

(1) The exception of the patent rights regarding generic medicines

Such a case as a patent is worked only for the purpose of research or testing to obtain permission from the Ministry of Food and Drug Safety (MFDS) with respect to generic medicines, the Korean Patent Act defines that the effects of a patent shall not extend to the practice of a patented invention for the purpose of research or testing to obtain permission under the Pharmaceutical Affairs Act or for the purpose of registering pesticides under the Pesticide Control Act.)

(2) Reference to examination guidelines regarding inventive step

We have an English version of the patent/utility models examination guidelines where examination procedures for assessing inventive step of claimed subject-matter are presented in detail. The English examination guidelines can be downloaded on http://www.kipo.go.kr/kpo/user.tdf?a=user.english.html.HtmlApp&c=92006&catmenu=ek03_06_01. The details of the requirements for patentability-inventive step, are presented in 281~317 pages of the guidelines.

(3) Revocation and invalidation mechanism

Korea has provided a mechanism for challenging issued patents through a trial for patent invalidation system. To complement the system, Korea has run 'the post-grant opposition system', in effective from March 2017. The revised system is aimed at reviewing a patent registered in the early stage; guaranteeing the stability of patent rights by rejecting erroneous patents from the beginning; and expanding opportunities for the public to be involved in patent examination.

Related rule: Article 132 of the Patent Act of Korea.

(4) Client Attorney Privilege

Following Advisors certified under the Patent Act, the Attorney-at-law Act, the Patent Attorney Act, the Civil Procedure Code, decision of court, etc.

- Patent attorney

- Attorney-at-law

- A person who is obliged to keep the client's claimed inventions secret. For instance, a notary, a health care provider, a CPA, a person who is obliged to keep the ruling of a court confidential, etc.

However, the aforementioned patent advisors do not have a privilege but confidentiality obligation to hold inviolate confidential information of the client.