

Newsletter

KIM & CHANG

A Quarterly Update of Korean IP Law & Policy | Autumn 2009

CONTENTS

PATENT

1. BE AWARE OF DOUBLE PATENTING WHEN FILING DIVISIONALS
2. RECENT SIGNIFICANT CHANGES TO EXPEDITED EXAMINATION PROCEDURE IN KOREA
3. KOREA'S "BIOSIMILAR" DEVELOPMENT SET IN MOTION
4. KIPO AND THE USPTO AGREE TO "SHARE" PATENT EXAMINATION WORK
5. FIVE MAJOR INTELLECTUAL PROPERTY OFFICES SEEK STANDARDIZATION OF PATENT EXAMINATION
6. KIPO EXPECTS TO INTRODUCE "IP LITIGATION INSURANCE" NEXT YEAR

DOMAIN NAME, DESIGN & COPYRIGHT

7. AMENDMENT TO THE INTERNET ADDRESS RESOURCE ACT
8. AMENDMENT TO THE DESIGN PROTECTION ACT
9. RECENT AMENDMENT TO THE KOREAN COPYRIGHT ACT

FIRM NEWS

PATENT

BE AWARE OF DOUBLE PATENTING WHEN FILING DIVISIONALS

By Ji-Eun KIM, John J. KIM

Korea does not have continuation applications, only divisional applications. However, divisional applications are not limited to responding to restriction requirements in Korea. Accordingly, many applicants use divisional applications to achieve many of the same results as using a U.S. continuation application (e.g., keeping an application alive to pursue additional claims at a later time or to pursue different aspects of the invention). Moreover, under the Korean patent practice, the entire set of claims is treated as one and is either allowed or rejected as a whole. In other words, even if only one claim in the application is ultimately rejected, the entire set of claims, including any otherwise allowable claims, will be rejected. Thus, divisional applications are a valuable tool that is often essential to a good prosecution strategy in Korea. However, applicants should be mindful of the potential for double patenting which could potentially lead to the invalidation of both patents.

In the United States, when an applicant obtains a notice of allowance, the applicant will often file a continuation application to preserve the ability to pursue additional claims at a later time. This may result in the continuation application having claims with only slight variations from the parent application. This is usually not a problem in the U.S. because obvious type double patenting can be overcome through a terminal disclaimer. Thus, practitioners do not always need to be as careful about the claim scope being sought during the prosecution of the parent application. If a particular claim scope was not included in the initial application, the applicant has the option of going back and trying to get it through a continuation application.

Unfortunately, Korea does not have terminal disclaimers. Thus, if an applicant files divisional applications without careful thought or analysis, the whole family of patents may be invalidated for double patenting. Alternatively, if double patenting becomes an issue during prosecution of the divisional application (after issuance of the parent application), it may prevent the divisional application from obtaining claim scope over important aspects of the invention. Hopefully, there can be discussions to amend the Korean patent laws to alleviate the current situation. But for now, practitioners are encouraged to understand (as best as can be done at the time) the direction of the application and the scope of claim coverage sought early on in prosecution (ideally around the time of the first office action).

This article deals with the standards for double-patenting, the resulting problems and possible corrective measures.

STANDARDS FOR DOUBLE PATENTING

Under the Korean patent practice, double patenting can be raised when the parent and divisional application cover the identical invention or are substantially identical. Double patenting is determined by comparing the claims. The determination of double-patenting mainly depends on the differences in the constitution of the invention. When multiple applications do not have differences in constitution, i.e., “completely identical” they must be rejected as double-patenting. However, even if there are constitutional differences between two inventions, they may be rejected under double patenting if they are deemed as being “substantially identical.”

For instance, “even if there are some differences in the technical constitution, the identical nature is also recognized when such differences are a modification of well-known or commonly used technology as a specific means for solving a problem, and do not involve any particular differences in terms of purpose and working effect.” (Korean Supreme Court Decision No. 84 Hu 30, rendered on August 20, 1985). In fact, even if the inventions belong to different categories, they may be rejected under double patenting. For example, the Supreme Court held that the junior invention (method for recycling waste wax used for casting lost-wax) was substantially identical to the senior invention (apparatus for recycling waste wax used for casting lost-wax) because the junior invention is simply directed to a method of using the apparatus of the senior invention and considered to have the same technical concept (Korean Supreme Court Decision No. 2005 Hu 3017, rendered on January 12, 2007).

The Korean Intellectual Property Office (“KIPO”) Examination Guidelines further explains that two inventions are considered to be substantially identical when they differ only in non-essential matters without substantially affecting the concept of the inventions. For example, simple differences in expression, simple differences in recognition of the effects, simple differences in purpose, simple modification of constitution, simple differences in use and simple definition for use are all recognized as potentially leading to double patenting.

However, the Korean patent law does not adopt an “obviousness” test for determining double-patenting.

Consequently, a divisional application which is “obvious” in light of the parent application but is not a modification of a well-known or commonly used technology is not deemed to be double patenting.

CORRECTING DOUBLE PATENTING

There are several different ways of overcoming double patenting depending upon the stage of the applications.

(1) Parent and divisional applications are pending

If the parent and divisional applications are pending, the applicant may resolve the double patenting issue by amending the claims of one or both of the applications (e.g., through a voluntary amendment, in response to the KIPO’s request for consultation or rejection). However, keep in mind that under Korean patent practice, amendments may only be freely made up until and in response to a preliminary rejection (i.e., typically the first office action). However, later amendments made in response to subsequent office actions (e.g., final preliminary rejection) are limited. Amendments in response to office actions other than a preliminary rejection are limited to (i) narrowing a claim; (ii) correcting clerical errors; or (iii) clarifying an ambiguous description. Consequently, if the double patenting issue is not adequately addressed in response to the first office action, it may become substantially more difficult to address in later stages of prosecution.

Alternatively, the applicant may withdraw or abandon one application to resolve the double-patenting issue. In this regard, under the Old Korean Patent Act, abandoning a pending application did not cure the double-patenting issue since the abandonment was only effective going forward. Thus, the applicant was required to take proactive action, i.e., to withdraw the application. Since the amendment to the Patent Act, effective as of March 3, 2006, however, an abandoned application is now considered to have never been filed for purposes of determining double-patenting.

(2) Correcting registered patents

If one or both applications for the completely identical or substantially identical invention are registered as patent(s), the means for correcting double-patenting is limited and may lead to the invalidation of both patents. Indeed, if both applications have already registered as patents, then both patents may be invalidated through invalidation actions (an invalidation action is an administrative action filed with the

Intellectual Property Tribunal (“IPT”) within the KIPO).

In one invalidation action, the Supreme Court encountered two utility model registrations for the substantially identical invention filed by the same applicant on the same date. The Supreme Court cited Article 36 of the Korean Patent Act which states that when “applications related to the identical invention are filed on the same date, only the person agreed upon by all the applicants after consultation may obtain a patent (or utility model registration) for the invention. If no agreement is reached or no consultation is possible, none of the applicants may obtain a patent (or utility model registration) for the invention.” Based on such provision, the Supreme Court stated that “if two applications for the substantially identical invention are filed by the same applicant, none of the applications are allowable.” (Korean Supreme Court Decision No. 84 Hu 14, rendered on May 28, 1985). However, if one of the registrations is invalidated first, the other registration can remain valid since the invalidated registration is deemed to have never existed.

If two patents are deemed to be identical or substantially similar and deemed to be double patenting, even abandoning one of the patents may not resolve the problem. In one example, the same applicant owned one registered patent directed to a method and one granted utility model registration directed to an apparatus. The patentee later “abandoned” the utility model registration in the hopes of avoiding double patenting. The Supreme Court held that the abandonment of the utility model registration did not cure the original defect of double-patenting because the abandonment of the granted utility model registration did not have retroactive effect. (Korean Supreme Court Decision No. 2005 Hu 3017, rendered on January 12, 2007). Accordingly, unlike the abandonment of the pending application, the abandonment of the registered patent right may not cure the double-patenting issue.

Thus, the way to cure double patenting if both applications have issued as patents is (i) through a correction action (an *ex parte* procedure within the IPT) or (ii) when responding to an inter partes invalidation action. Significantly, a correction made through a correction action or an invalidation action is deemed to take effect from the filing date of the application. Thus, a correction resolving the double patenting issue will cure both patents. However, the types of corrections that are allowed are again limited to (i) narrowing a claim; (ii) correcting clerical errors; or (iii) clarifying an ambiguous description. Further, the correction

cannot substantially alter or modify the original scope; and for the correction action under (i) or (ii), the corrected claim must be patentable at the filing date. Because of the limitations on the corrections, it may be difficult to resolve the double patenting issue while maintaining the desired claim scope.

REVIEW CLAIM STRATEGY EARLY

As discussed above, double patenting may cause serious problem, especially after the patent registers. In fact, because of the restrictive amendment practice, double patenting issues may become difficult to address after responding to the preliminary office action. Many times double patenting issues arise by failing to properly manage patent portfolios (e.g., mass filings and/or filing divisional applications with subject matters which may be considered to be “substantially identical.”).

Although it is not always practical or may not even be possible at times, the best way to prevent double patenting is to fully understand the direction of the claim scope early in the prosecution process (ideally before responding to the first office action) and form a cohesive strategy. Accordingly, practitioners should try to understand the client's needs and be mindful of the potential for double patenting throughout the entire prosecution process.

RECENT SIGNIFICANT CHANGES TO EXPEDITED EXAMINATION PROCEDURE IN KOREA

By Hyung-Geun Ji, Stephen T. BANG

Recently, the Korean Intellectual Property Office (“KIPO”) revised the regulations for expedited examination, some of which became effective as of September 1, 2009. The primary change implemented by the revised regulations is the requirement that a prior art search be conducted by the applicant for all types of expedited examination, except where i) third-party infringement is occurring; ii) the expedited examination is requested based on the Patent Prosecution Highway program; or iii) a prior art search is already completed as an independent pre-requisite to

qualifying for expedited examination.

Under Korean patent practice, patent applications are examined in the order of when the request for examination is made (the deadline being 5 years from the filing date). At the current pace of examination at KIPO, an applicant can expect a first office action to be issued within about 12-16 months. However, if expedited examination is requested, the first office action can be issued in as little as about 4 months.

According to the revised regulations, expedited examination is available for the following cases:

1. A third party is practicing the claimed invention commercially in Korea after the invention has been laid-open (third-party practice);
2. A necessity exists for expediting examination of an application that belongs to the following categories;
 - A. the applicant (or its licensee) is practicing or preparing to practice the invention commercially in Korea (self-practice);
 - B. the application is directed to a defense industry;
 - C. the application is directly related to green technology;
 - D. the application is directed to electronic transactions;
 - E. a request for examination of a utility model application is made at the same time of filing the utility model application and a request for expedited examination thereof is made within 2 months from the filing date; and
 - F. the application qualifies for certain requirements that mostly apply to applicants that are domestic entities;
3. the KIPO Commissioner and the heads of patent offices in other countries (Japan, USA, Denmark, UK, Canada and Russia) agreed to expedite examination of an application (under the Patent Prosecution Highway program); or
4. the applicant requests a prior art search to an independent prior art search institute designated by KIPO at its own cost (about USD \$500-\$700 at current exchange rates) and the search result thereof is obliged to be notified to the KIPO Commissioner.

The new regulations have extended the scope of expedited examination to cover "green technology" patent applications (related to environmental or energy saving inventions). More specifically, as of October 1, 2009, a "fast track" expedited examination process will be available for the "green technology" patent applications, under which the first office action will be issued within 1 month of the

examination request date.

The new regulations require a prior art search conducted by an applicant for all expedited examination requests based on Case 2 above. That is, the applicant must submit its own prior art search (with at least 4 prior art references deemed to be the closest) and a statement comparing the subject invention (each claim) and the prior art.

Generally, the new regulations appear to impose further burden upon applicants who petition for expedited examination. However, the new regulations serve the additional purpose of deterring petitions for expedited examination that are submitted without discretion or otherwise have no merit.

KOREA'S "BIOSIMILAR" DEVELOPMENT SET IN MOTION

By Ji-Eun KIM, Alice Young-Ran CHOI

Recently, the Korean government has been picking up the pace on its plan to support the development of biosimilar medicines – the copy version products of biologics – in Korea.

In July, the KFDA issued the amendment to the "Rules Governing the Approval and Examination of Biological Products," (effective as of July 15, 2009) which newly establishes the definition of "biosimilar products" as a biopharmaceutical, the quality and comparative equivalency (clinical and non-clinical) of which have been confirmed in reference to an already-approved drug. In addition, the KFDA, on July 27, 2009, released guidelines for the evaluation of biosimilar products which include the various requirements for a product to be approved as a biosimilar.

According to recent statistics released by the Korean Food and Drug Administration ("KFDA"), the Korean biopharmaceutical industry reported an average 34.7% annual growth (compared to 9.3% for the general pharmaceutical industry) and a market size of KRW 975.5 billion (about USD 780 million) in 2008. Further, in view of the need to control healthcare costs and considering the fact that many patents on biologics currently on the market

are set to expire in several years, the Korean government is recognizing the importance of developing “generics” of biologics, i.e., “biosimilars,” and supporting the relevant industries. In this context, Samsung Electronics recently announced its plan to invest KRW 500 billion (about USD 400 million) in developing biosimilars for the next five years through government R&D assignment projects in the new growth engine arena.

As a result, further developments in the Korean biosimilar field are closely being watched by the biopharmaceutical industries and patent filings and disputes are expected to increase.

KIPO AND THE USPTO AGREE TO “SHARE” PATENT EXAMINATION WORK

By Jack Eui-Hwan JUNG, Stephen T. BANG

Jung-Sik Koh, Commissioner of the Korean Intellectual Property Office (“KIPO”), announced that KIPO and the United States Patent and Trademark Office (“USPTO”) will implement the Strategic Handling of Applications for Rapid Examination (“SHARE”) beginning September 1, 2009.

SHARE is a cooperative search and examination system between KIPO and the USPTO that applies to applications filed in both KIPO and the USPTO. That is, where the same application is filed in both KIPO and the USPTO, the office of first filing examines the first filed application, and then the office of second filing examines the second filed application using the examination results of the first filed application from the office of first filing. Through SHARE, both KIPO and the USPTO examiners will be able to share various information such as prior art, search strategy, and examination results.

SHARE is similar to the Patent Prosecution Highway (“PPH”) program that currently exists between KIPO and USPTO, a system that allows an application allowed in one country (office of first filing) to be expedited in the other examining country (office of second filing) by using

the examination results from the office of first filing. One significant difference between SHARE and PPH is that for PPH, the application filed in the office of first filing must be allowed whereas SHARE is initiated and operated by the examiners within KIPO and the USPTO regardless of the examination results in the office of first filing and without applicant’s request.

During the first year of SHARE, KIPO and the USPTO plan to first implement SHARE for applications relating to fuel cells and semiconductors and then gradually expand SHARE to other technology areas.

SHARE is expected to lessen the current burden of KIPO and USPTO examiners, and may improve the overall efficiency and consistency of their patent examination processes.

FIVE MAJOR INTELLECTUAL PROPERTY OFFICES SEEK STANDARDIZATION OF PATENT EXAMINATION

By Jack Eui-Hwan JUNG, Hye Joo MIN

IP5, the five major intellectual property offices including the European Patent Office (“EPO”), the United States Patent and Trademark Office (“USPTO”), the Japan Patent Office (“JPO”), the State Intellectual Property Office of the People’s Republic of China (“SIPO”), and the Korean Intellectual Property Office (“KIPO”), announced that they are seeking to standardize patent examination. Applications filed with IP5 account for about 77% of the worldwide patent applications.

Jung-Sik Koh, Commissioner of KIPO, announced that IP5 decided on ten foundation projects for standardizing patent examination and agreed to actively pursue those projects at the Vice Ministerial Consultations held in Murnau, Germany on June 11-12, 2009.

The ten foundation projects cover all examination practices and systems, including:

- (1) **Establishing a Common Documentation Database** to bring together a common set of relevant patent and non-patent literature from around the world to assist patent examiners in their prior art searches.
- (2) **Establishing a Common Hybrid Classification System** to enable joint and efficient updating of patent classification.
- (3) **Establishing a Common Application Format** by utilizing electronic patent application filing in XML format and subsequently processing and publishing in XML format.
- (4) **Providing Common Access to Search and Examination Results** to enable examiners to find references in the dossier information of other offices, such as search and examination results, and to efficiently conduct priority document exchange (PDX) to reduce applicants' cost of ordering copies of priority documents and the administrative cost of processing such orders.
- (5) **Establishing a Common Training Policy** to standardize the training of patent examiners at each office, helping examiners produce search and examination results of consistent quality.
- (6) **Establishing Mutual Machine Translation** to help the offices overcome the language barrier and allow greater access to each other's patent information.
- (7) **Establishing Common Rules for Examination Practice and Quality Control.**
- (8) **Establishing a System of Common Statistical Parameters for Examination** at the five offices and exchanging information on examination practices under the common rules and parameters.
- (9) **Establishing a Common Approach to Sharing and Documenting Search Strategies** to enable the patent examiners of each office to understand each other's search strategies.
- (10) **Establishing Common Search and Examination Support Tools** to facilitate work-sharing.

If IP5 actively pursues the ten foundation projects, the efficiency and consistency of patent examination processes and results across the five offices will improve.

IP5 agreed to hold an examiners' workshop in Korea during the second half of this year to compare the examination practices of IP5 and to check the progress of the ten foundation projects. This workshop will boost the work-sharing activities of the ten foundation projects.

Won-Jung Kim, the KIPO Vice-Chief who attended the Vice Ministerial Consultations in Murnau, Germany as a KIPO representative, stated that "international cooperation in patent examination became an international trend and will be more successful than ever before." He further stated that "KIPO's participation in the work-sharing among IP5 will further internationalize Korean patent practice."

KIPO EXPECTS TO INTRODUCE "IP LITIGATION INSURANCE" NEXT YEAR

By Hyung-Geun Ji, John J. KIM

The Korean Intellectual Property Office ("KIPO") is in the process of evaluating the possibility of providing subsidies for intellectual property litigation insurance to small and medium-sized Korean companies. KIPO realized small and medium-sized companies needed assistance with protecting their intellectual property rights after observing many instances where smaller companies were unable to adequately protect their IP rights.

Accordingly, late last year, KIPO started testing the program with a couple of insurance companies to provide subsidies for IP litigation insurance on a one-year trial basis. The full program is scheduled to begin next year after studying the results of the one-year trial period.

The IP litigation insurance is designed to cover the following instances: i) when the insured company instigates infringement-related lawsuits/actions within or outside of Korea to protect its patent rights; ii) when the insured company responds to counteractions raised by the alleged infringer in response to its infringement-related lawsuit or action; or iii) when the insured company responds to invalidation actions/lawsuits raised with regard to the insured company's registered rights within Korea.

Thus, the IP litigation insurance program is expected to encourage smaller companies to purchase IP litigation insurance in the hope they will actively protect their IP rights.

DOMAIN NAME, DESIGN & COPYRIGHT

AMENDMENT TO THE INTERNET ADDRESS RESOURCE ACT

By Cecile Su-Jung KWON, Gavin HEALY

An amendment to the Internet Address Resource Act (“IARA”) providing protection of domain names in Korea was announced on June 9, 2009, and will be effective as of September 10, 2009. The major provisions of the amendment are as follows.

1. The amended IARA will cover generic top level domain names (gTLDs).

Currently, a number of domain name registrants have filed action in the Korean courts to prevent a decision rendered under the Uniform Domain Name Dispute Resolution Policy (“UDRP”) from being implemented by the registrar. When such a case is brought before the Korean courts, according to Korean Supreme Court precedent, the applicable law is not the UDRP, but rather the relevant laws of Korea, such as the Trademark Act and the Unfair Competition Prevention and Trade Secret Protection Act (“UCPA”). Therefore, under current practice, a UDRP petitioner should argue trademark infringement based on its trademark registration in Korea and/or prove the fame of its mark in Korea under the UCPA in order to prevail in such a court action.

The UDRP petitioner may now also raise a claim under the IARA because the scope of the IARA, which is currently applied to country code top level domain names (ccTLDs; KR domain names) only, will be extended to gTLDs. The IARA prohibits “registering, maintaining or using a domain name in bad faith for the purpose of preventing a legitimate right holder from registering the same or in order to obtain an unlawful gain from the right holder,” and, unlike the UCPA, there are no express requirements for a local trademark registration or local fame thereunder. However, although there are few cases under the IARA to provide guidance, the major opinion is that a foreign party should have a legitimate right provided by the Korean laws (e.g., trademark registration or local fame) in order to successfully challenge an action seeking to enjoin enforcement of a UDRP decision. Thus, it may not be easy

to convince a Korean court of the foreign party’s legitimate rights in a domain name or the registrant’s bad faith, based on evidence from abroad only.

2. We may seek transfer of domain names under the amended IARA.

Under the current remedies against domain name cybersquatting provided by the UCPA, petitioners may seek only de-registration of domain names before the Korean courts. However, under the amended IARA, petitioners may seek transfer of domain names as well as de-registration. Considering that petitioners have to risk the possibility of a third party’s prior registration even after a successful court action due to the uncertain timing of de-registration by the registrar, such amendment will provide greater certainty and convenience in recovering domain names.

3. Registrars should confirm registrants’ identity in registering domain names.

According to the amended IARA, Korean registrars should confirm the identity of the registrant when a domain name is registered and if the registrant’s identity is confirmed later to be false, the registrar should de-register the domain name. Such remedy would help to identify the registrant when a petitioner wishes to recover a domain name, particularly considering that many domain names are not registered under the registrant’s real name.

AMENDMENT TO THE DESIGN PROTECTION ACT

By Sung-Nam KIM, Nayoung KIM

An amendment to the Design Protection Act (“DA”) was announced on June 9, 2009, which will be effective as of July 1, 2009. The major objectives of the amendment are as follows.

1. Re-examination

Under the current DA, if the Korean Intellectual Property Office (“KIPO”) issues a decision denying the registration of a design, then the applicant has thirty days after receiving

a certified copy of the decision to file an appeal to the Intellectual Property Tribunal ("IPT").

In order to provide the applicant with convenience and more opportunities for reaching registration of its design, the DA adopted a re-examination procedure, which enables the applicant to file a request for a re-examination if he/she received a rejection due to the drawing in the application. An applicant may now try to acquire registration by amending its drawing and filing a request for a re-examination without having to file an appeal to the IPT.

This re-examination procedure is available for design applications filed after July 1, 2009.

2. Late Payment of Registration Fees

Currently, KIPO permitted late payment of registration fees, but an amount equivalent to twice the registration fees must be paid regardless of how late the payment is made. However, the amendment now allows registrants to pay late fees on a sliding scale depending on the number of days overdue, thus relieving the financial burden. The calculation for such late fee is as follows.

- Within one month from the deadline: an amount equal to 120% of the registration fees
- Within three months from the deadline: an amount equal to 130% of the registration fees
- Within six months from the deadline: an amount equal to 150% of the registration fees

3. Penalty for Divulging Secrets

Under the current DA, any present or former KIPO or IPT official who has divulged secrets related to a design application is liable for imprisonment with labor not exceeding two years, or for a fine not exceeding 3 million won.

To reinforce the protection of design secrets, the amendment increased the imprisonment period to "not exceeding five years," and the amount of the fine to "not exceeding 5 million won."

RECENT AMENDMENT TO THE KOREAN COPYRIGHT ACT

By Sung-Jin JOH, Sang-Eun Kate LEE

An amendment to the Korean Copyright Act was made public on April 22, 2009 and will be effective as of July 23, 2009. Pursuant to this amendment, the provisions of the Computer Program Protection Act will be merged into the Copyright Act and more effective administrative measures will be feasible as to unauthorized uploading of copyrighted materials on the Internet.

NEW PROVISIONS TO ADDRESS INTERNET PIRACY

The amendment to the Copyright Act includes the adoption of a so-called "3-strikes" measure for addressing unauthorized on-line file sharing. Pursuant to this measure, the Ministry of Culture, Sports & Tourism ("MCST") may make on-line service providers suspend the account of users illegally uploading files and suspend the bulletin boards to which such files are uploaded.

Regarding the suspension of individual user accounts, after review by the Korea Copyright Commission ("KCC"), the MCST can make the on-line service provider give warnings to users, order deletion of the illegally copied materials and/or suspension of transmission of the materials, and in the case where a user receives more than three warnings from the on-line service provider, the MCST can make the on-line service provider suspend such user's account (excluding e-mail accounts) for up to six months. For example, if A illegally copied and transmitted materials on an Internet portal "café" (on-line community), the MCST may request the operator of the café to provide a warning to A, and if A's infringing activities continue after three such warnings, the MCST can make the on-line service provider suspend A's café account for up to six months.

In respect of bulletin boards of on-line service providers operated for commercial purposes, when the deletion or suspension of transmission of illegally copied materials has been ordered more than three times, the MCST may suspend the bulletin board service partially or in whole for up to six months, after the KCC's review. For those on-

line service providers that do not comply with the MCST's orders, an administrative fine of up to 10 million won may be imposed.

COMPUTER PROGRAM PROTECTION

In order to increase consistency between policy and enforcement, the provisions of the 1986 Computer Program Protection Act will be merged into the Copyright Act. As a result of this change, the responsibility for deliberation and dispute resolution in the area of computer program protection, which had been vested in the Computer Program Protection Committee under the former Ministry of Information and Communications, will now be assumed by the KCC. To deal fairly with new issues that may arise as a result of such expanded responsibilities, IP rights holders and user groups may recommend candidates to the MCST for KCC membership.

While computer software protection will be addressed under the provisions of the existing Copyright Act, certain provisions of the Computer Program Protection Act, including those related to exclusive right of publication and other issues, will be incorporated in the amendment to address the unique aspects of such programs.

Patents in Emerging Asian Markets," and Mr. Lee takes the Korea section among China, India and Korea.

FIRM NEWS

SPEECHES

International Patent Litigation Conference

On September 14, 2009, Mr. Jay J. Kim of our firm spoke at the "Demystifying Patent Litigation in Key Asian Jurisdictions" session as part of the International Patent Litigation Conference in London. Other speakers at the session included attorneys from Anand & Anand (Delhi), Jones Day (Shanghai) and Lovells (Tokyo).

Foreign Patent Law & Regulation for the U.S. Life Sciences Patent Practitioner Conference

Mr. Kyumin Kevin Lee (US attorney from our Patent Group) will speak at the Foreign Patent Law & Regulation for the U.S. Life Sciences Patent Practitioner Conference organized by the American Conference Institute in New York, NY on Monday, December 7, 2009. The title of the speech is "Filing and Prosecuting Life Sciences & Pharmaceutical

