

REPUBLIC OF KOREA

Status as of May 2005

FEATURES	STATUS	CHANGES IN LAWS SINCE 1990
Types of protection for inventions	<ul style="list-style-type: none">• Patents• Utility models	N.A
Term of protection	<ul style="list-style-type: none">• Patents: 20 years from the filing date• Utility models: 10 years from the filing date • Extension of patent term is possible on the following grounds:<ul style="list-style-type: none">- Regulatory approval for pharmaceuticals- Regulatory approval for agricultural chemicals	July 1, 1996 – Before that date, the term of protection of patent was 15 years from the publication of the grant; the term of protection of utility models could last for 15 years from the filing date.
Subject matters excluded from patentability or not considered to be inventions	<ul style="list-style-type: none">• The following subject matters are excluded from patentability:<ul style="list-style-type: none">- Isolated parts of human beings- Traditional knowledge- Diagnostic, therapeutic and surgical methods for the treatment of humans and animals- Inventions contrary to morality/public order • The following subject matters are not considered to be inventions:<ul style="list-style-type: none">- Discoveries- Scientific theories/mathematical methods- Aesthetic creations- Mental acts- Presentation of information- Computer programs- Business methods	No
Filing language	<ul style="list-style-type: none">• Filing an application in languages other than an official language is not possible.	No

Certain requirements relating to filing	<ul style="list-style-type: none"> • The inventor rarely waives his right to be mentioned in the patent. • It is not possible to file provisional applications. • The most frequent route used by foreign applicants to file patent applications is the PCT procedure (Patent Cooperation Treaty). 	No
Link between different inventions in the same application	<ul style="list-style-type: none"> • The applicable law requires that the claims in a patent application relate to a single invention only, and allows that the claims in a patent application relate to a group of inventions, so linked as to form a single general inventive concept. 	No
Publication	<ul style="list-style-type: none"> • The information related to the application is published or open for public access 18 months from the date of filing or from the priority date and when the patent is granted. 	July 1, 1996 – Introduction of 3 cases of publication as follows: - upon request from the applicant event before the expiration of one year and six months from the said date; - after the registration of the patent; - one year and six months from the date prescribed under certain conditions.
Classification system	<ul style="list-style-type: none"> • The patent classification system used is the International Patent Classification (IPC) system. 	N.A
Search and examination	<ul style="list-style-type: none"> • The applicable law establishes a substantive search and examination system. Search and examination are combined. For patents, the applicant is required to request the search and examination through a combined request within 5 years from the filing date. If the applicant fails to do, the application is deemed withdrawn. For utility models, the Office examines the basic requirements for registration; if the application complies with the basic requirements, then the application is registered. The applicant shall submit the request for search and examination within no time limit after the registration of the utility model. • During the examination procedure, the following criteria are examined for both patents and utility models: <ul style="list-style-type: none"> - Novelty - Inventive step/non obviousness - Industrial applicability/utility 	

<p>Specific legal provision regarding ownership of patents derived from public (government) research funding</p>	<ul style="list-style-type: none"> • Yes. Technology Transfer Promotion Act by which governments and government-funded institutes can confer the outcome of the research and development to the public research institute or the company which participates in the project. 	<p>No</p>
<p>Exceptions to exclusive rights conferred by a patent</p>	<ul style="list-style-type: none"> • There are exceptions to the exclusive rights conferred by a patent as follows: <ul style="list-style-type: none"> - Private use - Compulsory licenses - Government use - Research and/or experimental exception - Preparation of medicines in accordance with medical prescriptions by physicians - Clinical trials for the purpose of obtaining a generic drug's regulatory approval - Prior user's right 	<p>No</p>
<p>Options to challenge a patent</p>	<ul style="list-style-type: none"> • There are different options to challenge a patent or a utility model as follows: <ul style="list-style-type: none"> - Post-grant administrative/quasi judicial procedure (opposition) within 3 months from the date of the grant (the delay is slightly longer since the time limit starts running from the date of the publication of the grant). - Court procedure 	<p>July 1, 2001 – Before that date, the opposition procedure could not be initiated before the date of publication of the grant of the patent. Since July 2001, it is possible to initiate an opposition between the date of the grant and the date of the publication of the grant.</p>