



IPR DESK SEOUL

news from KOREA



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Welcome to our 23rd Newsletter, the first number of the new edition with a renovated layout commonly adopted by IPR Desk Network around the world in cooperation with our Headquarter in Rome.

From this edition, our news regarding IPR-related matters in Korea will be provided to Rome to edit the "Newsletter Corporate" which will be published bimonthly.

For this reason, our newsletter will be also issued bimonthly and will cover 7 sections as follows: Law, Case Studies, Events, News, Focus, Statistics and Glossary.

We hope our newsletter to provide you with valuable and relevant references. Should you have any comments and recommendations, please do not hesitate to contact us to iprdesk.seoul@ice.it or deskiprs@korea.com.

Kindest regards and see you in April!

IPRs DESK

EVENT

KIPO and EPO Commissioners' Meeting

The Commissioner of the Korean Intellectual Property Office (KIPO), Mr. Koh Jung Sik, and the Commissioner of the European Patent Office (EPO), Ms. Alison Brimelow, had an official Meeting in Seoul on December 1, 2009. The agenda's key-points included cooperation on patent information system, expansion of exchange programs for patent examiners and Patent Prosecution Highway (PPH).

At the meeting, the two offices made an agreement on KIPO's test use of EPOQUE-net which is EPO's patent search tool. They will also soon establish a shared-patent information system which allows the exchange of patent examination data between the two parties via Internet. Such measures will improve examination quality and applicants' convenience.

In addition, the two Commissioners agreed on expanding personnel exchange to enhance cooperation on patent examination. According to the agreement, Korean patent examiners will participate in four educational patent courses of EPO Academy in 2010. KIPO and EPO will also develop new exchange programs for patent examiners.

The two Commissioners also shared their understanding on the necessity of early adoption of a PPH between Korea and the EU and consented to begin a feasibility study. The

PPH between KIPO and EPO is expected to shorten the examination period and improve the examination quality. Moreover, such a system would accelerate the introduction of Korea's PPH with other EU member states.

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

FOCUS

1. Korea Custom Service's efforts to clamp down counterfeits

Korea Customs Service (KCS) seized a range of fake products worth 1.25 trillion KW in the value of authentic goods in 2009, up 34 % from a year earlier. KCS said that it would extend its effort to crack down on the smuggling of bogus luxury bags and other counterfeit items by introducing a high-tech automated cargo inspection system and boosting cooperation with customs agencies in China and with other trading partners.

Korea has been cracking down on the manufacturing and sales of counterfeit goods here over the years and its efforts bore fruit in 2006. The World Customs Organization (WCO) named the nation as one of the best countries at protecting intellectual property rights.

Additionally, the United States Trade Representative (USTR) removed Korea from its *Watch List* of intellectual property rights violators in April 2009. It was the first time that the nation did not appear on the list, which has been issued for decades.

KCS Commissioner Hur Yong-suk said that KCS would continue to make efforts to turn the nation into a more business-friendly and law-abiding place, and continue to educate customs officers about the protection of intellectual property rights. Commissioner added that KCS would also share more information with other customs authorities and carry out an awareness campaign warning against bringing counterfeit goods into the country.

The KCS also plans to enhance a public relations campaign to publicize the importance

of intellectual property rights protection and the bad effects of fakes.

KCS will host the 13th World Customs Organization (WCO) Asia-Pacific Regional Heads of Customs Administration Conference in Seoul from April 27 through 30 this year as the chair of the 33 members of the WCO Asia-Pacific region. This time, key issues cover "Green Customs" and other innovative concepts to make customs clearance across the region more business friendly and environmentally sound.

From *The Korea Times* - January 28, 2010

FOCUS

2. Korea-EU Free Trade Agreement

The Korea-EU FTA is being translated into the 22 languages of the 27 EU member States, whose leaders will formally sign it later. The Korea-EU FTA will come into effect once it is ratified by the National Assembly and by the EU Council. The EU also needs approval from the European Parliament. According to the Korean Government, even before the FTA goes into full effect, tariffs will come down.

Seoul and Brussels began negotiations in May 2007 and concluded the talks in July 2009. Both sides managed to initialize the deal on October 15 in Brussels with the aim of officially signing the deal in the first quarter of 2010.

The historic FTA will eliminate or phase out tariffs on 99.4 percent of EU goods shipped to Korea and 95.8 percent of Korean goods exported to the European trade bloc, all within a three-year period. According to economic analysts, Immediate tariff removal will boost inter-trade relations and would make up 76.7 percent for the European Union and 69.4 percent for Asia's fourth-largest economy.

All tariffs in the industrial product sectors would be removed within seven years, with a small remaining portion concerning the sensitive agriculture and fisheries sector for Korea extending up to 15 years.

According to the available text of Agreement, "Chapter Ten" is devoted to Intellectual Property Rights issues, as follows:

Section A: General Provisions

Section B: Standards Concerning Intellectual Property Rights

Sub-section A: Copyright and Related Rights

Sub-section B: Trademarks

Sub-section C: Geographical Indications

Sub-section D: Designs

Sub-section E: Patents

Sub-section F: Other Provisions

Section C: Enforcement of Intellectual Property Rights

Sub-section A: Civil Measures, Procedural Remedies

Sub-section B: Criminal Enforcement

Sub-section C: Liability of Online Service Providers

Sub-section D: Other Provisions

Especially for Geographical Indications, a list, which contains 64 Korean GIs and 162 EU ones, is annexed for reciprocal protection. And among these, 16 Italian GIs for agricultural products and 21 GIs for wines are also included.

From *The Korea Herald* - 6 novembre 2009

Name to be protected	Product
Aceto balsamico Tradizionale di Modena	Sauce - seasoning
Cotechino Modena	Pork meat
Zampone Modena	Pork meat
Mortadella Bologna	Pork meat
Prosciutto di Parma	Ham
Prosciutto di S. Daniele	Ham
Prosciutto Toscano	Ham
Provolone Valpadana	Cheese
Taleggio	Cheese
Asiago	Cheese
Fontina	Cheese
Gorgonzola	Cheese
Grana Padano	Cheese
Mozzarella di Bufala Campana	Cheese
Parmigiano Reggiano	Cheese
Pecorino Romano	Cheese

Name to be protected	Product
Chianti	Wine
Marsala	Wine
Asti	Wine
Barbaresco	Wine
Bardolino	Wine
Barolo	Wine
Brachetto d'Acqui	Wine
Brunello di Montalcino	Wine
Vino nobile di Montepulciano	Wine
Bolgheri Sassicaia	Wine
Dolcetto d'Alba	Wine
Franciacorta	Wine
Lambrusco di Sorbara	Wine
Lambrusco Grasparossa di Castelvetro	Wine
Montepulciano d'Abruzzo	Wine
Soave	Wine
Campania	Wine
Sicilia	Wine
Toscana	Wine
Veneto	Wine
Conegliano Valdobbiadene	Wine

STATISTICS

KIPO: Statistics on IPR protection in the fourth quarter of 2009

According to the Korean Intellectual Property Office's (KIPO) statistics, during the fourth quarter of 2009 the number of IPR applications in front of KIPO increased by 2.4% (101,310 cases, totally) and registrations fell by 14.8% (35,363 cases, totally) compared to the same period of the previous year.

Regarding applications, Patents and Utility Models slightly decreased by 1.8% and 1.6% each, while Designs and Trademarks increased by 0.7% and 11.1%. Notably regarding Utility Models, foreign filings showed a 16.5% increase and Korean filings marked a 16.2% increase in regard to Trademarks.

Korean total filings increased by 6.1%, from 81,370 cases in the same period of 2008 to 86,336 in the fourth quarter of 2009, while total foreign filings decreased by 14.8% from 17,576 to 14,974 applications. The quota of foreign filings decreased from 17.8% to 14.8% as well.

Total registrations decreased by 14.8%, specifically Patents showed a 2.0% decrease, Designs -6.5% and Trademarks -31.5% while Utility Models marked a slight increase by 1.5%. In regard to Korean registrations, Patents and Utility Models increased by 2.4% and 1.9% each, while Designs and Trademarks respectively marked -4.1% and -34.2% decrease. Foreign registrations generally decreased. Namely, Trademarks (-23.1%) and Designs (-31.5%) decreased significantly, followed by Patents (-14.2%) and Utility Models (-13.6%).

Italy showed a -40.1% decrease in filings (with 157 applications, only). On the other hand, in regard to registrations, Italy marked

the biggest increase (29.8% with 61 registrations) among foreign countries which generally showed double-digit decreases. China marked a 6.9% increase in registrations (with 109 cases) as well.

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

LAW

Korea no.2 in online music piracy

According to the latest survey conducted by Hong Kong-based *Music Matters*, a music forum for the Asia Pacific region, Korea is the world's second largest illegal downloader of music files following China. 8,500 people in 13 countries were subject to the survey and the results were presented at the *2010 Marché International du Disque et de l'Edition Musicale* (MIDEM) trade fair, the world's biggest music industry conference, which opened in Cannes, France, on January 24. The countries covered in the study also include Australia, Brazil, China, India, Hungary, Korea, Spain, the U.K., and the U.S.

Around 68 % of users in China, 60 % in Korea and 46 % in Spain answered that they had downloaded music without paying for it to the question "Have you downloaded music from the internet without payment?", and totally 29% of the respondents admitted to downloading music illegally.

The Korean Ministry of Culture, Sports and Tourism raised a question whether the survey is reliable since it only involved 13 countries and the survey even defines free music streaming from legal sites as illegal downloading. In Korea, it is legal to listen to music on internet for 30 seconds to 1 minute through free music streaming.

Illegal circulation of cultural contents has been one of the downsides of Koreans' ready access to high-speed internet connection. Against this scenario, the Korean government adopted so-called "Three-Strikes Copyright Act" in July 2009. Under the new provision, regulators are allowed to shut down web sites after a third warning over copyright infringement, with or without the complaints of copyright holders.

Internet users accused of illegally sharing copyrighted files could also be severed their Web accounts.

Such legislation was also passed in France in 2009 and is expected to take effect by this year.

From *The Korea Times* - January 28, 2010

DISPUTES

Patent violation complaints sued by ETRI in US

The Electronics and Telecommunications Research Institute (ETRI) is Korea's largest government-funded entity specialized in information and communication technologies. It was founded in 1976.

In August 2009, ETRI brought a legal action against world major mobile device companies including *Nokia* and *Motorola* over their illegal use of patented technologies used for third-generation mobile communication including wideband code division multiple access (WCDMA). The ETRI filed patent complaints against 19 cell phone companies in front of a Californian court in US. Such lawsuits follow other three violation complaints which ETRI filed in Virginia in 2008.

ETRI has already compromised with two companies to receive 20 billion KW as royalties and those two are identified as *Apple* and *HTC* by some media reports. Furthermore, ETRI is expecting royalties would reap up to 300 billion KW when the ongoing lawsuits succeed.

Seven patents in question are related to technologies reducing power consumption in WCDMA and code division multiple access 2000 (CDMA2000) devices. Such technologies were adopted as international standards for third-generation mobile communications in 2000, and were patented by the United States Patent and Trademark Office (USPTO) from 1999 to 2003. According to ETRI, such technologies are used by all manufacturers of third-generation mobile phones.

From *The Korea Times* - January 14, 2010

NEWS

Korean government backs domestic companies embroiled in patent disputes

The Korean Ministry of strategy and finance announced that it would give domestic companies support in their legal fights over patent disputes with other foreign businesses as part of efforts to help defend them from money-seeking infringement claims on January 14th. The supportive measures are part of policies to improve overall environment for doing business in Korea and to help contracted businesses by the protracted economic slump.

The Ministry of strategy and finance said that it would form a legal advisory group for SMEs embroiled in patent lawsuits with foreign companies. The group will also help provide insurance against such type of legal action. Furthermore, the government is planning to raise “invention capital” aimed at helping local businesses buy and commercialize patents from colleges and research institutes. This pre-emptive measure is expected to help local companies avoid patent lawsuits in the first place. A recent report by the Federation of Korean Industries, the largest business lobby group in Korea established in 1961, showed that many local businesses have been sued or have faced threats of a lawsuit by so-called “patent trolls” who are also called non-performing entities, as they don’t actually use patents in their manufacturing operations but instead look to make money by suing other companies for breach of patent. To block such engagement beforehand, the government would establish “Intellectual Property Rights Acquisition Strategy” helping companies to build up IP portfolios specialized for each sector.

There were more policies related to IP issues. Regarding Patent, the Ministry plans to expand PPHs (Patent Prosecution Highways) and

develop IP system to encourage its utilization. The PPH is a set of initiatives for providing accelerated patent prosecution procedures by sharing information between select patent offices. It also permits each participating patent office to benefit from the work previously done by the other patent office. Currently, KIPO is operating such system with 5 countries, namely U.S., Japan, Denmark, U.K. and Canada. Finally, to establish upright Patent right exercising practice, the ministry drew up a “Guideline on preventing patent right abuse”.

From JoongAng Daily - January 15, 2010