
Korea “Strategies for an Intellectual Property Powerhouse to Realize a Creative Economy”

Overview

Background

Since 1990, many countries like United States, Japan and EU understand that intellectual properties create higher value added than tangible assets do so these countries respectively transformed their economic types to knowledge-based economy so as to boost economic growth and competitiveness. For example, Japan has legislated “Intellectual Property Basic Act” in 2002 and established “the Intellectual Property Strategy Headquarters” in 2003. United States legislated “Prioritizing Resources and Organization for Intellectual Property Act (PRO-IP Act)” in 2008. China also announced “National Intellectual Property Strategic Principles” in June, 2008.

Following the above international tendency of protecting intellectual properties, Korea government has promoted intellectual property related policies and legislated related acts since 2000, such as “Technology Transfer Promotion Act” in 2000, policy of supporting patent disputes settlements and shortened the length of patent examination procedure in 2004. Besides, on June 27, 2006, the Presidential Advisory Council on Education, Science and Technology (PACEST) announced “Strategy for Intellectual Property System Constructing Plan.” However, these policies or acts mainly focus on the protection and application of patent rights, not relate to other kinds of intellectual property rights such as trademark right, copyright etc.

Until 2008, in order to advance the ability of national competition, Lee Myung-bak government had established “Presidential Council on National Competitiveness (PCNC)”. For the vision of transforming to the intellectual property based economy, the PCNC held its 15th meeting on July 29, 2009. The meeting, held at the Blue House, was attended by the president, the Chairman, and members of the Council. One of the agenda of the meeting is strategies for an intellectual property (IP) powerhouse to realize a creative economy. Three goals of the strategies includes being IP Top 5 nations (U.S., Japan, EU, Korea and China), improving technology balance of payments deficits, and enhancing the scale of copyright industry. Next, this study will introduce details of Korea IP related strategies for our nation’s reference.

Introduction

Korea IP strategy consists of 3 aspects (creation and application, law and regulation, infrastructure) and 11 missions. And the contents of 11 missions cover the creation, protection and application of intellectual property rights (patent, copyright, trademark, plant variety etc), namely the whole life cycle of intellectual property rights. Through announcement of IP Strategies, Korea hopes to protect intellectual property rights from every aspect and makes IP as essential driving force for national economic growth.

1. Creation and Application Aspect

First, although the quantity of intellectual property rights (IPRs) of Korea is rapidly increased in recent years, the quality of intellectual property rights is not increased equally. Also, most of researchers do not receive appropriate rewards from R&D institutions, and then it might reduce further innovation. As above reasons, Korea IP strategy indicated that the government will raise “invention capital” to exploit, buy researchers’ new ideas, and make those ideas get legal protection. That is, the government will set up non-practicing entities (NPEs) with private business. The NPEs would buy intellectual properties from R&D institutions or researchers, and then license to enterprises who have need. After licensing, NPEs will share royalty which obtained from enterprises (licensees) with researchers appropriately.

Besides, in order to encourage university, public R&D institutions to set up “technology holdings”, Korea government had amended “Industry Education and Corporation of Industry, Academic and Research Promotion Act”. The amendments are loosening establishment conditions of technology holdings, such as minimum portion of investment in technology has been lowered from 50% to 30%, and broadening the scope of business of technology holdings.

2. Law and Regulation Aspect

Secondly, in aspect of law and regulation, in addition to encouraging creation of good quality of IP, Korea considers that intellectual property rights are needed to be protected legally. Therefore, the IP strategy especially pointed out that Korea would follow the example of Japan to legislate their own “Intellectual Property Basic Act”. According to Korea “Intellectual Property Basic Act”, it should establish a “Presidential Council on Intellectual Property”. The main work of this Council is planning and promoting intellectual property related policies.

There are 5 chapters and 41 articles in Korea “Intellectual Property Basic Act”. The Act like Korea IP strategy is divided into three parts, that is, “creation and application”, “protection” and “infrastructure”. In fact, the legislation of Korea “Intellectual Property Basic Act” embodies the policies of IP strategy. Further, according to Korea “Intellectual Property Basic Act”, “Presidential Council on Intellectual Property” is to integrate IP related affairs of the administrations into one action plan and promote it.

Moreover, according to Korea “Intellectual Property Basic Act”, the government should make medium-term and long-term policies and basic plans for the promotion of intellectual properties every 5 years and adjusts policies and plans periodically as well. Through framing, enacting and adjusting policies and plans, Korea expects to create a well-living environment for the development of intellectual property.

3. Infrastructure Aspect

Thirdly, even if good laws and regulations are already made and more government budget and human resource are invested, Korea is still deficient in well-prepared social infrastructure and leads to the situation that any promoting means of intellectual properties will be in vain. With regard to one of visions of Korea IP strategy, “being IP Top 5 power (U.S., Japan, EU, Korea and China)”, on the one hand, Korea domestic patent system should harmonize with international intellectual property regulations that includes loosening the conditions of application and renewal of patent and trademark.

On the other hand, the procedure of patent application conforms to the international standard, that is, the written form of USA patent application becomes similar to the forms of world IP Top 3 power (U.S., Japan and EU) and member states of Patent Law Treaty (PLT). At the same time, Korea would join “Patent Prosecution Highway (PPH)” to enable Korea enterprises to acquire protection of patent rights around the

world more rapidly.

In addition, about the investigation of infringement of intellectual property rights, Korea IP strategy stated that it would strengthen control measures on nation border and broaden IP protection scope from only patent to trademark, copyright and geographical indications. Besides, Korea uses network technology to develop a 24-hour online monitoring system to track fakes and illegal copies. In addition to domestic IP protection, Korea enterprises may face IP infringement at overseas market, thus Korea government has provided supports for intellectual property rights disputes. For this sake, Korea choose overseas market such as Southeast Asia, China, and North America etc to establish “IP Desk” and “Copyright Center” for providing IP legal consultation, support of dispute-resolving expenses and information services for Korea enterprises.

Korea IP strategy partially emphasizes on the copyright trading system

As mentioned above, one of visions of Korea IP strategy is “enhancing the development of copyright industry”. It’s well-known that Korea culture industries like music, movie, TV, online game industries are vigorous in recent years. Those culture industries are closely connected to copyright, so development of copyright industry is set as priority policy of Korea.

In order to enhance the development of Korea copyright industry, a well-trading environment or platform is necessary so as to make more copyrighted works to be exploited. Therefore, Korea Copyright Commission has developed “Integrated Copyright Number (ICN)” that is identification number for digital copyrighted work. Author or copyright owners register copyright related information on “Copyright Integrated Management System (CIMS)” which manages information of copyrighted works provided by the authors or copyright owners, and CIMS would give an ICN number for the copyrighted work, so that users could through the ICN get license easily on “Copyright License Management System (CLMS)” which makes transactions between licensors and licensees. By distributing ICN to copyrighted works, not only the licensee knows whom the copyright belongs to, but the CLMS would preserve license contracts to ensure legality of the licensee’s copyright.

After copyright licensing, because of characteristic of digital and Internet, it makes illegal reproductions of copyrighted works easily and copyright owners are subject to significant damages. For this reason, Korea Ministry of Culture, Sports and Tourism (MCST) and Korea Intellectual property Office (KIPO) have respectively developed online intellectual property (copyright and trademark) monitoring system. The main purpose of these two systems is assisting copyright and trademark owners to protect their interests by collecting and analyzing infringement data, and then handing over these data to the judiciary.

Conclusion

Korea IP strategy has covered all types of intellectual properties clearly. The strategy does not emphasize only on patent, it also includes copyright, trademark etc. If Taiwan wants to transform the economic type to IP-based economy, like Korea, offering protection to other intellectual property rights should not be ignored, too. As Taiwan intends to promote cultural and creative industry and shows soft power of Taiwan around the world, the IP strategy of Taiwan should be planned more comprehensively in the future.

In addition to protecting copyrights by laws and regulations, for cultural and creative industry, trading of copyrights is equally important. The remarkable part of Korea IP strategy is the construction of copyright online trading platform. Accordingly, Taiwan should establish our own copyright online trading platform combining copyright registration and source identification system, and seriously consider the feasibility of giving registered copyright legal effects. A well-trading platform integrating registration and source identification system might decrease risks during the process of licensing the copyright.

At the same time, many infringements of copyrights are caused because of the nature of the modern network technology. In order to track illegal copies on the internet, Taiwan also should develop online monitoring system to help copyright owners to collect and preserve infringement evidences. In sum, a copyright trading system (including ICN and online intellectual property monitoring system) could reinforce soft power of Taiwan cultural and creative industry well.

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