



Press Release

June 27, 2017 (morning)

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☎ 042-480-1421, 1444

Patent Court



Patent Court Test-Drives Its International Chamber

Gearing up Towards the International Chamber, the Patent Court Holds a Pilot English Trial in a Case Involving a Foreign Party

- ◎ The Patent Court is holding a pilot trial in English in its courtroom 301 on June 28, 2017 (Wed) 3:00-4:00 PM on a refusal-to-register case (patent), Case No. 2016Heo7695. (See attached Overview of the Case on Pilot Trial for the International Chamber.)
- ◎ **The Call for the International Chamber and the Pilot Trial in English**
 - The demand for English trials has been repeatedly raised by foreign parties, who took up over 40% of the 611 cases adjudicated by the Patent Court in 2016.
 - Amid the accelerating competition to take the lead in the realm of global intellectual property in the knowledge-based society, parties at home and abroad are calling for establishment of the International Chamber that provides an opportunity to argue cases in English, which will be a stepping stone for the country to become a global hub for patent litigation.

① The Committee for IP Hub Court (co-chaired by National Assembly member Beom-kye Park and two others) proposed establishment of the



International Chamber in August 2015.

② Director General Francis Gurry of the World Intellectual Property Organization (WIPO) stated during his visit to Korea in August 2016 that the International Chamber would play a substantial role in making Korea a global hub for IP dispute resolution.

③ The Parliamentary Group for the Promotion of IP Hub Korea (co-represented by National Assembly member Gab-yun Jung) declared in September 2016 that establishing the International Chamber is one of its top priorities.

- The Patent Court believes that the International Chamber taking full charge of cases argued in foreign languages will enhance accessibility to Korea's judicial system for foreign individuals and companies. The change will also have dramatic impact on the expertise and excellence of the Korean judiciary, while generating substantial direct and indirect economic benefits.
- Establishment of the International Chamber will also lay the groundwork for further development in the fields of science, technology and intellectual property, with Korea in the leading position for international IP dispute resolution.
- A bill to amend the Court Organization Act to establish the International Chamber (proposed by National Assembly member Gab-yun Jung) is currently pending in the National Assembly.
- The expert report of the Legislation and Judiciary Committee reviewing the proposed bill duly notes the need for the International Chamber in order for Korea to take the lead in the global IP competition. At the same time, it also points out that the judicial branch must be well prepared before the International Chamber takes off, because securing judges and court officers who can handle cases in foreign languages would be the key to its success.
- In response, the Patent Court has endeavored to prepare itself for



the establishment of the International Chamber and improve foreign parties' accessibility to the court proceedings since 2015, as represented by publishing Patent Court Decisions and IP Law Journals in English and guidelines for court practice and procedures in English, Chinese and Japanese; setting up procedures for witness examination via video conference; building database for its decisions in English; and training interpreters and translators.

- In line with such efforts, the Pilot Trial is planned as an interim review of the court's preparatory works for the International Chamber to check how well it is prepared in terms of human resources and logistics. The trial is an opportunity to analyze the pros and cons of introducing the International Chamber pursuant to the amendment bill and come up with a proper operation model.

◎ **Pilot Trial Procedures**

- The trial will be held in accordance with the rules stipulated in the amendment bill pending in the National Assembly.
- Both parties in the Patent Court 2016Heo7695 Refusal to Register (Patent) case (Plaintiff: 3M Innovative Properties Company, Defendant: Commissioner of the Korean Intellectual Property Office) agreed to have oral arguments in English. The court division in charge of the case gave permission to the parties' attorneys to present their case in English.
 - Briefs and evidence have been submitted in English.
 - The attorneys will present their cases in English in court, while the bench will oversee the trial in Korean in compliance with the amendment bill but will summarize its comments in English as needed for better communication.
 - Simultaneous interpretation in English/Korean will be provided for the audience.
 - Parties will be provided an English translation of the court decision.



- Under the current law, Korean is the language of the court and presenting the case only in English is not permitted. To eliminate any room for disputes over possible violation of the current law, oral arguments in Korean will be held one hour prior to the Pilot Trial.

◎ **Observation of the Pilot Trial**

- Member companies of European Chamber of Commerce and Japan Chamber of Commerce, including IP representatives of Apple, Chanel, Hermes and Louis Vuitton will attend the Pilot Trial as audience and participate in a seminar where they can exchange comments about the event.
- Many lawyers, patent attorneys have shown keen interest in observing the pilot trial in English, the very first of its kind in Korea.
- The pilot trial in English is open to public. Anyone who wishes to observe the trial is welcome to attend. However, as seats are limited, they will be taken on a first-come first-served basis. (Call 042-480-1444 for questions regarding observation.)

※ Attachment: Overview of the Case on Pilot Trial for the International Chamber



OVERVIEW OF THE CASE ON PILOT TRIAL FOR THE INTERNATIONAL CHAMBER

◆ Case Overview

- Case No.: Patent Court 2016Heo7695 Refusal to Register (Patent)
- Judicial Panel: The 1st Division (Presiding Judge: Hwansoo Kim)
- Parties/Attorneys:
 - Plaintiff: 3M Innovative Properties Company¹⁾
Attorneys for the Plaintiff: Jongseok Kim, Changsoo Park,
Deoksoon Chang (Kim & Chang)
 - Defendant: Commissioner of the Korean Intellectual Property Office (KIPO)
Attorney for the Defendant: Youngwook Hong

◆ Overview of the Procedure

- The proceeding will follow the rules prescribed in the amendment bill for the Court Organization Act (proposed by National Assembly member Gab-yun Jung), currently pending in the National Assembly.
- The parties agreed to present their case in English, to which the court gave its permission.
- The judicial panel will conduct the trial in Korean because the amendment bill does not state that the judges may also proceed in English, but English will be used as a supplementary tool for the purposes of better communication.
- The court decision on the case will be written in Korean and an English translation thereof will be provided.

◆ Summary of the Claimed Invention and the Issues in Dispute

○ Claimed Invention

- Title: Higher Transmission Light Control Film

1) A U.S. company that manages intellectual properties of 3M, a multinational company.

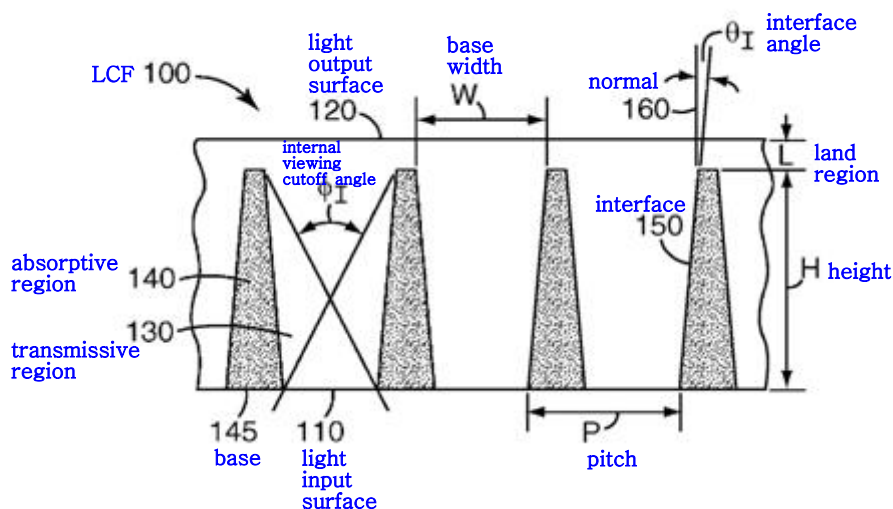
- Filing Date of Translation (International Application Date)/ Application No.: May 14, 2010 (October 13, 2008)/ No. 10-2010-7010587

○ File History

- The case concerns a Korean application based on an international application filed on October 13, 2008, first rejected by the examiner on March 19, 2015. Subsequent review by the Intellectual Property Trial and Appeal Board (IPTAB) resulted in a second refusal on March 22, 2016. The Plaintiff filed an appeal against the refusal in the IPTAB, which was dismissed. This action to revoke the IPTAB decision followed, which was filed on October 17, 2016 with the Patent Court.

○ Summary of the Invention

- The invention is about "Optical Light Control Film" which is also known as "privacy protection film" or "security film" that has transmissive and absorptive regions, where the absorptive regions are formed in nearly perpendicular angle to the light control film (interface angle $\theta_1 \leq 3^\circ$) and the refractive index of the transmissive regions (N_1) is bigger than the refractive index of absorptive regions (N_2) ($N_1 - N_2 \geq 0.005$). This allows the invention to provide sharper image cutoff at lower viewing angle, and increases the axial luminance of the light passing the film, with enhanced uniformity of the luminance within viewing angle.





○ Summary of Refusal and IPTAB Decisions

- The claimed invention lacks an inventive step because a person having ordinary skills in the art can easily come to it by combining corresponding element in Prior Art 1 ($\theta_1 < 3^\circ$) and corresponding element in Prior Art 2 ($N_1 - N_2 = 0.08$).

- Prior Art 1 (PCT Gazette No.2007/84297, published July 26, 2007):

The invention is about light collimating film (light control film) that (1) provides sharper image viewability cutoff at lower viewing angle by setting included wall angle (half of interface angle) to less than 6 degrees and (2) making the refractive indices of transmissive and absorptive materials identical or nearly identical (in the range of 0~0.002) to reduce the formation of ghost images by decrease of reflection at interface to reduce .

- Prior Art 2 (Japanese Patent Laid-Open Publication No.2006-171701, published June 29, 2006):

The invention is about viewing-angle control sheet, which limits decrease in luminance on the front view by the features of (1) $3^\circ \leq (\text{interface}) \text{ angle} \leq 15^\circ$ and (2) the refractive index of light transmissive part greater than that of light absorptive part ($N_1 > N_2$).

○ The Issues in Dispute

- Whether or not the Defendant may argue in judicial proceeding that the IPTAB decision is reasonable based on the new reason, inventive step of the subject invention over Prior Art 1 alone or Prior Art 2 alone.

- Whether or not the claimed invention involves an inventive step based on Prior Art 1, Prior Art 2 or combination of Prior Arts 1 and 2.