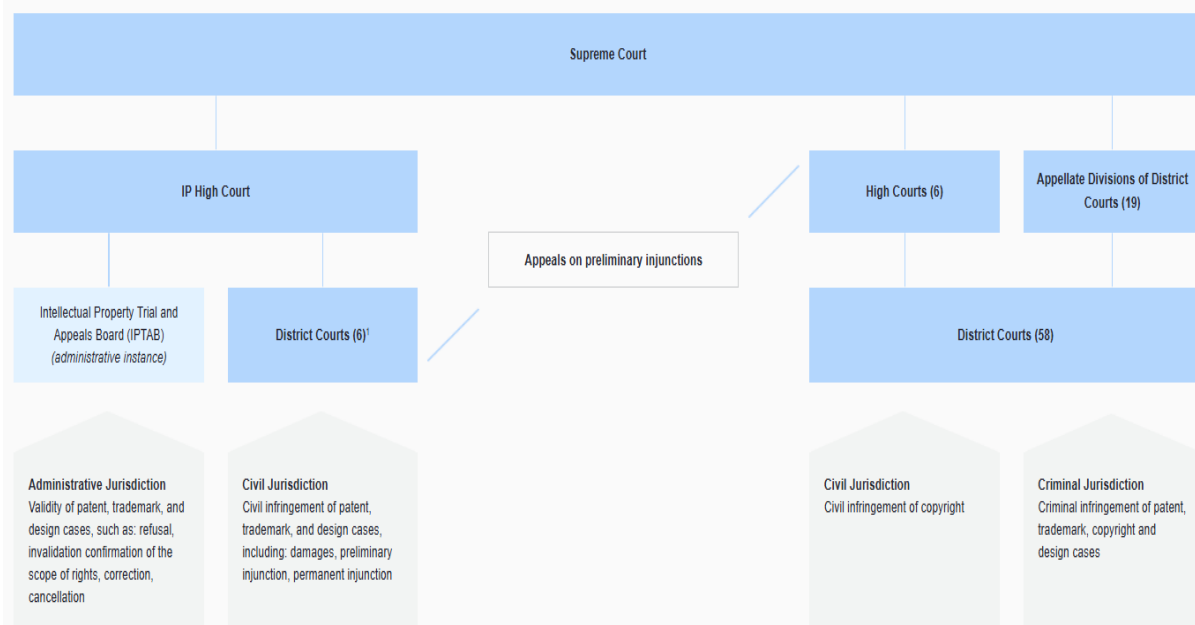


Judicial Administration Structure for IP Disputes: Republic of Korea

The International IP Law Research Center of the IP High Court



¹ District Courts with exclusive jurisdiction: Daejeon, Busan, Daegu, Gwangju, Suwon and Seoul Central (concurrent jurisdiction).

The Ministry of Intellectual Property (hereinafter “MOIP”) of the Republic of Korea is an administrative agency, which was elevated from the Korean Intellectual Property Office (KIPO) to the MOIP under the Prime Minister's Office in October 2025. The MOIP was established to provide integrated management for various types of intellectual property (hereinafter “IP”) to lay the foundation for future-leading industrial innovation, and to comprehensively perform functions relating to the creation, utilization of IP and strengthening its protection.³

1 This material was prepared by the International Intellectual Property Law Research Center under the IP High Court of Korea (Lead Researcher: Senior Researcher/Presiding Judge Taeil PARK, Researcher Yong Joo KIM).

- IPTAB's decision: any decisions rendered by IPTAB
- Administrative decision: any decisions rendered by other administrative trial bodies
- Judgement: decision rendered by courts
- Judicial decision / order: decision or order rendered by courts
- Administrative trial: trial proceedings conducted by administrative trial bodies including IPTAB

3 See Ministry of Intellectual Property Website, Purpose of Establishment, <https://www.moip.go.kr/ko/kpoContentView.do?menuCd=SCD0200441>.

variety protection) as well as the scope of such rights. These proceedings—including appeals against the examiner’s decision to reject, invalidation trial, and trials to confirm the scope of rights—are conducted by the IPTAB within the MOIP.⁴

An IPTAB trial is a system where a panel of three or five functionally independent administrative judges resolves IP disputes fairly and expeditiously.⁵ In principle, a trial is conducted by a panel consisting of three or five administrative judges.⁶ The presiding administrative judge oversees administrative affairs concerning the case. Upon the filing of a petition for trial, the chief presiding administrative judge serves a copy of the petition on the respondent, grants an opportunity to submit a written reply within a designated period, and may interrogate the parties regarding the trial.⁷ In this regard, although the IPTAB is established within an administrative agency, it possesses a substantial quasi-judicial nature in terms of its procedural operations.⁸

An appeal on IPTAB decision on patent cancellation or against examiner’s rejection, and an action challenging a decision to dismiss a petition for patent cancellation, a petition for trial, or a petition for retrial, falls under the exclusive jurisdiction of the IP High Court.⁹ Where legal proceedings are filed and the court upholds claims asserted in a petition, it must reverse the relevant IPTAB decision by judgment.¹⁰ When a court judgment reversing the IPTAB decision under paragraph (1) becomes final and conclusive, administrative judges must hear the case again and render another IPTAB decision.¹¹

In the field of copyright, there is no separate administrative trial body such as the IPTAB. However, the Korea Copyright Commission (hereinafter “KCC”) performs mediation functions for copyright-related disputes, which holds significant meaning as a pre-trial or out-of-court dispute resolution mechanism.¹² A mediation division consisting of three or more members may, *sua sponte*, make a decision replacing mediation, within the extent not contrary to the objectives of the request, in consideration of the interests of the parties and all other circumstances.¹³ Where an agreement is reached between the parties as a result of mediation, or where no objection is filed challenging the *sua sponte* mediation decision, such outcome has the same effect as judicial settlement.¹⁴

Meanwhile, in relation to border measures for intellectual property rights (hereinafter “IPRs”), the Korea Trade Commission (hereinafter “KTC”) may investigate unfair international trade practices concerning goods infringing IPRs pursuant to the Act on the Investigation of Unfair International Trade Practices and Remedy against Injury to Industry.¹⁵ Furthermore, the Korea Customs Service (hereinafter “KCS”) implements measures to withhold customs clearance for goods infringing IPRs pursuant to the Customs Act.¹⁶

Other mediation bodies include the Geographical Indication Trial Committee, the Plant Variety Protection Appeal Committee, the Industrial Technology Dispute Mediation Committee, the Small and Medium Enterprise Technology Dispute Mediation and Arbitration Committee, and the Consignment and Commission Dispute Mediation Council.

4 See Intellectual Property Trial and Appeal Board (IPTAB) Website, Guide to the Patent Trial System, <https://www.kipo.go.kr/ipt/iptContentView.do?menuCd=SCD0400062>.

5 *Id.*

6 Patent Act Art. 146(1).

7 Patent Act Art. 145(2) and 147.

8 See *supra* note 3.

9 Taeil PARK, *Judicial Training Lecture Materials - Intellectual Property Rights Litigation Practice*, 2026, pp. 6–15; Patent Act Art. 186(1).

10 Patent Act Art. 189(1).

11 Patent Act Art. 189(2).

12 See Korea Copyright Commission, Copyright Electronic Mediation System > System Guide > Concept and Effect of Mediation, <https://adr.copyright.or.kr/web/content.do?proFn=9110000>.

13 Copyright Act Art. 117(2).

14 Copyright Act Art. 117(5).

15 Act on the Investigation of Unfair International Trade Practices and Remedy against Injury to Industry Art. 4(1).

16 Customs Act Art. 235.

2. Judicial administration for IP disputes

2.1. Courts for IP disputes

<Overview of Courts>

The Republic of Korea operates a three-tier court system consisting of District Courts, High Courts, and the Supreme Court.¹⁷

The Supreme Court serves as the court of last resort and is located in Seoul.

Among specialized courts, the IP High Court is at the High Court level. The High Courts hear appeals from judgments rendered by the District Courts and are located in six major cities: Seoul, Daejeon, Daegu, Busan, Gwangju, and Suwon.

There are 18 District Courts nationwide, which serve as courts of first instance, handling cases brought before a single judge division or a panel division. The panel divisions of the District Courts hear more complex or important cases, and also sit in the appellate instance for appeals from first instance decisions rendered by a single judge. The District Courts may establish branch courts within their respective jurisdictions. Currently, there are 42 branch courts nationwide.¹⁸

<Jurisdiction>

The judicial structure for IP disputes in the Republic of Korea is classified by case type.¹⁹ These disputes are broadly categorized into IP civil litigation, IP criminal litigation, and IP administrative litigation.

IP civil litigation is divided into civil actions on the merits and actions for preliminary injunctions. Civil actions on the merits include actions for permanent injunctions, actions for damages, actions for restoration of credit or reputation, and actions seeking the assignment, registration, or cancellation of IPRs.

IP civil actions on the merits are described in further detail as follows:

- Actions for permanent injunctions: Actions to seek injunctions for prohibition or prevention against a person who infringes or is likely to infringe IPRs from committing such acts
- Actions for damages: Actions to seek damages arising from the infringement of IPRs
- Actions for restoration of credit or reputation: Actions to seek necessary measures to restore business credit, either in lieu of or in addition to damages, on the grounds of injury to business credit caused by the infringement of industrial property rights, or the willful or negligent infringement of an author's moral rights or a performer's moral rights
- Actions seeking assignment, registration, or cancellation of IPRs: Actions to seek the assignment, registration, or cancellation of IPRs
- Actions for compensation of employee inventions: Actions to seek compensation for employee inventions
- Actions for damages resulting from wrongful preliminary injunctions: Actions seeking damages arising from the execution of a wrongful preliminary injunction

¹⁷ See <https://www.wipo.int/patent-judicial-guide/en/full-guide/republic-of-korea/8.3.1>.

¹⁸ See <https://www.scourt.go.kr/judiciary/organization/district/index.html>.

¹⁹ For the types of IP litigation hereafter, see HAN Kyu-Hyun, 2026 Judicial Training Lecture Materials, 2026, p. 55 et seq.

In addition, actions for preliminary injunctions refer to those for infringement related to patent rights, utility model rights, design rights, trademark rights, copyrights, among others.

IP administrative litigation includes actions challenging administrative decisions, and other administrative actions.²⁰

Among IP administrative litigation, actions challenging administrative decisions are as follows:

1) Actions challenging the IPTAB decisions

This refers to actions challenging the IPTAB decisions of dismissal rendered by the IPTAB concerning inventions, utility models, designs, and trademarks (Patent Act Art.186(1); Utility Model Act Art. 33; Design Protection Act Art. 166(1); and Trademark Act Art. 162).

2) Actions challenging decisions of the Adjudication Committee on Geographical Indications

This refers to actions challenging decisions rendered by the Adjudication Committee on Geographical Indications concerning geographical indications (Agricultural and Fishery Products Quality Control Act Art. 54(1)).

3) Actions challenging decisions of the Plant Variety Protection Tribunal

This refers to actions challenging decisions rendered by the Plant Variety Protection Tribunal concerning plant varieties (Act on the Protection of New Varieties of Plants Art. 103(1)).

IP criminal litigation refers to actions involving criminal cases, such as violations of the Patent Act, Utility Model Act, Design Protection Act, Trademark Act, Unfair Competition Prevention and Trade Secret Protection Act (hereinafter “Unfair Competition Prevention Act”), and Copyright Act.

1. IP civil actions on the merits (1): Actions involving patent rights, utility model rights, design rights, trademark rights, and plant variety rights (hereinafter "Patent Rights, etc.")

1) First instance

- Exclusive jurisdiction: Such actions are under the exclusive jurisdiction of the six District Courts in the jurisdictional areas of High Courts (Seoul Central, Daejeon, Daegu, Busan, Gwangju, and Suwon District Courts), provided that the Seoul Central District Court has selective nationwide concurrent jurisdiction.²¹
- Discretionary transfer of actions involving IPRs, such as Patent Rights, etc.: When necessary to avoid any significant damage or delay, a court having jurisdiction over an action involving IPRs, such as Patent Rights, etc., may transfer the whole or part of such lawsuit to a District Court under Articles 2 through 23 of the Civil Procedure Act, either *sua sponte* or by its decision upon request of the party concerned.²²

2) Appellate instance

20 There are lawsuits objecting to compensation under Article 190 of the Patent Act, lawsuits objecting to consideration under Article 190 of the Patent Act, and other lawsuits against dispositions made by the Minister of the Ministry of Intellectual Property, etc.

21 Civil Procedure Act Art. 24(2) and (3).

22 Civil Procedure Act Art. 36(3).

It is under the exclusive jurisdiction of the IP High Court.²³

3) Final instance: The Supreme Court

2. IP civil actions on the merits (2): Actions involving IPRs excluding Patent Rights, etc.

1) First instance

- Concurrent jurisdiction: Such actions are under the jurisdiction of the panel divisions of the 18 District Courts or 42 branch courts nationwide.²⁴ However, concurrent jurisdiction of the six District Courts in the jurisdictional areas of High Courts is recognized.²⁵
- Discretionary transfer of actions involving IPRs excluding Patent Rights, etc.: The court may transfer such lawsuit to a proper District Court under Article 24(1) of the Civil Procedure Act (Seoul Central, Suwon, Daejeon, Daegu, Busan, and Gwangju District Courts), either ex officio or by its decision upon request of the party concerned.²⁶

2) Appellate instance

High Courts and the appellate divisions of District Courts handle appellate instances.

3) Final instance: The Supreme Court

3. IP actions for preliminary injunctions

The structure of instances is in the order of panel divisions of District Courts or branch courts – High Courts – the Supreme Court.

4. IP Criminal Litigation

The structure of instances is in the order of panel divisions or single-judge divisions of District Courts (including branch courts) – High Courts or the appellate divisions of District Court headquarters – the Supreme Court.

5. IP administrative litigation

1) Administrative actions (1): Actions challenging the IPTAB Decisions

The structure of instances is in the order of the IP High Court – the Supreme Court.

2) Administrative actions (2): Administrative actions other than actions challenging administrative decisions

The structure of instances is in the order of the Seoul Administrative Court or the administrative divisions of the District Courts – the High Courts – the Supreme Court.

²³ Court Organization Act Art. 28-4(2).

²⁴ See *supra* note 17.

²⁵ Civil Procedure Act Art. 24.

²⁶ Civil Procedure Act Art. 36(1) and (2).

A decision by the KTC on unfair trade practices related to IPRs may be appealed by filing an administrative action with the Seoul Administrative Court or the Daejeon District Court.

2.2. Members of courts for IP disputes

2.2.1. Judges

As the highest institution in the judicial hierarchy, the Supreme Court hears appeals from the appellate court or re-appeals as the court of final resort, and handles cases as the proper court for so-called single-instance cases that conclude with a single trial.²⁷

The judicial power of the Supreme Court is exercised by a panel consisting of two-thirds or more of all the Justices, and the Chief Justice is the presiding judge.²⁸ However, a division consisting of three or more Justices may examine a case, except for the cases under the following subparagraphs²⁹, provided that they have first examined the case and reached a unanimous opinion.³⁰

Supreme Court Justices of the Republic of Korea are appointed by the President upon the recommendation of the Chief Justice of the Supreme Court with the consent of the National Assembly.³¹ The term of office of a Supreme Court Justice is six years, and they may be reappointed as prescribed by Acts.³² The current number of Supreme Court Justices is 14, including the Chief Justice, but it has been expanded to 26 following the amendment to the Court Organization Act, which is scheduled to be enforced in 2028.³³

The Chief Justice and Supreme Court Justices are appointed from among persons who are 45 years of age or older and have been in any of the positions under the following subparagraphs³⁴ for 20 years or more.³⁵

The Supreme Court handles IP administrative cases on final appeal in three special divisions (small bench consisting of four Justices), IP civil cases on final appeal and cases on re-appeal in three civil divisions, and IP criminal cases on final appeal in three criminal divisions.³⁶

To assist the work of Supreme Court Justices, six research judges from the IP research division and six judicial research officers are currently assigned.³⁷

According to the Court Organization Act, judges are appointed by the Chief Justice after deliberation by the Judges Personnel Committee and with the consent of the Council of Supreme Court Justices.³⁸

27 See Supreme Court of Korea Website > About the Supreme Court > Functions of the Supreme Court, <https://www.scourt.go.kr/supreme/composition/duty/duty01/index.html>.

28 Court Organization Act Art. 7(1).

29 1. Where it is deemed that any administrative decree or regulation is in violation of the Constitution;

2. Where it is deemed that any administrative decree or regulation is contrary to Acts;

3. Where it is deemed necessary to modify such opinion on the application of the interpretation of the Constitution, Acts, administrative decrees, and regulations, as was formerly decided by the Supreme Court;

4. Where it is deemed that a trial by a panel is not proper.

30 Court Organization Act Art. 7(1).

31 Constitution of the Republic of Korea Art. 104.

32 Constitution of the Republic of Korea Art. 104.

33 Court Organization Act Art. 4(2).

34 1. Judge, prosecutor, or attorney-at-law;

2. Person who is admitted to the bar and has been engaged in legal affairs at a government agency, local government, public organization under Article 4 of the Act on the Management of Public Institutions, or other corporations;

3. Person who is qualified as an attorney-at-law and has been in the office higher than the assistant professor in jurisprudence at an authorized college or university.

35 Court Organization Act Art. 42(1).

36 HAN Kyu-Hyun, *supra* note 18, at 79.

37 *Id.*

38 Court Organization Act Art. 41(3).

The term of office of a judge is ten years, and they may be reappointed.³⁹ Judges are appointed from among persons who have been in any of the positions under the aforementioned subparagraphs for five years or more; among judges appointed after the implementation of the law clerk system, a significant number possess prior experience as law clerks.

The IP High Court is staffed by judges who majored in science, engineering, or related fields, or who have experience handling IP cases at other courts.⁴⁰ The period of service for judges at the IP High Court generally tends to be longer than that at ordinary courts.⁴¹ Regarding the composition of the divisions, there are five divisions in the IP High Court. Each division handles cases for reversal of the IPTAB decision and civil appellate cases. Specifically, when handling cases for reversal of the IPTAB decision, they are designated as Divisions 1 through 5, whereas for civil appellate cases, they are designated as Divisions 21 through 25. In addition, the 11th and 31st Divisions exist as special divisions. Each division is a three-judge panel consisting of one presiding judge and two judges, and renders judgments by the consensus of the three judges. Each division is staffed with judicial technical examiners, judicial research officers, court administrative officers, court administrative clerks, stenographers, and court security officers.⁴²

At the Seoul High Court, two divisions (the 4th and 5th Civil Divisions) handle the remaining IP civil appeals of the order on the merits, excluding Patent Rights, etc., and appeals of preliminary injunction order.⁴³

The Seoul Central District Court, which holds nationwide jurisdiction over civil cases on the merits involving IPRs such as Patent Rights, etc., operates dedicated divisions (the 60th, 61st, 62nd, and 63rd Divisions) that exclusively handle 100% IP cases.⁴⁴ The 60th Division is division for applications primarily dedicated to related application cases, while the 61st, 62nd, and 63rd Divisions are panels dedicated to handling civil cases on the merits.

In addition to the courts with exclusive jurisdiction over civil cases on the merits involving IPRs such as Patent Rights, etc., dedicated IP divisions are frequently established in courts of various levels (including branch courts). There are also numerous courts where dedicated IPRs division for criminal cases are established.

2.2.2 Judicial Technical Examiners; Judicial Research Officers

<Judicial Technical Examiners>

Judicial technical examiners respond to the panel's inquiries on technical matters in lawsuits for reversal of the IPTAB decisions concerning patent rights and utility model rights. When the panel deems it necessary, they participate in pretrial and trial proceedings, and with the permission of the panel, they may question the participants in the lawsuit or state their opinions on technical matters during the panel's deliberation process.⁴⁵

Currently, the IP High Court is staffed by judicial technical examiners appointed as court officials (Grade 4, senior secretary) from among the examiners of the MOIP or administrative judges of the IPTAB with five or more years of experience, and judicial technical examiners appointed as general fixed-term public officials (Salary Grade 5, equivalent to a deputy director).⁴⁶ Judicial technical

39 Court Organization Act Art. 45(3).

40 See <https://www.wipo.int/patent-judicial-guide/en/full-guide/republic-of-korea/8.3.2>.

41 *Id.*

42 See IP High Court of Korea Brochure (Old Version), p. 9, <https://patent.scourt.go.kr/dcboard/new/DcNewsViewAction.work?seqnum=15&gubun=547>.

43 HAN Kyu-Hyun, *supra* note 18, at 79.

44 See Seoul Central District Court, *About the Court*, <https://seoul.scourt.go.kr/jibubmgr/trial/new/TrialList.work>.

45 See *supra* note 41, at 20.

46 See IP High Court of Korea Website, https://patent.scourt.go.kr/patent/intro/intro_03/group_01/index.html.

examiners are experts who hold a master's degree or higher in various science and technology fields, such as mechanics, electricity, chemistry, pharmacy, electronic communications, and agriculture.⁴⁷ At the IP High Court, 15 judicial technical examiners (senior secretaries) and 2 judicial technical examiners (deputy directors) are assigned.⁴⁸

<Judicial Research Officers>

To assist judges in their understanding and judgment in science and technology fields related to patent cases, the court judicial research officer system was introduced on January 11, 2016.⁴⁹ Judicial research officers handle tasks such as research and data collection necessary for patent trials under the orders of judges, and like judicial technical examiners, they are also experts who hold a master's degree or higher in various science and technology fields, such as mechanics, electricity, chemistry, pharmacy, and electronic communications.⁵⁰

The research officers may be assigned to the Supreme Court and courts of various levels to collect and investigate data necessary for the adjudication of cases.⁵¹ Accordingly, judicial research officers are assigned to the Supreme Court (the National Court Administration), the IP High Court, and the Seoul Central District Court.

Judicial research officers at the Supreme Court conduct technical investigations on final appeal cases in collaboration with judicial research officers of the IP research division. On occasion, they also collaborate with judicial research officers from other research divisions who require technical investigations.

Judicial research officers assigned to the IP High Court primarily support the technical reviews for the divisions of the IP High Court.

Judicial research officers assigned to the Seoul Central District Court primarily support the dedicated IP civil proceedings for the 60th, 61st, 62nd, and 63rd Civil Divisions of the Seoul Central District Court, as well as the 4th and 5th Civil Divisions of the Seoul High Court. In addition, they conduct technical investigations for criminal divisions hearing criminal IP infringement cases and administrative divisions hearing administrative cases involving IP issues at both the Seoul Central District Court and the Seoul High Court.

Furthermore, judicial research officers assigned to the IP High Court and the Seoul Central District Court may also support the technical reviews for dedicated IP divisions of other courts.

Currently, 6 judicial research officers (senior secretaries) are assigned to the Supreme Court. At the IP High Court, 15 senior secretaries concurrently serving as judicial technical examiners and judicial research officers, 2 deputy directors concurrently serving as judicial technical examiners and judicial research officers, and 6 judicial research officers (deputy directors) are assigned.

At the Seoul Central District Court, 3 judicial research officers (senior secretaries) and 8 judicial research officers (deputy directors) are currently assigned.

2.2.3. Law Clerks

⁴⁷ *Id.*

⁴⁸ HAN Kyu-Hyun, *supra* note 18, at 77.

⁴⁹ *See supra* note 45.

⁵⁰ *Id.*

⁵¹ Court Organization Act Art. 54-3.

The law clerk system was introduced through the amendment to the Court Organization Act on July 18, 2011, alongside the comprehensive unification of the legal profession, and took effect in 2012, the first-year law school graduates were produced.⁵²

Law clerks are appointed by the Chief Justice of the Supreme Court from among persons qualified as attorneys; under the orders of the chief judge of their assigned court, they conduct research and study concerning the hearing and trial of cases and perform other necessary duties.⁵³ The term of office for a law clerk is three years.⁵⁴

A total of five law clerks are assigned to the dedicated IP divisions (the 4th and 5th Civil Divisions) of the Seoul High Court.

As of 2026, a total of five law clerks are assigned to the IP High Court, with one assigned to each of the five divisions.

At the Seoul Central District Court, while no law clerks are assigned to the dedicated IP civil divisions, law clerks are assigned to the dedicated IP criminal division (single-judge division).

2.2.4. International IP Law Research Center under the IP High Court

The International Intellectual Property Law Research Center (IIPLRC) under the IP High Court is an institution established in May 2017 to strengthen the research capabilities of the IP High Court as a specialized IP court, and to sustainably and efficiently conduct domestic and international academic exchanges and international affairs.⁵⁵

The IIPLRC under the IP High Court conducts comparative legal studies on IP litigation and systems. Accordingly, it seeks to propose directions for the advancement of the IP court system of Korea by comparing and analyzing it with the legislation, precedents, and institutional operations of major countries.⁵⁶

The IIPLRC performs the following duties:

1) Conducting comparative legal research related to IPRs

The IIPLRC conducts comparative legal studies on IP litigation and systems. Accordingly, it has published various research reports by comparing and analyzing the IP court system and judicial practices of Korea with the legislation, precedents, and institutional operations of major countries.

2) Supporting the internationalization and specialization of the IP High Court

Recently, the IIPLRC has been conducting comparative legal research needed for review during actual trials. Furthermore, to ensure that the court's judicial proceedings are predictable and reliable for the public as well as litigants, it has comprehensively revised the *Rules of Practice in the IP High Court of Korea*.

3) Publishing English case reports and establishing a close cooperative relationship with WIPO

52 Moon Sunju et al., *A Proposed Operation Strategy for the Law Clerk System in Korea*, Judicial Policy Research Institute, 2020, p. 3.

53 Court Organization Act Art. 53-2(2).

54 Court Organization Act Art. 53-2(5).

55 See *supra* note 45.

56 See IP High Court of Korea Brochure Material (Draft).

Since its opening in 2017, the IIPLRC has selected significant judgments rendered by the IP High Court each year to publish *IP High Court Decisions*, and since 2023, it has been publishing *Leading Case Summaries* by separately compiling major precedents.

4) Promoting domestic and international academic exchanges related to IPRs

The IIPLRC plays a pivotal role in successfully and productively hosting the "International IP Court Conference," which invites domestic and international judges and legal experts every year.

Currently, the IIPLRC has two doctoral-level researchers specializing in IP law and one researcher responsible for interpretation, translation, and international affairs. Furthermore, through its system of independent researchers, visiting scholars, and visiting researchers, the Center has established a network for joint research and cooperation with major domestic and international research institutions.

3. Procedure for IP disputes

3.1. Judicial review of administrative final decisions

The IPTAB under the MOIP resolves disputes related to patents, utility models, designs, and trademarks. The administrative trials include appeals against examiners' rejection, trials on invalidation, trials to confirm the scope of rights, and trials for the correction of specifications or drawings.⁵⁷

Judicial proceedings for the reversal of the IPTAB decisions fall under the exclusive jurisdiction of the IP High Court.⁵⁸

An action challenging the IPTAB decisions has the following nature:⁵⁹

- Judicial function and judicial proceedings
 - 1) This is a judicial function, not an administrative action. That is, it is a judicial function that exercises judicial control (judgment on legality) over the administrative actions of the IPTAB and other entities.
 - 2) This constitutes judicial proceedings, not administrative appeal proceedings. These are judicial proceedings conducted by the court based on the adversarial system.

- Administrative litigation

1) Administrative litigation rather than civil litigation

This is administrative litigation challenging an administrative disposition, specifically the IPTAB decisions.

2) Special administrative litigation under the jurisdiction of the IP High Court

An action to reverse an IPTAB decisions limits its subject matter and jurisdiction in accordance with provisions such as the Patent Act.⁶⁰

⁵⁷ See <https://www.wipo.int/en/web/wipolex/judicial-administration-structure/kr>.

⁵⁸ *Id.*

⁵⁹ HAN Kyu-Hyun, *supra* note 18, at 82-83.

⁶⁰ Patent Act Art. 186 and related provisions.

3) Relationship between the administrative trial and court instances: No hierarchical instance relationship exists

This is neither an appellate instance nor a continuation of the proceedings of the administrative trial conducted by the IPTAB. Arguments made or materials submitted during the administrative trial proceedings cannot be admitted in the lawsuit. Independent arguments and submission of materials are required in the lawsuit proceedings.

The Supreme Court handles final appeals from judgments of the IP High Court.⁶¹

In addition, the Adjudication Committee on Geographical Indications handles administrative trials and reexaminations regarding geographical indications.⁶² Furthermore, the Plant Variety Protection Tribunal was established to resolve "objections challenging dispositions of the Korea Seed & Variety Service" raised by applicants for plant variety protection; a person who objects to an examiner's decision may petition for administrative trial to the Plant Variety Protection Tribunal.⁶³ An action challenging this adjudication decision falls under the exclusive jurisdiction of the IP High Court.

In addition, a decision on unfair trade practices by the KTC constitutes an administrative disposition subject to an action for appeal.⁶⁴ An action challenging this decision must be filed with the Seoul Administrative Court, and an appeal may subsequently be filed with the Seoul High Court.

<Proceedings of an Action to Reverse an IPTAB Decisions>

1. Submission of a complaint and exchange of written pleadings

A party argues the grounds for the illegality of the IPTAB decision through a complaint, an answer, or a pretrial brief, and submits evidence to prove such grounds. The complaint submitted by the plaintiff must specifically describe matters regarding the procedures, the summary, and the grounds for the illegality of the IPTAB decision.⁶⁵ The defendant must submit an answer, faithfully prepared in accordance with a pretrial order, within three weeks from the date of being served with the complaint or a pretrial brief containing the specific grounds for the claim.⁶⁶ If a party is a foreign national or a foreign corporation, the party must submit documents capable of establishing the formal authenticity of the power of attorney, such as a "notarized power of attorney" and a corresponding "Apostille certificate."⁶⁷

2. Trial preparation

Upon the completion of the exchange of written pleadings between the parties, the presiding judge designates a trial date or holds pretrial proceedings for consultation on the conduct of proceedings. The parties may voluntarily conduct case management conferences between themselves regarding the method of submitting arguments and evidence, the desired date and time for the trial, and the clarification and specification of substantive issues.⁶⁸ In addition, the presiding judge may conduct a case management conference presided by the court if deemed necessary.⁶⁹

61 Court Organization Act Art. 14.

62 Agricultural and Fishery Products Quality Control Act Art. 42.

63 Act on Protection of New Varieties of Plants Art. 90.

64 Seoul Administrative Court Judgment 2007GuHap825, decided August 14, 2007.

65 See IP High Court of Korea, *Rules of Practice for Actions to Revoke IPTAB Decisions in the IP High Court of Korea* 77 (Korean-English Combined 1 ed. 2025), https://patent.scourt.go.kr/dcboard/new/EngDcNewsViewAction.work?seqnum=17&gubun=547&cbub_code=&scod_e_kname=%C6%AF%C7%E3%BF%B5%B9%AE-Announcements&searchWord=&pageIndex=1.

66 *Id.* at 78.

67 *Id.*

68 *Id.* at 80.

69 *Id.* at 80-81.

3. Trial date

The court must ensure that trials are concentrated on the issues described in the submitted complaint so that the trials are, as far as possible, not continued, and the parties must cooperate therewith (Rules of Civil Procedure Art. 127-3).⁷⁰ Trial materials and explanatory materials for oral argument must be submitted before the close of office hours (18:00) on the day preceding the trial date, and printed copies must be submitted on the trial date.⁷¹

3.2. Civil proceedings

1. Provisional Measure

<Preliminary injunction for infringement>

A preliminary injunction for patent infringement falls under the category of preliminary injunctions to establish a temporary state of affairs, in that it preemptively imposes a negative obligation not to infringe—which would be ordered in a judgment on the merits based on the right to seek an injunction—upon a person who infringes or is likely to infringe a patent right.⁷²

Article 126 of the Patent Act provides that a patentee or an exclusive licensee may file a complaint to seek injunction for, or prevention of, infringement against a person who infringes, or is likely to infringe, their rights, and may demand the destruction of the means by which the infringement has been committed, the removal of the facilities used for infringement, and other measures necessary to prevent infringement. An injunction for, or prevention of, infringement may be sought through a preliminary injunction in addition to a lawsuit on the merits.⁷³ The Trademark Act and the Design Protection Act provide for the right to seek an injunction under Article 107 and Article 113, respectively.

A lawsuit concerning an IPRs, such as Patent Rights, etc., is under the exclusive jurisdiction of a District Court in the jurisdictional area of a high court which has jurisdiction over the location of a proper court (the Seoul Central District Court for the jurisdictional area of the Seoul High Court), provided that concurrent jurisdiction of the Seoul Central District Court is recognized.⁷⁴ Although no legislation has been enacted regarding the centralization of jurisdiction over preliminary injunction cases, the court with jurisdiction over the merits also possesses jurisdiction over the preliminary injunction; thus, preliminary injunctions concerning IPRs, such as Patent Rights, etc., may de facto be concentrated in the District Courts in the jurisdictional areas of the respective high courts, among which a large number of cases are filed with the Seoul Central District Court.

2. Case Management

At the initial stage of a case, the court classifies cases into those subject to a case management conference, those for which a trial date is to be designated immediately, and those to be referred to early mediation proceedings, and then conducts a case management conference for the cases subject to a case management conference.⁷⁵ A case management conference may be conducted on a designated date, or through audio transmission or video conferencing reflecting the opinions of the parties. In the former case, the court notifies the parties of the matters consulted and enters the notified contents in the record of the pretrial hearing. In the latter case, the court notifies the parties of the matters consulted in the form

⁷⁰ *Id.* at 83.

⁷¹ *Id.*

⁷² IP High Court of Korea Intellectual Property Litigation Practice Research Group, INTERNATIONAL PROPERTY LAW THEORY AND PRACTICE 508 (4th ed. 2019).

⁷³ *Id.* at 483.

⁷⁴ Civil Procedure Act Art. 24(2) and (3).

⁷⁵ HAN Kyu-Hyun, *supra* note 18, at 149.

of a pretrial order or similar documents.⁷⁶ For the efficient conduct of proceedings, the court may also recommend that the parties engage in voluntary case management conference between themselves.⁷⁷

If the presiding judge determines that a case management conference is not necessary due to the nature of the case, the presiding judge immediately designates a trial date.⁷⁸

The Intellectual Property Divisions of the Seoul Central District Court provide guidance to clearly indicate in the case title that the case concerns IPRs, in order to prevent in advance any delay in proceedings due to erroneous assignment.⁷⁹ Furthermore, they provide guidance to clearly specify the type of the infringed IPRs and the remedies sought by the party in the case title.⁸⁰ In addition, for case management purposes, they recommend video conferencing at the initial stage of the hearing to consult on matters regarding the progress of proceedings, such as the dates and number of trial dates, the progress of proceedings for each date, and the period for submitting arguments and evidence.⁸¹

3. Hearing

<Civil Trial Procedures for IPRs>

1) Case filing

Within 40 days from the date of receiving a notice of receipt of appeal record from the court, the appellant must prepare and submit a statement of grounds for appeal.⁸² If the statement of grounds for appeal submitted by the appellant does not contain specific and explicit grounds for appeal, the court may dismiss the appeal on the basis that a proper statement of grounds for appeal has not been submitted.⁸³

2) Pretrial Proceeding

In pretrial proceedings, the arguments and evidence of the parties must be clarified so that trials may be carried out in an efficient and concentrated manner.⁸⁴ The presiding judge and other judges must endeavor to complete preparations for the efficient and expeditious conduct of trials, including the narrowing of issues and organization of evidence, and the parties must cooperate therewith during pretrial proceedings.⁸⁵

Upon submission of an answer containing substantive arguments in response to the statement of grounds for appeal, the presiding judge classifies cases into those subject to pretrial proceedings, those for which a trial date is to be designated immediately, and those to be referred to early mediation proceedings.⁸⁶

⁷⁶ *Id.* at 150.

⁷⁷ *Id.*

⁷⁸ See IP High Court of Korea, *Rules of Practice for Civil Appellate Trial in the IP High Court of Korea* 7 (Korean-English Combined 1 Ed, 2025),

https://patent.scourt.go.kr/dcboard/new/EngDcNewsViewAction.work?seqnum=16&gubun=547&cbub_code=&scode_kname=%C6%AF%C7%E3%BF%B5%B9%AE-Announcements&searchWord=&pageIndex=1.

⁷⁹ See Seoul Central District Court, *Procedural Guidelines for Intellectual Property Litigation in the Seoul Central District Court* 1 (Amended ed. 2020),

https://seoul.scourt.go.kr/dcboard/new/DcNewsViewAction.work?seqnum=5443&gubun=41&scode_kname=&pageIndex=25&searchWord=&cbub_code=000210.

⁸⁰ *Id.*

⁸¹ *Id.* at 4.

⁸² See *supra* note 77, at 3.

⁸³ *Id.* at 4.

⁸⁴ Civil Procedure Act Art. 279.

⁸⁵ Rules of Civil Procedure Art. 70(1).

⁸⁶ See *supra* note 77, at 4.

Pursuant to the court's order, the parties to the lawsuit voluntarily consult on matters such as the number and periods for submitting pretrial briefs and preferred trial dates, and based on the results of the consultation, the court promptly designates a trial date and conducts the hearing.

3) Trial Date

The court must ensure that trials are concentrated on the issues described in the submitted statement of grounds for appeal so that the trials are, as far as possible, not adjourned, and the parties must cooperate therewith (Rules of Civil Procedure Art. 127-3).

4. Parallel Hearings

Where an infringement action and an action for reversal of the IPTAB decision involving the same patent and the same parties are concurrently pending before the same judicial panel and when deemed necessary, the court, in principle, holds hearings on both actions in parallel.⁸⁷

If it is necessary to clarify related arguments in the infringement action and the action for the IPTAB decision, pretrial proceedings may be conducted in parallel.⁸⁸

Related cases involving the same registration number of IPRs are, in principle, assigned to the same judicial panel. If related cases which involve the same parties and where the contents of the filed or registered IPRs is the same or similar have been assigned to different courts, they may be reassigned to the same judicial panel through a reassignment procedure (detailed procedure is governed by “Internal Regulation on Case Allocation in the IP High Court”). If related cases have been assigned to, or are pending before, different judicial panels, the parties must inform the judicial panels of such circumstances.⁸⁹

5. Evidence

<Examination of Evidence>

The court may choose not to examine evidence applied for by a party if the court deems it unnecessary.⁹⁰ The court may conduct an examination of evidence ex officio if it is unable to form a conviction based on the evidence offered by the parties, or when it otherwise deems it necessary.⁹¹

Where a party re-applies for evidence that is identical or similar in its purport of proof to the evidence submitted and examined in the first instance, or evidence that was applied for but not admitted or was withdrawn in the first instance, the applying party must specifically substantiate the necessity thereof.⁹²

The panel may, if necessary and upon application of a party, order the submission of materials required to prove infringement or calculate the amount of damages, and may, upon application of a party or ex officio, conduct an examination of evidence, an expert evaluation for the proof of infringement, or an appraisal for the calculation of the amount of damages.

<Order for Submission of Documents>

⁸⁷ *Id.* at 10.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Civil Procedure Act. Art. 290.

⁹¹ Civil Procedure Act. Art. 290.

⁹² Rules of Civil Procedure Art. 127-4(2).

An order for submission of documents is issued by a court to order the holder of a document (a party or a third party)—who bears an obligation to submit documents—to submit the documents.⁹³

An application for the submission of documents against the opposing party (the plaintiff or the defendant) or a third party must be made in writing, specifying the indication and purport of the document, the person holding the document, the fact to be proved, and the grounds for the obligation to submit the document.⁹⁴

<Order for Submission of Materials>

1) Patent

Under Article 132 of the Patent Act, the court may, upon application of a party to a lawsuit for infringement of a patent right or an exclusive license, order the opposing party to submit materials necessary to prove the relevant infringement or to calculate the amount of damages caused by such infringement, provided that this does not apply where the holder of the materials has reasonable grounds for refusal to submit them.⁹⁵

Where a party argues that they have reasonable grounds for being unable to present the content, method, and form of their own specific act, notwithstanding Article 132(1) of the Patent Act, the court may order that party to submit materials to determine whether the argument is well-founded.⁹⁶

In addition, Article 126-2 of the Patent Act provides for the obligation to present the content, method, and form of the specific act. Accordingly, a party to a lawsuit for infringement of a patent right or an exclusive license who denies the specific content, method, and form of the infringing act claimed by the patentee or exclusive licensee must present the content, method, and form of their own specific act.⁹⁷ Where the party argues that they have reasonable grounds for being unable to present the content, method, and form of their own specific act, the court may order the party to submit materials to determine whether the argument is well-founded.⁹⁸

2) Trademark, design, unfair competition

In a lawsuit for infringement of a trademark right, a lawsuit for infringement of a design right, or a lawsuit for infringement of business interests through an act of unfair competition or an act of infringement on trade secrets, the court may, upon application of a party, order the opposing party to submit documents necessary to calculate the amount of damages caused by such act of infringement, provided that this does not apply where the holder of the documents has reasonable grounds for refusal to submit them.⁹⁹

<In Camera Proceeding>

Where in camera proceedings are necessary to examine whether the grounds for refusal to submit materials are reasonable, the presiding judge confirms with the respondent (the holder of the materials) whether they consent to the applicant's side participating in the proceedings. In the absence of consent to the participation of the applicant's side, the presiding judge receives the materials necessary for the

93 HAN Kyu-Hyun, *supra* note 18, at 168; Civil Procedure Act Art. 346.

94 Civil Procedure Act Art. 345.

95 Patent Act Art. 132(1).

96 Patent Act Art. 132(2).

97 Patent Act Art. 126-2.

98 Patent Act Art. 126-2.

99 Trademark Act Art. 114; Design Protection Act Art. 118; Unfair Competition Prevention and Trade Secret Protection Act Art. 14-3; HAN Kyu-Hyun, *supra* note 18, at 171.

examination from the respondent and review them, but may, if necessary, require the respondent to provide an explanation of the materials.¹⁰⁰

Where the respondent consents to the participation of the applicant's side in the in camera proceedings, the presiding judge issues a pretrial order to arrange the in camera proceedings involving both parties, either via an internet video conferencing system or by holding a pretrial hearing.¹⁰¹

<Determination of Scope of Access>

If the materials to be submitted contain trade secrets, the court must designate the scope of access to the materials or the persons to access the materials, within the purpose of the submission order.¹⁰²

<Protective Order>

Where a determination of the scope of access is made, upon a party's request and where the requirements under the subparagraphs of Article 224-3(1) of the Patent Act (Protective Order) are satisfied, the Court may, by a decision, order the persons permitted to access the materials to maintain confidentiality.¹⁰³

<International Case>

The International Divisions have been established to alleviate the linguistic difficulties of foreign parties, thereby enabling specialized courts, such as the IP High Court and the Seoul Central District Court, to be utilized as a more preferred forum by foreign parties in an international IP litigation environment, and ultimately positioning the Courts of Korea as a Global IP Hub Court.¹⁰⁴ An application for and consent to an international case is made in writing before the first trial date in each of the first instance and the appellate instance, provided that even for an application and consent made after the first trial date, the court may permit the application for an international case where the necessity thereof is recognized as significant.¹⁰⁵

International cases have the following procedural characteristics:

- 1) A party may conduct all or part of their arguments in a permitted foreign language.
- 2) The court provides interpretation between the permitted foreign language and the Korean language.
- 3) A translation need not be attached to documents written in a permitted foreign language. However, that the court may order the submission of a translation where it is significantly necessary for the smooth progress of the proceedings.
- 4) The court prepares the written judgment and pronounces it in the Korean language, and, after the service of a certified copy of the judgment, additionally sends a copy of the judgment translated into the permitted foreign language to the relevant party.

<Video Trial>

In addition, participants in the lawsuit (such as attorneys, parties, witnesses) in a case pending before courts of various levels for which a video trial has been approved may participate in the trials through

¹⁰⁰ See *supra* note 77, at 15.

¹⁰¹ *Id.*

¹⁰² Patent Act Art. 132(3).

¹⁰³ See *supra* note 77, at 16.

¹⁰⁴ See https://patent.scourt.go.kr/patent/intro/intro_09/index.html.

¹⁰⁵ *Id.*

video trials. To this end, the Seoul Central District Court established a courtroom dedicated to video trials for the first time among courts nationwide.¹⁰⁶ Furthermore, video trials are also being utilized in international cases. Recently, the 2nd division of the IP High Court granted a party—who faced difficulties appearing in person because they were located abroad—an opportunity to participate in the proceedings and make statements through a video trial, and opened the hearing process in the courtroom to the relevant party.¹⁰⁷

6. Remedies

(1) Injunctive relief

1) Patent Act

Article 126(1) of the Patent Act provides that a patentee or an exclusive licensee may seek an injunction prohibiting or preventing infringement against a person who infringes or is likely to infringe their right.

2) Trademark Act

Article 107(1) of the Trademark Act provides that a trademark owner or an exclusive licensee may seek an injunction prohibiting or preventing infringement against a person who infringes or is likely to infringe their right.

3) Unfair Competition Prevention and Trade Secret Protection Act

Article 4(1) of the Unfair Competition Prevention Act provides that a person whose business interests are infringed or likely to be infringed by an act of unfair competition or an act violating Article 3-2(1) or (2) may file a request with the court for the prohibition or prevention of such act against a person who conducts or intends to conduct the act.

4) Design Protection Act

Article 113(1) of the Design Protection Act provides that a design right holder or an exclusive licensee may seek an injunction prohibiting or preventing infringement against a person who infringes or is likely to infringe their right.

(2) Damages

Infringement of IPRs constitutes a tort under the Civil Act, and a claim for damages resulting from such infringement is a type of claim for damages arising from a tort.¹⁰⁸

Where infringement of IPRs is established, damages are classified into passive damages (lost profits), active damages, and consolation money.¹⁰⁹

A patentee or an exclusive licensee may claim damages against a person who, willfully or negligently, infringed their patent right or exclusive license.¹¹⁰

¹⁰⁶ See <https://seoul.scourt.go.kr/dcboard/new/DcNewsViewAction.work?seqnum=11814&gubun=41>.

¹⁰⁷ IP High Court of Korea 2nd Division (Presiding High Court Judge Hyejin LEE, High Court Judge Eunhee PARK, Judge Wonmyeong KWON), *Progress Report on International Trial (24Heo14780 and related cases)*, (Oct. 2, 2025).

¹⁰⁸ HAN Kyu-Hyun, *supra* note 18, at 274.

¹⁰⁹ *Id.* at 275.

¹¹⁰ Patent Act Art. 128(1).

Regarding the calculation of the amount of damages, there are: The calculation of the amount of damages based on the quantity of the infringing products assigned (Art. 128(2)); the assumption of the infringer's profits as the amount of damages (Art. 128(4)); the calculation of the amount of damages based on a reasonable royalty (Art. 128(5)); the estimation of substantial damages (Art. 128(6)); and the award of enhanced damages (Art. 128(7) and (8)).

In addition, Article 110 of the Trademark Act may be referred to regarding the estimation of the amount of damages for trademark infringement, and Articles 125 and 126 of the Copyright Act may be referred to regarding the calculation of the amount of damages for copyright infringement.

(3) Other remedies

1) Restoration of credit

Article 131 of the Patent Act provides that the court may, upon a request of a patentee or an exclusive licensee, order a person who, willfully or negligently, infringed the patent right or exclusive license and thereby damaged the business credit of the patentee or exclusive licensee, to take measures necessary for the restoration of their business credit, in lieu of or in addition to damages.

Article 113 of Trademark Act and Article 117 Design Protection Act also contain corresponding provisions.

2) Disposal or destruction

Article 126(2) of the Patent Act provides that when a patentee or an exclusive licensee files a complaint under paragraph (1), they may demand the destruction of the means by which the infringement has been committed (including the products obtained by infringement if the relevant invention is a process for manufacturing the products), the removal of the facilities used for infringement, and other measures necessary to prevent infringement.

Article 107(2) of the Trademark Act and Article 113(3) of the Design Protection also contain corresponding provisions.

3) Return of unjust enrichment

Where a person without legal authority gains a benefit and thereby causes loss to a right holder, the person holding the right to the IP may claim the return of unjust enrichment under the Civil Act.

For instance, although the Patent Act does not contain an explicit provision regarding the return of unjust enrichment, if patent infringement satisfies the requirements for a claim for the return of unjust enrichment under Article 741 of the Civil Act¹¹¹—namely, (1) gaining a benefit through the practicing of another person's patent right; (2) sustaining a loss by the patentee or other right holder.; (3) an adequate causal relationship between the benefit and the loss; and (4) the absence of a legal interest justifying the retention of the benefit—the benefit gained by the infringer through the practicing of the patent right constitutes unjust enrichment, and thus the patentee or other right holder may claim its return against the infringer.¹¹²

4) Enhanced damages system

111 Civil Act Art. 741 (Definition of Unjust Enrichment) (“A person who without any legal ground derives a benefit from the property or services of another and thereby causes loss to the latter shall be bound to return such benefit.”).

112 IP High Court of Korea Intellectual Property Litigation Practice Research Group, *supra* note 71, at 606.

An enhanced damages system has been introduced under IP laws for acts of infringement on IPRs.

The laws under which the enhanced damages system was first introduced are the Patent Act and the Unfair Competition Prevention Act.

Subsequently, the Trademark Act and the Design Protection Act also raised the statutory limit for enhanced damages from up to three times to five times, where an act of infringement on a trademark right or a design right is recognized as willful.¹¹³ In addition, under the Copyright Act, enhanced damages of up to five times are scheduled to be enforced in August 2026.¹¹⁴ The five-times enhanced damages system introduced for various IP infringements represents the highest level even when compared to major foreign countries such as the United States and Japan.¹¹⁵ Accordingly, the court may determine damages of up to five times the amount recognized as damages, and to make this determination, it must consider various factors, including the awareness of intent.¹¹⁶

5) Protection of industrial technology

To establish systematic protection measures for industrial technology at the national level, the Republic of Korea has enacted the Act on Prevention of Divulgence and Protection of Industrial Technology (hereinafter “Industrial Technology Protection Act”).¹¹⁷ While the Unfair Competition Prevention Act has limitations in that it provides ex-post punishment when a company's trade secrets are infringed, the Industrial Technology Protection Act designates and protects national core technologies by sector, such as semiconductors and displays.¹¹⁸

6) K-Discovery

Discussions on introducing the Korean discovery system (“K-Discovery”) are accelerating in the Republic of Korea to resolve the structural problem of securing evidence in cases of technology theft and trade secret infringement. This includes amending part of the Patent Act to allow experts to investigate evidence required to prove infringement or calculate damages, enable the advance preservation of evidence necessary for patent or exclusive license infringement lawsuits, and strengthen and supplement confidentiality obligations in infringement litigation.¹¹⁹

In addition, the main contents of the Act on the Promotion of Mutually Beneficial Cooperation between Large Enterprises and Small and Medium Enterprises (scheduled to be enforced on February 20, 2028; Act No. 21377)

- Expanding the scope of technology protection to the pre-contractual stage of consignment and commission transactions to resolve technology theft issues prior to contract formation and to provide robust protection for commissioned enterprises (Art. 25(2));
- Mandating the submission of materials by the Minister of SMEs and Startups upon the court's request (Art. 40(5) (newly inserted));
- Introducing an expert inspection system in lawsuits for damages arising from the misappropriation of technical data, and authorizing the court to issue protective orders regarding trade secrets and the like. (Arts. 40-6 through 40-10 (newly inserted));

113 Trademark Act, Design Protection Act (Enforced on Jul. 22, 2025).

114 Copyright Act (Enforced on Aug. 11, 2026).

115 See Ministry of Intellectual Property Press Release, <https://www.kipo.go.kr/ko/kpoBulmnDetail.do?ntatcSeq=20573&aprchId=BUT0000029>.

116 Young Gi KIM, 2026 *Judicial Training, Intellectual Property Rights Litigation Practice*, 2026, p. 42 et seq.

117 Kim Chong Kun et al., *A Study on Judicial Procedures and Sentencing in Technology Theft Crimes*, Judicial Policy Research Institute, 2025, p. 14.

118 *Id.* at 18–19.

119 See Presidential Council on Intellectual Property, Reference Material on Trends Related to Korean Discovery, 2025, p. 10 et seq.

- Authorizing the court to issue materials preservation orders where a lawsuit for damages arising from the misappropriation of technical data has been filed or is likely to be filed (Art. 40-11 (newly inserted));
- Allowing parties to directly examine persons necessary for verifying facts or materials related to proving the existence of a violation or calculating the amount of damages in a lawsuit for damages arising from the misappropriation of technical data (Art. 40-12 (newly inserted)).

3.3. Criminal infringement proceedings

Certain acts of patent, trademark, design, or copyright infringement are subject to criminal punishment under the respective laws, and procedures follow the Criminal Procedure Act in principle. For instance, any person who infringes trademark rights or an exclusive license is punishable by imprisonment with labor for not more than seven years or by a fine not exceeding 100 million won.¹²⁰

Legal provisions related to remedies for criminal proceedings are specified in Chapter 12 of the Patent Act¹²¹, Chapter 12 of the Trademark Act¹²², Chapter 11 of the Design Protection Act¹²³, Chapter 11 of the Copyright Act¹²⁴, and Article 18 et seq. of the Unfair Competition Prevention Act.¹²⁵

Litigation procedures of criminal cases related to IPRs infringement follow general criminal procedures under the Criminal Procedure Act in principle. Territorial jurisdiction of criminal cases is determined based on the place of the crime, or the domicile, residence, or present location of the defendant under Article 4(1) of the Criminal Procedure Act. The institution of public prosecution is made by a method where a prosecutor submits an indictment to the proper court.¹²⁶ However, it is an issue whether some crimes of infringement on Patent Rights, etc. fall under crimes prosecutable only upon complaint.¹²⁷

3.4. Simplified procedures

It is difficult to view that a separate and independent simplified procedure solely for cases related to IPRs is generalized in the Courts of Korea. However, prompt protection of rights is sought through small claims trials in civil cases.

Small claims in general civil cases apply to cases claiming the payment of a specific amount of money or other fungibles, or a certain quantity of securities, where the value of the subject matter of the lawsuit does not exceed 30 million won; for prompt processing, the hearing is concluded in a single trial date and the judgment can be pronounced immediately.¹²⁸ However, when the court makes an order on recommendation of performance, it does not immediately designate a trial date, but first serves a

120 Trademark Act Art. 230.

121 See <https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%ED%8A%B9%ED%97%88%EB%B2%95>.

122 See

[https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%83%81%ED%91%9C%EB%B2%95\(202511121342051111\)%EC%A0%9C53%EC%A1%B0](https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%83%81%ED%91%9C%EB%B2%95(202511121342051111)%EC%A0%9C53%EC%A1%B0)

123 See

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EB%94%94%EC%9E%90%EC%9D%B8%EB%B3%B4%ED%98%B8%EB%B2%95>.

124 See <https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%80%EC%9E%91%EA%B6%8C%EB%B2%95>.

125 See

https://www.law.go.kr/DRF/lawService.do?OC=dl_lawinfosearch&target=law&MST=277201&type=HTML&mobileYn=&fyd=20251001.

126 Criminal Procedure Act Art. 254.

127 Patent Act Art. 225.

128 See Republic of Korea Courts Electronic Case Filing System Portal > Procedural Guide by Case Type. <https://ecfs.scourt.go.kr/psp/index.on?m=PSP730M10>, Trial of Small Claims Act Art. 2(1); Rules on the Trial of Small Claims Art. 1-2.

certified copy of the decision on recommendation of performance on the defendant, and then designates a trial date to proceed with the case only when there is an objection.¹²⁹

3.5. Alternative dispute resolution

The IP High Court maintains a mediation committee composed of IP experts to amicably resolve civil litigation related to IPRs. It appoints around 30 mediation committee members, consisting of legal experts in the field of IP litigation and experts in the field of science and technology, charging them with conducting mediation.¹³⁰

The MOIP operates the Industrial Property Dispute Mediation System. This is a system where, when there is a dispute related to industrial property rights, employee inventions, trade secrets, unfair competition practices, or semiconductor layout-design rights, the 「Industrial Property Dispute Mediation Committee」 established by the MOIP resolves the dispute by having both parties directly participate in the dispute resolution process and inducing a mutual agreement, in order to save the time and cost required for trials and litigation.¹³¹

In the IP field, a court-mediation coordination system is also in operation. Regarding this system, the implementing courts were expanded to the Daejeon District Court in October 2024, following the Seoul and Suwon District Courts.¹³² Accordingly, in cases that require IP expertise and are suitable for resolution through mediation, when the Daejeon District Court refers them to the Industrial Property Dispute Mediation Committee of the MOIP, the secretariat of the Dispute Mediation Committee forms a mediation panel of up to three members composed of the most suitable experts in the relevant field and conducts the mediation process.¹³³

In addition, the Seoul Central District Court is also striving to amicably resolve copyright cases in coordination with the KCC.¹³⁴ The KCC supports the parties to a copyright dispute to swiftly extricate themselves from the dispute by inducing a mutual agreement through mediation.¹³⁵

4. Sources of procedural law

<Major IPRs-Related Laws>

- Patent Act (Enforced on Nov. 11, 2025)¹³⁶
- Trademark Act (Enforced on Nov. 11, 2025)¹³⁷
- Design Protection Act (Enforced on Nov. 28, 2025)¹³⁸

129 *Id.* at Trial of Small Claims Act Art. 5-4.

130 See *supra* note 41, at 10.

131 See Ministry of Intellectual Property Website, <https://www.kipo.go.kr/ko/kpoContentView.do?menuCd=SCD0200345>.

132 *Id.*

133 *Id.*

134 See https://seoul.scourt.go.kr/seoul/info_01.jsp#.

135 See Korea Copyright Commission, <https://www.copyright.or.kr/business/mediation/adjustment/index.do>.

136 See

<https://www.law.go.kr/LSW//lsSc.do?section=&menuId=1&subMenuId=15&tabMenuId=81&eventGubun=060101&query=%ED%8A%B9%ED%97%88%EB%B2%95#undefined>.

137 See

[https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%83%81%ED%91%9C%EB%B2%95/\(20251111,21134,20251111\)%EC%A0%9C53%EC%A1%B0](https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%83%81%ED%91%9C%EB%B2%95/(20251111,21134,20251111)%EC%A0%9C53%EC%A1%B0).

138 See

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EB%94%94%EC%9E%90%EC%9D%B8%EB%B3%B4%ED%98%B8%EB%B2%95>.

- Unfair Competition Prevention and Trade Secret Protection Act (Enforced on Oct. 1, 2025)¹³⁹
- Copyright Act (Enforced on Sep. 26, 2025)¹⁴⁰
- Framework Act on Intellectual Property (Enforced on Dec. 11, 2022)¹⁴¹
- Act on Private International Law (Enforced on Jul. 5, 2022)¹⁴²
- Invention Promotion Act (Enforced on Oct. 1, 2025)¹⁴³
- Utility Model Act (Enforced on Oct. 1, 2025)¹⁴⁴
- Act on the Protection of New Varieties of Plants (Enforced on Oct. 1, 2025)¹⁴⁵
- Act on the Layout-Designs of Semiconductor Integrated Circuits (Enforced on Oct. 1, 2025)¹⁴⁶
- Act on Prevention of Divulgence and Protection of Industrial Technology (Enforced on Oct. 1, 2025)¹⁴⁷
- Act on Support for Protection of Technologies of Small and Medium Enterprises (Enforced on Jul. 10, 2024)¹⁴⁸
- Act on the Promotion of Mutually Beneficial Cooperation between Large Enterprises and Small and Medium Enterprises (Enforced on Jan. 2, 2026)¹⁴⁹
- Fair Transactions in Subcontracting Act (Enforced on Dec. 30, 2021)¹⁵⁰
- Court Organization Act (Enforced on Mar. 12, 2026)¹⁵¹
- Act on the Establishment and Jurisdiction of Courts of Various Levels (Enforced on Mar. 17, 2026)¹⁵²

139 See

https://www.law.go.kr/DRF/lawService.do?OC=dl_lawinfosearch&target=law&MST=277201&type=HTML&mobileYn=&fyd=20251001.

140 See <https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%A0%80%EC%9E%91%EA%B6%8C%EB%B2%95>.

141 See

https://www.law.go.kr/DRF/lawService.do?OC=dl_lawinfosearch&target=law&MST=242919&type=HTML&mobileYn=&fyd=20221211.

142 See

https://www.law.go.kr/DRF/lawService.do?OC=dl_lawinfosearch&target=law&MST=238791&type=HTML&mobileYn=&fyd=20220705.

143 See

https://www.law.go.kr/DRF/lawService.do?OC=dl_lawinfosearch&target=law&MST=277197&type=HTML&mobileYn=&fyd=20251001.

144 See

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%8B%A4%EC%9A%A9%EC%8B%A0%EC%95%88%EB%B2%95>.

145 See

https://www.law.go.kr/DRF/lawService.do?OC=dl_lawinfosearch&target=law&MST=276445&type=HTML&mobileYn=&fyd=20251001.

146 See

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EB%B0%98%EB%8F%84%EC%B2%B4%EC%A7%91%EC%A0%81%ED%9A%8C%EB%A1%9C%EC%9D%98%EB%B0%B0%EC%B9%98%EC%84%A4%EA%B3%84%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>.

147 See

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EC%82%B0%EC%97%85%EA%B8%B0%EC%88%A0%EC%9D%B0%EC%97%85%EC%B6%9C%EB%B0%A9%EC%A7%80%EB%B0%8F%EB%B3%B4%ED%98%B8%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>.

148 See

https://www.law.go.kr/DRF/lawService.do?OC=dl_lawinfosearch&target=law&MST=258443&type=HTML&mobileYn=&fyd=20240710.

149 See

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EB%8C%80%E3%86%8D%EC%A4%91%EC%86%8C%EA%B8%B0%EC%97%85%EC%83%81%EC%83%9D%ED%98%91%EB%A0%A5%EC%B4%89%EC%A7%84%EC%97%90%EA%B4%80%ED%95%9C%EB%B2%95%EB%A5%A0>.

150 See

<https://law.go.kr/lsInfoP.do?lsiSeq=225127&lsId=001590&chrClsCd=010102&viewCls=lsRvsDocInfoR&ancYnChk=#>.

151 See

https://www.law.go.kr/DRF/lawService.do?OC=dl_lawinfosearch&target=law&MST=284023&type=HTML&mobileYn=&fyd=20260312.

152 See

<https://portal.scourt.go.kr/pgp/main.on?w2xPath=PGP1021M04&jisCntntsSmo=2025000006226&rnum=2&pgDvs=1>.

<Major Procedural Laws for IPRs Disputes>

- Civil Procedure Act (Enforced on Jul. 12, 2025)¹⁵³
- Civil Execution Act (Enforced on Feb. 1, 2026)¹⁵⁴
- Rules of Civil Procedure (Enforced on Mar. 1, 2026)¹⁵⁵
- Administrative Litigation Act (Enforced on Jul. 26, 2017)¹⁵⁶

<Procedural Guidelines and Court Rules for IPRs Disputes>

- Rules of Practice in the IP High Court of Korea¹⁵⁷
- Procedural Guidelines for Intellectual Property Litigation in the Seoul Central District Court¹⁵⁸
- Rules of Practice in the 12th Civil Division (Dedicated Division for IPRs, etc.) of the Daegu District Court¹⁵⁹

5. IP case statistics

According to the annual case statistics on the website of the IP High Court, the number of filed actions to reverse the IPTAB decisions gradually decreased from 2021 to 2023, increased in 2024, but has shown a decreasing trend again in 2025.¹⁶⁰ On the other hand, the number of filed civil appellate cases has shown a generally increasing trend from 2021 to 2025.¹⁶¹

The IP High Court's average disposition time as of 2025 is 294.4 days for actions to reverse the IPTAB decisions and 406.2 days for civil appellate cases.¹⁶²

The number of IP cases filed at the Seoul Central District Court increased from around 380 cases in 2015 to around 520 cases in 2016, when jurisdiction was centralized, and has since gradually increased, reaching an annual average of around 1,100 cases from 2022 onwards.¹⁶³

153 See

https://www.law.go.kr/DRF/lawService.do?OC=dl_lawinfosearch&target=law&MST=252393&type=HTML&mobileYn=&efYd=20250712.

154 See

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EB%AF%BC%EC%82%AC%EC%A7%91%ED%96%89%EB%B2%95>.

155 See

https://www.law.go.kr/DRF/lawService.do?OC=dl_lawinfosearch&target=law&MST=283113&type=HTML&mobileYn=&efYd=20260301.

156 See

<https://www.law.go.kr/%EB%B2%95%EB%A0%B9/%ED%96%89%EC%A0%95%EC%86%8C%EC%86%A1%EB%B2%95>.

157 See

https://patent.scourt.go.kr/dcboard/new/DcNewsViewAction.work?seqnum=53&gubun=196&cbub_code=000700&searchWord=&pageIndex=1.

158 See https://seoul.scourt.go.kr/seoul/info/Procedural_Guidelines_kor.pdf.

159 See <https://daegu.scourt.go.kr/common/util/commonBank.jsp?functionCode=3310>.

160 See https://patent.scourt.go.kr/patent/news/news_07/index.html.

161 *Id.*

162 *Id.*

163 See https://jeju.scourt.go.kr/seoul/info_01.jsp#.