

# NEWSLETTER

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## Recent IP Developments in Korea

- Statistical Analysis of Domestic Intellectual Property in 2022 ----- 01
- Expedited Examination for Semiconductor and Blockchain Patent Applications ----- 05
- Revision of the KIPO's Examination Guidelines on Virtual Goods and Image Designs ----- 07

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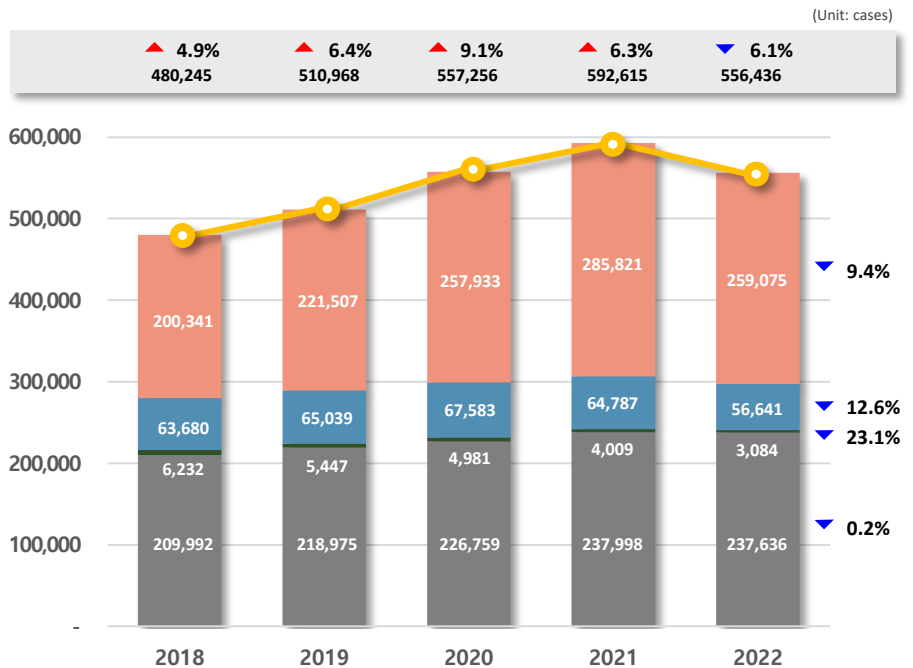
**Statistical Analysis of Domestic Intellectual Property in 2022**

We have analyzed domestic intellectual property applications' statistics, examination durations, and decision rates for registration in 2022. Intellectual property applications filed with the Korean Intellectual Property Office (KIPO) in 2022 decreased overall compared to the previous year, but applications by foreign applicants slightly increased, especially those filed by Americans and Europeans. Compared to 2021, there was no change in KIPO's decision rates for registration, but the start/end time of examinations was delayed by several months. This will be explored in further detail below.

**1. Overall Intellectual Property Application Trends**

The total number of intellectual property (IP) applications, including applications for patents, utility models, designs, and trademarks, had increased year-on-year until 2021. However, there were 556,436 cases in 2022, a decrease of 6.1% compared to the previous year. Specifically, the number of patent applications decreased by 0.2%, utility models by 23.1%, designs by 12.6%, and trademarks by 9.4%.

IP Application Trends in Korea by Year



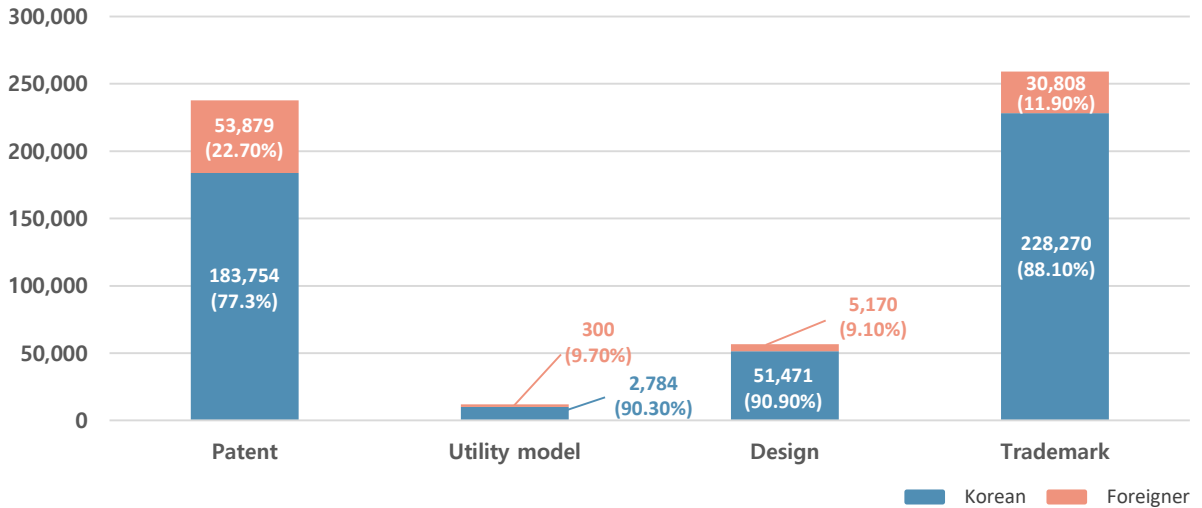
\*Including international applications (designated offices) such as PCT, Madrid, and Hague

Legend: Patent (Grey), Utility model (Green), Design (Blue), Trademark (Red)

When dividing domestic IP applications into applications by Korean applicants (Korean applications) and those by foreign applicants (foreigner applications), it can be observed that foreigner application cases increased slightly from 87,061 (14.7%)

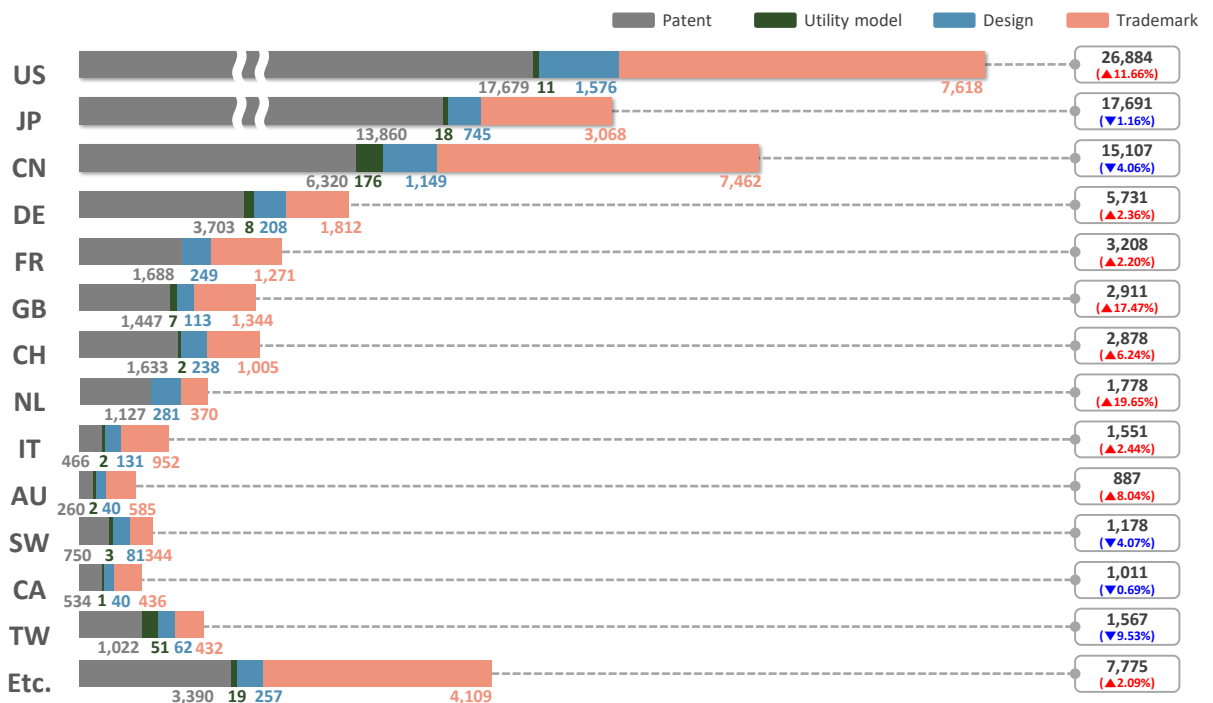
in 2021 to 90,157 (16.2%) in 2022, while Korean application cases decreased slightly from 505,554 (85.3%) to 466,279 (83.8%). In 2022, the proportion of foreigner's applications in patents was 22.7%, with about 9% to 12% in other IP applications as shown in the chart below.

Korean and foreigner's domestic applications in 2022



American applications (31%), Japanese applications (18.2%), and Chinese applications (16.1%) account for the top ranks. In 2022, American applications increased while Japanese and Chinese applications decreased compared to the previous year. European applications also increased slightly overall, while Taiwanese applications decreased slightly. This shows a trend of increasing applications by European and American applicants and decreasing applications by Asian applicants.

Domestic Applications by Foreign Applicant's Nationality in 2022



2. Patent Application Trends

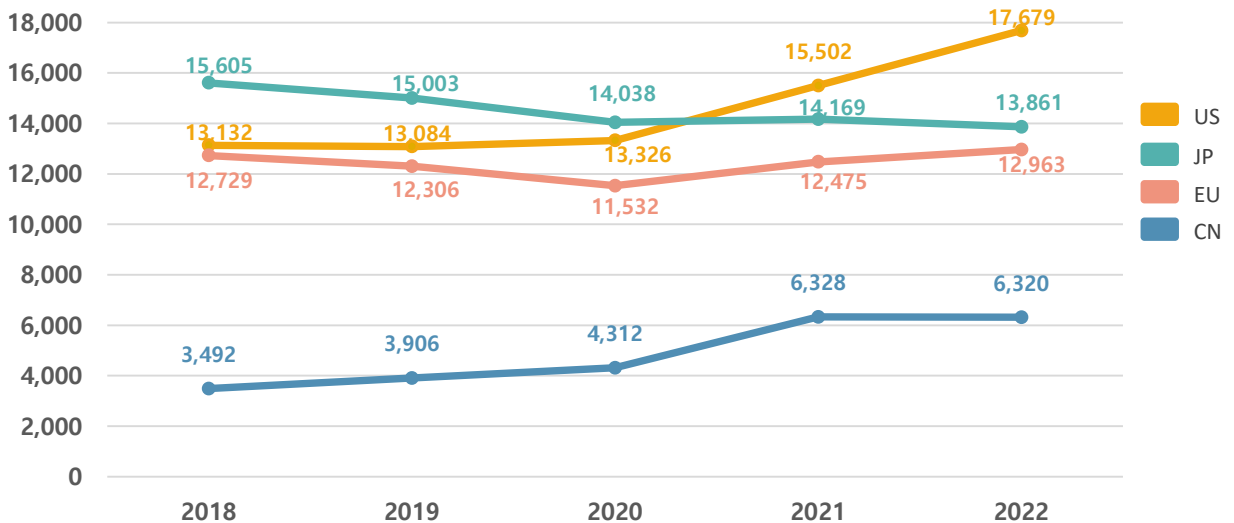
Looking further into patent application trends, the number of domestic patent applications (including PCT applications) was 237,636 in 2022, maintaining the same level as in 2021. However, the number of PCT applications with KIPO as the receiving office was 21,916 in 2022, an increase of 6.8% compared to 2021. Based on the type of applicants, the number of domestic patent applications increased for major Korean companies (▲9.3%), foreigners (▲4.0%), and small and medium-sized Korean companies (▲0.8%) but decreased for Korean individuals (▼13.6%).

Patent Application Trends in 2022

Classification	2018	2019	2020	2021	2022	
					Application	Rate of change
Total	209,992	218,975	226,759	237,998	237,636	▼0.2 %
Major company	35,350	39,623	39,918	40,353	44,114	▲9.3 %
Strong medium-sized company	11,114	10,894	10,860	11,158	10,842	▼2.8 %
Small and medium-sized company	45,974	49,569	56,973	62,639	63,165	▲0.8 %
University-Public research institute	27,205	26,922	27,870	29,715	28,992	▼2.4 %
Foreigner	47,867	47,553	46,315	51,783	53,880	▲4.0 %
Individual	41,089	43,124	43,369	40,909	35,355	▼13.6 %
Others	1,393	1,290	1,454	1,441	1,288	▼10.6 %

Compared to the previous year, the number of patent applications filed in Korea by foreign applicants by country in 2022 increased for the US (▲14%) and Europe (▲3.9%) and decreased for China (▼0.1%) and Japan (▼2.2%). Domestic applications by applicants from these four countries/regions account for 94.3% of foreigner applications in Korea. The chart below shows the trends in the number of domestic patent applications filed by applicants in these four countries/regions over the past five years.

Domestic Patent Applications by Foreign Applicants by Major Countries



As for domestic applications by technology area, applications increased mainly in high-tech fields, such as semiconductors (▲18.3%), e-commerce (▲7.5%), and electronic (digital) communications (▲5.8%). Looking at the current status of foreigners' applications in the semiconductor field, domestic semiconductor applications filed by Americans increased, while domestic applications by Japanese and Taiwanese peoples decreased.

### 3. Examination Start/End Points and Period, and Decisions Rate for Registration

Compared to the previous year, in 2022, the starting point of examination for patent, utility model, and trademark applications was delayed by 2.3 to 3 months, but the total examination period from beginning to end slightly decreased. Accordingly, the ultimate endpoint of examination in those three areas was delayed by 1.5 to 2.4 months; there was no significant change for design applications. Similar to the previous year, the decision rate for registration in 2022 was 74.3% for patents, 47.5% for utility models, 87.3% for designs, and 84.0% for trademarks.

#### Duration of Examination in 2022, Unit: Month

Classification	Patent	Utility model	Design	Trademark
Start of examination	13.7	15.1	5.8	13.1
End of examination	17.3	18.3	7.1	16.2
Examination period	3.6	3.2	1.3	3.1

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## Expedited Examination for Semiconductor and Blockchain Patent Applications

The Korean Intellectual Property Office (KIPO) designated semiconductor technology patent applications for expedited examination between November 1, 2022 and October 31, 2023. In addition, patent applications related to blockchain technology were also designated for expedited examination for the first time.

As a result, companies, research and development institutions, and universities related to semiconductors in Korea are anticipated to get patent examination results in two and a half months on average, which is roughly ten months faster than previous. For reference, in 2021, the average time spent on semiconductor patent application examinations was approximately 12.7 months. This designation aims to strengthen the international competitiveness of semiconductor-related Korean companies in the face of intense hegemonic competition.

The patent applications must be directly related to semiconductor technologies and meet the following conditions.

- One of the following Cooperative Patent Classifications (CPCs) must be the primary classification.
  - H01L (semiconductor elements, manufacturing),
  - G11C (circuits related to semiconductor devices (drivers)),
  - G01R (testing semiconductor devices),
  - H05K (printed circuit board),
  - H01S (semiconductor lasers),
  - G03F (photolithography process (for semiconductor manufacturing)),
  - C23C (deposition process (related to semiconductor manufacturing)),
  - H01J (plasma process (related to semiconductor manufacturing)),
  - B24B (polishing process (related to semiconductor manufacturing)),
  - B41J (ink-jet printing (related to semiconductor manufacturing)),
  - C30B (single-crystal growth (for ingots))
  
- The patent application must be ① filed by a company that is producing or preparing to produce products or devices related to semiconductors in Korea, ② filed by research and development institutions supported by national research and development projects, or ③ filed by universities or graduate schools specializing in semiconductors (including industry-academic cooperation foundations) pursuant to the Act on Special Measures for the Strengthening and Protection of Competitiveness of National High-Tech Strategic Industry.

Through the KIPO designation, semiconductor manufacturing companies in Korea and foreign companies with semiconductor production bases in Korea are expected to receive accelerated grants of patent rights to their semiconductor technologies.

Given the high volume of semiconductor technology patent applications being filed in Korea, this designation of expedited examination may aggravate examination congestion at KIPO. In preparation for this, KIPO announced in November 2022 that they would hire thirty examiners who specialize in the semiconductor field. Retired private experts who have various semiconductor field experiences are the main targets for recruitment; depending on the outcome, KIPO may hire even more examiners in the second half of this year.

Patent applications related to blockchain technologies have also been designated for expedited examination. In 2018, KIPO designated seven technology fields related to Industry 4.0 (AI, Internet of Things (IoT), 3D printing, Autonomous Vehicles, Big Data, Intelligent Robots, and Cloud Computing) as targets for expedited examination. The inclusion of blockchain technologies in November 2022 continues the year-on-year trend of expanding the relevant areas for expedited examination. The following 17 technology fields are the current targets for requesting expedited examination related to Industry 4.0:

- AI
- Internet of Things (IoT)
- 3D Printing
- Autonomous Vehicles
- Big Data
- Cloud Computing
- Intelligent Robots
- Smart Cities
- Augmented Reality and Virtual Reality
- Innovative Medicine
- New & Renewable Energy
- Personalized Healthcare
- Drones
- Next-Generation Communication
- Intelligent Semiconductors
- Advanced Materials
- Blockchain Technologies

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Revision of the KIPO's Examination Guidelines on Virtual Goods and Image Designs

I. KIPO Issues Virtual Goods Examination Guidelines

In line with the recent increase in transactions of virtual goods in virtual spaces and the rapid surge of related trademark applications, the Korean Intellectual Property Office (KIPO) published the "Virtual Goods Examination Guidelines" to determine the scope of recognition and similarity of virtual goods, which went into effect on July 14, 2022. It is necessary to refer to the KIPO's new guidelines to secure trademark rights related to the transaction of virtual goods. The main contents of the "Virtual Goods Examination Guidelines" are as follows.

1. Description requirements for virtual goods

The description of the virtual good must be limited. For example, a general description, such as 'virtual goods,' would not be allowable. ① Virtual goods + original goods (ex., retail services for virtual clothing) or ② a virtual goods description of specific physical goods (ex., virtual clothing, virtual shoes) are acceptable.

Examples of acceptable goods descriptions





No.	Class	Designated goods (Example)	Accepted (Y/N)
1	9	Downloadable virtual goods	N
2	9	Computer program in which virtual goods are recorded	N
3	9	Virtual clothing	Y
4	9	Virtual goods i.e. shoes used in the online virtual world	Y
5	9	Downloadable virtual clothing	Y
6	35	Retail services featuring downloadable virtual clothing	Y

<Source: KIPO's press release>

2. Judgement of similarity between virtual goods

When determining whether virtual goods are similar to each other, (i) virtual goods that are dissimilar in reality are assumed to be dissimilar virtually, and (ii) after assigning a similar group code (V000000 for the goods and VS000000 for the services) to virtual goods, similarity is individually determined based on the properties of the goods, even if the similar group codes of the goods are the same.



<p>Similar</p>	<p>Virtual pants, Class 9, V450101</p>  <p>physical good: Jeans, G450101</p>	<p>Virtual clothing, Class 9, V450101</p> 
<p>Dissimilar</p>	<p>Virtual shoes, Class 9, V270101</p> 	<p>Virtual clothing, Class 9, V450101</p> 

**3. Judgement of similarity between virtual goods and physical goods**

Since virtual goods and physical goods differ in their properties and sales channels, in principle, they are determined to be dissimilar because the possibility of consumer confusion is low. However, if a trademark similar to a well-known or famous mark is filed, whether there is a possibility of confusion with the well-known or famous mark is examined.

<p>Dissimilar</p>	<p>Virtual shoes, Class 9, V270101</p> 	<p>Shoes, Class 25, G270101</p> 
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Before the implementation of the "Virtual Goods Examination Guidelines," goods descriptions of trademarks filed regarding virtual goods were only allowed in the form of 'downloadable image file (virtual clothing),' etc. However, through these guidelines, goods descriptions in the form of 'virtual + physical goods,' such as 'virtual shoes,' 'virtual bag,' and 'virtual car,' are now allowed, decreasing applicant burden. Consistency in examinations relating to the similarity of goods is also expected to increase by assigning similar group codes to virtual goods.

In particular, the guidelines are also significant in that, at a time when there was no clear standard for judging the similarity between virtual goods and physical goods, they state that virtual goods and physical goods are to be judged, in principle, as dissimilar.

## II. Revision of Design Examination Guidelines Related to Image Designs

With the increasing number of screen design and image design applications, the KIPO has revised the Design Examination Guidelines to reflect the technological development and changing industrial environment related to digital designs. The revised Design Examination Guidelines went into effect on January 1, 2023, and the key points of the revisions are as follows.

### 1. Relaxed requirements of 'use for operation of devices and exhibition of a function' for statutory image designs

The Industrial Design Protection Act stipulates that "the term 'image' means a figure, symbol, etc., expressed by digital technology or electronic methods [limited to those that are used for the operation of devices or that exhibit a function, and including parts of an image]."

An "image used for the operation of a device" refers to a figure, symbol, etc., used to input instructions and commands to control a device; the device subject to control may not necessarily be a product. Common examples are input buttons, bars, dials, etc., for operation. As in the example below, icons used in information and communication devices can also be considered to perform the function of a home button, so "an icon for an information and communication device" may be recognized as an image design.

Example: Icon for an information and communication device



An "image that exhibits a function of a device" refers to a figure, symbol, etc., that expresses a function exhibited by a device. Representative examples include various graphs, status lights, warning lights, and indicators. The example below is an image of "an icon for displaying vehicle information" and visually expresses a specific state of the vehicle (e.g., failure state), so it may be recognized as an "image that exhibits a display function."

Example: Icon for displaying vehicle information



### 2. General descriptions allowed for 'title' of image designs

When filing an image design, titles that are commonly used in the relevant field and from which the usage can be clearly

understood, such as "image for information communication," "image for information display," "image for icon," "graphic user interface for displaying vehicle information," etc. are allowed. However, descriptions such as "image" and "image design," which are unclear as to whether or not they are used for the operation of a device or whether they exhibit a function, are not accepted.

### 3. Judgment of similarity between screen designs and image designs

It has been clarified that even if the screen display part of a "screen design expressed in a part of an article" is identical or similar to an "image design," the screen display part is a partial design of the article, and the image itself is an independent article; thus, since the articles are different, they are to be determined, in principle, as dissimilar.

### III. Implementation of Trademark Partial Rejection System and Re-examination Request system

The partial rejection system and re-examination request system introduced in the revised Trademark Act of February 3, 2022, came into effect on February 4, 2023. The newly implemented partial rejection system allows KIPO examiners to reject only the designated goods that are not registrable for trademark applications. In addition, the re-examination request system expands the opportunity for the applicant to overcome a final rejection by allowing re-examination of the trademark application if the final rejection can be easily resolved by amending the goods descriptions. For more information, please refer to the previous newsletter of Lee & Ko IP (<https://www.leeko.com/upload/news/newsLetter/843/20220420161846348.pdf>).