

Key Changes to the Korean Trademark Law to be Enacted in 2025

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by Charlene Krogh



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On December 27, 2024, the Korean National Assembly passed a proposed amendment to the Trademark Act ("Amendment") which will be enacted six months following the date of promulgation.

Under the Amendment, (1) the trademark opposition period will be shortened to 30 days; and (2) the limit on punitive damages for intentional trademark infringement will be raised. Details are set out below.

Opposition period to be shortened from 2 months to 30 days

Under the current law, anyone can file an opposition with the Korean Intellectual Property

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Office ("KIPO") against a trademark application within 2 months of the date of its publication. However, many people file trademark applications at the time of launching the relevant product or with respect to trademarks that are already in use, and in addition, only about 1% of all published applications encounter oppositions. Recognition of the above, led to the consensus that the opposition period should be shortened so that trademarks can be registered more quickly.

For applicants, this amendment will expedite the overall registration process. Potential opposers will have to keep a very close eye on publications given the very short opposition period. As is the case now, however, it will remain possible, to first file a simple notice of opposition before the end of the opposition period and submit a detailed opposition petition within a 30 day period (extendible for national applications) after the opposition period expires. In addition, an information brief can be filed with KIPO to preemptively block the registration of a trademark before the mark is published.

The Amendment will only apply to trademarks that are published after the date of enactment.

Punitive damages limit to be increased from 3 times to 5 times

Under the current law, trademark owners are entitled to claim damage compensation from an infringer based on the infringer's profits gained from the infringement, the trademark owner's lost profits due to the infringement, or reasonable royalties. However, trademark owners are frequently hindered from recovering an adequate amount of damages, as there are practical difficulties in substantiating the damages actually incurred. To address this, an earlier amendment to the Trademark Act (amendment of October 2020) introduced the concept of punitive damages and currently, punitive damages of up to 3 times the amount of actual damages can be sought for intentional acts of infringement.

The Amendment reinforces the punitive damages provision by increasing the limit to 5 times the amount of actual damages. By doing so, further pressure will be placed on potential infringers preemptively, while entitling trademark owners to a more realistic remedy for damages incurred.

The Amendment will apply to acts which occur after the date of its enactment.