UNITED STATES-REPUBLIC OF KOREA COOPERATION IN SOUTHEAST ASIA: TRADE, INVESTMENT, AND MULTILATERALISM

ONLINE ANTICOUNTERFEITING
WHAT WE TALK ABOUT WHEN WE TALK ABOUT... COUNTERFEITS

- WTO’s Trade Related Aspects of Intellectual Property (TRIPS) Agreement definition:
  - “any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation.”
RESEARCH DOES NOT TOUCH ON OTHER INFRINGEMENT:

- Does not include copyright infringement, otherwise known as “piracy” such as streaming or physical media
- Does not include “fake” or fraudulent products that do not infringe trademarks, but may otherwise be “fake” such as medicines that do not contain active pharmaceutical ingredients
- Does not include patent, trade secret, unfair competition or other forms of IP violations
WHAT DO WE TALK ABOUT WHEN WE TALK ABOUT “ONLINE COUNTERFEITS”

- Paper focuses on E-commerce platforms (e.g. Alibaba, Lazada, Amazon, Ebay)
- But online counterfeits can be sold through:
  - Social Media platforms, Chat Apps (and their burgeoning marketplaces)
  - Stand alone websites
  - And any combination and cross-platform nexus, including Online to Offline (directing to a physical market)
    - See EU – “Online Business Models Infringing IPRs”
    - Recommendations in the paper can address these other channels
AS IP-INTENSIVE ECONOMIES, THE US AND ROK HAVE A VESTED INTEREST IN IMPROVING IP PROTECTION IN ASEAN’S RAPIDLY INTEGRATING AND GROWING E-COMMERCE MARKETPLACES.

- Policy recommendations:
  - Invest in existing cooperation frameworks – focus on ASEAN-centric cooperation
  - Prioritize in trade context on the current and future digital IP challenges
  - Develop Public-Private partnerships that deliver tangible and results-oriented deliverables
US AND ROK ARE IP INTENSIVE ECONOMIES

**IP & the US Economy**

Strong IPR protection and enforcement are essential to creating jobs and promoting economic prosperity; opening new markets for U.S. goods and services; and fostering investment in innovation and development.

IP-INTENSIVE INDUSTRIES ACCOUNT FOR...

- **38%** of GDP
- **52%** of merchandise exports
- **27.9 million jobs**
- **46%** wage premiums

IP Crime’s Annual Cost to the U.S. Economy

- **$180 Billion** from theft of trade secrets
- **$18 Billion** from pirated U.S. software
- **$29 Billion** in displaced legitimate sales due to counterfeit and pirated goods

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment (100,000)</td>
<td>24.0, 32.7</td>
<td>22.7, 24.8</td>
<td>17.0, 22.7</td>
<td>3.9, 5.1</td>
<td>46.3, 60.7</td>
</tr>
<tr>
<td>Employment proportion (%)</td>
<td>13.6, 15.7</td>
<td>12.9, 11.9</td>
<td>9.6, 10.9</td>
<td>2.2, 2.5</td>
<td>28.2, 29.1</td>
</tr>
<tr>
<td>Wage (weekly) (KRW 10,000)</td>
<td>78.7, 96.8</td>
<td>62.6, 72.7</td>
<td>66.0, 72.4</td>
<td>78.0, 83.6</td>
<td>67.3, 82.1</td>
</tr>
<tr>
<td>Wage premium (%)</td>
<td>85.1, 78.1</td>
<td>46.1, 33.7</td>
<td>54.1, 33.2</td>
<td>65.1, 53.8</td>
<td>57.1, 51.1</td>
</tr>
<tr>
<td>GDP Contribution (KRW trillion)</td>
<td>265.7, 354.6</td>
<td>179.2, 203.9</td>
<td>186.2, 219.7</td>
<td>24.4, 34.9</td>
<td>439.0, 660.0</td>
</tr>
<tr>
<td>GDP contribution (%)</td>
<td>25.4, 27.3</td>
<td>17.8, 15.7</td>
<td>18.4, 16.9</td>
<td>2.4, 2.7</td>
<td>43.5, 43.1</td>
</tr>
<tr>
<td>R&amp;D (KRW trillion)</td>
<td>14.0, 20.4</td>
<td>7.2, 7.0</td>
<td>5.6, 6.1</td>
<td>1.1, 1.7</td>
<td>16.7, 24.0</td>
</tr>
<tr>
<td>R&amp;D proportion (%)</td>
<td>61.0, 66.1</td>
<td>31.5, 22.7</td>
<td>24.3, 19.9</td>
<td>4.8, 5.5</td>
<td>72.8, 77.9</td>
</tr>
<tr>
<td>Advertisement (KRW trillion)</td>
<td>5.8</td>
<td>5.5</td>
<td>11.5</td>
<td>1.8</td>
<td>14.3</td>
</tr>
<tr>
<td>Advertisement proportion (%)</td>
<td>21.0</td>
<td>20.2</td>
<td>42.0</td>
<td>6.7</td>
<td>52.3</td>
</tr>
</tbody>
</table>

*Figures may not add up due to overlap in the types of IP intensively utilized (e.g. trademark-intensive companies may also qualify as design-intensive companies).*
## ASEAN IP ECOSYSTEM IS DIVERSE

<table>
<thead>
<tr>
<th>WIPO Innovation Index</th>
<th>Indonesia</th>
<th>Malaysia</th>
<th>Philippines</th>
<th>Singapore</th>
<th>Thailand</th>
<th>Vietnam</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rank: 48/53</td>
<td>27%</td>
<td>30%</td>
<td>17%</td>
<td>50%</td>
<td>22%</td>
<td>N/A</td>
</tr>
<tr>
<td>TM ranking: abt 43%</td>
<td>8</td>
<td>63%</td>
<td>55%</td>
<td>73%</td>
<td>61%</td>
<td>55%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Global Intellectual Property Center Ranking</th>
<th>Overall Score: 51.61%</th>
<th>Overall Score: 39.81%</th>
<th>Overall Score: 84.38%</th>
<th>Overall Score: 35.56%</th>
<th>Overall Score: 37.49%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rank: 27/53</td>
<td>Regional Ranking: 14</td>
<td>Regional Ranking: 10</td>
<td>Regional Ranking: 13</td>
<td>Regional Ranking: 45/53</td>
<td>Regional Ranking: 12</td>
</tr>
<tr>
<td>TM ranking: abt 63%</td>
<td>TM ranking: abt 55%</td>
<td>TM ranking: abt 73%</td>
<td>TM ranking: abt 61%</td>
<td>TM ranking: abt 55%</td>
<td></td>
</tr>
</tbody>
</table>

| GDP contribution from trademark-intensive industries | 21% | 30% | 17% | 50% | 22% | N/A |

* [https://www.wipo.int/global_innovation_index/en/](https://www.wipo.int/global_innovation_index/en/)
E-COMMERCE AND COUNTERFEITS IN SOUTHEAST ASIA

- Large and growing market for e-commerce
- Pandemic led to more e-commerce; a trend that will stick
- Counterfeit trade online occurring
  - Singapore Consumer Association: 300% increase in 2020
  - IPO Philippines: 5x increase in 2020 (90% online complaints)
  - Korea IP Office: 200% increase in 2020
- Online Counterfeiting is the fastest growing form of IP infringement
  - Southeast Asia is a hotspot
# E-COMMERCE AND COUNTERFEITS IN ASEAN

<table>
<thead>
<tr>
<th></th>
<th>Indonesia</th>
<th>Malaysia</th>
<th>Philippines</th>
<th>Singapore</th>
<th>Thailand</th>
<th>Vietnam</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>USTR Special 301 Summary, 2020.</strong></td>
<td>Priority Watch List: due to lack of adequate and effective IP protection and enforcement. Counterfeiting continues to be pervasive.</td>
<td></td>
<td></td>
<td>Noted that Singapore does not provide adequate or effective border enforcement against counterfeit goods</td>
<td>Watch list. High levels of online piracy and lack of effective enforcement.</td>
<td>Watch list. Reports that Vietnam is a source of counterfeit medicines.</td>
</tr>
<tr>
<td><strong>USTR Notorious Market List (any mention of e-com platforms involved in counterfeit sales)</strong></td>
<td>Bukalapak Tokopedia</td>
<td></td>
<td>Shopee</td>
<td></td>
<td>Lazada</td>
<td></td>
</tr>
<tr>
<td><strong>EU Counterfeiting Piracy Watch List – e-com platforms mention in country/region ASEAN SE Asia</strong></td>
<td>Bukalapak Tokopedia</td>
<td>Shopee</td>
<td>Shopee</td>
<td>Shopee</td>
<td>Shopee</td>
<td>Shopee</td>
</tr>
<tr>
<td><strong>Economist Illicit Trade Ranking</strong></td>
<td>68/84 Overall score: 45.2</td>
<td>47/84 Overall score: 60.3</td>
<td>64/84 Overall score: 48.5</td>
<td>24/84 Overall score: 71.1</td>
<td>48/84 Overall score: 59.8</td>
<td>66/84 Overall score: 47.5</td>
</tr>
<tr>
<td><strong>OECD/EUIPO Trade in Counterfeit Goods And Trade in Counterfeit Pharmaceutical Products</strong></td>
<td>Mentioned as source of pharmaceutical fakes</td>
<td>Source of pharmaceutical fakes</td>
<td>Mentioned as provenance location</td>
<td>Mentioned as provenance location; source of counterfeit pharmaceuticals</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Documented enforcement actions at border</strong></td>
<td>3</td>
<td>No documentation</td>
<td>No documentation</td>
<td>No documentation</td>
<td>1000+</td>
<td>78</td>
</tr>
<tr>
<td><strong>Customs Trademark Recordal System</strong></td>
<td>Yes (4 registrations)</td>
<td>No</td>
<td>Yes (over 100 recordals)</td>
<td>No.</td>
<td>Yes (over 900 recordals)</td>
<td>Yes (--)</td>
</tr>
</tbody>
</table>

Sources:
US ROK COOPERATION IN ASEAN ON IP

- Both the US and ROK invest resources on IPR cooperation in ASEAN
  - IP Offices from US and ROK have specialists in SE Asia
- US ROK work with ASEAN
- International collaboration at:
  - WIPO (Advisory Committee on Enforcement)
  - INTERPOL (e.g. Operation Pangea)
  - APEC (IP Experts Group)
POLICY FOCAL POINTS

- Analysis indicates two “chokepoints” for online counterfeits
  - Border measures to prevent counterfeits from entering the market (customs regulations and enforcement)
  - Domestic laws that disincentivize sale of counterfeits online (intermediary laws)
ASEAN-6 IP PROTECTIONS AGAINST ONLINE COUNTERFEITS

- **Border Measures:**
  - Varying legislation, regulations, authorities and practical applications and priorities
  - Some countries have trademark recordal system at customs
  - Some countries report IP seizures, some apply inconsistently

- **Intermediary laws – holding e-commerce platforms accountable**
  - Changing situation (same in ROK and US – EU and China as well)
  - ROK IP amendments on ISP
  - US bills SHOP SAFE Act and INFORM Consumers Act
  - Philippines Senate bill Senate Bill No. 1591 – ISP liability provisions
  - Others tightening regulations on E-commerce platforms
    - Vietnam Ministry of Industry and Trade Decree 52 Indonesia recent Ministry of Trade Government Order 80/2019
LOOKING FORWARD: UTILIZE EXISTING FRAMEWORKS TO ADDRESS ONLINE COUNTERFEITS IN ASEAN

- Coordinate further: ROK should promote ASEAN IP Attaché in addition to existing country-level experts
- Continue to invest in this issue at IGOs and regional harmonization
  - ASEAN
    - New action plan items on online enforcement
    - Harmonization of border measures – more seizures, Recordal regional
  - APEC
    - IPEG should have program on online – chaired by KIPO
  - WIPO, INTERPOL -operations, WCO – ecom standards, et al
    - More from ACE
LOOKING FORWARD: PRIORITIZE IN TRADE RELATIONSHIPS
FOCUSING ON THE CURRENT AND FUTURE DIGITAL IP ECOSYSTEM

- Look at model provisions from Anti-counterfeiting Trade Agreement (ACTA)
- Digital Trade Agreements should include provisions that define “fraud” to include sale of counterfeit goods under Consumer Protection sections
- Recognize liability for platforms is a shifting; should account for developing innovations; harmonize where possible
LOOKING FORWARD: INVEST IN NETWORKS THAT DELIVER TANGIBLE RESULTS FOR IP OWNERS AND THE PUBLIC IN ASEAN

- Research into the scope of online counterfeiting in ASEAN
- Center of Excellence or Regional Dialogues, Industry Government Initiatives
  - Models such as Korea Customs TIPA (Govt Industry activity to stop small mail shipment of counterfeits), US-EU Transatlantic IP Working Group, etc
  - Can address privacy concerns; forum for standards sharing among industry for proactive filtering, operational test cases
  - Forum for China cooperation – need to incorporate into Phase 2 “Third Countries”; Competition Bill
    - Need to be part of information sharing, capacity building and resource cooperation – Link China-SE Asia resources
Intellectual Property Cooperation - Korea, US and Southeast Asia

January 6, 2022

Hyun-suk Lim
Intellectual Property Counselor
Embassy of the Republic of Korea in the USA
Korea and Intellectual Property (IP)
IP & Economic Growth in Korea

The number of patent applications has increased along with economic growth!

Correlation coefficient: 0.98
## Development of IP System in Korea

<table>
<thead>
<tr>
<th>Period</th>
<th>IP System in Korea</th>
</tr>
</thead>
</table>
| Early industrialization (1960s~) | - Introduction of the modern IP system (1961)  
- Patent, Utility Model, Trademark and Design  
- Focus on domestic situation / Idea & Invention |
- Enhancing the IP system in accordance with the international standard  
  - Protection of substance patent (1987) |
| High-tech industries (1990s) | - Encouragement of domestic R&D Activity  
- Brand Strategy  
- Increase in patent applications (Growth of volume)  
- KIPO designated as PCT ISA, IPEA (1997)  
| New technologies (2000s ~) | - Expanding international cooperation on IP (IP5, TM5, ID5)  
- Reinforcement of IPR protection  
- Encouragement of high-quality patents (Improvement of IP examination quality) |
Korea and Intellectual Property (IP)

IP Strategy of Korea

Acquisition of IPRs
- Speedy and quality Examination

Utilization of IPRs
- Commercialization of Patents

Protection of IP
- Crackdowns on the circulation of counterfeit goods
- IP5 Cooperation
- Support for developing countries

Creation of IP
- SMEs, Universities
- Students, Women
- IP Awareness, and Training

Virtuous Cycle of Innovation
Customer–tailored IP Examination

- **Speedy**
  - Short examination pendency
  - for patents (11 months) and trademarks (8 months)

- **High-quality**
  - High-skilled examiners including Ph.D holders (44%)
  - Managing examination quality through examination review
  - Collaborative examination

- **Customized**
  - 3 Track Examination
  - accelerated, regular and customer deferred
  - Collective Examination
  - examining a product with multiple IP applications en bloc
IP Office Automation

KIPOnet: Integrated information system to computerize IP administration

- Customized online service, Easy to access, Increase efficiency, Save costs
01 Korea and Intellectual Property (IP)

IPR Protection & Awareness

Special Judicial Police (Aug 2010)

Local enforcement Offices

Public Awareness

Transformation into an IP-friendly Society

Promotion Campaign
### IP Enforcement

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of individuals</td>
<td>302</td>
<td>376</td>
<td>430</td>
<td>378</td>
<td>351</td>
<td>362</td>
<td>361</td>
<td>376</td>
<td>617</td>
</tr>
<tr>
<td>Number of seized goods</td>
<td>131,599</td>
<td>822,370</td>
<td>1,114,192</td>
<td>1,197,662</td>
<td>584,094</td>
<td>691,630</td>
<td>542,505</td>
<td>6,269,797</td>
<td>720,471</td>
</tr>
</tbody>
</table>
Korea and Intellectual Property (IP)

IP Framework Act (2011)

Effective since July 20, 2011 for economic, social and cultural development of nation by reinforcing the foundation for creation, protection and utilization of IP.
Presidential Council on IP

- Formulation of the master plan for national IP and its action plans
- Decide direction of distribution of resources related to intellectual property
- Create policies for promoting the creation, protection and utilization of IP and for creating foundations thereof
International Cooperation in IP
International Cooperation in IP

* ID5 : KIPO, USPTO, JPO, SIPO, EUIPO

(27 EU member countries)
FTA and IP System

- Higher IPR protection
  - Promote IP-based economy
- FTA
- Advancing our IP system
  - Increase Foreign direct investment
- Adjusting regulations
  - Protect stakeholders’ interests
International Cooperation in IP

FTAs

Free Trade Agreements
Free Trade Agreement Negotiations in Progress
International Cooperation in IP

IP desk

KIPO
Korean Intellectual Property Office

Korea Trade-Investment Promotion Agency

Map showing locations around the world, including Moscow, Russia, Frankfurt, Germany, Beijing, China, Shanghai, China, Tokyo, Japan, Guangzhou, China, Bangkok, Thailand, Ho Chi Minh, Vietnam, Jakarta, Indonesia, New Delhi, India, Qingdao, China, and New York, USA.
Korea, Southeast Asia and IP
International Cooperation in IP

IP protection in Southeast Asia
Korea’s Global IP Sharing Project
Korea’s Global IP Sharing Project

Appropriate Technology and IP

**Identify local needs**
- Local difficulties
- Environment
- Way of Life
- Culture

**Search Prior Art**
- Search related prior art in patent DB
- Identify optimal technology for resolving problems

**Development**
- Develop AT
- Test AT locally
- Adapt to local environments

**Localization & Education**
- Distribute AT prototypes
- Distribute developed technology

**Database**
- Established AT DB
- Linked to KIPO’s website

KIPO, NGOs, International Organizations

KIPO & Associated Institutions

Expert groups, Private Enterprises

NGOs, ODA (KOICA), Private Enterprises

KIPO
IP-utilized Appropriate Technology

Maximized Exposure

Modification

KR0930317 (registered)
KR0411746 (registered)
KR 1161160 (registered)

Cooling Effect

Modification

KR 1998-0048990 (registered)
IP-utilized Appropriate Technology

**Phillipines, Indonesia**

Before

After

Oil Extractor

**Vietnam**

Grease Separation System
Korea’s Global IP Sharing Project

Brand Development

Indonesia

<Cl of Forum on Ache Patchouli>  <Bl of Patchouli Essential Oil>  <Gl of Ache Patchouli>
Korea’s Global IP Sharing Project

Korea developed Appropriate Technology

Nepal
- Soil Brick Technology (Kallai, 2010)
- Bamboo Housing (Tera, 2012)

Myanmar
- Drainage System (Pitram, 2015)

Mongolia
- Eco-dye Extracting and Dyeing Machine (Ulaanbaatar, 2015)

Vietnam
- Wastewater Treatment System (Vung Tau, 2014)
- Grease Separation System (Vung Tau, 2016)

Ghana
- Beehive, Honey Extractor (Volta, 2014)

Guatemala
- Cooking Stove (Antigua, 2012)

Chad
- Sugarcane Charcoal Manufacturing Technology (NDjamena, 2010)
- Dried Mango Production (NDjamena, 2010)

Cambodia
- Water Purifier (Koun Trei, 2011)

Indonesia
- Herb Fermenting Equipment (Aceh, 2016)
- Patchouli Oil Extractor (Aceh, 2016)

Papua New Guinea
- Irrigation Pump (Piru, 2013)
Korea developed IP Education Contents

- Getting Creative with Pororo
- Invention Savers JIN
- Creativity and Invention
- Invention City
- Dr. Paul's Laboratory
- IP IGNITE
- IP PANORAMA
- IP PANORAMA Mobile
- IP XPEDITE
Korea’s Global IP Sharing Project

IP Panorama in 24 languages
IP e-learning Web Portal

http://www.ipdiscovery.net
Global IP Sharing

Korea’s Global IP Sharing Project
THANK YOU.