

ENFORCEMENT DECREE OF THE FRAMEWORK ACT

ON INTELLECTUAL PROPERTY

Presidential Decree No. 23036, Jul. 19, 2011

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Decree is to prescribe matters delegated by the Framework Act on Intellectual Property and matters necessary for the enforcement thereof.

Article 2 (Participation of Private Individuals or Groups in Policies)

When the Government and local governments formulate policies under Article 4 (1) and (2) of the Framework Act on Intellectual Property (hereinafter referred to as the "Act"), they shall thoroughly hear opinions of related research institutions, corporations, organizations and non-governmental experts and reflect them therein.

CHAPTER II FORMULATION OF POLICIES ON INTELLECTUAL PROPERTY AND SYSTEM FOR PROMOTION SYSTEM

Article 3 (Scope of Relevant Central Administrative Agencies)

For the purposes of Article 7 (3) 1, the relevant central administrative agencies shall be as follows:

1. The Ministry of Strategy and Finance;
2. The Ministry of Education, Science and Technology;

3. The Ministry of Foreign Affairs and Trade;
4. The Ministry of Justice;
5. The Ministry of National Defense;
6. The Ministry of Public Administration and Security;
7. The Ministry of Culture, Sports and Tourism;
8. The Ministry for Food, Agriculture, Forestry and Fisheries;
9. The Ministry of Knowledge Economy;
10. The Ministry of Health and Welfare;
11. The Ministry of Environment;
12. The Ministry of Land, Transport and Maritime Affairs;
13. The National Intelligence Service;
14. The Prime Minister's Office;
15. The Korea Communications Commission;
16. The National Science and Technology Commission;
17. The Fair Trade Commission;
18. The Korea Customs Service;
19. The Cultural Heritage Administration;
20. The Small and Medium Business Administration;
21. The Korean Intellectual Property Office.

Article 4 (Composition of Council)

The members of the Council prescribed in Article 7 (3) 1 of the Act shall be the heads of agencies referred to in subparagraphs 1 through 3, 7, 9, 13, 14, 16, 17 and 21 of Article 3.

Article 5 (Operation of Council)

(1) When the Chairperson (hereinafter referred to as the "Chairperson") of the Presidential Council on

Intellectual Property (hereinafter referred to as the "Council") prescribed in Article 6 (1) of the Act convenes a meeting, he/she shall inform each member of the Council of the time and place of the meeting, and agenda items to be referred to the meeting by not later than seven days prior to holding the meeting: Provided, That this shall not apply to cases where urgent circumstances or other unavoidable circumstances arise.

- (2) The Council shall convene a meeting with the attendance of a majority of all incumbent members, and shall pass resolutions with the concurrence of a majority of those present.
- (3) If necessary for deliberating on agenda items, the Council may have the head of a central administrative agency who is not a member of the Council attend its meeting and express his/her opinion in connection with agenda items under his/her jurisdiction, or a related expert attend its meeting to hear his/her opinion.
- (4) The Council shall take and keep meeting minutes.
- (5) The Council may establish a working-level steering committee to efficiently conduct its affairs, such as the prior-review of agenda items to be referred to discussion and coordination of different views among the government ministries.
- (6) The working-level steering committee referred to in paragraph (5) shall be comprised of public officials belonging to the Senior Civil Service of agencies prescribed in Article 4 to which members of the Council belong.

Article 6 (Composition and Operation of Specialized Committees)

- (1) The Council shall establish the following specialized committees pursuant to Article 7 (6) of the Act:
 1. A specialized committee for the creation of intellectual property;
 2. A specialized committee for the utilization of intellectual property;
 3. A specialized committee for the protection of intellectual property;
 4. A specialized committee for infrastructure of intellectual property;

5. A specialized committee for new intellectual property.
- (2) Each specialized committee (hereinafter referred to as "Specialized Committee") referred to in each subparagraph of paragraph (1) shall be comprised of not more than 15 members, including one chairperson, and the Chairperson shall appoint the chairperson and members of each Specialized Committee, from among those who have expertise and extensive experience in the relevant field.
- (3) Each Specialized Committees may examine and coordinate agenda items to be referred to discussion by the Council in advance, discuss outstanding issues, etc. in the relevant field and report the results thereof to the Council.
- (4) Each Specialized Committee shall convene a meeting with the attendance of a majority of all incumbent members, and shall pass resolutions with the concurrence of a majority of those present.
- (5) The term of office of the chairperson of each Specialized Committee shall be one year and the term of office of members thereof shall be two years.
- (6) If necessary for efficiently reviewing agenda items, Each Specialized Committee may establish and operate subcommittees.
- (7) If necessary for specialized examination on urgent issues, the Chairperson may establish and operate an ad hoc Specialized Committee in addition to the Expert Committees through a resolution by the Council.

Article 7 (Allowances and Travel Expenses)

The Council may grant an allowance and reimburse travel expenses to members who have attended a meeting of the Council, the working-level steering committee, a Specialized Committee and an ad hoc Specialized Committee (hereinafter referred to as "Council, etc."), relevant persons and experts who have expressed their opinions within budgetary limits: Provided, That this shall not apply where a public official member attends a meeting of the Council in direct connection with his/her duties.

Article 8 (Detailed Rules for Operation)

Except as prescribed by this Decree, detailed matters necessary for the composition and operation of the Council, etc., and the operation of the Intellectual Property Strategy and Planning Office prescribed in Article 14 shall be determined by the Chairperson through a resolution by the Council.

Article 9 (Procedures for Formulation of Master Plans for National Intellectual Property)

- (1) The Prime Minister shall formulate a master plan pursuant to Article 8 (1) of the Act by not later than December 31 of the year preceding the year in which the master plan for national intellectual property (hereinafter referred to as "Master Plan") begins.
- (2) In order to formulate a master plan, the Prime Minister shall prepare guidelines for formulation of master plans by not later than April 30 of the year preceding the year in which the relevant master plan begins and notify the heads of the relevant central administrative agencies, the Special Metropolitan City Mayor, Metropolitan City Mayors, Do Governors and the Governor of a Special Self-Governing Province (hereinafter referred to as "Mayors/Do Governors") of such guidelines.
- (3) The heads of the relevant central administrative agencies and Mayors/Do Governors shall prepare plans and policies concerning intellectual property under their jurisdiction according to the guidelines notified under paragraph (2) and submit such plans and policies to the Prime Minister by not later than June 30 of the year preceding the year in which the relevant master plan begins.
- (4) The Prime Minister shall confirm a master plan prepared by integrating plans and policies submitted by the heads of the relevant central administrative agencies and Mayors/Do Governors concerning intellectual property under their jurisdiction pursuant to paragraph (3) subject to deliberation by the Council.
- (5) When the Prime Minister formulates or revise a master plan, he/she shall inform the heads of the relevant central administrative agencies and Mayors/Do Governors of the details thereof without delay, and officially announce such details in the Official Gazette or on the homepage of the relevant

central administrative agencies.

(6) "Insignificant matters prescribed by Presidential Decree" in the proviso to Article 8 (2) of the Act means any of the following matters:

1. Composition and details of tasks to be performed and detailed tasks included in each master plan;
2. An agency in charge of tasks to be performed and detailed tasks, or agencies related thereto;
3. Other matters that do not affect the substantial details of each master plan, such as errors in calculation, clerical errors and omissions.

Article 10 (Procedures for Formulation of Action Plans)

(1) In order to formulate an action plan for national intellectual property (hereinafter referred to as "action plan") under Article 9 (1) of the Act, the Prime Minister shall prepare guidelines for formulation of the Action Plan by not later than July 31 every year and notify the heads of the relevant central administrative agencies and Mayors/Do Governors of such guidelines

(2) The heads of the relevant central administrative agencies and Mayors/Do Governors shall formulate a promotion plan of intellectual property under his/her jurisdiction and submit such plan to the Prime Minister by not later than October 15 every year according to the guidelines notified under paragraph (1).

(3) The Prime Minister shall confirm an action plan prepared by integrating the promotion plans submitted under paragraph (2) by not later than December 31 every year subject to deliberation by the Council, and notify the heads of relevant central administrative agencies and Mayors/Do Governors of the action plan.

(4) "Insignificant matters prescribed by Presidential Decree" in the proviso to Article 9 (2) of the Act means the following matters:

1. Timing to perform unit projects included in the action plan;
2. An agency in charge of each unit project, or agencies related thereto;

3. Other matters that do not affect the substantial details of the action plan, such as errors in calculation, clerical errors and omissions.

Article 11 (Inspection and Evaluation of Status of Implementation)

- (1) In order to inspect and evaluate the status of implementation under Article 10 (1) of the Act, the Council shall prepare guidelines for inspection and evaluation and notify the heads of relevant central administrative agencies and Mayors/Do Governors of such guidelines by not later than December 31 every year.
- (2) The heads of relevant central administrative agencies and Mayors/Do Governors shall submit the outcomes of the implementation of the master plan and the action plan to the Council by the time referred to in the following subparagraphs according to the guidelines notified under paragraph (1):
 1. Master Plans: By not later than March 31 of the year after the completion of the relevant master plan;
 2. Action Plans: By not later than January 31 of the year after the completion of the relevant action plan.
- (3) The Council shall inspect and evaluate the outcomes of the implementation of the master plan and the action plan submitted pursuant to paragraph (2), and then notify the heads of relevant central administrative agencies and Mayors/Do Governors of the results thereof and its opinion for the improvement thereof by the time referred to in the following subparagraphs:
 1. Master Plans: By not later than May 31 of the year after the completion of the relevant master plan;
 2. Action Plans: By not later than March 15 of the year after the completion of the relevant action plan;
- (4) The heads of relevant central administrative agencies and Mayors/Do Governors notified of the Council's opinion for improvement pursuant to paragraph (3) shall formulate a plan necessary for

such improvement and submit such plan to the Council within 30 days of receipt of such notification.

- (5) If necessary to inspect the status of the implementation of a plan for improvement submitted pursuant to paragraph (4), the Council may request the heads of relevant central administrative agencies and Mayors/Do Governors to submit related data pursuant to Article 14 of the Act.

Article 12 (Analysis of Outcomes from Projects for Intellectual Property)

- (1) The Council shall analyze the outcomes of projects for intellectual property (referring to projects financed from the budget or funds in order to create, protect and utilize intellectual property, develop the infrastructure thereof or foster related industries; hereinafter the same shall apply) in order to deliberate on and coordinate matters concerning direction-setting for distribution and efficient management of financial resources (hereinafter referred to as "direction-setting for distribution of financial resources, etc.") related to intellectual property under Article 6 (2) 3 of the Act. In such cases, the Council shall utilize the results of evaluation under Article 12 of the Framework Act on Science and Technology for research and development projects promoted by the Government (hereinafter referred to as "national research and development projects") and the results of evaluation under Article 8 (6) of the National Finance Act for financed projects, other than national research and development projects.
- (2) In order to analyze the outcomes of projects for intellectual property, the Council may request the relevant central administrative agencies, local governments, related educational and research institutions, corporations or organizations participating in projects for intellectual property to submit necessary data, such as a project implementation plan (including matters concerning plans and outcomes), pursuant to Article 14 of the Act.

Article 13 (Examination of and Deliberation on Direction-Setting for Distribution of Financial Resources, etc. for Intellectual Property)

- (1) The Council may request the heads of the relevant central agencies to submit the following data

necessary for deliberation on and coordination of direction-setting for distribution of financial resources, etc.:

1. A written opinion on the investment priority of national research and development projects under Article 12-2 of the Framework Act on Science and Technology;
 2. A medium term business plan for new projects for more than five fiscal years from the relevant fiscal year under Article 28 of the National Finance Act and major continuing projects determined by the Minister of Strategy and Finance;
 3. A written request for budget of the relevant agency submitted to the Minister of Strategy and Finance pursuant to Article 31 (1) of the National Finance Act;
 4. Other data necessary for deliberation on and coordination of direction-setting for distribution of financial resources, etc.
- (2) When the Council has deliberated on direction-setting for distribution of financial resources, etc., it may express its opinion to the heads of the relevant central administrative agencies. In such cases, the heads of the relevant central administrative agencies shall endeavor to reflect the Council's opinion.

Article 14 (Establishment of Secretariat)

- (1) The Council shall establish an Intellectual Property Strategy and Planning Office (hereinafter referred to as "Planning Office") therein pursuant to Article 11 (1) and (3) of the Act to support the efficient performance of the affairs thereof.
- (2) One head, who is a public official in contractual service, shall be assigned to the Planning Office: Provided, That under special circumstances, a public official in general service belonging to the Prime Minister's Office may be assigned as the head.
- (3) The Planning Office shall perform the following affairs:
 1. Matters concerning support for the operation of the Council, etc.;

2. Preparation and examination of and consultation on and coordination of agenda items to be referred to discussion by the Council;
3. Support for, consultation on and coordination of the formulation of master plans and action plans;
4. Discovery and promotion of surveys and research related to intellectual property, and support for projects for intellectual property;
5. Publicity of activities of the Council and external cooperation;
6. Other matters directed by the Chairperson to support the performance of affairs of the Council, etc.

Article 15 (Appointment, etc. of Officer in Charge of Policies for Intellectual Property)

(1) The head of each relevant central administrative agency and each Mayor/Do Governor may appoint any of the following persons from among the public officials under his/her jurisdiction as the officer in charge of policies for intellectual property pursuant to Article 12 of the Act:

1. Relevant central administrative agencies: A public official belonging to the Senior Civil Service and national public official in Class 3 or equivalent thereto;
2. Cities/Dos: A public official in Class 3 or equivalent thereto.

(2) Officers in charge of policies for intellectual property appointed under paragraph (1) shall preside over the following matters related to the affairs of an agency to which he/she belongs:

1. Formulation and coordination of policies and plans related to intellectual property;
2. Evaluation of projects related to intellectual property;
3. Investment in fields related to intellectual property;
4. Other affairs related to intellectual property of an agency to which he/she belongs.

Article 16 (Notification Following Enactment, Amendment, etc. of Related Acts and Subordinate Statutes)

(1) Where the head of each relevant central administrative agency or each Mayor/Do Governor intends to enact or amend Acts or subordinate statutes pursuant to Article 13 (1) of the Act or to formulate or

revise a major policy or plan, he/she shall notify the Council of the details thereof at the time according to the following classification:

1. Enactment or amendment of Acts or subordinate statutes: When he/she submit a draft of a proposed law to the heads of the relevant agencies pursuant to Article 11 (1) and (2) of the Regulations for Operation of Legislation Affairs;
 2. Formulation or revision of a major policy or plan: 30 days before the formulation or revision thereof: Provided, That where Acts or subordinate statutes provide that he/she shall consult on the relevant major policy or plan with the relevant agencies, when he/she consults with the relevant agencies in accordance with such provisions.
- (2) Where the Council examines the details of Acts or subordinate statutes or a major policy or plan notified pursuant to paragraph (1), he/she shall examine their connectivity with the master plan when such details are related to its medium- and long-term plan concerning intellectual property.
- (3) The Council shall notify the head of each relevant central administrative agency and each Mayor/Do Governor of the result of evaluation under paragraph (2) in writing within 20 days from the date of receipt of notification under paragraph (1).

Article 17 (Preparation of Annual Reports)

- (1) The Prime Minister shall integrate the outcomes of the implementation of the action plan submitted pursuant to Article 11 (2) and prepare an annual report under Article 15 (1) of the Act, and then submit it to the National Assembly by not later than March 31 every year.
- (2) The following matters shall be included in an annual report:
 1. Trends related to intellectual property;
 2. Major details and the performance of the action plan for intellectual property in the preceding year.

CHAPTER III PROMOTION OF CREATION, PROTECTION AND

UTILIZATION OF INTELLECTUAL PROPERTY AND DEVELOPMENT OF INFRASTRUCTURE THEREOF

Article 18 (Promotion of Creation of Intellectual Property and Compensation therefor)

(1) The following shall be included in policies for support for the invigoration of domestic and overseas joint research and development of public research institutions, business operators, etc. under subparagraph 6 of Article 16 of the Act:

1. Matters concerning the fair distribution and utilization of outcomes from joint research and development and compensation therefor;
2. Matters concerning increasing investment in joint research and development and the raising of funds therefor;
3. Matters concerning the mutual interchange, buildup of cooperation and joint utilization of research and development resources among public research institutions, business operators, etc.;
4. Other matters necessary for the invigoration of joint research and development.

(2) The following shall be included in policies for fair compensation for creators of intellectual property under Article 19 of the Act:

1. Matters concerning the betterment of treatment to creators of intellectual property;
2. Matters concerning research on the actual conditions and the improvement in laws and systems in the Republic of Korea and overseas;
3. Matters concerning education, publicity and improving of understanding of compensation for creators of intellectual property;
4. Matters concerning securing fairness and transparency in compensation for creators of intellectual property and the simplification of procedures therefor;
5. Other matters necessary for the protection of the rights and interests of creators of intellectual

property.

Article 19 (Requesting Intelligence or Investigative Agencies for Cooperation)

The Council and the heads of the relevant central administrative agencies may request the head of an intelligence or investigative agency for cooperation in the following matters pursuant to Article 23 (2) of the Act:

1. Research on the current status related to the protection of intellectual property, such as the current status of infringement on intellectual property rights;
2. Support for the settlement of disputes in intellectual property rights;
3. Requesting a foreign intelligence or investigative agency for necessary measures;
4. Support for security measures against hacking into an information network related to intellectual property, etc.;
5. Support for research on and studies of the current status of systems and policies for intellectual property in foreign countries, etc.;
6. Other matters necessary to cope with an infringement on intellectual property rights.

Article 20 (Protection of Intellectual Property in Foreign Countries)

(1) Where the head of each relevant central administrative agency deems it necessary for the Council to deliberate on and coordinate in connection with the protection of intellectual property in foreign countries under Article 24 of the Act, he/she may request the Council for deliberation pursuant to Article 6 (2) 5 of the Act.

(2) When the head of a diplomatic mission abroad receives a request under Article 24 (2) of the Act from a national of the Republic of Korea (including a corporation or organization established in accordance with a municipal law) in a foreign country, he/she shall report such fact to the Minister of Foreign Affairs and Trade without delay.

Article 21 (International Standardization of Intellectual Property)

The head of each relevant central administrative agency may execute the following projects concerning intellectual property under his/her jurisdiction for the international standardization of intellectual property pursuant to Article 30 of the Act:

1. A project for standardizing intellectual property;
2. A research and development project connected with the standardization of intellectual property;
3. A project for establishing foundations for standardizing intellectual property;
4. A project for training experts in standardizing intellectual property;
5. Other projects necessary for standardizing intellectual property.

Article 22 (Preparation of Classified Table of National Intellectual Property)

- (1) In order to establish a system for classifying information on intellectual property under Article 31 (1) 2 of the Act, the Prime Minister may prepare a classified table of national intellectual property through deliberation by the Council.
- (2) The Prime Minister shall research and analyze trends of the classification of intellectual property in foreign countries every three years, and revise and supplement the classified table of national intellectual property under paragraph (1) in consideration of the appearance, etc. of new intellectual property.
- (3) The head of each relevant central administrative agency shall actively utilize the classified table of national intellectual property under paragraph (1) to perform following affairs:
 1. Research planning, evaluation and management of projects for intellectual property;
 2. Forecasts and valuation of intellectual property;
 3. Management and distribution of information on intellectual property;
 4. Formulation and execution of policies related to intellectual property.

Article 23 (Certification of Intellectual Property Management and Support therefor, etc.)

Pursuant to Article 32 (2) of the Act, the head of each relevant central administrative agency may certify intellectual property management of small and medium enterprises in the fields under his/her jurisdiction, as prescribed by related Acts and subordinate statutes.

Article 24 (Policies for Training Intellectual Property Experts)

(1) Pursuant to Article 34 (1) of the Act, the head of each relevant central administrative agency shall formulate and promote policies for training intellectual property experts in the fields under his/her jurisdiction.

(2) The following details shall be included in policies referred to in paragraph (1):

1. Medium- and long-term prospects on supply of and demand for intellectual property experts;
2. A plan for training and supplying intellectual property experts;
3. Promotion of technical training and in-service training for intellectual property experts;
4. A plan for strengthening the quality of education on intellectual property.

Article 25 (Research and Studies by Intellectual Property Research Institutions)

The Council may have research institutions prescribed in Article 35 (1) of the Act conduct research and studies necessary for performing the following affairs:

1. Deliberation on and coordination of matters referred to in the subparagraphs of Article 6 (2) of the Act;
2. Formulation of policies for promoting the production, distribution and utilization of information on intellectual property under Article 31 of the Act;
3. Training of intellectual property experts under Article 34 of the Act;
4. Other affairs related to deliberation on and coordination by the Council.

ADDENDA

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation.

Article 2 (Transitional Measures concerning Procedures for Formulation of Master Plans and Action Plans)

(1) Article 9 (2) and (3) shall not apply to procedures for the formulation of the master plan which begins in 2012.

(2) Notwithstanding Article 10, where the Prime Minister formulates the Action Plan for 2012, "by not later than July 31" in paragraph (1) of the same Article shall be construed as "by not later than September 30", and "by not later than October 15" in paragraph (2) of the same Article shall be construed as "by not later than November 30".

Article 3 (Amendment of other Acts and Subordinate Statutes) Omitted.
