

Response to WIPO [C.8261]

[Exceptions and limitations to patent rights]

Submission completed

[Quality of patents]

Information on work-sharing programs among patent offices and on the use of external information for search and examination at KIPO
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1. Current status of **work-sharing**

In order to handle duplicate work caused by the proliferation of cross-national filings, KIPO has implemented bilateral and multilateral international work sharing programs, such as Patent Prosecution Highway(PPH), joint prior art search, PCT Collaborative Search & Examination(CS&E).

Work sharing programs of KIPO are as follows:

(1) Patent Prosecution Highway

- Japan(1 April 2007), US(28 Jan.2008), Denmark(1 March 2009), UK(1 Oct. 2009), Canada(1 Oct. 2009), Russia(2 Nov. 2009), Finland(4 Jan. 2010), Germany(1 July 2010), Spain(1 July 2011), China(1 March 2012), Mexico(1 July 2012), Singapore(1 Jan. 2013), Hungary(1 Jan. 2013), Austria(1 March 2013) (14 nations in total)

(2) PCT-PPH

- US(1 July 2011), China(1 March 2012), Japan(1 July 2012), Austria(1 Jan. 2013)

(3) Korea-US pilot project (SHARE: Strategic Handling of Application for Rapid Examination) (Sept. 2009 ~)

- Initiated to promote examination efficiency of an Office of Second Filing and to reduce burdens of examination, by providing search results, search strategy and examination

results of an Office of First Filing for an Office of Second Filing

(4) Joint Prior Art Search

- Compare and discuss mutually results of patent examination, after jointly examining cross-national filings
- Cooperate with Japan, China, Germany and Russia, etc.

(5) PCT Collaborative Search & Examination(CS&E) Pilot Project

- Several International Search Authorities(ISA) jointly establish ISR and WO/ISA about a single PCT patent application.
- Jointly with the USPTO and the EPO from 2010

2. Using **external information** for prior art search and examination

KIPO operates “Korean Multifunctional Patent Search System(KOMPASS)”, the self-developed system to keep domestic and foreign patent documents from Korea, US, Japan and Europe. In addition, through National Digital Science Links(KIPO-NDSL) serviced by Korea Institute of Science and Technology Information(KISTI), KIPO can have access to 24 external DBs, such as IEEE and Nature, and provides search service environment enabling to use chemistry DB, such as STN.

[Confidentiality of communications between clients and their patent advisors]

Information on laws and practices on the issue of confidentiality of communications between clients and their patent advisors at KIPO

1. <CRIMINAL ACT>

Article 2 (Domestic Crimes) This Act shall apply to both Korean nationals and aliens who commit crimes in the territory of the Republic of Korea.

Article 3 (Crimes by Koreans outside Korea) This Act shall apply to all Korean nationals who commit crimes outside the territory of the Republic of Korea.

Article 317 (Occupational Disclosure of Other’s Secrets) (1) A doctor, dentist, herb doctor, pharmacist, druggist, midwife, **lawyer, patent attorney**, certified public accountant, notary,

scrivener or his assistant or any person formerly engaged in such profession who discloses another's secret which has come to his knowledge in the course of the practice of his profession, shall be punished by **imprisonment or imprisonment without prison labor for not more than three years, suspension of qualifications for not more than ten years or a fine not exceeding seven million won.**

2. <PATENT ATTORNEY ACT>

Article 23 (Crime as to Use by Stealth and Divulgence) **When a patent attorney or a person who was a patent attorney** divulges or uses by stealth without any justifiable reason the secret of an invention or design of an inventor, a designer, or an applicant for patent or registration, which he has learned in the course of performing his duty, he shall be punished by **imprisonment for not more than five years or a fine not exceeding ten million won.**

3. <ATTORNEY-AT-LAW ACT>

Article 26 (Duty to Maintain Confidentiality) No attorney-at-law or former attorney-at-law shall disclose any confidential matter that he/she has learned in the course of performing his/her duties: *Provided*, That the same shall not apply to cases where such disclosure of confidential matters is especially prescribed otherwise by Acts.

4. <ENFORCEMENT DECREE OF THE UNFAIR COMPETITION PREVENTION AND TRADE SECRET PROTECTION ACT>

Article 18 (Penal Provisions) (1) Any person who has used useful trade secrets of any enterprise abroad for the purpose of making an illegal profit or causing damage to such enterprise or has acquired, used, or leaked such trade secrets to any third party with knowing that they are used or will be used overseas shall be punished by imprisonment with prison labor for not more than ten years or by a fine equivalent to the amount ranging from not less than two times to not more than ten times the amount of the profit in property.

(2) Any person who has acquired or used useful trade secrets of any enterprise for the purpose of making an illegal profit or causing damage to such enterprise or has leaked the trade secrets to any third party shall be punished by imprisonment with prison labor for nor

more than five years or by a fine equivalent to the amount ranging from not less than two times to not more than ten times the amount of the profit in property.

5. <CRIMINAL PROCEDURE ACT>

Article 112 (Professional Secrets and Seizure) A person who is or was a **licensed advocate, patent attorney**, notary public, certified public accountant, licensed tax accountant, public scrivener, doctor, herb doctor, dentist, pharmacist, druggist, midwife, nurse, or a religious functionary may resist seizure of articles held in his custody or possession in consequence of mandate he has received in the course of his profession and which relates to secrets of other persons: *Provided*, That this shall not apply if the principal has consented to such seizure, or if it is necessary for important public interests.

Article 149 (Secrets in Professional Line and Refusal of Witness) A person who is or was an **attorney-at-law, patent attorney**, notary public, certified public accountant, licensed tax accountant, public scrivener, doctor, herb doctor, dentist, pharmacist, druggist, midwife, nurse, or a religious functionary may refuse to testify in respect to facts of which he has obtained knowledge in consequence of a mandate he has received in the course of his profession and which relate to secrets of other persons: *Provided*, That this shall not apply if the principal has consented, or if the testimony is deemed necessary for the important public interest.

6. <CIVIL PROCEDURE ACT>

Article 315 (Right to Refuse Testimony) (1) A witness may refuse to testify if it falls under any of the following subparagraphs:

1. When a **lawyer, patent attorney**, notary public, certified public accountant, certified tax consultant, persons engaged in medical care, pharmacist, or a holder of other post liable for keeping secrets under Acts and subordinate statutes, or of a religious post, or a person who used to be in such post, is examined on matters falling under the secrets of his official functions; and

2. When he is examined on matters falling under his technical or professional secrets.

(2) The provisions of paragraph (1) shall not apply to the case where the witness has been exempted from a liability for keeping secret.

Article 344 (Obligation to Submit Document) (1) In the cases falling under any of the

following subparagraphs, the holder of a document shall not refuse to submit it:

1. When the party holds the document quoted in a lawsuit;
 2. When the applicant holds a judicial right to ask the holder of the document to transfer or show it to him; and
 3. When the document has been prepared for the benefit of the applicant, or prepared as to a legal relationship between the applicant and the holder of document: *Provided*, That the same shall not apply to the case falling under any one of the following causes:
 - (a) A document in which matters listed in Articles 304 through 306 are entered, and for which a consent stipulated in the same Articles has not been obtained;
 - (b) A document in which matters listed in Article 314 are entered as to the person holding the document or a person in any such relation with him as falling under any subparagraph of the same Article; and
 - (c) A document in which matters stipulated in anyone among those listed in each subparagraph of Article 315 (1) are entered, and for which an obligation to keep secrets has not been exempted.
- (2) Even except for the case of paragraph (1), in case where the document (excluding the document kept or held by a public official or ex-public official in connection with his duties) does not fall under any one of the following subparagraphs, the person holding the document shall not refuse to submit it:
1. A document listed in paragraph (1) 3 (b) and (c); and
 2. A document for the exclusive use by its holder.

[Transfer of technology]

Practical examples and experiences on patent-related incentives and impediments to transfer of technology in KIPO
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We pay attention to the fact that many people in most developing countries require useful rather than advanced technological information to solve pending issues such as shortages of clean water, energy, and, housing. Appropriate Technology can be applied to 90% of the population in developing countries and can solve the most basic problems experienced by the people.

KIPO, in this regard, has been undertaking the development of appropriate technology for

developing countries with the following course of procedures:

First, we conduct surveys on the needs of local people by investigating local problems, requirements, circumstances, lifestyles and cultures. At the same time, we collect information through various channels such as NGOs, branch offices of private enterprises, Korean embassies and international organizations.

Second, we conduct prior art searches through a database of 150 million patented technologies to identify ways to resolve local problems.

Third, we collaborate with technology experts to adapt the selected technologies to the local climate, environment and conditions of the local population.

Fourth, we distribute the final version of the improved technologies or prototype models to the targeted local community.

Lastly, we engage in a partnership activities with NGOs to assist in commercializing products and developing stable business operations for the local community.