

# Comparative study on Design Protection Acts

## For providing design consultancy aid in ROK Context

Sun-Woo Ahn\* and Sung-Zin Chae \*\*

\* *Yonsei University, Interdisciplinary Programs of Design Management  
Korea, asw0512@yonsei.ac.kr*

\*\* *Yonsei University, Department of Industrial Design  
Korea, szchae@yonsei.ac.kr*

**Abstract:** This paper includes two main sections. The first is a comparative review of the current Design Protection Acts (DPA) in South Korea (ROK) and other countries including China, France, Germany, Japan, the USA., and the UK. The second applies the ideas and concepts generated by the comparative review to formulate optimal DPAs as an aid for design consultancies in ROK. The strategic application of design protection can be promoted in two ways. The first is to work in collaboration with the governmental patent office (Korea Intellectual Property Office: KIPO). The second is to introduce an intellectual property registration system (IPRS) that would accept time-author-subject-based reference and document of the applicants. The contents of the IPRS application form are intended to confirm the title of the device(s), the original designer or design firm (author) and the dates when the devices were created, along with other relevant information. The application form for the IPRA registration should be as simple as possible. The proposed IPRS could be administrated by KIPO, which would in turn ensure the legality of each registration maintaining related references. The KIPO functions as both a record agency and an archive of new designs; hence, it takes on the role of an IPRS operator and supplier of comprehensive resources for the designs, products, patents, devices, and inventions.

**Key words:** *Design Protection Act, Design right, design consultancy.*

## 1. Introduction

### 1.1 Background and objectives of study

Unique, creative design is at the core of new product development and is an essential tool in product differentiation. Thus, the development of new products is a main force that ensures sustainability, competitiveness, and continual change for an organization. The Research of Korea Intellectual Property Office (KIPO) suggests that design has 22 times more effectiveness than technical development, which has only five.[1] Robert Hayes of the Harvard Business School, writes, 'Price was last 15 years, quality is on today, design will be tomorrow in competition of company.' [2] Since design is considered to be a core value for creating profit, the need for design rights has become more of an issue. The purpose of the Design Protection Act (DPA) is to protect original designs. These laws play an important role in protecting the value of the designs and in maintaining the core capabilities of the design creators. To help develop and promote the design industry, each nation has its own system and laws to protect and secure intellectual property rights.

### 1.2 Scope and methods of study

The scope of this study incorporates an examination and comparison of DPAs in ROK and foreign countries, analysis of the use of DPA in Korean design consultancies, and the assessment of revitalizing design protection

strategy for the consultancies. The study has examined organizations in charge of DPAs by countries, Korean design consultancies, and data pertaining to their application and registration statuses. The selection criteria for foreign DPAs were: the degree and advancement of design activity, the date of establishment of the design protection systems, and the scale and advancement of the industries. The countries selected for comparison are: the UK, France, Germany, the USA., Japan, and China. It has been surveyed the existing literature on each country's DPA and the character and status of the design consultancies in ROK.

Table 1. Industrial Designs by office and reporting year [3]

Classification	2001	2002	2003	2004	2005	2006
1. France	440,702	453,334	463,726	475,706	-	488,933
2. Germany	344,181	346,562	335,034	313,783	310,699	302,202
3. Japan	242,959	245,867	249,448	250,469	255,053	257,327
4. China	163,644	210,173	276,812	221,505	196,342	215,980
5. United States of America	158,678	168,449	178,931	186,602	189,982	201,679
6. South Korea	102,979	-	-	150,710	-	169,623
7. United Kingdom	83,651	-	-	60,012	-	56,080

### 1.3 Definition of terminology

The following terminology will be used in this paper:

- 1) Intellectual property rights (IPRs): The general term for copyright and newly emerging categories, as well as industrial property rights.[4]
- 2) Design intellectual property rights (DIPRs): Based on the aforementioned definition of IPRs, Design IPRs are legal rights to a creatively designed product.
- 3) Design protection system (DPS): A normative system intended to protect designs under the design law.
- 4) Design Protection Act (DPA): To promote the protection and use of design, this Act encourages industrial development. It was enacted on 31 December 1961 No. 951.[5] in ROK.
- 5) Design registration system: Administrative norms for design registration.
- 6) Design right: The limited rights of a design that belongs to the design creator.
- 7) The design creator: The subject who receives the design registration; this means the creator of the de facto design.[6] The creator and the applicant of a design may or may not be the same person or firm.
- 8) Good design properties: The desirable properties of a design subject which has legal and patent registration are: industrial applicability, creativity, and novelty.
- 9) Passive conditions of design registration: A product with the following characteristics is not eligible for design rights registration: similarity to the national flag or national emblem, indecency of public taste or public morals, or confusion with other businesses' products.[7]
- 10) Patent approach: A method of obtaining design rights through registration under the DPA of ROK.
- 11) Copyright approach: A method of retaining design rights by a report or publication. Unlike the patent approach, the creator acquires the rights through a non-substantial examination system.
- 12) Copyright: A right that protects a creator's rights, interests, and work in the fields of literature, art, and science. It is recognized and obtained at the same time that the creator produces the work.
- 13) Comparison between design right and copyright: A design right cannot be obtained when a registered product has identical or similar characteristics to the application product, unless the registered product is modified so as to be judged as sufficiently different from the original. A creator can assert the right of their creation when someone plagiarizes it. Copyright was initially limited to the fields of literature, arts, and science, but recently it has been extended to include industrial design.

14) Substantial examination system of design: In the registration process, a system that examines the design rights, not only formally, but also for substantive elements, including novelty, etc. [8]

15) Non-substantial examination system of design: A system that examines the formal or methodical elements that are essential conditions for the registration, which then determines whether the creator acquires the rights. The existence or nonexistence of the design rights is judged by private law when a dispute arises after registration.[9] This system is limited to parts of the design products and applies as follows to these categories: A1 (manufacturing and food), B1 (clothes), C1 (bedclothes, curtains, cushions, etc.), F3 (office paper products, prints, etc.), and M1 (textiles, plates, strings, etc.) and computer generated graphic designs, icons and etc.

## **2. DPS in South Korea(ROK)**

### **2.1 IPRs and DPS**

#### **2.1.1 Meanings and types of IPRs**

IPRs are the legal or institutional rights of the creator to the results of his or her creative activity. They encourage innovation by recognizing the beneficial value of the creation.[10] Practical and effective creations achieve powerful market positions and encourage economic growth. Since IPRs are intangible, they have lasting worth in spite of multiple uses and unlimited value. IPRs encourage the promotion of industrial development, while copyrights facilitate the promotion of individual's creativity. Recently, newly emerging needs of IPRs have come to the forefront in the fields of semiconductor integrated circuit layout design, databases, and so on.

#### **2.1.2 DPA and Design rights**

Industrial property right includes design rights, patent rights, utility model rights, and trademark rights. Design rights are acquired under the DPA. When a creator acquires the design rights, the creator is able to protect the design against plagiarism. It is useful for the creator to apply a business designation. When the creator applies for a business loan to a bank or KIBO Technology Fund, the design right holds a superior position.[11]

### **2.2 Organization and process of DPA**

#### **2.2.1 Enactment and organization**

Before the DPA took effect on July 1, 2005 in ROK, the term 'eui-jang(意匠)' was used for 'design'. Since the term 'design' is currently more widely used than 'eui-jang', 'eui-jang' was replaced with 'design' after the 2004 revision of the design rights terminology. The 'eui-jang law' was subsequently revised by the DPA. DPA Article 2 No. 1 offers the following definition: 'Design' means the shape, pattern, color or a combination of these in an article that produces an aesthetic impression in the sense of sight; the same applies to a part of an article and the style of calligraphy unless Article 12 of this Act applies'. The protected object is not only the shape of the article itself, but also the intangible 'design element' that constitutes it. The substance of a design entity, the embodiment and appealing characteristics of the design entity, should fulfill certain requirements of good design criteria. Those pertaining to computer generated graphic designs, icons, and others are included as DPA subjects.

#### **2.2.2 Process the design rights**

After meeting the conditions for an industrial product, a design or product can be registered under the extensive first-to-file system concept. One condition of this is that, if a first-to-file design had not been disclosed to the public, subsequent designs with similarities could not be registered in the system.

In the case of the non-substantive registration system, the formal examination of documents submitted to the Korea Intellectual Property Office (KIPO) filing should begin by determining whether a new design meets the procedural and formal elements, abides by the physical entity requirements, has industrial applicability, and has

justifiable reasons for non-registration. After these elements are fulfilled within a given time period, the registration fee is paid to KIPO and then the creator retains the rights for 15 years.

## 2.3 Characteristic of DPA

### 2.3.1 Requirements of the ‘Good Design’ property

One article of the DPA in ROK stipulates the design requirements for a DPA application. These include the properties of physical entity, formality, and aesthetics. An item’s required characteristic, so as to be categorized as an article, is that of corporeal movables, which can be separate from material substance. Some specific part(s) or dependent of a design can be applied and registered to the category of partial design’. Mimicry of another preexisting design is judged by use and function. An identical design is one in which the use and function are the same as another. A resembling design indicates that the uses are the same; however, the functions differ. When both the use and function of a design have no similarities to previous models, the design is considered to be a new one. The configuration of a design law means that the designed article has a specific character in terms of its shape, pattern, color, and construction. Visibility indicates that a product can be seen by the human eye. The aesthetic nature means that an object is appreciated for its beauty.

### 2.3.2 Requirements for design registration

The conditions for design registration are: creativity, novelty, and industrial applicability. Creativity is defined in the DPA Article 5, No.1 as: the design is not publicly known or publicly demonstrated in the Republic of Korea or in a foreign country before the design application is filed, and it is not described in a publication distributed in the Republic of Korea or in a foreign country or published electronically before the application for design registration is filed.[12] The DPA adopts the international definition, which includes a wide range of designs. It requires that the product can be judged by the lay public, not only by specialists in the field. Novelty indicates that the design could not have been easily created by a person with ordinary skills in the field to which the design belongs.[13] Industrial applicability indicates the possibility of mass production using an industrial process. It excludes the output of the fine arts.

### 2.3.3 Characteristics of DPA

Design system	Specificity in each system
Similar design system	A system that protects against imitation or copy of design right when a creator makes an application as a creator’s registered design or principal design that is modified in shape, figure, color, etc., is registered.
Design of a set of articles system	A single registered system, as an article that is sold and used in a pair of articles by a commercial entity in case of entire unity.
Secret design system	A system that keeps the status secret, in case of a request by an applicant, from the day when registration for establishment of design right occurs to three years after that, and the article isn’t posted on the official gazette of industrial design.
Early publication system	A system that promotes the prevention, in case an applicant requests it, of the application being posted before registration, which prevents overlapping investment, study, etc., by a third party.
Preferential examination system	A prior examination system; if an application meets the fixed elements, it conducts the examination within 2 months.
Non-substantive registration system	A system that drastically reduces the time needed for the substantive elements examination, such as current novelty, creativity, etc., as a part of products that include fabrics, wallpaper, and plastics products; a high registration rate can be registered by examining the basic elements.
Multi-class application system	A system that reduces expenses like the application fee, etc.; it is limited in application to non-substantial examination design registration, and applies the designs within 20 in a single application form.
System of granting design right fir part of an article	A system that allows a design to be registered regarding a part of an article (ex., a handle of a coffee cup, a hanger of a glass frame, etc.)

Figure. 1 Types and characteristics of DPAs and DPSs in South Korea [1]

The DPA adopts the first-to-file system, which gives a person who applies the right of first priority. This is a fundamental patent approach, because it involves the product's registration as an independent creation and protects the design. A patent application is registered through the KIPO examination, and its rights are acquired. The examination carries out both a substantial and a non-substantive registration system. The latter is a non-examination for some limited designs which are highly influenced by vogue, and subject to a very short life span. The DPA provides some design considerations which differ from other industrial property rights. These include the following: 1) that the design is judged by its external shape, which can be more easily plagiarized than other IPRs; 2) against imitation possibilities in terms of color, proportion, shape, etc., through modifications; and 3) that the short life span of a design causes some confusion in terms of a product's creation and plagiarism. After considering these situation and conditions, the DPA of ROK provides various systems of characterization.

### **3. DPS by countries**

#### **3.1 United Kingdom**

The U.K.'s Statute of Anne in 1709 was the world's first copyright law. Amended in 1787, it was designed to protect the copyrights of various fabric designs and printing methods. At that time, it enforced the prevention of reproduction of designs for flat elements. A subsequent law enacted in 1839 included three-dimensional shapes, as well as a patent approach which recognized rights through registration. After many revisions, this law added registered designs in 1949 and an amended newly non-substantial examination design rights copyright in 1956. The Copyright and Design and Patent Act (CDPA) of 1988 is the basic DPA in the U.K. The CDPA combines both DPA and copyright in one law by dividing them into copyright, design rights through non-registration, and registered design subgroups. It restricts the copyright area, but strengthens design rights through the lucrative status associated with the rights which give the designer the exclusive commercial use. In addition, this Act limits 3-D shapes and fulfills limited validity through design rights that acquired the rights without registration. For each case, design rights require proof of originality regarding the characteristics of the design business. A registered design needs proof of novelty, individual character affects elements for protection. The duration of protection for a registered design is 25, 15 for the design rights, and 70 years of posthumous copyright.

#### **3.2 France**

French DPS began in 1711 with the fabric industry, specifically the Lyon silk industry, and its need to prohibit unauthorized copying of its monopolized design patterns. A copyright law that was enacted during the French Revolution expanded this protection to include the category of 'property of literature and art'. In terms of industrial design, the system implemented a design registration process to protect design manufacturers in 1806. The France court distinguished between industrial design and other design areas, allowing for overlapping protection by the DPA and copyright. The DPA adopts a non-substantial examination system that does not examine any elements of the design or items that are highly affected by trends, such as accessories, clothes, etc., as these are protected by copyright. A shape or feature that does not seem to belong in that area can be registered in the category of trademarks and, in the case of infringement, will be protected by the unfair competition prevention act. There is nonexistence of the element of novelty for elements of protection, but including internal and external, it means a new one is distinguished from the existing one. The duration of rights is 25 years, 50 years in the case of a renewal before the expiration date, and 70 years posthumous. France has a powerful system of industrial design protection through overlapping protections; however, the system has been criticized because it is irrationally applied to industrial design.

#### **3.3 Germany**

A DPS in Germany was enacted on January 11, 1876, with enforcement beginning in April of the same year. This system, which was based on laws pertaining to design and models, guaranteed a monopoly of three-dimensional shapes and designs for flat elements. However, as it did not elaborate that this protection was limited to aesthetic devices, the protection was mostly applied to petty inventions. In 1878, 'aesthetic devise' was included as a possible patent object, making Germany's DPA similar to that in France. Germany grants registrations by adopting a non-substantial examination system, and overlapping protection is available through copyright. To protect applied art by copyright, the object needs to display high aesthetic creative value. A large number of modifications in one design can be included in one general application, at which point the modified design is limited to the same area. This area encompasses a much larger area than for the set of articles system in S.Korea.[15] One element of protection is novelty, which was not open to the public internally and externally and in originality. In addition, Germany's trademark law Article 25 protects three-dimensional shapes and packing shapes by mark right. The duration of the first right is five years with four possible renewal periods, after which it can be extended to a maximum of 25 years. Copyright holds for 70 years posthumous, and a trademark is applicable for 10 years.

### **3.4 The United States of America**

The design patent process in the USA has been collaboration between industry and Congress. At one point in time, Congress was asked about design protection, with the commission doing the questioning asking particularly about the excessive protection of new designs and the limited conditions in terms of the definition of designs. Congress addressed the commission's concerns, enacting an industrial design law in 1942.[16] The U.S.A. design protection is categorized into three areas: design patent, copyright, and trade dress. [17] After 1902, the term 'utilize' was changed to 'ornamental', expanding copyright protection to include the field of fine arts. The design patent in the USA determines priority using a first-to-invent system. In this system, the level of copyright protection is dependent upon the design of a three-dimensional shape, whether the useful element is a separable ideal or a physical entity. The design patent is the basic protection in US patent law. This system protects designs through registration. Furthermore, the main object is an article that is not granted invention, but equipped in useful function with an ornament. The USA has adopted a first-to-invent system that grants the patent to the first creator, which differs from the first-to-file system of ROK. The element of registration is novelty, which is neither known nor used in the U.S.A., ornamentality, and non-obviousness, which implies that an expert or employee in the same field cannot easily modify the product. Most of the designs are modifications of previous ones; therefore, attempts are made to protect the designs through copyright or trade dress. However, there might exist contrary evidence which makes it difficult to determine whether or not the design can be separated with useful skills.[18] When the patent is granted, it lasts for 14 years from the approval date.

### **3.5 Japan**

Design protection in Japan began with 'design rules' in 1888, which were based on the UK's 'rule of patent, design, and trademark'. After going through a number of revisions, design protection is now regulated by the current DPA, which was enacted in 1959. This protocol allows design protection under the DPA and copyright. Its DPA is similar to S.Korea's; however, there are some differences, such as: internal and external, the shape, pattern, color or combination of these are quoted objects; the fact that every applied design adopts an examined registration system; a design system is newly established that own design, which is similar with original creation that is principle design has equal value, before the similar design system.[19] Their DPS is indicated, complicating an element in protection, delay of examination, complexity of order, etc., in problem. Protected objects under copyright originally included only objects in the fine arts, but applied art is protected to a limited extent by copyright if it is created as a crafted product. The object of copyright is limited in a way by aesthetic

appreciation, similar to that of works of fine arts or crafts. To take into account exceptional cases, Japan revised the unfair business conduct law in 1993 and they tried granting indirect protection to designs by regulating the unfair behavior that ‘assignment or lending of the product that imitated shape of others or the act of exhibition, export or import for the act of assignment or lending’. The element of protection for registration is mass production, novelty, and creation. After obtaining the rights, this protection lasts for 15 years.

### 3.6 China

China is a country where the demand for design protection has increased sharply due to the rapid industrial development. However, China recognizes only the patents or copyrights which are registered in China. China disregards any patent or copyright that registered to a foreign country. This means that protection is very limited in China and products that were designed overseas are easily plagiarized by manufacturers. In addition, Chinese law does not recognize the rights when the product has been registered in another country. Thus, in order to use the rights in China, the application and registration must be completed in China. Chinese industrial law has no special section on the regulation of the DPA. Design is protected by general patent law. When a foreigner or foreign firm wants to obtain design patent-rights, it should submit its design patent-rights application to the deputy department office in China. The department does not examine the originality of the applied design, rather the administrative appropriateness of the patent application. All applicants need to check to see if their design has any overlap with the previously filed patents in advance by themselves.[20]

### 3.7 Comparison

Nation	Kind of right	Term of protection	Elements for Registration	Registration process	Strength and weakness	Way of protection
U.K	Registered design	25 years	Novelty, Individual character	After recording a design document and manufacturing a product	Newly established Design right except for Registered design,	patent approach
	Design right	15 years	Originality	Application- Action on merit -Registration	A boundary of Copyright and Design right	
	Copyright	70 years posthumous				
France	Design right	50 years	Novelty	Application - formal examination - obtain a right	Application of copyright system to industrial design (overlapped protection)	Copyright approach
	Copyright	70 years posthumous				
Germany	Design right	50 years	Novelty, Originality	Application - examination - obtain a right	High quality of aesthetic creation is needed to protect industrial design in copyright.	Copyright approach
	Trademark right	20 years				
	Copyright	70 years posthumous				
U. S.A	Design patent	14 years	Novelty, Non-obviousness, ornamentality	Application -Examining requirement for patentability- Registration	Patent included Design protection system. Non-obviousness is hard to satisfy in design area. First-to-invent system.	patent approach
	Trademark right	20 years				
	Copyright	70 years posthumous				
Japan	Design right	15 years	Novelty, Creativity, Mass production	Application- Action on merit -Registration	Complicated in requirements for protection, Delay of examination, complexity of order, Distribution of object in design right and copyright.	patent approach
	Trademark right	10 years				
	Copyright	50 years posthumous				
China	Design right	10 years	Novelty	Application -Basic examination - Registration	Sanction of design right only in China	patent approach
Korea	Design right	15 years	Novelty, Creativity, Industrial applicability	Application- Action on merit -Registration	Complicated in requirements for protection, Delay of examination, complexity of order	patent approach
	Copyright	50 years posthumous				

Figure. 2 Comparison of DPA among countries

The U.K. DPA is classified into registered design, design right, and copyright, and it avoids overlapping protections. This design rights system is newly established, unique, and offers positive protection even on short life cycle products. France operates its DPA using a multilayer system of design rights and copyright, and adopts a non-substantial examination system. Germany offers a similar DPA multilayer system in which design rights and copyright use a non-substantial examination system. In Germany, a design applying for a patent should have a very high quality aesthetic value. In the U.S.A., there is no specific DPA; however, the general patent law protects designs. Its laws regard a first creator as one who creates any new, original, and ornamental design and gives this creator the general rights in term of the industrial property rights. Japan's DPS is similar to that in ROK. The copyright related to design is limited only to artisans' products. Japan operates an unfair competition conduct law against the manufacturers of unregistered or imitation products adopting general commercial law. It seems to aim comprehensive and indirect protection effect. China protects its designs using a general patent law, yet allows its domestic manufacturers to engage in indiscreet imitation and illegal reproduction of overseas designs. The DPAs of the aforementioned countries are compared in Figure. 2.

#### 4. The application of the DPS and DPA by design consultancies in ROK

##### 4.1 Status

A design consultancy is a firm that specializes in design development, research, analysis, inquiry, etc., in ROK [21]. According to the 2007 design census by the Korea Institute of Design Promotion (KIDP), there were 2,330 ROK design consultancies in 2007, with the number increasing every year. Their average sales were 3.8 hundred million won (USD3,500,000) in 2006, most of which came from petty firms. They are short on related knowledge of DPA. The design statistics of the KIDP in 2008 show that the firms' registration experience of patents, utility models, and trademarks in the past two years resulted in the following answers: no: 79.8%; yes: 11.8%; and unknown or no reply: 8.6%. The main reason behind non-registration is the complexity of the process and burdening expense. The secondary reason is a lack of efforts for the applications and registration. The third biggest reason is a lack of understanding. (Figure. 4) KIPO statistics indicated that over the last 5 years design registrations have increased for small enterprises (including design consultancies). Comparing the research for both the KIPO and KIDP, design registration seems to be increasing for small enterprises, while the registration rate for design consultancies is lower than for other areas.

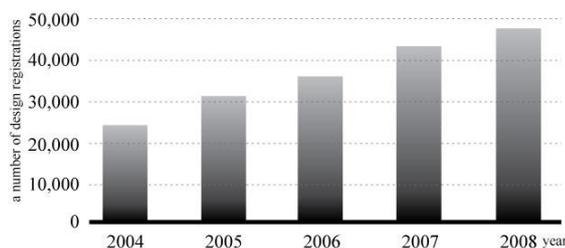


Figure. 3 The number of design registrations by small enterprises per year

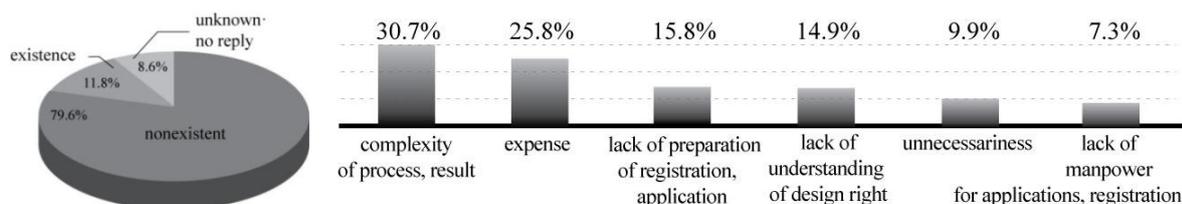


Figure. 4 Data for registration and non-registration motivations for S.Korean design consultancies [22]

##### 4.2 The characteristics of a Design consultancy's DPA

Since the body of design consultancy consists mainly of designers whose expertise is the development of design, consulting firms have insufficient manpower and departments in terms of promoting patents, legal issues, investment, accounts, etc. They solve DPA problems through government support in most cases. There are three main reasons why design consultancies have difficulties using DPAs or DPSs. First, they feel constrained by the design protection code using unfamiliar wording and terms. The second reason is due to the complexity of the registration process. The third reason is the nature of design consultancies' work and services: those design rights are owned by the client. Even the related data, such as sketches, mock-ups, drawings, and products, belong to the client. Furthermore, long period of registration period is another defect of the current DPA.

#### **4.3 Policy and supporting system**

The 'patent road' on the KIPO webpage offers explanations concerning the process of online registration and a list of registered patents. It enables a search for corresponding designs, statistical analyses, positioning maps, information about disputes, etc. In addition to this service, it offers counseling to help with application difficulties through a 'call service for patent customers'. Introduced in 2008, KIPO's 'design map' is a webpage that offers the sources of various products, patents, and the forms and data needed for application and registration.[23]. The KIDP has counseling service which are kept confidential for individual. But these services are only suitable for simple questions, and are irrelevant for design right application legally upheld.

#### **5. Conclusion**

Overseas countries have established their own design protection system according to their interests. UK has introduced a comprehensive DPS as a key function promoting so-called cultural industry in contemporary term. France and Germany adapt general protection system for both design and fine arts using non-substantial examination system. Germany has somewhat strict patent registration process for the design of high technology and esthetics. It means German government recognizes German patented products to be world class in most cases. Main emphasis of the U.S.A. system is to promote business proliferation denying any type of monopoly associated with patent. The protection for trademarks is more common than that for patent. It seems that Japanese DPS gave substantial influence to ROK's. Japan divides the design and art category of DPS. Chinese seems to pronounce little concern on intellectual. Chinese only recognizes the patents registered by its own national legal process. In this circumstance, any patent legalized in China, then it turns a property of Chinese government. ROK has facilitated a decent DPS. The problem tends to happen in private sector; small and medium companies have little room of human and financial resource to initiate their intellectual property, while the big corporations are boasting their special sectors for it.

As ROK equips itself with a comparatively systematic DPS and a detailed DPA, the focus should continue to be concentrated on creating a vigorous application process. In order to do this, publicity activity need to be shifted to individuals and design consultancy firms. The contents of a 'patent road' and 'design map' seem to be desirable tools; in addition, the staff or experts of KIPO should visit firms and provide counsel and guidance. In addition, the application booklet, which clearly describes the application and process of patents, needs to be better distributed. This will help with the building of an online community so as to share information about the application process and registered patents and products. Using the substantial examination and non-substantial examination system, the ROK system needs to encourage the strategy of profit seeking by both parties: clients and consignee (designer or design consultancy). Even when the client acquires the related design, the design consultancy that receives and creates the related work acquires the copyright through the non-substantial examination system, which encourages profit for both parties. The rights that are acquired through a formal patent examination are the exclusive property of the applicant (client), while the copyright belongs to the designer or design consultancy in a non-substantial examination system. The copyright provides a basis for

taking legal action against any misuse or abuse of the creation, third party imitations, or illegal reproductions. The copyright that is the registered design creation is a sort of a passive property or intangible right. If the same or similar design were registered previously, then, of course, the related copyright is ineffective and the registrant is not punished.

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