual Property Trial and Appeal Board



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