

KIPO

EXAMINATION GUIDELINES OVERVIEW



The Korean Intellectual Property Office (KIPO) has been playing a vital role, globally, in intellectual property. Ever since 1999, KIPO was designated as an International Search Authority as well as an International Preliminary Examination Authority for PCT applications. Alongside gradual growth, authorities have taken continuous measures to revise the Examination Guidelines to meet global examination standards developed under the IP5 nations.

Determining Inventive Step

The inventive step of an invention is determined by the:

- i. specified claimed inventions and cited reference;
- ii. selection of cited reference closely related to the claimed invention in addition to identification of differences between the two; and
- iii. decision of whether the claimed invention may be easily made by a skilled person in the art, despite the difference between the claimed invention and cited reference

Defining Unity of Invention

Under the Korean Patent Act, a patent application must relate to only one invention; however, a group of inventions may be linked under one unified general concept and be subject to one patent application. The revised guideline defines the method for determining unity by:

- i. identification of first invention alongside a technical feature of the first invention which is improved over the related prior art;
- ii. identification of second invention alongside a technical feature of the second invention which is improved over the related prior art;
- iii. review of the technical relevancy between the first and second inventions by whether the two technical features are identical or corresponds with each other;
- iv. identification of invention subject to examination, which is based on the first invention; and
- v. examination based on the patentability of the subject invention.

Improper Title of Invention

The Examiner may issue an allowance yet amend the title of the invention when an invention is patentable but the title of the invention is considered improper.

Issuance of Second Office Action in lieu of Final Rejection

Prior to the revised guideline, under Korean practice, an Examiner may issue a final rejection without issuing a second office action. However, the revised guideline specifies when a second office action should be issued instead. When a(n):

- i. different regulation of the Patent Act is applied to the same claim;
- ii. different prior art reference is cited, or the number of prior art references have changed (*despite special circumstances*);
- iii. new claim is added by an amendment causing a new grounds of rejection (*despite special circumstances*); and
- iv. amended claim is identical to another claim which was not subject to the first office action

DID YOU KNOW?



Yu-Na Kim is a representative figure skater in Korea. At the 2009 World Figure Skating Championships, Kim set a new world record of 207.71. She became the first figure skater to surpass 200 points. Also at the 2010 Winter Olympics, she set a new world record and won the gold medal in figure skating, Korea's first. Due to her continuous success and outstanding technical as well as artistic skills, Kim became a renowned figure skater. The New York Times reported Kim as one of the world's most influential people in 2010, and Forbes Magazine listed her as one of the highest paid female athlete.