

The Analysis of Registration of Design Rights in Korean Apparel Industry -Design Rights Registered in Apparel (Classification B1)-

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The distinctive design of apparel product is the crucial factor that provides the powerful competitive advantage and customer satisfaction. However, knock-offs or copycats easily copy the design of apparel product and its problem tends to be assented in real world. Design right is one of intellectual property rights that would be produced by intellectual activity and the appropriate means to establish the exclusive rights to the design should be established. Legal protection to the design right is the system that can preclude copycats from eroding an exclusive position in the market place. The present study was to analyze the trend of registration of design rights in apparel products and to point out problems of current protection law to design. In addition, the direction for the revision of the current legal system of design rights in apparel products was proposed. The research data was total 2,053 design rights in apparel (classification B1) that have been registered to the Korean Patent and Trademark Office from the first design registered in March 1, 1963 through those registered in April 24, 2003. All design rights were analyzed by the year, by the type of product, and by the type of applicant. And also design rights registered under the revised design law (no examination) were analyzed by the trait (symbol, aesthetic, and function).

The results of the study were as follows.

1. 57% of total design rights in apparel was registered since the legal system of design rights has been revised in March 1, 1998.
2. Among all product categories sweater & polo shirts (B1113), underpants (B166), and the Korean traditional dress (B110) were three

major single categories, which consist of 11.2%, 10.8%, and 8.8% respectively. Jumper and pants were the following major ones.

3. Comparing the registration by the type of the applicant, registration by individuals were 72% and even among firms, most of them were small sized ones except only a few foreign big firms.

4. Overall, 62.7% of total design rights were for aesthetic, but in some categories such as miscellaneous clothing, vest, brassiere, under-shirts, and pants, designs for function were more frequently registered than others. As the symbol of public organization or uniform, total 68 design rights were registered in upper outerwear (B1110, B1111, B1113 and B1115) and pants (B1121).

5. As problems of the current legal protection system for designs, the term of "design"(used in Chinese characters), double registration of similar designs, malicious intention to register other's trademark as his/her own design, and high cost of registration were pointed out.

In conclusion, the current legal system for design rights were more used for the product that has relatively long life cycle such as casual wear, underwear, and the Korean traditional dress. In terms of the applicant, small-sized firms or individuals intend to recover competitiveness by the design rights. The revised design law that allows registration without examination has been effective to encourage the use of design law in apparel industry. However, the current design law still have some problems to be revised such as trademark infringement or registration of similar design.