

Republic of Korea

The Korean Intellectual Property Office offers several expedited examination options provided for in the Korean Patent Act ("KPA" or "the Act") and the Enforcement Decree of the KPA.

- The Korean Patent Act

Article 61 (Accelerated Examinations) In either of the following cases, the Commissioner of the Korean Intellectual Property Office may instruct an examiner to examine a patent application in preference to other patent applications:

1. Where it is found that any person, other than the patent applicant, is practicing for business purposes the invention claimed in the patent application after it is laid open under Article 64;
2. Where it is deemed necessary to urgently process a patent application prescribed by Presidential Decree;
3. Where a patent application prescribed by Presidential Decree is deemed necessary for disaster prevention, response, recovery, etc.

- The Enforcement Decree of the KPA

Article 9 (Cases Eligible for Accelerated Examination)

① "Patent application prescribed by Presidential Decree" in subparagraph 2 of Article 61 of the Act means a patent application designated by the Commissioner of the Korean Intellectual Property Office, among the following patent applications:

1. A patent application in the area of the defense industry;
2. A patent application directly related to green technology under the Framework Act on Carbon Neutrality and Green Growth For Coping with Climate Crisis;
- 2-2. A patent application utilizing technologies related to the fourth industrial revolution such as artificial intelligence (AI) and the Internet of Things (IoT);
- 2-3. A patent application related to advanced technology that is important to the national economy and the enhancement of national competitiveness, such as semiconductors (limited to a patent application for which the Commissioner of the Korean Intellectual Property Office determines and publicly announces specific cases eligible for an expedited examination and the period for application therefor);
3. A patent application directly related to export promotion;
4. A patent application concerning the official duties of the State or local governments (including any patent application concerning the duties of the national and public schools provided for in the Higher Education Act, which is filed by the organization in charge of the technology transfer and industrialization established within the national and public schools pursuant to Article 11 (1) of the

Technology Transfer and Commercialization Promotion Act);

5. A patent application filed by an enterprise confirmed as a venture business under Article 25 of the Act on Special Measures for the Promotion of Venture Businesses;

5-2. A patent application filed by an enterprise selected as a technology-innovative small and medium enterprise under Article 15 of the Act on the Promotion of Technology Innovation of Small and Medium Enterprises;

5-3. A patent application filed by an enterprise selected as an exemplary company in terms of the employee invention compensation system under Article 11-2 of the Invention Promotion Act;

5-4. A patent application filed by a small or medium enterprise with the certification for management of intellectual property under Article 24-2 of the Invention Promotion Act;

6. A patent application concerning the results of national research and development programs under subparagraph 1 of Article 2 of the National Research and Development Innovation Act;

7. A patent application which serves as a basis of a priority claim under treaties (limited to cases where a patent is being processed by a foreign patent office, upon a priority claim based on the relevant patent application);

7-2. An international patent application on which the Korean Intellectual Property Office conducts international search, as an international search agency under the Patent Cooperation Treaty pursuant to Article 198-2 of the Act;

8. A patent application under which an invention is being practiced or being prepared to be practiced by the patent applicant;

10. A patent application on which the Commissioner of the Korean Intellectual Property Office has agreed with the commissioner of any foreign patent office to preferentially examine

② "Patent application prescribed by Presidential Decree" in subparagraph 3 of Article 61 of the Act means any of the following patent applications:

1. Any of the following patent applications determined and publicly notified by the Commissioner of the Korean Intellectual Property Office:

a. A patent application directly related to goods for medical treatment and disease control under subparagraph 21 of Article 2 of the Infectious Disease Control and Prevention Act;

b. A patent application directly related to disaster safety products certified under Article 73-4 of the Framework Act on the Management of Disasters and Safety;

2. A patent application subject to public notice given by the Commissioner of the Korean Intellectual Property Office for a specified period of applying for an expedited examination to respond to an emergency situation caused by a disaster.

Accelerated Examination of COVID-19 related patent applications has terminated on June 22, 2023.

In addition to the legal provisions set out above, the following information should be taken into account:

○ **PETITION REQUIREMENT**

- Petitioner: **Any person may file a petition for accelerated examination.** However, when it comes to a patent application concerning the duties of the state or local government (Referring to a patent application concerning the duties of national · public schools in accordance with 「Higher Education Act」, including an application filed by an organization dedicated to technology transfer and commercialization established in national/public schools in accordance with Article 11(1) of 「Technology Transfer and Commercialization Promotion Act」), the state or local government, including organizations dedicated to technology transfer and commercialization established in national/public schools, only may file a petition for accelerated examination.
- Request for examination: An application eligible for accelerated examination should file a request for examination.
- Eligible for accelerated examination: Subject matter described in the scope of claims is eligible for accelerated examination. However, where subject matter is described only in the description of the invention, it is ineligible for accelerated examination. Where a multiple of claims are contained in the scope of claims and any one of the claims is deemed as eligible for accelerated examination, the entire application is accepted as eligible for accelerated examination.

○ **SUBJECT MATTER ELIGIBLE FOR ACCELERATED EXAMINATION**

1. A patent application where a third party is recognized to implement the filed invention as an occupation after its publication (Notice, Article 4(i))
2. A patent application requiring rapid handling, as falling into any one of the following items: (Notice, Article 4(ii))
 - A. A patent application concerning defense materials or its manufacturing process specified in Article 34 of 「Defense Acquisition Program Act」, Article 39 of Enforcement Decree of the same Act, Articles 27 and 28 of Enforcement Rules of the same Act
 - B. A patent application directly related to carbon neutrality green technology, which is classified under carbon neutrality green technology eligible for accelerated examination, as announced on KIPO webpage by KIPO Commissioner
 - C. A patent application directly related to export promotion: Where its adoption procedure as international standards is in progress or it is already adopted as international standards, the application is deemed to have directly been related to export promotion.
 - D. A patent application concerning the duties of the state or local government (Referring to a patent application concerning the duties of national · public schools in accordance with 「Higher Education Act」, including an application filed by an organization dedicated to technology transfer and commercialization established in national/public schools in accordance with Article 11(1) of 「Technology Transfer and Commercialization Promotion Act」)
 - E. Subject to a patent application filed by any one of the following corporations, the filed invention should be related to the corporation's business type and at least one applicant among the applicants originally filing the application should work at the corporation

(1) A corporation confirmed as a venture business in accordance with Article 25 of 「Special Act on the Promotion of Venture Businesses」

(2) A corporation selected as a technology innovation type SMEs in accordance with Article 15 of 「Act on the Promotion of Technology Innovation of Small and Medium Enterprises」

(3) A corporation selected as an outstanding enterprise with respect to a compensation for occupational inventions in accordance with Article 11-2 of 「Invention Promotion Act」

(4) An application filed by SMEs certified for IP management in accordance with Article 24-2 of 「Invention Promotion Act」

F. As an application related to R&D outcomes in accordance with Article 2(i) of 「National R&D Innovation Act」, the application is filed for the ones generated according to a business plan concluded between the head of the relevant central administrative agency and a R&D institution in charge or a joint R&D institution of a R&D project falling into any one of the following items:

(1) R&D project where a SME in accordance with Article 2 of 「Framework Act on Small and Medium Enterprises」 or a middle sized enterprise in accordance with Article 2 of 「Special Act on the Promotion of Growth and the Strengthening of Competitiveness of Middle-Standing Enterprises」 has carried out as a supervised R&D institute or a joint R&D institute

(2) R&D project where patent trends have been searched in accordance with Article 8(1) of 「Enforcement Decree of National R&D Innovation Act」 when carrying out a preliminary search of a national R&D project and its planning

(3) R&D project where patent strategies have been established through 「IP related R&D Strategy Support Project」 of the Korean Intellectual Property Office (KIPO)

(4) National defense related R&D project conducted in accordance with Article 8 of 「Act on Defense Science and Technology Innovation Promotion」

(5) National strategic technology R&D project in accordance with Article 2(iv) of 「Special Act on the Fostering of National Strategic Technology」

H. As an application where a priority is claimed under the Treaty, patent prosecution thereof is under way in a foreign patent office on the basis of a priority claimed based on the application

Herein, the Treaty includes the Patent Cooperation Treaty (PCT). However, where KR is listed as a designated state after a PCT application is filed claiming the benefit of an earlier-filed domestic application, in other words, where a self-designated international application is filed, the earlier filed KR application and the PCT application are considered the earlier-filed application and the later-filed application, respectively, for a domestic priority application. In this case, the earlier-filed domestic application is deemed to have been withdrawn at the lapse of 15 months after the filing of the earlier-filed domestic application. Therefore, a petition for accelerated examination concerning the earlier-filed application is not allowed.

I. An application where a patent applicant has practiced the filed invention as an occupation or is ready to practice.

In a statement regarding 'a petition for accelerated examination', it should be specifically described whether the filed invention is has been [practiced or is ready to be practiced] and it has been [practiced or is ready to be practiced as an occupation], and the applicant must submit 'evidential documents for business in practice or business

preparation' and 'evidential documents for business in practice or business preparation as an occupation' as supporting documents for business in practice or business preparation as an occupation (Please refer to evidential documents, Asterisk 1, Notice regarding a petition for accelerated examination).

However, when an application falls into any one of the followings, the application is deemed to be the one where the applicant has practiced the filed invention as an occupation or is ready to practice.

(1) An application filed by a corporation selected as a specialized leading company in accordance with Article 13 of 「Act on Special Measures to Strengthen Competitiveness and Stabilize Supply Chain of Materials, Components, and Equipment Industry」, provided, however, that the application is limited to any one of the following cases: 1) the filed invention is related to industries of specialized leading companies or 2) at least one among the applicants who first filed the invention is a specialized leading company.

(2) An application concerning an invention selected at contests or competitions hosted/organized by the state or local government, provided, however, that the application is limited to the one supported by the state or local government for its application or commercialization.

(3) An application filed by a corporation that has received more than 10 million won in contributions or subsidies from the government, regarding technologies development, commercialization, etc. or that has filed the application within 3 years after its starting up based on 50 million subsidies from venture capital, crowd-funding, angel investors, accelerators in accordance with Article 35 of 「Act on Support for Small and Medium Enterprise Establishment」, Articles 11, 12 or Article 15 of 「Act on the Fostering of Self-employed Creative Enterprises」, provided, however, that the application is limited to the case where at least one among the applicants that first filed the invention is the above mentioned corporation.

(4) A patent application filed by a company from which an application for designation as an innovative prototype is confirmed (Limited to an application regarding technologies which requested to be designated as an innovative prototype).

(5) An application that applies for a regulatory sandbox, subject to regulatory exceptions, provided, however, that the filed invention should be related to a product or service that applies for a regulatory sandbox and at least one among the applicants that first filed the invention should be a petitioner applying for a regulatory sandbox.

L. A patent application directly related to specialized projects subject to regulatory exceptions in accordance with Article 55 of 「Act on Special Cases concerning the Regulation of Regulation-free Special Zones and Special Economic Zones for Specialized Regional Development」

M. A patent application related to medical research and development in advanced medical complex submitted by resident medical research and development agencies subject to regulatory exceptions in accordance with Article 26 of 「Special Act on the Promotion of High-tech Medical Complexes」

N. An application, which is mainly related to preventing or removing pollution, concerning an environmental pollution control facility that falls into any one of the followings or environmental pollution prevention measures which the facility is designed to take

(1) Noise and vibration control facilities, soundproofing facilities, or vibration-proof facilities defined in Article 2 of 「Noise · Vibration Control Act」 and Article 3 of Enforcement Regulations of the same Act

- (2) Water Pollution Prevention Facility in accordance with Article 2 of 「Act on Water Environment Conservation」 and Article 7 of Enforcement Regulations of the same Act
- (3) Air pollution prevention facility defined in Article 2 of 「Act on Clean Air Conservation」 and Article 6 of Enforcement Regulations of the same Act
- (4) Wastes disposal facility defined in Article 2 of 「Act on Wastes Control」 and Article 5 of Enforcement Regulations of the same Act
- (5) Resource facilities, purification facilities or public treatment facilities in accordance with Article 2 of 「Act on the Management and Use of Livestock Excreta」 and Article 3 of Enforcement Regulations of the same Act
- (6) Recycling facility defined in Article 2 of 「Act on the Promotion of Saving and Recycling of Resources」 and Article 3 of Enforcement Regulations of the same Act
- (7) Public sewage treatment facilities, human excreta treatment facilities, private sewage treatment facilities in accordance with Article 2 of 「Sewerage Act」 or heavy water in accordance with Article 2(iv) of 「Act on Promotion and Support of Water Reuse」

B-1. The patent application, which relies on Artificial Intelligence, Internet of Things, 3D Printing, Automated Driving, Big Data, Cloud Computing, Intelligent Robot, Smart City, Virtual Augmented Reality, Innovative Medicine, New Renewable Energy, Personalized Healthcare, Drone, Next Generation Communication, Intelligent Semiconductor, Advanced Materials, Block Chain Technology, Smart Manufacturing, NextGen Biomed, where KIPO assigns a new patent classification related to the fourth Industrial Revolution

C-1. International patent application where KIPO carries out international searches in accordance with 「Patent Cooperation Treaty」 as prescribed in Article 198-2 and a request is submitted as prescribed in Article 203 of the Korean Patent Act

D-1. The application related to State-of-the Art technologies, such as semiconductor, etc., significant for strengthening national competitiveness and national economy, announced by KIPO Commissioner by setting an application period and specific inventions eligible for accelerated examination. (herein the State-of-the Art technologies include the ones related to national high-tech strategic industries in accordance with Article 2(ii) of 「Act on Special Measures for Strengthening and Protecting the Competitiveness of National High-tech Strategic Industries」 are included)

3. The application, for which KIPO Commissioner has agreed with its counterpart for accelerated examination, that falls into any one of the following items, with its petition requirement as prescribed in Asterisk being satisfied (The case is limited to the one that attaches supporting documents as defined in Asterisk 1).

A. The application where earlier date between the date of application filed to a subject nation (hereinafter referred to as "subject nation, etc.", including intergovernmental organization) published on the official webpage of KIPO by KIPO Commissioner and the priority date (hereinafter referred to as "the earliest priority date ") and the earliest priority date of KR patent application is the same

B. The application where earlier date between international application date of the international application where international search or international preliminary examination is conducted in subject nation, etc. and the earliest priority date of KR application is the same

5. As a case where a person who intends to file a petition for accelerated examination has directly searched prior art regarding the filed invention(conception) and submitted

the result to KIPO Commissioner, the application that is recognized as necessary for prevention, response, recovery, etc. of a disaster as it falls into any one of the following items:

- A. The application directly related to medical and quarantine supplies in accordance with Article 2(subparagraph 21) of 「Act on Infectious Disease Control and Prevention」
- B. The application directly related to certified disaster safety products in accordance with Article 16 of 「Act on Promotion of Disaster Safety Industry」
- C. The application concerning the subject announced by KIPO Commissioner by defining the time period for a petition for accelerated examination in order to respond a socially and economically urgent situation caused by disasters

(For more specific information regarding accelerated examination, please refer to 'Patent·Utility Model Examination Guidelines' published on KIPO website)