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NEWSLETTER

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Landmark IP High Court Decision Expands Patent Protection for Online Cross-Border Commerce

In a significant win for patent holders operating in the digital marketplace, the IP Group at Lee & Ko has secured a pivotal ruling from Korea's IP High Court. The Court recognized that posting and selling products covered by Korean patents on overseas e-commerce platforms can constitute an "offer for sale" in Korea and may infringe Korean patent rights.

The case involved a Chinese company, referred to as "Company Y," that had been advertising and selling products covered by a Korean-registered patent held by "Company L", an Italian sock knitting machines manufacturer. Company Y listed the products on the Chinese e-commerce platform Alibaba and on its own website. Importantly, these listings included product information in Korean, prices were displayed in Korean won, and Company Y offered delivery options to Korea. Customer service and inquiries were also made available in Korean, indicating a clear intention to serve Korean consumers.

At the heart of the dispute was a foundational issue in international patent law: whether actions taken outside Korea—specifically, posting a product on a foreign website or e-commerce platform—could legally be interpreted as a domestic "offer for sale" under the Korean Patent Act. The general principle of patent law holds that patent rights are territorially bound. Company L faced an initial setback when the Seoul Central District Court dismissed its patent infringement claims and held that the postings made on Alibaba's e-commerce platform could not constitute domestic patent infringement. The district court reasoned that the key elements of the offer for sale—the seller, the

product, and the price—were overseas.

Upon appeal, however, Lee & Ko's attorneys presented a compelling argument for a more nuanced and modern interpretation of the law on behalf of Company L. The firm emphasized the need to adapt patent protection to the realities of global e-commerce, where companies routinely market and sell products to international consumers without physical presence in the target country. On behalf of Company L, Lee & Ko pointed to international trends where courts are increasingly willing to look beyond strict territorial boundaries in cases involving digital commerce. Crucially, the appellate trial team highlighted several key factors: the deliberate use of Korean-language summaries on sales pages, pricing in Korean won, shipping availability to Korea, and the operation of a Korean-language customer service interface. By focusing on these targeted elements, the firm argued convincingly that Company Y's offer for sale amounted to an act that fell within the protection of the Korean Patent Act.

The IP High Court agreed with Lee & Ko's practical application of the statutory framework. In a breakthrough judgment, the IP High Court held that Company Y's online activities were a substantial and direct targeting of Korean consumers—making the activity indistinguishable, in practice, from an offer for sale in Korea, thereby infringing on Company L's patent rights. The Court granted the injunction requested by Company L and marked the first time a Korean court has ruled that online postings made by a foreign company can qualify as domestic infringement if they effectively solicit business from consumers in Korea.

This landmark patent case is expected to have far-reaching implications. It provides a precedent for Korean patent holders to enforce their patents against infringing products offered in Korea through international platforms even when the seller is based abroad. By relaxing the traditionally strict territorial interpretation of Korean patent rights, the IP High Court ruling strengthens the practical enforceability of Korean patents in a borderless digital economy. The ruling also sends a clear message to foreign businesses that if your online sales activity is directed at Korean consumers, you may fall under the purview of Korean patent law regardless of where your servers are located.

As online commerce continues to expand globally, this decision sets an important benchmark for adapting Korean IP law to a rapidly-evolving digital landscape around the world.

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