

Plenary Session

Developments of the IP Judiciary in Korean Legal Systems

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Chief Judge, IP High Court of Korea

Constitutional Basis

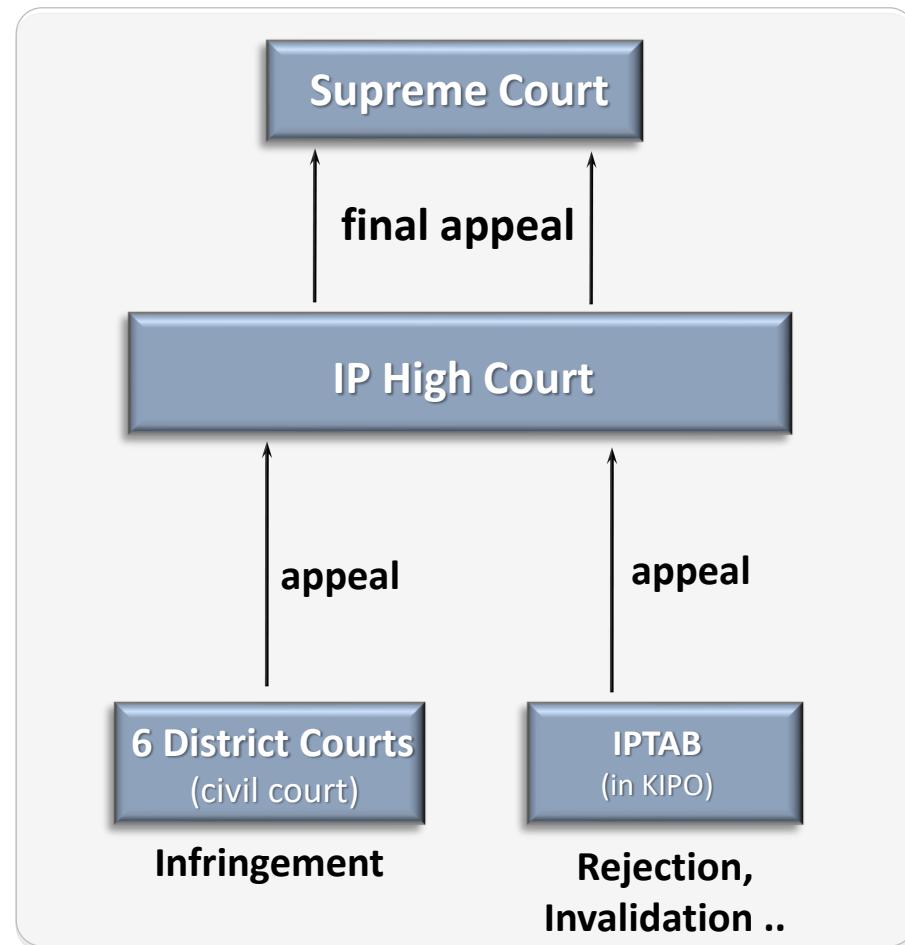
- **Constitution of Republic of Korea, Art. 22 (2)**
 - ✓ “The rights of authors, inventors, scientists, engineers and artists shall be protected by Act.”

Historical Milestones in Korean IP Legal System

• Key Milestones

- ✓ 1998: Establishment **of IP High Court of Korea** (first IP specialized court in Asia)
- ✓ 2002: Introduced a **special forum** for IP cases (District Courts where the competent High Courts are located)
- ✓ 2010: Introduced **Electronic Case Filing System** (Efficiency, Fastness, Transparency, Accessibility)
- ✓ 2011: Enacted **Orders to Maintain Confidentiality**
- ✓ 2015: **IP Hub Court Promotion Committee** (strengthen IP judicial expertise & international competence)
- ✓ 2016: **Concentrated jurisdiction** over civil appeals (infringement suits)
- ✓ 2016: Enacted **Submission of Material**
- ✓ 2017: Establishment of **the International IP Law Research Center**
- ✓ 2018: Introduction of the **International Division**
- ✓ 2019: Enacted **Obligation to Present Specific Type of Behavior & Enhanced Damages**
- ✓ 2021: Expansion of **Video Hearings**

Judicial Structure for Patent Litigation



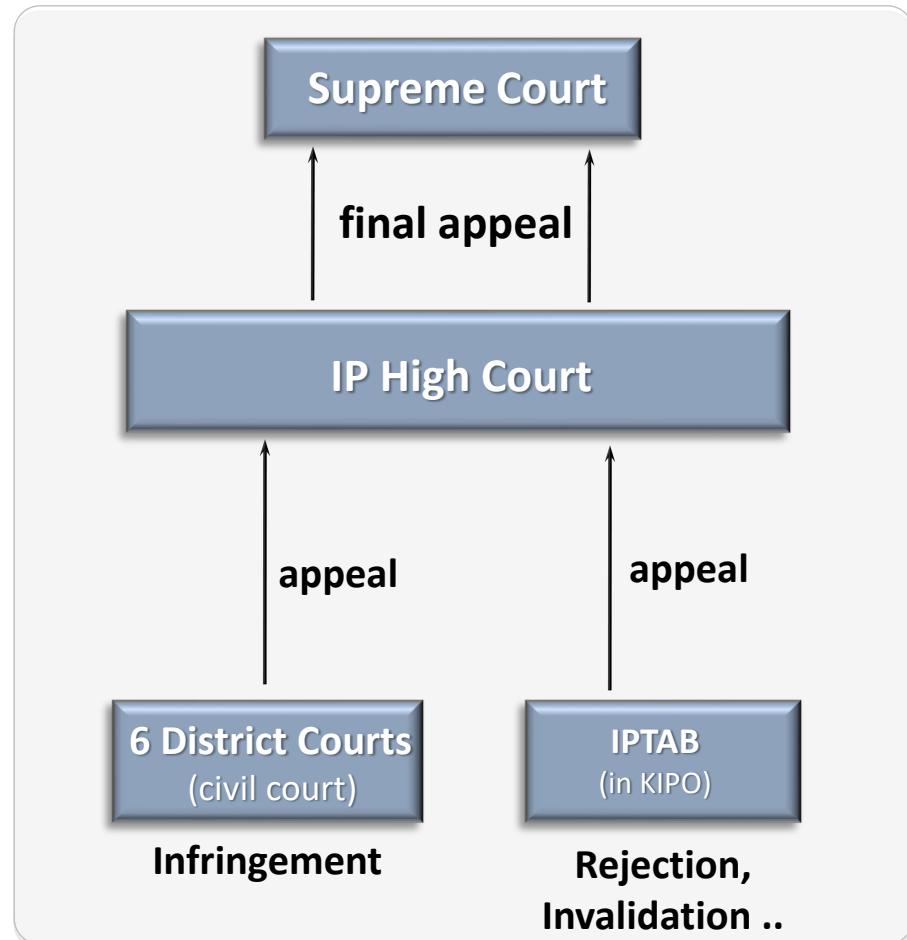
- **Seoul Central District Court**

- ✓ Nationwide concurrent jurisdiction for IP cases (1st instance)
- ✓ 13 Judges assigned to IP specialized divisions
- ✓ 11 Judicial technical advisors

- **IP High Court**

- ✓ Motto: “Where Creativity Meets Fairness”
- ✓ 17 Judges (including 8 IP High Court Judges)
- ✓ 22 Judicial technical advisors
- ✓ Exclusive jurisdiction over IPTAB appeals & civil IP appellate cases

Judicial Structure for Patent Litigation



• Supreme Court

- ✓ Final appeal in IP litigation
- ✓ 3 Petty Benches (4 Justices) & Grand Bench (Chief Justice & 12 Justices)
- ✓ Specialized IP Research Division (6 Judges & leading IP experts)
- ✓ 6 Judicial technical advisors

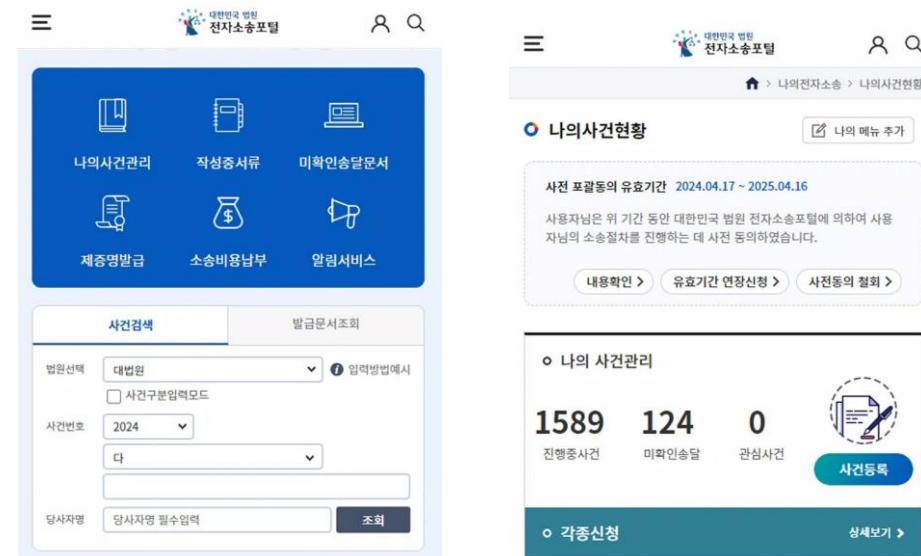
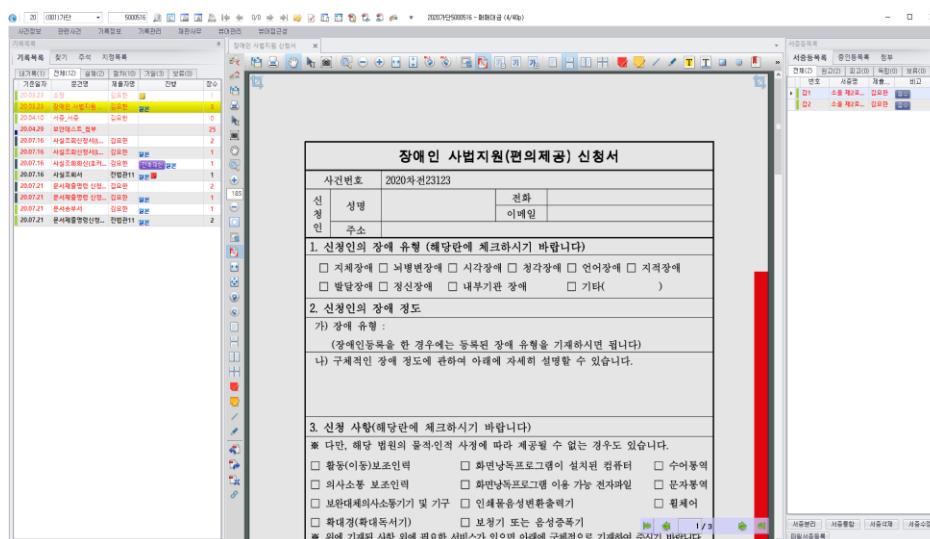
Digital & International Infrastructure

- **E-Court System**

- ✓ Introduced in revocation cases in 2010 and in civil cases in 2011
- ✓ Electronic filing: Real-time submission and access to pleadings and evidence
- ✓ Multimedia evidence (drawings, source code, videos) managed efficiently

Digital & International Infrastructure

• E-Court & E-Record Viewer (Computer & Mobile)



Digital & International Infrastructure

- **Video Hearings**

- ✓ Remote participation available for parties worldwide
- ✓ Transparent and efficient proceedings without spatial limitations
- ✓ Facilitates global access to Korean IP litigation

- Video Hearings



• International Division

- ✓ Since 2018, Division for cases involving foreign parties, based on the parties' consent
- ✓ Arguments and evidence admissible in English or other foreign languages
- ✓ Court provides simultaneous interpretation and official translations of judgment

• International IP Law Research Center

- ✓ 『Rules of Practice for Civil Appellate Trial before IPHC』, 『Rules of Practice for Administrative Trial before IPHC』 published in Korean & English (Some of them are being prepared)
- ✓ Major decisions translated into English and uploaded to WIPO Lex-Judgments for global access

Expertise & Technical Support of IP Court

- **System for Enhancing Expertise**

- ✓ IP specialized court & IP specialized divisions
- ✓ IP High Court Judges with 10+ years of patent litigation experience

- **Judicial Technical Advisors**

- ✓ Composed of Judicial Technical Examiner and Judicial Research Officer
- ✓ Experts in various fields, including innovative technologies
- ✓ Judicial Technical Examiner: Participate in hearings, may question parties (with judge's permission), and provide technical opinions

Expertise & Technical Support of IP Court

- **External Technical Experts**

- ✓ 781 Professional Examiners
- ✓ Science and Technology Advisory Committee of IP High Court

- **Expert Witness**

- ✓ Expert witness examinations to promptly and accurately assess technical issues

Institutional Reforms for In-depth Hearings in IP Cases

- **Orders to Maintain Confidentiality**

- - ✓ To protect the trade secret during the trial (Patent Act § 224-3)

- **Submission of 'Material'**

- - ✓ The court may order the party to submit MATERIALS including DOCUMENTS necessary for proving the relevant infringement or calculating the amount of losses caused by the relevant infringement (Patent Act § 132)

- **Obligation to Present Specific Type of Behavior** (Patent Act § 126-2)

- - ✓ A party to a lawsuit filed against infringement of a patent or an exclusive license, who denies a specific content, manner, and form of an infringement, as claimed by the patentee or exclusive licensee, shall present his or her own specific type of behavior

Enhanced Damages (Patent Act § 128)

- - ✓ Against intentional infringement, up to 5 times of compensatory damages

Enactment of “Rules of Practice”

- **Rules of Practice for Civil Appellate Trial (2025. 7. 11.)**
 - ✓ A comprehensive revision of the Guidelines in 2016
 - ✓ Includes early-stage case management, in-camera proceeding for orders to submit materials
 - ✓ Ensures fair, prompt, and predictable adjudication of complex patent cases
- **Rules of Practice for Administrative Trial (To be revised in 2025. 11.)**
 - ✓ Includes similar procedural provisions for the Rules of Practice for Civil Appellate Trial as well as special provisions for administrative trials

Challenges & Future Outlook

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- **Emerging Technologies**

- ✓ Artificial Intelligence (AI), Big Data & Data Analytics, Biotechnology & Life Sciences..

- **Judicial Tasks**

- ✓ Respond to legal challenges of the 4th Industrial Revolution
- ✓ Adapt judicial practices to rapidly evolving technologies
- ✓ Balance innovation incentives with public interest



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Thank you