

(1) SCP/15/3 Annex VI, page 21

	Republic of Korea
Patentability requirements	<p>Patentability: "The definitions of terms used in this Act are as follows: (i) "invention" means the highly advanced creation of a technical idea using the rules-<u>law</u> of nature". Art. 2, Patent Act of The Republic of Korea. According to article 29, only an invention may be patentable.</p> <p>Elements that are considered as a inventions because of article 2 of the Patent Act comprise laws of nature, mere discoveries, innovations contrary to the laws of nature, innovations that do not use laws of nature, personal skills, information presentation, aesthetic creations, incomplete inventions, etc. (Korean Intellectual Property Office, Requirements for patentability, January 2010, p. 2 – 4).</p>
Specific exclusions	None

	General Exceptions
Republic of Korea	<p>Experimental Use:</p> <p>“The effect of a patent right does not extend to any of the following subparagraphs:</p> <ul style="list-style-type: none">(i) Working a patented invention for research or experimental purposes[...]” (Patent Act of the Republic of Korea art. 96 (1) (i)) <p>Prior User exception:</p> <p>“The effect of a patent right does not extend to any of the following subparagraphs: [...] (iii) articles existing in the Republic of Korea when the patent application was filed.” (Patent Act of the Republic of Korea art. 96 (1) (i))</p> <p>There is also a prior user exception at art. 103: “When filing a patent application, a person who has made an invention without prior knowledge of the contents of an invention described in an existing patent application, or who has learned how to make the invention from such a person and has been working the invention commercially or industrially in the Republic of Korea in good faith or has been making preparations to work the invention is entitled to have a nonexclusive license on the patent right for the invention under the patent application. The nonexclusive license must be limited to the invention being worked, or for which preparations for working have been made, and to the purpose of such working or preparations. <u>A person who, without knowledge of the content of an invention claimed in a patent</u></p>

	<p><u>application, made an invention identical to the said invention or learned the invention from a person who made an invention identical to the said invention, and has been working the invention or making preparations to work the invention in the Republic of Korea at the time of the filing of the patent application, is entitled to have a non-exclusive license on the patent right for which the patent application was filed, within the scope of the objective of the invention or the business related to the invention that the person is working or making preparations to work.”</u></p>
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