Country Report: Republic of Korea

APAA 2026 Anti-Counterfeiting Standing Committee

Young-Hyun CHO | CISUN International Patent & Law Firm
Hyungmok CHO | Bae, Kim & Lee IP

Developments from January to October 2026 (as of 19 October 2026)

1. Overview

In 2026, Korea strengthened its legal framework against counterfeiting and piracy. The Copyright Act was amended to introduce punitive damages, heavier criminal penalties and faster blocking of piracy sites, and a simplified customs procedure for small counterfeit shipments came into force. The Unfair Competition Prevention and Trade Secret Protection Act and the Patent Act were also partly amended, with the amendments due to take effect later, and the Supreme Court issued several decisions relevant to brand protection.

2. Legislative Developments

2.1 Copyright Act: punitive damages and faster blocking

An amendment to the Copyright Act (Act No. 21336, promulgated on 10 February 2026) substantially strengthened remedies. For intentional infringement occurring on or after 11 August 2026, courts may award damages of up to five times the proven loss. The maximum criminal penalty was raised from five years' imprisonment or a fine of KRW 50 million to seven years or KRW 100 million. Knowingly operating a link site for profit, or knowingly posting links to infringing copies for profit, is now treated as infringement in itself and is punishable by up to three years' imprisonment or a fine of KRW 30 million.

The amendment also accelerated measures against piracy sites. From 11 May 2026, the Minister of Culture, Sports and Tourism may order online service providers to block access to infringing content after review by the Copyright Protection Deliberation Committee, and may order emergency blocking without prior review where infringement is clear and urgent action is needed. However, if the poster or another party objects within five days, the emergency blocking may be lifted; whether access is blocked is then determined by a resolution of the Deliberation Committee, which is notified of the emergency blocking.

2.2 Customs: simplified trademark-protection procedure for low-value shipments

A new Article 235-2 of the Customs Act (Act No. 21208), effective 1 April 2026, introduced a simplified procedure for goods suspected of infringing trademarks in express consignments and postal items valued at or below a threshold set by the Commissioner of the Korea Customs Service (USD 2,000 for express consignments and USD 1,000 for postal items). Customs notifies both the trademark owner and the importer of the suspected infringement. The owner may request that the goods be held and submit supporting evidence, while the importer may submit counter-evidence. If the owner submits no evidence, Customs may release the goods.

2.3 Unfair Competition Prevention and Trade Secret Protection Act

An amendment that took effect on 28 May 2026 (Act No. 20963) extended the reward system, which previously covered reports of counterfeit goods, to persons who report or help prevent the leakage of trade secrets abroad, with rewards of up to KRW 200 million. Separately, a further amendment (Act No. 21952, promulgated on 15 September 2026) expressly lists hacking as an improper means of acquiring trade secrets and adds introducing, brokering or inducing trade-secret infringement as a new form of infringement. It will take effect six months after promulgation.

2.4 Patent, Utility Model and Design Protection Acts

The amended Patent Act (Act No. 21955, promulgated on 15 September 2026) allows rights that lapsed through non-payment of fees to be restored where the failure to pay was not intentional, replacing the stricter "justifiable reason" standard. It applies where the additional payment period or the supplementary payment period for patent fees falls on or after 16 March 2027. For reference, up-to-fivefold damages for intentional trademark and design infringement have applied since 22 July 2025.

3. Notable Court Decisions

Reworking of genuine luxury bags (Supreme Court, 26 February 2026, 2024Da311181). The issue was whether a business that reworks genuine branded bags into new products uses the brand owner's trademark. The Court held that where an owner asks for a bag to be reworked for personal use and receives it back, the trademark is in principle not "used" in the trademark sense, so there is no infringement, and accordingly reversed the High Court's judgment and remanded the case. However, infringement may arise where the reworking business controls the process and puts the reworked products on the market as its own goods.

Three-dimensional mark for a towable tube (Supreme Court, 26 February 2026, 2023Hu11012). The issue was whether a competitor's use of a tube shape closely resembling a registered 3D mark was trademark use or merely ornamental design use. The Court held that design and trademark are not mutually exclusive. Considering the shape's distinctive features, its reputation as the owner's source indicator, the manner of use and the competitor's apparent intent to free-ride, it found the competitor's use to be trademark use. The decision indicates that a shape once protected by a design right can be asserted as a 3D mark where it has become a recognised source indicator; in this case, however, whether the competitor's product falls within the scope of the mark has not yet been decided.

Burden of proof under the general clause (Supreme Court, 9 July 2026, 2023Da290355). The issue was who must prove the elements of the UCPA's general clause against unfair use of another's results. The Court held that the party alleging the violation bears the burden of proving that its results were used without authorisation in a manner contrary to fair commercial practice or competition order.

4. Outlook

Key issues to watch include the implementation of punitive damages and emergency blocking under the Copyright Act, the operation of the simplified customs procedure for small parcels, and the entry into force of the amendments promulgated in September 2026.