

# Korea as International Search Authority Under The PCT

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PETER NICHOLS

Brinks Hofer Gilson & Lione

Chicago, Illinois

And

MARCUS P. DOLCE

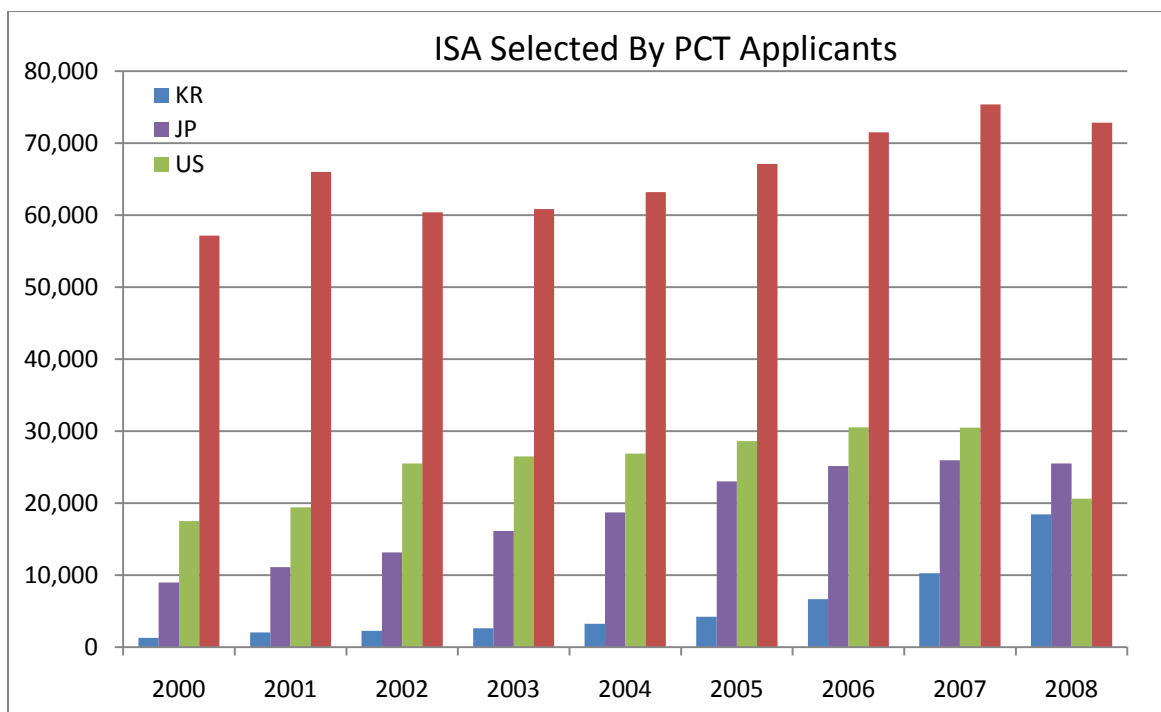
Price, Heneveld, Cooper, DeWitt & Litton, LLP

Grand Rapids, Michigan

[mdolce@priceheneveld.com](mailto:mdolce@priceheneveld.com)

Effective January 1, 2006, the United States Patent and Trademark Office (USPTO) in its capacity as receiving Office specified the Korean Intellectual Property Office (KIPO) as a competent International Searching and Preliminary Examining Authority. While extensive experience with KIPO as an International Search Authority (ISA) is limited, some trends are emerging. For certain technologies, the cost, timeliness, and relevant search results provided by KIPO, suggest that designating KIPO as the ISA should be strongly considered.

Since 2006, the number of PCT applications in which KIPO has been designated as the ISA has nearly tripled. As shown in the chart below, according to WIPO, the number of applications in which KIPO has been designated as the ISA increased from about 6,700 in 2006 to about 18,400 in 2008, while the number of applications in which the USPTO has been designated as the ISA has decreased from about 30,500 in 2006 to about 20,600. The other major ISAs, European Patent Office (EP) and Japanese Patent Office (JP), did not see a corresponding decrease (it is noted that U.S. applicants are not allowed to use the JP as a searching authority).

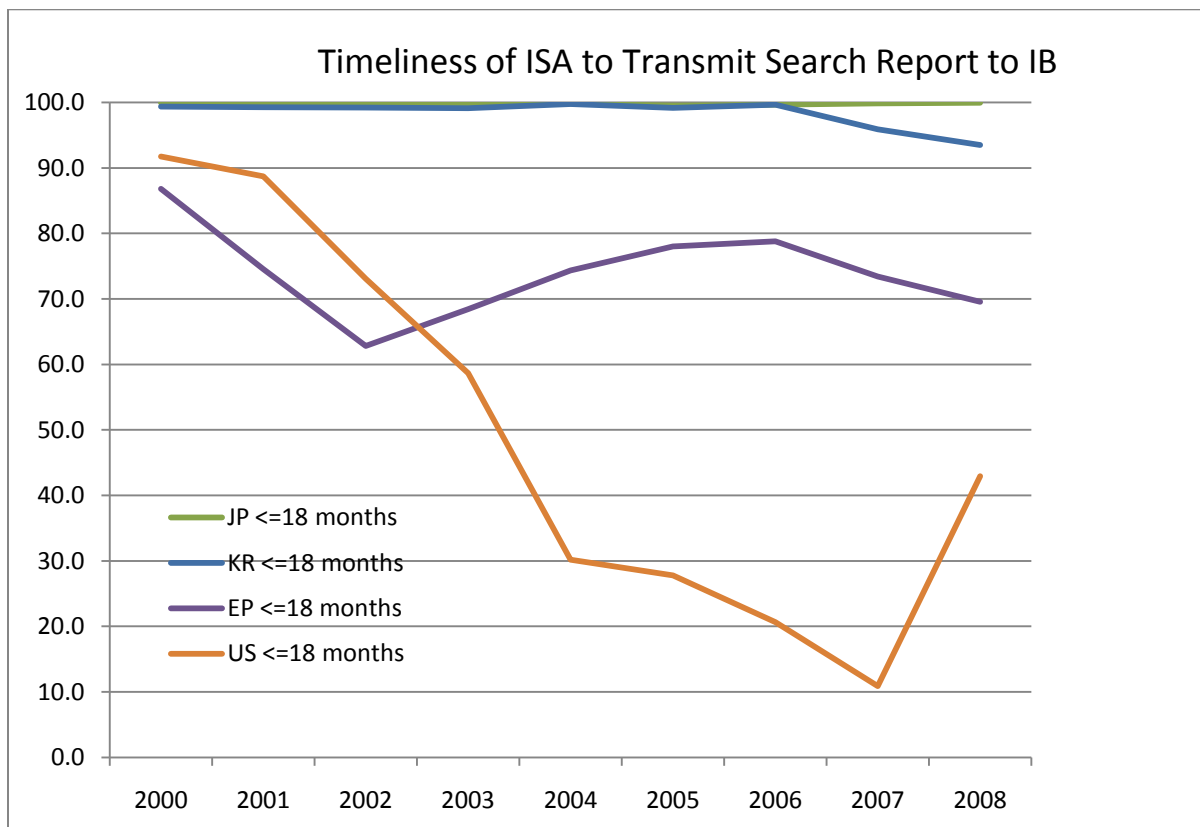


It is believed that there are two reasons for this shift. First, there exists a significant cost difference in selecting KIPO as the ISA. Second, KIPO could provide the search report to the International Bureau (IB) in a timely manner, particularly as compared to the USPTO.

When KIPO was first recognized as being a competent ISA for the USPTO, the search fee for KIPO was about five times less than the search fee for the USPTO and significantly less than the other major ISAs. Although the KIPO search fee has increased, it is still about three times less than the search fee for the USPTO.

ISA	2006 Search Fee (US\$)	2009 Search Fee (US\$)
EP	1,871	2,164
JP	810	1,084
KR	218	609
US	1,000	2,080

As for delivering the search report to the IB in a timely manner, *i.e.*, within 18 months of the priority date, in 2006, the USPTO met that goal only about 21% of the time. In contrast, KIPO met that goal nearly 100% of the time. Even faced with the significant increase in the number of applications in which KIPO has been designated as the ISA, KIPO has still managed to deliver the search report within 18 months over 90% of the time (about 94%). Although the USPTO has seen a nearly 30% decrease in the number of applications in which it is designated as an ISA, it was able to deliver the search report to the IB within 18 months only about 42% of the time (with almost 10% of the searches taking longer than 30 months to complete, although this was down from over 24% in 2007).



The cost and timeliness advantages provided by KIPO may be of little value if the search results are incomplete or irrelevant. Anecdotally, it appears that the search results in the electrical, electrical/hardware and mechanical arts have been perceived to be as relevant as those obtained from other ISAs. The quality of the search provided in the biotech art area does not appear to have the same quality as other ISAs. In certain instances, claims of a particular form were examined by one ISA and claims of the same form were deemed to be unsearchable by KIPO (KIPO is required under the PCT regulations to search any claims that would contain patentable subject matter if filed in a national Korean patent application). Nevertheless, we are still in the early days of using the KIPO as an ISA and, in view of the cost and timeliness advantages, designation of KIPO as the ISA should be strongly considered.