

ABSTRACTS

The landmark free trade agreement between South Korea and United States (hereinafter 'KORUS FTA') was officially signed by the representatives of both countries in a ceremony held in the Cannon building Office on Capitol Hill at 10 am on June 30th 2007 (ET) (at 11 pm June 30th 2007 (Korean Time)). Furthermore, South Korea decided to commence the FTA negotiation between South Korea and EU on May 1st 2007 at the meeting of ministers in charge of Korean international economy. On May 6 2007, the representatives of South Korea and EU have a meeting at Seoul and officially declared commencement of the FTA negotiation between South Korea and EU.

Carrying out the negotiation of several FTA simultaneously may result in inconsistent legislative implementation following the closing of FTA negotiation. Hoping it is a groundless fear, we need closely review EU law on which the representatives of EU will expected to base their negotiation proposals.

Intellectual property enforcement is one of the important fields in KORUS FTA and FTA negotiation between Korea and EU.

Especially, the Article will focus on provisional and corrective measures of intellectual property enforcement.

According to article 11 of EU Intellectual Property Enforcement Directive (hereinafter 'EU Directive'), EU Member States shall ensure that the judiciary authorities may, at the request of the applicant, issue an injunction against an intermediary whose services are being used by a third party to infringe an intellectual property right. Also, article 9 of the EU Directive provides that EU Member States shall ensure that an interlocutory injunction may be issued, on the same condition, against the intermediary. In this regard, the Article inquires whether provisional measures may be issued against a bona fide intermediary who delivers an infringing goods in Korea.

Meanwhile, materials or implements used to infringe intellectual property rights may be impounded or destructed in accordance with KORUS FTA. Here, the Article delves into to what extent the materials or implements can be impounded or destructed and whether the further revision of Korean intellectual property laws is necessary to implement KORUS FTA.

Key Word : Impoundment, Seizure, Destruction, KORUS FTA, FTA negotiation between South Korea and EU, Provisional measures, Corrective measures