Expedited Examination Programs of IP Offices

Republic of Korea

The Ministry of Intellectual Property offers several accelerated examination options provided for in the Korean Patent Act and its Enforcement Decree

o Petition Requirement

- Petitioner: Any person may file a request for accelerated examination. However, with respect to a patent application relating to the duties of the State or a local government (including applications concerning the duties of national or public schools under the Higher Education Act, and applications filed by organizations dedicated to technology transfer and commercialization established at such schools pursuant to Article 11(1) of the Technology Transfer and Commercialization Promotion Act), only the State or the relevant local government, including such technology transfer and commercialization organizations, may file the request.

- Request for examination: An application eligible for accelerated examination must be accompanied by a request for examination.

- Eligibility for accelerated examination: Eligibility for accelerated examination shall be determined based on the subject matter defined in the claims. Subject matter disclosed only in the description of the invention shall not be eligible for accelerated examination. Where an application contains multiple claims, and at least one claim is determined to be eligible for accelerated examination, the entire application shall be deemed eligible for accelerated examination.

o Relevant Legal Provisions
- The Korean Patent Act
Article 61 (Accelerated Examinations) In either of the following cases, the Minister of the Ministry of Intellectual Property may instruct an examiner to examine a patent application in preference to other patent applications:

1. Where it is found that any person, other than the patent applicant, is practicing for business purposes the invention claimed in the patent application after it is laid open under Article 64;
2. Where it is deemed necessary to urgently process a patent application prescribed by Presidential Decree;
3. Where a patent application prescribed by Presidential Decree is deemed necessary for disaster prevention, response, recovery, etc

- The Enforcement Decree of the KPA

Article 9 (Cases Eligible for Accelerated Examination)
① "A patent application specified by Presidential Decree" in subparagraph 2 of Article 61 of

the Act means a patent application designated by the Minister of the Ministry of Intellectual Property, among the following patent applications:

1. A patent application in the area of the defense industry;
2. A patent application directly related to green technology under the Framework Act on Carbon Neutrality and Green Growth For Coping with Climate Crisis;
2-2. A patent application utilizing technologies related to the fourth industrial revolution such as artificial intelligence (AI) and the Internet of Things (IoT);
2-3. A patent application related to advanced technology that is important to the national economy and the enhancement of national competitiveness, such as semiconductors (limited to a patent application for which the Minister of the Ministry of Intellectual Property determines and publicly announces specific cases eligible for an expedited examination and the period for application therefor);
3. A patent application directly related to export promotion;
4. A patent application concerning the official duties of the State or local governments (including any patent application concerning the duties of the national and public schools provided for in the Higher Education Act, which is filed by the organization in charge of the technology transfer and industrialization established within the national and public schools pursuant to Article 11 (1) of the Technology Transfer and Commercialization Promotion Act);
5. A patent application filed by an enterprise confirmed as a venture business under Article 25 of the Special Act on the Promotion of Venture Businesses
5-2. A patent application filed by an enterprise selected as a technology-innovative small and medium enterprise under Article 15 of the Act on the Promotion of Technology Innovation of Small and Medium Enterprises;
5-3. A patent application filed by an enterprise selected as an exemplary company in terms of the employee invention compensation system under Article 11-2 of the Invention Promotion Act;
5-4. A patent application filed by a small or medium enterprise with the certification for management of intellectual property under Article 24-2 of the Invention Promotion Act;
6. A patent application concerning the results of national research and development programs under subparagraph 1 of Article 2 of the National Research and Development Innovation Act;
7. A patent application which serves as a basis of a priority claim under treaties (limited to cases where a patent is being processed by a foreign patent office, upon a priority claim based on the relevant patent application);
7-2. An international patent application on which the Ministry of Intellectual Property conducts international search, as an International Searching Authority under the Patent Cooperation Treaty pursuant to Article 198-2 of the Act;
8. A patent application under which an invention is being practiced or being prepared to be practiced by the patent applicant;
10. A patent application on which the Minister of the Ministry of Intellectual Property agreed with the commissioner of any foreign patent office to preferentially examine

② "Patent application prescribed by Presidential Decree" in subparagraph 3 of Article 61 of the Act means any of the following patent applications:
1. Any of the following patent applications determined and publicly notified by the Minister of

the Ministry of Intellectual Property

a. A patent application directly related to goods for medical treatment and disease control under subparagraph 21 of Article 2 of the Infectious Disease Control and Prevention Act;

b. A patent application directly related to disaster safety products certified under Article 16 of the Act on Promotion of Disaster Safety Industry;

2. A patent application subject to public notice given by the Minister of the Ministry of Intellectual Property for a specified period of applying for an accelerated examination to respond to an emergency situation caused by a disaster.

o Subject Matter Eligible for Accelerated Examination

1. Applications disclosed to the public for which a third party is recognized as commercially working the claimed invention (Article 4(1)(i) of the Public Notice).

2. Applications requiring urgent processing that fall under any of the following categories (Article 4(1)(ii) of the Public Notice):

(A) Applications related to the defense industry, specifically those concerning defense articles or methods for manufacturing such articles as prescribed under Article 34 of the *Defense Acquisition Program Act*, Article 39 of its *Enforcement Decree*, and Articles 27 and 28 of its *Enforcement Rule*

(B) Patent applications directly related to carbon neutrality and green technologies, to which a classification for eligible carbon-neutral green technologies, publicly announced by the Minister of the Ministry of Intellectual Property on its official website, has been assigned

(C) Applications directly related to export promotion. This includes applications filed by enterprises that have received support under any of the following programs, provided that: (1) the enterprise qualifies as a small or medium-sized enterprise under Article 2 of the *Framework Act on Small and Medium Enterprises* or as a mid-sized enterprise under Article 2(i) of the *Special Act on the Promotion of Growth and the Strengthening of Competitiveness of Middle-Standing Enterprises*; (2) the application is filed within three (3) years from the date of selection (or annual evaluation confirmation date) or the date of contract for the relevant support program; (3) the claimed invention is related to the supported program; and (4) at least one of the applicants at the time of the initial filing corresponds to such enterprise.

(1) “Global IP Star Company Fostering Program” administered by the Ministry of Intellectual Property

(2) “IP Risk Response Capacity Enhancement Program for Export-Challenging Enterprises” administered by the Ministry of Intellectual Property

(3) “Patent Dispute Response Strategy Support Program” administered by the Ministry of Intellectual Property

(4) “Global Corporate Collaboration Program” administered by the Ministry of SMEs and Startups

(5) “Korea Startup Center Program” administered by the Ministry of SMEs and Startups

(6) “Global Accelerating Program” administered by the Ministry of SMEs and Startups

(D) Applications related to the official duties of the State or local governments, including applications concerning official duties of national or public universities under the *Higher Education Act*, and applications filed by technology transfer and commercialization organizations established within such universities pursuant to Article 11(1) of the *Technology Transfer and Commercialization Promotion Act*

(E) Applications filed by enterprises falling under any of the following categories, provided that the claimed invention is related to the business field of such enterprise and that at least one of the applicants at the time of the initial filing corresponds to such enterprise

Eligibility for accelerated examination shall be recognized only where the name of the applicant coincides with that of: a certified venture enterprise, a designated technologically innovative enterprise, an enterprise recognized for excellence in employee invention compensation, or an SME certified for intellectual property management.

(1) An enterprise certified as a venture enterprise pursuant to Article 25 of the *Special Act on the Promotion of Venture Businesses*

(2) An enterprise designated as a technologically innovative SME pursuant to Article 15 of the *Act on the Promotion of Technology Innovation of SMEs*

(3) An enterprise selected as an excellent entity for employee invention compensation pursuant to Article 11-2 of the *Invention Promotion Act*

(4) An SME certified for intellectual property management pursuant to Article 24-2 of the *Invention Promotion Act*

(F) Applications relating to the results of a national research and development (R&D) project under Article 2(i) of the *National Research and Development Innovation Act*, where the application is filed for results derived from R&D conducted in accordance with a project plan concluded with the head of a relevant central administrative agency by the lead or joint research and development institution for any of the following projects:

(1) R&D projects conducted with an SME (under Article 2 of the *Framework Act on SMEs*) or a middle-standing enterprise (under Article 2 of the *Special Act on the Promotion of Growth and the Strengthening of Competitiveness of Middle-Standing Enterprises*) serving as the lead, cooperating, or joint research institution

(2) R&D projects for which a patent trend analysis was conducted pursuant to Article 8(1) of the Enforcement Decree of the *Framework Act on National Research and Development Innovation* during the preliminary investigation and planning stage

(3) R&D projects for which a patent strategy was established through the “IP-linked R&D Strategy Support Program” of the Ministry of Intellectual Property

(4) Defense-related R&D projects conducted pursuant to Article 8 of the *Defense Science and Technology Innovation Promotion Act*

(5) R&D projects concerning national strategic technologies as defined in Article 2(iv) of the *Special Act on the Promotion of National Strategic Technologies*

(H) Applications serving as the basis for a priority claim under a treaty (including the PCT), where patent procedures are pending before a foreign patent office based on such priority claim. (Here, the term “treaty” includes the PCT. However, in the case of a so-called self-designating application—where a PCT application is filed claiming priority from a Korean application and designating the Republic of Korea—the earlier Korean application and the PCT application are treated as a prior and subsequent application relationship for the purposes of domestic priority. Accordingly, since the earlier Korean application is deemed withdrawn after the lapse of one (1) year and three (3) months from its filing date, a request for accelerated examination of such earlier application shall not be permitted.)

(I) Applications where the applicant is commercially working the claimed invention or is preparing to do so

In the statement of grounds for requesting accelerated examination, the applicant shall specifically explain: (1) whether the claimed invention is being worked or prepared for working; and (2) whether such working or preparation is being conducted in the course of business.

The applicant shall also submit documentary evidence demonstrating both: (1) that the invention is being worked or prepared for working; and (2) that such working or preparation is conducted in the course of business (see evidentiary documents listed in Annex 1 of the Public Notice on Accelerated Examination).

However, the following cases shall be deemed to fall under applications where the invention is being worked or prepared for working in the course of business:

(1) Applications filed by enterprises designated as specialized leading companies pursuant to Article 13 of the *Act on Special Measures to Strengthen Competitiveness and Stabilize Supply Chain of Materials, Components, and Equipment Industry*, provided that the claimed invention is related to the business field of such enterprise and that at least one of the applicants at the time of initial filing corresponds to such enterprise

(2) Applications for inventions selected through competitions or contests hosted or organized by the State or local governments, provided that the application has received support for filing or commercialization from the State or local government

(3) Applications filed by enterprises within three (3) years from establishment that have received at least KRW 10 million in contributions or subsidies from the government for technology development or commercialization pursuant to Article 35 of the *Act on Support for Small and Medium Enterprise Establishment*, or Articles 11, 12, or 15 of the *Act on the Fostering of Self-Employed Creative Enterprises*, or that have received at least KRW 50

million in investment from venture capital, crowdfunding, angel investors, or accelerators; provided that at least one of the applicants at the time of initial filing corresponds to such enterprise

(4) Applications filed by enterprises confirmed to have applied for designation as innovative prototype products, limited to applications relating to the technology for which such designation is sought

(5) Applications filed in connection with regulatory sandbox applications relating to regulatory exceptions, provided that the claimed invention is related to the product or service for which the sandbox application has been filed and that at least one of the applicants at the time of initial filing corresponds to the applicant for such sandbox application

(6) Applications filed by enterprises designated as innovative medical device companies pursuant to Article 21(2) of the *Act on Nurturing Medical Devices Industry and Supporting Innovative Medical Devices*, provided that the application relates to innovative medical device technologies and that at least one of the applicants at the time of the initial filing corresponds to such enterprise.

(L) Patent applications directly related to specialized projects to which regulatory exceptions are applied pursuant to Article 55 of the *Act on Special Cases Concerning Regulation-Free Zones and Special Zones for Regional Development*.

This item shall apply only to patent applications related to “specialized regional development zones.”

(M) Patent applications relating to medical research and development conducted within advanced medical complexes, filed by resident medical R&D institutions to which regulatory exceptions are applied pursuant to Article 26 of the *Special Act on the Promotion of Advanced Medical Complexes*.

(N) Applications primarily aimed at the prevention or removal of pollution, specifically those relating to any of the following environmental pollution prevention facilities or methods for achieving such purposes:

(1) Noise and vibration prevention facilities, soundproofing facilities, or vibration isolation facilities as defined in Article 2 of the *Noise and Vibration Control Act* and Article 3 of its Enforcement Rule

(2) Water pollution prevention facilities as defined in Article 2 of the *Water Environment Conservation Act* and Article 7 of its Enforcement Rule

(3) Air pollution prevention facilities as defined in Article 2 of the *Clean Air Conservation Act* and Article 6 of its Enforcement Rule

(4) Waste treatment facilities as defined in Article 2 of the *Waste Management Act* and Article 5 of its Enforcement Decree

(5) Resource recovery facilities, purification facilities, or public treatment facilities as defined in Article 2 of the *Act on the Management and Use of Livestock Excreta* and Article 3 of its Enforcement Rule

(6) Recycling facilities as defined in Article 2 of the *Act on the Promotion of Saving and Recycling of Resources* and Article 3 of its Enforcement Rule

(7) Public sewage treatment facilities, human waste treatment facilities, or individual sewage treatment facilities as defined in Article 2 of the *Sewerage Act*, or gray water systems as defined in Article 2(4) of the *Act on Promotion and Support of Water Reuse*

(B') Patent applications utilizing technologies related to the Fourth Industrial Revolution, including artificial intelligence (AI), Internet of Things (IoT), three-dimensional printing, autonomous vehicles, big data, cloud computing, intelligent robots, smart cities, virtual and augmented reality, innovative pharmaceuticals, renewable energy, personalized healthcare, drones, next-generation communications, intelligent semiconductors, advanced materials, blockchain, smart manufacturing, and next-generation biopharmaceutical technologies, to which a new patent classification for Fourth Industrial Revolution-related technologies, as specified in Annex 3 by the Ministry of Intellectual Property, has been assigned.

(C') International patent applications for which the Ministry of Intellectual Property has conducted an international search under the *Patent Cooperation Treaty (PCT)* pursuant to Article 198-2 of the Act, and for which the documents under Article 203 of the Act have been submitted.

(D') Applications related to advanced technologies critical to strengthening the national economy and national competitiveness, including technologies associated with national strategic industries as defined in Article 2(ii) of the *Special Act on Strengthening and Protecting the Competitiveness of National High-Tech Strategic Industries* (e.g., semiconductors), as publicly announced by the Minister of the Ministry of Intellectual Property specifying the scope of eligible subject matter and the applicable period for filing requests for accelerated examination.

3. Patent applications subject to accelerated examination pursuant to agreements with foreign intellectual property offices, as concluded by the Minister of the Ministry of Intellectual Property, which satisfy the requirements set forth in Annex 2 and fall under any of the following categories (limited to cases where the supporting documents specified in Annex 1 are submitted):

(A) Patent applications for which the earliest of the filing date or priority date (hereinafter referred to as the "earliest priority date") of an application filed in a country designated by the Minister of the Ministry of Intellectual Property and published on its official website (hereinafter referred to as a "designated country, etc.", including intergovernmental organizations) is identical to the earliest priority date of the corresponding Korean patent application

(B) Patent applications for which the earliest of the international filing date or priority date of

an international application—on which an international search or international preliminary examination has been conducted in a designated country, etc.—is identical to the earliest priority date of the corresponding Korean patent application

4. Applications deemed necessary for the prevention, response to, or recovery from disasters, falling under any of the following categories:

(A) Applications directly related to medical and quarantine supplies as defined in Article 2(xxi) of the *Infectious Disease Control and Prevention Act*

(B) Applications directly related to disaster safety products certified pursuant to Article 16 of the *Disaster and Safety Industry Promotion Act*

(C) Applications falling within categories publicly announced by the Minister of the Ministry of Intellectual Property, specifying a designated period for filing requests for accelerated examination, in order to address urgent socio-economic situations arising from disasters

For more specific information regarding accelerated examination, please refer to 'Patent Examination Guidelines' published on the MOIP website:

https://www.kipo.go.kr/en/HtmlApp?c=92006&catmenu=ek03_06_01