SHIN & KIM

Trade Secret, Industrial Technology/Export Control

As technological competition intensifies and the mobility of key personnel continues to increase, it has become a critical priority for companies to protect trade secrets and industrial technologies, including national core technologies, to maintain corporate competitiveness and achieving sustainable growth. A company's core proprietary information, such as the results of its research and development projects, manufacturing processes, source codes, customer information, and business strategies, constitute valuable business assets even if they are not protected by patents. In particular, as the risks of technology and information leakage arise throughout various stages of business operation, such as employee turnover, joint development projects with business partners, technology transfers, and global business expansion, it is essential to have in place effective security measures to prevent and respond to such risks.

The importance of legal framework governing the protection and cross-border transfer of industrial technologies has also increased in corporate technology management and business strategy. As for the national core technologies (NCTs) and national advanced strategic technologies (NASTs), a company needs to carefully examine relevant regulations and administrative procedures for various transactions and business activities, including technology transfers, exports, overseas mergers and acquisitions. Accordingly, a company is required to accurately assess the legal status of its technologies and determine whether they are subject to certain regulations and develop a systematic management strategy according to the method of use of its technologies and the feasibility of overseas transfers of such technologies.

The Intellectual Property Practice Group of Shin & Kim provides stage-by-stage legal services to resolve issues regarding trade secrets and industrial technologies arising from the movement of technology and personnel to prevent and resolve disputes. The IP Group establishes trade management systems, reviews non-competition and non-solicitation agreements, designs technology protection measures for joint research and development projects, technology transfer transactions, and collaboration agreements and provides legal advice on whether a technology qualifies as a national core technology or national advanced strategic technology and identifies relevant export controls and administrative procedures. Furthermore, if technology leakage actually occurs, the Shin & Kim develops tailored strategies from comprehensive assessment of all available legal remedies, including civil and criminal proceedings and preliminary injunction, to effectively safeguard the clients' core technologies and trade secrets and minimize legal and commercial risks arising from related disputes.

Key Services

Shin & Kim provides the following services in connection with matters related to trade secret, industrial technology and export control.

- Customized corporate trade secret management system
- Technology protection in connection with joint research and development, technology transfer and cooperation agreement
- Digital forensics, preservation of evidence and initial response strategies
- Disputes related to trade secret infringements, including civil/criminal proceedings
- Non-competition and non-solicitation agreements
- Disputes related to non-competition and non-solicitation agreements
- Regulatory review and advice related to national core technologies and national advanced strategic technologies
- Assistance with in completing various administrative formalities related to national core technologies and national advanced strategic technologies, including export license and declaration
- Disputes related to the leakage of national core technologies or national advanced strategic technologies

Experience

Trade Secrets

- Trade secret infringement lawsuit related to the OLED back plane process
- Civil/criminal litigation related to the leakage of an edge display mass-production equipment technology
- Civil/criminal litigation related to the leakage of semiconductor supercritical processing and cleaning equipment technologies
- Trade secrets leakage lawsuit related to the inversion optical system of ELA equipment
- Criminal prosecution of trade secrets leakage related to semiconductor drying equipment
- Criminal prosecution of trade secrets leakage related to an electromagnetic metal separator
- Civil/criminal litigation related to trade secret infringement between large accounting firms in connection with employment of a certified public accountant (business information sector)
- Civil/criminal litigation related to the infringement of trade secrets of a cemented carbide manufacturer (cemented carbide sector)
- Civil/criminal litigation related to the infringement of trade secrets of a biopharmaceutical company (biopharmaceutical sector/botulinum toxin sector)
- Criminal prosecution of trade secrets infringement of a home appliance company (ice water purifier sector)
- Trade secret infringement lawsuit related to the gene medicine VM202

Non-Compete

- Represented a large Korean electronics company in multiple non-competition agreement-related cases against its former employees who moved to a U.S. semiconductor company
- Represented a Korean display company in multiple non-competition agreement-related cases against its former employees who moved to a Chinese display company

Industrial Technology/Export Controls

- Assessed whether the transfer of the results of a development entrustment project between a foreign company A and its Korean affiliate to company A as the entrustor constitutes export of NCT
- Advised whether the provision of an IP held by a foreign subsidiary of a large Korean company to its lender as a collateral constitutes export of NCT, and when the Ministry of Trade, Industry and Energy's approval is required, in connection with the company's construction of a factory abroad
- Advised whether, in connection with a large Korean company's construction of a factory abroad, storing source code of software for the operation of a smart factory using NCT in escrow constitutes export of NCT
- Advised whether, in a transaction of a foreign company's acquisition of a Korean company possessing a display laser repair technology, a patent right held by such Korean company constitutes NCT and whether any export license is required
- Advised whether a company jointly performing repair and maintenance work with a Korean company possessing NCT it acquired constitutes export of NCT
- Advised whether a Korean company possessing NCT that provides theory education, equipment setup and tuning on equipment incorporating NCT for engineers of its foreign affiliate constitutes export of NCT
- Advised whether storing Company P's NCT-related materials on a foreign cloud platform constitutes NCT
- Advised whether Company S's foreign affiliate qualifies as a holder of NCT by virtue of possessing equipment incorporating such NCT
- Advised on a judgement about whether technology possessed by a Korean company to be acquired by a foreign company constitutes NCT
- Advised whether a Korean company M possessing NCT that submit NCT-related materials as evidence in a pending lawsuit abroad constitutes export of NCT

Key Contacts

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Awards and Rankings

- Tier 1 Law Firm in Intellectual Property
  Asia Pacific Legal500 2015-2018,2021-2022

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