

## Agreed Minutes

6<sup>th</sup> IP Dialogue between Republic of Korea and the European Union

29, May, 2018

Brussels

The Korean delegation was led by Youngyoon Kim, IPR Team Leader, FTA Trade Rules Division, Ministry of Trade, Industry and Energy. The EU delegation was led by Peter Kovacs, Head of Unit for Intellectual Property and Public Procurement of the European Commission.

Both sides informed each other of the latest developments concerning the laws and regulations on IPR. The EU explained the current status of the ongoing copyright reform and the report on the protection and enforcement of intellectual property rights in third countries, as well as the counterfeit and piracy watch list.

Both sides exchanged views on the current state of play regarding the implementation of the EU-Korea free trade agreement in relation to public performance rights. Korea briefed the EU on the presidential decree that will come into effect August 2018. The EU expressed strong concern over the issue of implementation of Korea's obligation concerning public performing rights prescribed under the Korea-EU FTA and called for measures that, in the short term would address the core of the economic problem and in the medium term the legal issues related to the Copyright Act. In Korea's view, the successful application of the revised decree will ultimately help galvanizing public support for the revision of the Copyright Act.

Both sides informed each other of developments regarding Standard Essential Patents (SEPs) including relevant competition guidelines and policies. The EU presented and explained the European Commission Communication "Setting out the EU approach to Standard Essential Patents".

Both sides exchanged views on necessary measures in cracking down counterfeits on street markets and online, given that much of the sale of counterfeits has moved to on-demand internet sales. The EU also raised the point of importance of checking goods in transit.

The EU raised the issue of online platforms in the circulation of counterfeit products over such platforms and informed the Korean side about the plan to publish the 'Counterfeit and Piracy Watch List' in the coming autumn. The EU also informed the Korean side that Korean providers and market places have been mentioned in the public consultation process. Korea asked whether such list would entail administrative or other penalties and the EU replied that such list is mainly for monitoring and public awareness purposes.

The EU and Korea discussed questions related to the calculation of the SPC/PTE term and the criteria for eligibility as well as the recent Patent Court case in Korea regarding the interpretation of scope for the extended patent rights in relation with pharmaceutical products. The EU voiced concern that the said Patent Court case might narrow down the scope of the patent rights whose term is extended. Korea explained that the Patent Court case was appealed to the Supreme Court and has not yet been finally and conclusively confirmed.

The EU and Korea exchanged views on plant varieties protection, focusing on the use of molecular tools and the phenotype methodology. While in principle supportive of using molecular tools as supplementary methods, the EU called for the continued use of the phenotype methodology as foreseen under UPOV. The Korean side explained that currently Korea is not using the molecular methodology for final identification of plant varieties for protection.

Both sides discussed interagency cooperation, statistical information and studies on the benefits of Intellectual Property and updated each other on current and planned activities including judicial actions taken up as remedies, both civil and criminal regarding infringement cases.

Both sides agreed to keep in contacts to exchange views on issues of interest to both sides.



Youngyoon Kim



Peter Kovacs