

# LESI Design Study—Korea

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## (I) Introduction

Today, the majority of countries in the world (including Korea) have intellectual property systems that recognize the value of creative intellectual activity and provide creators with a period of exclusive rights. Korea has several IP-related laws, including the Patent Act, Utility Model Act, Design Protection Act, Trademark Act, and Copyright Act. Among these, the Design Protection Act protects newly created industrial designs and provides exclusive rights to use the design by the creator of the design.

The Design Protection Act protects the aesthetic appearance of industrial products. The design has the function of appealing to the consumer and increasing the desirability of the product. The importance of designs on consumers' decisions is increasing, which in turn has increased the importance and popularity of design protection. Reflecting this trend, the number of design applications filed in Korea has increased from about 30,000 a year in the early 2000s to about 60,000 a year in 2019.

## (II) Design Protection

### (1) Basics of Design Law

Product designs can be registered with the Korean Intellectual Property Office (“KIPO”) and are protected under the Design Protection Act (“DPA”). To be registered, design applications must relate to a single (or part of an) article. Applications can be filed locally or through the International Hague System and will either undergo substantive examination or partial-substantive examination, depending on the Locarno class of the article. Registered designs can be valid for up to 20 years from the Korean filing date of the design application. The owner of an infringed design can file a civil action, criminal action, or an administrative action. Civil remedies include injunctive relief, damages and restoration of goodwill, while criminal remedies include imprisonment and fines. Administrative actions include a scope confirmation trial (action that takes place within KIPO and determines whether a particular design falls within the scope of a registered design).

Under current Korean practice, a design registration can be sought prior to public disclosure. Designs can generally be protected under the DPA as registered designs. However, Korean law also provides some protection for product designs, even without registration in some limited circumstances under the Unfair Competition Prevention and Trade Secret Protection Act

(“UCPA”) and the Copyright Act. Further, Korea is a signatory of the Agreement Establishing the World Intellectual Property Organization, the Paris Convention for the Protection of Industrial Property, the Agreement on Trade-Related Aspects of Intellectual Property Rights, the Locarno Agreement Establishing an International Classification for Industrial Designs, and the Hague Agreement Concerning the International Registration of Industrial Designs. Accordingly, international conventions have the same legal effect as domestic laws.

### (2) Application Procedure

Depending on the designated Locarno class, design applications filed in Korea will either undergo substantive examination, during which KIPO will review all requirements, or a partial-substantive examination, during which KIPO will only verify very basic and procedural requirements. Currently, applications classified in Class 2 (articles of clothing and haberdashery), Class 5 (Textile piece goods, artificial and natural sheet material), and Class 19 (Stationery and office equipment, artists' and teaching materials) are registered without substantive examination. Nevertheless, even if an application undergoes partial-substantive examination, information and evidence to the effect that the application does not meet the substantive requirements can be submitted by anyone, and KIPO can reject the application accordingly.

Under current practice, it generally takes about six to eight months from the filing date for a design application to be registered.

### (3) Formal Requirements and Fees

The following information and documents must be provided in order to file a design application:

- Name, address, and nationality of the applicant(s);
- Name, address, and nationality of the inventor(s);
- Power of attorney signed by the applicant(s);
- Drawing(s) (alternatively, photo(s) or samples can be submitted) of the design;
- Description of the design, stating the features of the design, materials used in manufacturing the design, the usage and/or method of use of the design, etc.; and
- Document proving priority, if priority is to be claimed.

Table 1 and 2 show the official fees for filing a de-

sign application and the subsequent annuity fees (as of August 2019).

#### (4) Protectable Subject Matter and Substantive Requirements

A design application must relate to a single product or to any part(s) of a product containing a specific shape and/or pattern. A part of a product can be registered if the part can be subject to independent commercial transaction and is replaceable. Moreover, it is possible to get design protection for colors. It is also possible to protect a set of articles, if the set constitutes a coordinated whole, *e.g.*, a set containing a fork, knife and spoon or a tea apparatus set. A typeface can also be protected under the DPA as an exception to the general rule that allows protection only for articles. Logos, surface patterns, ornamentation under Locarno Class 32 are not protectable. Screen images, including icons and GUI can be registered as partial designs of a product, such as display panel, computer, cell phone, etc. Virtual reality designs, augmented reality designs or other such similar designs can also be protected.

A design will be considered as lacking novelty, and may not be registered, if it falls into any of the following categories:

- A design identical or similar to one which has been publicly known or used in Korea or in a foreign country prior to the filing of the design application; or
- A design identical or similar to one which has been described in a publication circulated in Korea or in a foreign country or published electronically, prior to the filing of the design application.

Nonetheless, a design would not be deemed to have lost its novelty over an identical or similar design if the application for the design is filed within one year from the date when the identical or similar design of the applicant was first laid-open. This one-year grace period does not apply to designs that were first disclosed to the public

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**Table 1. Filing/Registration Fees  
(Including First 3 Years Annuities)**

			Substantive Examination Application (Per Design)	Partial-Substantive Examination Application (Per Design)
Filing	Filing	Official Fee	KRW 94,000 (online) KRW 104,000 (paper)	KRW 45,000 (online) KRW 55,000 (paper)
	Claiming Convention Priority	Official Fee	KRW 18,000 (online) KRW 20,000 (paper)	
Registration (first three years' annuities are included in registration fee)		Official Fee (first three years' annuities)	KRW 75,000	

**Table 2. Annuities For Years 4 To 20**

Year	Official Fee *Substantive Examination Application	Official Fee *Partial-substantive Examination Application
4th to 6th year	KRW 35,000 per year	KRW 34,000 per year
7th to 9th year	KRW 70,000 per year	
10th to 12th year	KRW 140,000 per year	
13th to 20th year	KRW 210,000 per year	

through publication by any patent office in the world.

A design will be considered as lacking novelty, and may not be registered, where a person with ordinary skill in the particular field of design could have easily created such design from a shape, pattern, color or combination of these that is widely known in Korea or in a foreign country. Further, a design cannot be registered if it can easily be created from a design(s) publicly known or used in Korea, or in a foreign country.

If a design falls under one or more of the following categories, the design is barred from registration:

- A design identical or similar to the Korean national flag, Korean National seal, military flag, or a decoration of Korea, national flag or national seal of a foreign country, a mark or an indication of an international organization;
- A design likely to contravene public morals or social order;
- A design likely to cause confusion with the business of another party; or
- A design consisting solely of a shape that is essential to the product's function.

#### **(5) Protectability of Technical Features**

The DPA defines “design” as the shape, pattern, color, or a combination of these in an article (including part of an article), which produces an aesthetic visual impression. Thus, a design must produce an aesthetic impression. Such aesthetic impression includes not only the aesthetic value coming from the ornamental character of the design, but also the aesthetic value coming from its functional character. Nevertheless, if a design solely consists of a configuration that is essential to the function of the product, it is not registrable.

#### **(6) Filing Strategy**

##### **Single Applications/Multiple Applications Available?**

Up to 100 designs can be filed under one multiple design application, provided that all the design articles fall in the same Locarno class. However, it is recommended to file a single design application for each design, since even if a multiple design application is filed, each design will be separately examined, receive separate notices, and be registered under a different number. This means that the examination periods, the registration date, and annuity fee deadlines may be different. Further, the cost for filing one multiple design application is the same as that for filing single design applications for each design.

##### **Protection of a Part of a Product Available?**

A part of a product can be registered if the part can be subject to independent commercial transaction and is replaceable.

#### **Admissible Types of Lines/Meaning of the Lines**

Even if the design to be claimed is only a part of a product, the whole product should be represented in the drawings, and the claimed portion should be clearly indicated in the drawings. Specifically, when filing an application with line drawings, the claimed portion should be indicated with solid lines, and the unclaimed portion should be indicated with dotted lines. If the boundary between the claimed and unclaimed portion is unclear, the boundary must be indicated with dot-dash lines. When filing an application with photographs, the claimed portion should be indicated with photographs, and the unclaimed portions indicated through different colors.

#### **Related Design**

Korean design law has a somewhat unique feature that allows a design applicant to file designs that are similar to the applicant's previously filed or registered design as a “related design.” Filing new applications as related designs can sometimes enlarge the scope of protection. As the number of related designs increase, as more and more design elements are found to be “similar” but not identical, this will increase the scope of protection.

An application for a related design must be filed within one year following the filing date of the application for the principal design. The term of validity of the related design registration will coincide with that of the corresponding principal design registration. Nevertheless, even if the principal design is invalidated, the related design will remain valid.

#### **Amendments of Representations Admissible?**

Descriptions in a design application or drawing(s) can be amended (1) Before the issuance of a notice of examination result; (2) When requesting re-examination after receiving a notice of final rejection of the design application; or (3) When filing an appeal to the Intellectual Property Trial and Appeal Board (“IPTAB”) against a final rejection. However, an amendment should not modify the essence of the initial application for the design.

#### **Deferred Publication Available?**

An applicant may request that the applied-for design be kept confidential for a period of up to three years from the registration date of the design. In order for the application to be kept confidential, a separate petition should be filed. The period of confidentiality requested can later be reduced or extended within the maximum period of three years from the registration date.

#### **(7) Owner of a Design**

A design application can be filed by the person who created the design or his/her successor. However, an employee of KIPO cannot obtain a design registration

during his/her employment, except in case of inheritance or bequest.

When an employee creates a design that (1) Falls within the scope of the employer's business and (2) Results from acts that are a part of the employee's past or present duties, the employer is entitled to a non-exclusive license on such design. An employee is entitled to reasonable remuneration where the employee has transferred either the right to obtain the design or the design right itself to the employer or has given the employer an exclusive license in accordance with a contract or service regulation. The amount of remuneration should factor the employer's reasonable profits attributable to the design and the contribution of the design that is attributable to the employee *versus* the employer or other employees.

#### (8) Possible Attacks on the Validity of a Design

The grounds for invalidation are substantially identical to the above substantive requirements for design protection, *i.e.*, lack of novelty, lack of creativity, causing confusion with the business of another party, consisting solely of a shape that is essential to the product's function, etc.

An invalidation action is filed before the IPTAB, a division of KIPO. The IPTAB decision can then be appealed to the Patent Court. The Patent Court decisions may be further appealed to the Supreme Court.

An invalidation trial may be initiated either by an interested party or by a KIPO examiner. An interested party is defined as any person who may be affected by the design registration.

An invalidation action can be filed at any time—even after the registration has expired. This is meant to protect the defendant of a design infringement claim, since damages can be sought after expiration of the design registration.

The official fee for filing an invalidation action before the IPTAB is KWR 240,000 per design in case of online filing and KWR 260,000 per design in case of paper filing.

It is at the Court's discretion whether to suspend its review of a civil or criminal action until the validity of the design registration is decided in an opposition or invalidation action.

**(9) Design Protection Statistics of the Past Three Years (published by KIPO). See Tables 3 to 7.**

#### (III) Design Enforcement

##### (1) Available Reliefs

A registered design owner is entitled to enjoin or prevent a person, who has infringed or is likely to infringe his/her right from committing infringing activ-

**Table 3. Number Of Filings Per Year**

Year	Number Of Applications
2016	65,659 (69,325)
2017	63,453 (67,374)
2018	63,680 (67,721)

**Table 4. Applications By Domestic And Foreign Applicants**

Year	Domestic		Foreign		Total
	Cases	Ratio	Cases	Ratio	
2016	61,499 (62,629)	93.7 (90.3)	4,160 (6,696)	6.3 (9.7)	65,659 (69,325)
2017	59,101 (60,399)	93.1 (89.6)	4,352 (6,975)	6.9 (10.4)	63,453 (67,374)
2018	58,723 (60,045)	92.2 (88.7)	4,957 (7,676)	7.8 (11.3)	63,680 (67,721)

\*Numbers in parenthesis are calculated by counting each design of a multiple design application separately

**Table 5. International Design Applications Under The Hague System**

Year	Korea As Office Of Origin	Korea As Designated Office
2016	104	981
2017	133	925
2018	116	857

**Table 6. Number Of Registrations**

Year	Number Of Registrations
2016	55,622
2017	49,293
2018	49,905

**Table 7. Registrations By Domestic And Foreign Applicants**

Year	Domestic		Foreign		Total
	Cases	Ratio	Cases	Ratio	
2016	50,261	90.4	5,361	9.6	55,622
2017	44,052	89.4	5,241	10.6	49,293
2018	44,150	88.5	5,755	11.5	49,905

ities. A registered design owner is also entitled to damages. Furthermore, the court may, upon request of the registered design owner, order the infringer to take

measures to restore the damaged goodwill of the design right owner, in addition to or in place of damages.

Under criminal statutes, a person who has infringed a registered design right is subject to imprisonment of up to seven years or a fine of up to 100 million Korean Won (approximately \$90,000 USD). For criminal actions, a criminal complaint must be filed by the registered design owner or the registered exclusive licensee.

## **(2) Strategic Options (Offensive and Defensive)**

### **Warning/Notice Letters**

In Korea, warning letters may be sent to competitors who infringe. However, care should be exercised before sending warning letters to the customers of a competitor (as opposed to directly sending to the competitor), since the competitor may raise claims of business interference if infringement cannot be proven. Recently, in a case where a warning letter was sent to both the competitor and the competitor's customers, and where the court later found no infringement, the Patent Court held the design owner liable for business interference (Patent Court Decision No. 2017Na2424 rendered on October 26, 2018).

### **Preliminary Relief**

A plaintiff may petition a district court to issue a preliminary injunction (and any other orders necessary) to prevent further infringement by an accused infringer. Preliminary injunctions are a relatively quick method of enforcing IP rights in Korea. To obtain a preliminary injunction, the courts will review the following factors: (1) Likelihood of success; (2) Irreparable harms to the plaintiffs; (3) Necessity for provisional relief; and (4) Whether there is urgency. Absent exceptional circumstances, preliminary injunction actions are generally *inter partes* proceedings where the parties exchange briefs and argue through a series of hearings. The courts generally require the plaintiff to post a security deposit or bond in order to enforce the preliminary injunction pending an appeal to compensate the enjoined party in case the decision is later reversed. If a preliminary injunction executed by an IP right holder is determined to have been improperly issued, the right holder is rebuttably presumed to have been negligent in enforcing the injunction. If a district court denies a petition for a preliminary injunction, the plaintiff may appeal the denial to the high court. A defendant against whom a preliminary injunction is ordered may challenge the injunction by filing a request for reconsideration with the same court that issued the injunction. A preliminary injunction may be enforced while an appeal or challenge is pending.

### **Main Proceedings**

Two types of civil actions are available to enforce IP rights: (a) A main action where both a permanent injunction and damages may be sought; and (b) A pre-

liminary injunction action where only an injunction may be sought, and damages are not recoverable. To recover monetary damages, in addition to proving infringement, the plaintiff must prove the amount of damages and establish a reasonable causal relationship between the infringement and the claimed damages amount. This may be difficult in Korea because of limited discovery. Previously, a party could refuse to produce documents by claiming it was a trade secret or business secret. However, the Korean Patent Act was amended (effective June 30, 2016) so that if there was an unjustifiable refusal to provide documents, a negative presumption could be applied. In general, damages can be calculated using lost profits, infringer's profits, reasonable royalty, or calculated based on the judge's discretion.

### **Protective Letters**

There is no protective letter system under the Korean DPA.

### **Customs Seizure**

As part of the Free Trade Agreement with the European Union, effective July 1, 2013, Korea introduced customs actions based on patent and design rights (but excluding utility models). Through customs actions, a right holder may file a request to suspend the release of specific goods to be imported/exported, by providing the importation/exportation information of the infringing goods together with a security deposit in the amount of 120 percent of the taxable value of the goods. The Korean Customs Service ("KCS") may act *sua sponte* to suspend the release of goods, without the need for a separate request by the right holder, if it is clear that an IP right has been infringed in connection with the goods. No security deposit is required from the right holder under this scenario, if the KCS determines that the imported/exported goods clearly infringe an IP right and decides to suspend release of the goods.

## **(3) Procedural Aspects**

### **(a) Court System, Instances and Specialization**

Civil infringement cases regarding IP rights (patents, utility models, trademarks, designs, and plant variety rights) must generally be brought at one of five regional district courts (Seoul Central, Daejeon, Daegu, Busan, and Gwangju), depending on the relevant venue requirements. However, all IP cases may be brought at the Seoul Central District Court (which has the most experience in handling IP matters), regardless of venue. Appeals of district court IP cases are heard by the Patent Court. Patent Court decisions may be further appealed to the Supreme Court.

The IPTAB has exclusive jurisdiction over validity challenges of design registrations through either oppositions or invalidation actions. The IPTAB also hears

confirmation of scope cases. Scope actions allow a party to ask the IPTAB to decide whether a product description falls within the scope of the design patent. Decisions from the IPTAB may be appealed to the Patent Court, whose decisions may then be further appealed to the Supreme Court.

Additionally, from June 13, 2018, Korea has established a special “International Panel” that can hear cases in certain approved foreign languages (currently only English has been approved). Thus, evidence can be submitted without translations and hearings can be conducted with simultaneous translations in English.

#### **(b) Who Can Sue?**

The Design Protection Act allows registered design owners and registered exclusive licensees to file both an injunction claim to cease infringement and compensation claim for damage caused by infringement against the infringer. Additionally, unregistered exclusive licensees or sole non-exclusive licensees are only permitted to file a compensation claim, while non-exclusive licensees have no rights to either an injunction claim or compensation claim.

#### **(c) Who Can Be Sued?**

Design infringement includes “direct infringement” where a product relating to a registered design is produced, used, assigned, rented, exported or imported or offered to be assigned or rented (DPA Article 2, Item 7) and “indirect infringement” where an item is only used for the production of a product that infringes upon a registered design (DPA Article 114).

If multiple entities divided the compositions of the patented invention and each party practiced a portion of the patented invention with the intention to collectively infringe the patent, a lower court recognized joint patent infringement (Seoul High Court Decision No. 2015Ja20296). Although this case was for patent infringement, it would likely apply to design infringement.

#### **(e) Admissibility of Evidence**

In general, the Civil Procedure Act (“CPA”), which governs Korean civil practice, does not provide for pre-trial discovery such as depositions, interrogatories or the like. Formal discovery must be requested through the court, and is limited to the various means outlined below. However, in cases where certain evidence may not be available during the proceedings unless it is timely preserved, it is possible to request an order to examine or secure evidence even prior to the filing of a lawsuit.

#### **Documentary Evidence**

Under Article 343 of the CPA, a party may petition the court to order the other party or a third party to submit a document that relates to the merits of the case. The most recent amendments to the CPA (which

became effective on July 9, 2019) contain additional provisions requiring accused patent or utility model infringers to respond to credible infringement claims with evidence, rather than simple denials (which are common where the evidence of infringement is located entirely in the defendant’s premises, and therefore, difficult for the plaintiff to obtain through court discovery). The new amendments provide that, if a *prima facie* showing of likely infringement is made, an accused infringer denying infringement must present evidence of the actual process or product it is using, or else risk the court presuming that the accused infringing activity has actually taken place.

#### **Witness Testimony**

Witnesses, including expert witnesses, may be called to testify at a hearing, usually upon petition by a party. However, the questions to be asked must be submitted to the court in written form prior to the hearing. Cross-examination and redirect examination of witnesses are permitted.

#### **Expert testimony**

Expert testimony may be submitted either through a declaration or through direct testimony before the court. Whether expert testimony is allowed at a hearing is at the court’s discretion. However, if a party does have its expert testify before the court, cross-examination of the expert will also be permitted.

#### **Expert Opinion**

The court may appoint one or more experts to submit an opinion on disputed issues that require special knowledge, usually upon petition by one of the parties.

#### **Inspections by Court**

Either party may petition the court to inspect samples of the other party’s products (*e.g.*, the accused infringing articles) or to conduct an on-site inspection of the other party’s premises to obtain evidence of infringement.

#### **(f) Structure and Timing of the Proceedings**

Unlike trial court proceedings in the U.S., Germany, and China, which generally involve a single trial at the end, Korean cases consist of exchanging briefs along with a series of hearings. Prior to each hearing, the parties typically submit briefs and evidence in support of their case. The oral arguments at most hearings tend to be short unless examination of a witness is conducted. In recent years, however, hearings for patent infringement cases have become significantly longer, as more substantive oral arguments are exchanged by the parties, and because technical presentations are often conducted, upon request from either the court or the parties. Generally, hearings continue to be held until the court and parties believe that sufficient arguments and evidence have been presented for a decision to be rendered.

A civil action begins with the plaintiff filing a complaint with the court that has jurisdiction over the case. The court will then serve a copy of the complaint on the de-

defendant. Once the complaint is served, the defendant has 30 days to submit an answer to the court although the deadline can be extended at the discretion of the court. There is no set timeframe for subsequent written submissions; the parties are free to make additional written submissions and file new evidence until the close of the hearing process. Once the reply by the defendant is submitted, the court will typically hold hearings every three to five weeks, with the first hearing ordinarily scheduled two or three months from the filing of the complaint. The interval of each hearing may differ depending on the complexity of the case. Once the hearing process is closed, the court will schedule the date for announcing its decision, which is typically two to six weeks after closure of the hearing process.

The whole process takes about eight to twelve months. An appeal to the Patent Court takes about six to ten months. An appeal to the Supreme Court can take at least four months (if summarily dismissed) or up to two years if the case is fully examined.

#### **(g) Costs and Cost Reimbursement**

In Korea, the court will order the allocation of litigation costs in the judgment. In principle, such costs are borne by the losing party. In a case where a party has only partially succeeded, the court may allocate the costs at its discretion between both parties. In practice, these costs are often apportioned to each party in proportion to the success achieved by each party, but the court is not required to do so.

Court costs generally consist of stamp taxes (filing fees), service of process fees, and other out-of-pocket expenses (*per diem* fees for witnesses, photocopies, etc.) and attorneys' fees. It should be noted that the entire amount of the actual legal fees incurred by the parties is not recognized as litigation cost, but only a fixed amount calculated according to a formula specified in the court regulations. This amount is usually only a fraction of the actual costs incurred by the parties.

In general, the court decision, which is not yet final and conclusive, only states the ratio of the allocation of litigation costs, and the actual amount of costs to be borne by each party is decided after the judgment becomes final and conclusive (meaning all appeals have been exhausted).

#### **(h) Enforcement of Decisions**

In principle, a decision by a district court (*i.e.*, the court of first instance) is not enforceable until the decision becomes final and conclusive. However, the district court may attach a writ to permit provisional enforcement of certain remedial measures, such as injunctive relief and an award of damages, so that the plaintiff can enforce such remedial measures attached with the writ before the decision becomes

final and conclusive (Article 213 of the CPA).

However, defendants may file a request to stay the execution of the provisional enforcement, and courts accept 60 to 70 percent of such requests. However, when courts accept the defendants' request to stay the execution of the provisional enforcement, they usually order the defendants to provide collateral (Article 473 of the CPA).

In case a debtor fails to fulfil their liabilities within the designated fulfilment period requested by a creditor, courts may issue an indirect enforcement order requiring the debtor to compensate the creditor for the corresponding delay period or provide damages therefor (Article 261 of the Civil Execution Act, "CEA").

In addition, if a third party's fulfilment of liabilities held by a debtor may also satisfy a creditor's claims (*e.g.*, destruction and apologetic advertisement), the court may order substitute execution in which the third party realizes acts that are supposed to be conducted by the debtor and may collect the corresponding costs from the debtor in return (Article 389(2) of the CEA).

#### **(i) Legal Remedies**

A party in a civil infringement action may appeal the district court decision to the patent court.

Appeal proceedings are conducted on a *de novo* basis. In other words, while the appellate court will generally review the record of the lower court, it will also admit new evidence and arguments from the parties. Although the appellate court generally will try to render a decision within eight months to one year of an appeal being filed, this timeframe may be significantly longer for complex cases.

A decision by the appellate court may be appealed to the Supreme Court (the highest court in Korea). The Supreme Court will only hear cases dealing with legal issues. Otherwise, the appeal will be summarily dismissed prior to review of the merits of the case, typically within four months from the date of transfer of litigation records to the Supreme Court. If the case is accepted for substantive review, the Supreme Court will decide the case in view of the evidence presented to the lower courts and will usually render a decision within one to two years from the date of appeal.

#### **(j) Service Abroad**

As Korea is a civil law country, service of judicial documents is considered to be a matter within the authority of the court and is implemented *ex officio* by the court. Service typically occurs pursuant to the Hague Convention. However, service through a diplomatic officer or a consular agent is also possible.

Once the court initiates the Hague Convention service of process, it may take two to six months for the

certificate of service to be returned to the court.

The court will initiate the service process once the plaintiffs submit a request for overseas service along with a certificate of service and a translation of the complaint. For overseas service, the court will notice up to three hearing dates at once. Therefore, if a party fails to respond to the hearing dates set by the court, this may be deemed a concession (Articles 150 and 257 of the CPA).

#### (4) Influence of Foreign Decisions

Foreign decisions are not binding upon courts in Korea. However, Korean courts may refer to decisions made by foreign courts, especially if there are no Korean decisions on the issue.

#### (5) Design Enforcement Statistics. See Table 8.

As the amended Court Organization Act grant-

**Table 8. Statistics—Number Of Cases Handled By Patent Court Of Korea**

	2016	2017	2018
Revocation Of Administrative Decision	90	78	77
Civil Appeal*	14	139	148

\*The statistics for “Civil Appeal” above include all cases involving designs, patents, trademarks and other intellectual property rights.

ed the Patent Court of Korea exclusive jurisdiction over intellectual property rights including design rights, the number of Civil Appeal cases started to surge in 2017. See Table 9. ■

**Table 9. Statistics—Cases In Which At Least One Party Is A Foreigner**

	2016	2017	2018
Unites States Of America	110	105	117
Japan	75	62	65
Sweden	49	14	4
Germany	45	29	24
UK	30	14	12
Switzerland	22	18	16
China	6	6	8
Others	44	59	55

Statistics for 2016: [https://patent.scourt.go.kr/patent\\_e/judicial/judicial\\_02/index.html](https://patent.scourt.go.kr/patent_e/judicial/judicial_02/index.html)

Statistics for 2017, 2018: [http://patent.scourt.go.kr/patent/news/news\\_07/index.html](http://patent.scourt.go.kr/patent/news/news_07/index.html)

Available at Social Science Research Network (SSRN): <https://ssrn.com/abstract=3519301>