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**Damage Recovery to be Supported More Efficiently by
Alleviating Burden Regarding Calculation of Damages
- The Ministry of SMEs and Startups to Support Calculation of
Technology Infringement Damages for SMEs for the First Time -**

- The Ministry to partner up with Korea Technology Finance Corporation and legal and accounting experts to provide up to KRW 25 million to support the calculation of technology infringement damages for SMEs and related costs (50% paid by the beneficiary)
- The scope of support will be expanded to include the lawsuit for compensation for damage according to the laws and regulations of relevant ministries related to technology protection, as well as mediation and arbitration related to such lawsuits, to establish a foundation for technology protection from across all government bodies

The Ministry of SMEs and Startups (Minister LEE Young) announced that it will be receiving applications from SMEs that wish to take part in the “2023 SME Technology Infringement Damage Calculation Support Project” from Monday, March 27.

The new project will help SMEs facing difficulties regarding the calculation of technology infringement damages to calculate the amount of damage based on reasonable and rational grounds. In particular, the project expanded the scope of support to include SMEs filing lawsuits for compensation for damage according to laws and regulations of relevant ministries related to technology protection, and those going through mediation and arbitration related to such lawsuits. This is to provide a technology protection from across all government bodies.

The MSS implemented the Damage Compensation System that includes ① Regulations to calculate damages ② Punitive damages (No more than triple) and other revisions of the Act on the Promotion of Mutually Beneficial Cooperation Between Large Enterprises and Small and Medium Enterprises (February 2022).

In particular, the new government's policy tasks* included "Support to calculate damages" to alleviate the cost burden of SMEs and provide support for objective calculations, creating a realistic model to calculate damages.

* Policy Task 33-② Eliminating technology exploitation of SMEs – Support for calculation of damages regarding technology infringement of SMEs

This project will provide SMEs with up to KRW 25 million within 50% of the entire costs needed related to ① Mediation and arbitration or ② Civil lawsuits regarding the compensation for damages related to technology disputes.

The details are as follows.

① Support for SMEs that are currently going through civil lawsuits regarding compensation for damages related to technology infringement

SMEs currently involved in lawsuits under the "Act on the Promotion of Mutually Beneficial Cooperation Between Large Enterprises and Small and Medium Enterprises," "Fair Transactions In Subcontracting Act," "Unfair Competition Prevention and Trade Secret Protection Act," "Patent Act," "Utility Model Act," and other acts related to technology protection will be supported in order to calculate the appropriate amount of damages.

< **Articles Related to Compensation of Damages Regarding Technology Protection Under Each Act** >

Act	Article on Compensation of Damages	Article on Standards to Calculate Damages
Act on the Promotion of Mutually Beneficial Cooperation Between Large Enterprises and Small and Medium Enterprises	Article 40-2	Article 40-3
Fair Transactions In Subcontracting Act	Article 35	-
Unfair Competition Prevention and Trade Secret Protection Act	Article 11	Article 14-2
Patent Act (Utility Model Act)	Article 128-1 (Applies the Patent Act)	Article 128-2 (Applies the Patent Act)

② **Support for SMEs that are currently going through mediation or arbitration regarding technology disputes**

The MSS, Korea Intellectual Property Office (KIPO), Fair Trade Commission (FTC) will provide support for SMEs currently going through mediation or arbitration regarding technology disputes so that objective and reasonable calculations of damages can be obtained with the help of expert advice.

< **Mediation and Arbitration Committees Regarding Technology Disputes** >

Name	Related Act	Related Government Agency
Commission for Mediation and Arbitration of Disputes on Technologies of Small and Medium Enterprises	Act on Support for Protection of Technologies of Small and Medium Enterprises, Article 23	MSS
Consignment and Commission Dispute Mediation Council	Act on the Promotion of Mutually Beneficial Cooperation Between Large Enterprises and Small and Medium Enterprises, Article 28 * Only applies to unjust use of technology data	
Subcontract Dispute Mediation Council	Fair Transactions In Subcontracting Act, Article 24 * Only applies to unjust use of technology data	FTC
Committee for Mediation of Disputes over Industrial Property Rights	Invention Promotion Act, Article 41	KIPO

In addition, to encourage a quick agreement between parties involved in the mediation or arbitration regarding technology disputes, the mediation and arbitration council will determine it is necessary to calculate the amount of damages. For such cases, a fast-track process is established that assesses only the minimum requirements and calculates the amount of damages when the parties agree and request for such assistance.

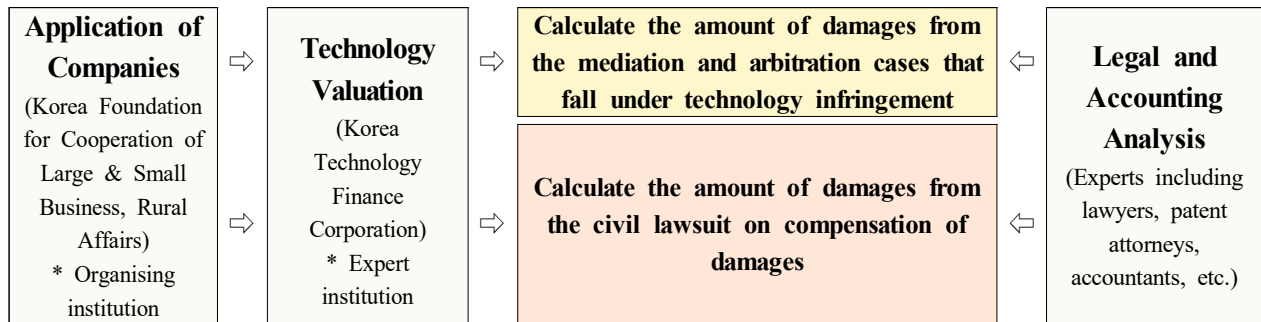
In particular, even if the disputes fall under the jurisdiction of other agencies including KIPO or FTC, when the parties ask the MSS to calculate the damages, the fast-track system will be applied.

The Ministry of SMEs and Startups will use this opportunity as a starting point to develop more cooperative models with other government agencies to protect the technology of SMEs.

③ Establishment of a cooperative system with technology valuation, legal and accounting experts in the private sector

By applying various technology valuation methodologies of Korea Technology Finance Corporation, a central technology evaluation organisation that specialises in technology valuation, and cooperating with lawyers, patent attorneys, accountants, and other experts to review the principles of law and take part in accounting analysis regarding the calculation of damages, the MSS will secure objectivity and rationality in its calculations.

< Process to Provide Support in Calculation of Damages Related to Technology Infringement for SMEs >



More details regarding the project are available from the Korea Foundation for Cooperation of Large & Small Business, Rural Affairs (☎ 02-368-8763, 8915), Korea Technology Finance Corporation (☎ 02-2155-3758, 3772), or the technology protection safety net website (www.ultari.go.kr).

Minister LEE Young stated, “Technology infringement victim companies hope to calculate a realistic amount of damages during a dispute. However, these companies have difficulties benefitting from the services of reliable and competent experts.”

LEE added, “As part of last year’s policy tasks, we have prepared the SME Technology Infringement Damage Calculation Support Project that can be applied in relation to all government agencies. We hope that more SMEs can recover from any damages suffered as soon as possible with reasonable and objective compensation for such damages.”