

Complete Litigation Guidebook

for Foreign Clients in Korea

Procedures, Costs, and Strategies for 2025

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<u>EXECUTIVE SUMMARY</u>	5
WHAT MAKES KOREAN LITIGATION UNIQUE FOR FOREIGN CLIENTS	5
CRITICAL SUCCESS FACTORS	5
TIMELINE AND COST REALITY	5
WHEN KOREAN LITIGATION MAKES SENSE	5
<u>PART I: UNDERSTANDING THE KOREAN COURT SYSTEM</u>	6
KOREA'S THREE-TIER JUDICIAL HIERARCHY PROVIDES CLEAR APPELLATE PATHS	6
SPECIALIZED COURTS HANDLE SPECIFIC DISPUTE TYPES	6
FOREIGN PARTIES RECEIVE EQUAL TREATMENT WITH LOCAL LITIGANTS	6
<u>PART II: CIVIL LITIGATION PROCEDURES FROM FILING TO JUDGMENT</u>	7
FILING YOUR COMPLAINT INITIATES THE COURT PROCESS	7
DEFENDANTS HAVE 30 DAYS TO ANSWER AFTER SERVICE	7
MULTIPLE HEARINGS REPLACE CONTINUOUS TRIAL FORMAT	7
EVIDENCE SUBMISSION FOLLOWS LIMITED DISCOVERY RULES	7
JUDGMENT ARRIVES WITHIN WEEKS OF FINAL HEARING	8
APPEALS PROVIDE TWO LEVELS OF REVIEW	8
<u>PART III: SPECIAL REQUIREMENTS FOR FOREIGN PARTIES</u>	9
AUTHENTICATION REQUIREMENTS VARY BY COUNTRY	9
ALL FOREIGN DOCUMENTS MUST BE TRANSLATED TO KOREAN	9
POWER OF ATTORNEY REQUIRES SPECIAL AUTHENTICATION	9
LITIGATION SECURITY DEPOSITS APPLY TO FOREIGN PLAINTIFFS	9
<u>PART IV: SELECTING AND WORKING WITH KOREAN LITIGATION COUNSEL</u>	11
ONLY KOREAN-LICENSED ATTORNEYS CAN REPRESENT PARTIES IN COURT	11
LARGE FIRMS VERSUS BOUTIQUE FIRMS SERVE DIFFERENT NEEDS	11
FEE STRUCTURES INCLUDE HOURLY, CONTINGENCY, AND HYBRID ARRANGEMENTS	11
<u>PART V: PROVISIONAL REMEDIES AND EMERGENCY PROCEDURES</u>	12
PROVISIONAL ATTACHMENT FREEZES ASSETS BEFORE JUDGMENT	12
PRELIMINARY INJUNCTIONS PRESERVE NON-MONETARY RIGHTS	12
<u>PART VI: JUDGMENT ENFORCEMENT AND ASSET RECOVERY</u>	13

KOREAN JUDGMENTS PROVIDE MULTIPLE ENFORCEMENT MECHANISMS	13
ENFORCEMENT SUCCESS DEPENDS ON SWIFT ACTION	13
<u>PART VII: RECOGNIZING AND ENFORCING FOREIGN JUDGMENTS</u>	14
FOUR REQUIREMENTS GOVERN FOREIGN JUDGMENT RECOGNITION	14
ARBITRATION AWARDS ENFORCE MORE EASILY THAN JUDGMENTS	14
<u>PART VIII: ALTERNATIVE DISPUTE RESOLUTION OPTIONS</u>	15
COURT-ANNEXED MEDIATION PROVIDES QUICK, BINDING RESOLUTION	15
KCAB PROVIDES INTERNATIONALLY-RECOGNIZED COMMERCIAL ARBITRATION	15
<u>PART IX: COSTS, TIMELINES, AND COMPARATIVE ADVANTAGES</u>	16
COURT FILING FEES FOLLOW PREDICTABLE FORMULAS	16
ATTORNEY FEES REPRESENT THE LARGEST COST COMPONENT	16
TIMELINE COMPARISONS REVEAL KOREA'S SPEED ADVANTAGE	16
DISCOVERY ELIMINATION PROVIDES MASSIVE COST SAVINGS	16
<u>PART X: PRACTICAL FAQ FOR FOREIGN CLIENTS</u>	17
DO I NEED TO APPEAR IN PERSON IN KOREAN COURTS?	17
CAN I SUE A KOREAN COMPANY FROM ABROAD?	17
WHAT HAPPENS IF THE DEFENDANT HAS NO ASSETS IN KOREA?	17
CAN I ENFORCE MY FOREIGN JUDGMENT IN KOREA?	17
<u>PART XI: WHY CHOOSE SAEMUNAN LAW OFFICE</u>	18
ELITE CREDENTIALS MEETING INTERNATIONAL STANDARDS	18
PROVEN INTERNATIONAL ARBITRATION EXPERTISE	18
TRUE BILINGUAL CAPABILITY FOR NUANCED COMMUNICATION	18
ENTREPRENEURIAL APPROACH UNDERSTANDING BUSINESS REALITIES	18
RIGHT-SIZED FOR FOREIGN SMEs AND MID-MARKET COMPANIES	19
TRANSPARENT, FLEXIBLE FEE ARRANGEMENTS	19
<u>CONCLUSION: MAXIMIZING SUCCESS IN KOREAN LITIGATION</u>	20
KOREAN COURTS OFFER FOREIGN PARTIES AN EFFICIENT, FAIR VENUE	20
SUCCESS REQUIRES UNDERSTANDING CRITICAL DIFFERENCES	20
ASSET INVESTIGATION DETERMINES ENFORCEMENT SUCCESS	20

THE BOTTOM LINE	20
<u>CONTACT US</u>	<u>22</u>

EXECUTIVE SUMMARY

What makes Korean litigation unique for foreign clients

Korean courts provide a sophisticated, fair legal system with no home-court advantage against foreign parties. The country's civil law framework eliminates expensive U.S.-style discovery, resulting in massive cost savings while maintaining high judicial quality. Foreign patent holders actually win at higher rates than Korean patent holders, demonstrating the judiciary's impartiality.

Critical success factors

Three elements determine litigation success in Korea: (1) early provisional attachment to freeze assets before defendants dissipate them, (2) comprehensive documentary evidence gathered before filing since discovery is limited, and (3) experienced bilingual Korean counsel who understand foreign client expectations. Fail at any of these and even winning judgments become uncollectible paper.

Timeline and cost reality

First-instance judgments take 12-18 months with appeals adding another 10-24 months. Total litigation costs for a \$1 million commercial dispute range from \$70,000-\$200,000 including attorney fees, translations, and court costs—

dramatically less than the \$250,000-\$750,000 typical in U.S. litigation. However, foreign plaintiffs may face security deposit requirements of 2-4% of claim value.

When Korean litigation makes sense

Choose Korean courts when you have strong documentary evidence, identifiable assets in Korea, and disputes where U.S. discovery costs would be prohibitive. Consider alternatives when evidence sits in your opponent's possession, no Korean assets exist for enforcement, or claims fall below \$50,000-\$100,000 (translation costs become disproportionate).

PART I: UNDERSTANDING THE KOREAN COURT SYSTEM

Korea's three-tier judicial hierarchy provides clear appellate paths

District Courts (지방법원) serve as trial courts with 18 nationwide locations plus 42 branch courts. Cases under 500 million KRW (~\$375,000) are decided by a single judge; larger or complex matters by three-judge panels. **High Courts** (고등법원) in six major cities hear appeals with complete factual and legal review (de novo). The **Supreme Court** (대법원) in Seoul reviews only legal questions, dismissing over 70% of appeals within four months.

Specialized courts handle specific dispute types

The Patent Court in Daejeon has exclusive jurisdiction over intellectual property appeals from the IP Trial and Appeal Board. Eight Family Courts handle domestic relations and juvenile matters. The Administrative Court in Seoul manages tax disputes, eminent domain, and regulatory challenges. Bankruptcy Courts operate in Seoul, Busan, and Suwon, with three more planned for 2026.

Foreign parties receive equal treatment with local litigants

Korean courts show no systematic bias against foreign parties—in fact, statistical analysis reveals foreign patent holders succeed at higher rates than Korean patent holders. Service of process follows Hague Convention procedures for member countries. English-language legal materials are available, though all proceedings occur exclusively in Korean.

PART II: CIVIL LITIGATION PROCEDURES FROM FILING TO JUDGMENT

Filing your complaint initiates the court process

Plaintiffs file written complaints (소장) stating party names/addresses, claims sought, and cause of action with the appropriate district court. Filing fees follow a progressive formula: **approximately \$500 per \$100,000 of claim value**. Courts handle service of process through official channels—domestic service takes 1-2 weeks, international service via Hague Convention requires 3-6 months, non-Hague countries may take 6-12+ months.

Defendants have 30 days to answer after service

Failure to answer may result in default judgment, though Korean law provides broader opportunities to contest defaults than common law systems. Defendants representing foreign plaintiffs should request litigation security deposits before answering on merits—this right is waived once substantive defenses are filed.

Multiple hearings replace continuous trial format

Korean litigation proceeds through 3-8 separate hearings at monthly intervals rather than single continuous trials. Each hearing lasts several hours focusing on discrete issues. Written submissions carry considerable weight alongside oral arguments. Judges actively question parties and can request additional evidence throughout proceedings. Real-time stenographic records display on courtroom screens.

Evidence submission follows limited discovery rules

Korea has no pre-trial discovery system comparable to U.S. practice—no depositions, interrogatories, or broad document requests.

Parties submit only evidence they choose unless courts order specific document production. Courts can compel production when: (1) opposing party cited document, (2) requesting party legally entitled to it, or (3) document prepared for applicant's benefit. Failure to comply allows courts to deem requesting party's allegations about document contents as correct.

Judgment arrives within weeks of final hearing

Courts render decisions 3-6 weeks after closing hearings (2-4 weeks for small claims under 30 million KRW). Written judgments with full reasoning are served 2-3 weeks later. Judgments include provisional enforcement provisions allowing execution during appeal. The losing party generally pays court-determined litigation costs, though these represent only a fraction of actual attorney fees incurred.

Appeals provide two levels of review

First appeals (항소) to High Courts must be filed within 14 days of receiving written judgment. High Courts conduct complete de novo review of facts and law, allowing new evidence and arguments. Timeline: 10-12 months.

Second appeals (상고) to Supreme Court review only legal questions within 14 days of High Court judgment. Over 70% face early dismissal; accepted cases may take several years.

PART III: SPECIAL REQUIREMENTS FOR FOREIGN PARTIES

Authentication requirements vary by country

Hague Convention members (which Korea joined in 2007): Documents require Apostille certification from the Ministry of Justice (for court documents) or Ministry of Foreign Affairs (for administrative documents). Access Korea's Apostille service at apostille.go.kr.

Non-Hague countries: Documents need consular legalization through Korean MOFA, then legalization by the relevant foreign embassy in Korea—a multi-step process taking significantly longer.

All foreign documents must be translated to Korean

Certified translations by licensed translators are mandatory for all foreign-language evidence, contracts, corporate documents, and personal identification. **Costs range from \$0.15-0.30 per word** depending on technical complexity and quality level. Translation quality directly impacts case outcomes—invest in experienced legal translators, not budget services. Expect translation budgets of \$10,000-\$50,000 for medium-sized commercial disputes.

Power of Attorney requires special authentication

Foreign principals must execute POA with notarization in home country, followed by Apostille (Hague countries) or consular legalization (non-Hague). The POA must grant specific authority for litigation actions including filing appeals, settlement, and appointing sub-attorneys. Korean consulates worldwide provide notary services (\$2-4 USD) but do not issue Apostilles. Corporate POAs require accompanying board resolutions and authority certificates, all authenticated and translated.

Litigation security deposits apply to foreign plaintiffs

Article 117 of Civil Procedure Act allows courts to order foreign plaintiffs without Korean domicile/office to post security for defendant's litigation costs. **Amounts typically reach 2-4% of claim value** (a \$1 million claim = \$15,000-\$30,000 security). Defendants must request before answering on merits or waive this right. Foreign parties

without Korean presence must post cash deposits; surety bonds available only for those with Korean entities cost less than 1% of surety amount.

PART IV: SELECTING AND WORKING WITH KOREAN LITIGATION COUNSEL

Only Korean-licensed attorneys can represent parties in court

Foreign attorneys cannot appear in Korean civil litigation regardless of their home jurisdiction qualifications. Parties must retain Korean-licensed attorneys (변호사) for all matters exceeding 100 million KRW (~\$75,000). Korean attorneys qualify through law school graduation plus National Bar Examination passage, with approximately 30,000 licensed practitioners nationwide.

Large firms versus boutique firms serve different needs

Korea's "Big Five" law firms—Kim & Chang (1,000+ attorneys, \$893 million revenue), Yulchon, Lee & Ko, Bae Kim & Lee, and Shin & Kim—offer deep benches, international networks, and specialized expertise for high-stakes matters over \$10 million. They charge premium rates (KRW 300,000-600,000/hour, \$225-\$450) and sometimes exceed New York/London rates for foreign clients.

Boutique and mid-sized firms specializing in foreign clients provide excellent value for small and medium enterprises. Firms like Chung & Partners (100% foreign client focus), IPG Legal (strong English online presence), and Seoul Law Group (weekly client updates standard) offer rates 40-60% below large firms (KRW 150,000-300,000/hour) with direct partner access and responsive communication foreign clients expect.

Fee structures include hourly, contingency, and hybrid arrangements

Hourly billing ranges from \$115-\$450/hour depending on firm size and attorney seniority. Request detailed engagement letters specifying billing increments, staffing, and cost ceilings. **Contingency fees** (성공보수) are permitted in civil cases with typical success fees of 10-20% of recovery plus modest upfront retainers. Courts can reduce contingency fees exceeding 10% as unjust enrichment. **Hybrid arrangements** combining reduced hourly rates with success bonuses align incentives while providing cost predictability.

PART V: PROVISIONAL REMEDIES AND EMERGENCY PROCEDURES

Provisional attachment freezes assets before judgment

Provisional attachment (가압류) provides the single most critical tool for foreign creditors pursuing monetary claims.

Courts issue orders within 2-3 weeks on ex parte basis (without notifying defendants) upon showing: (1) valid monetary claim exists, and (2) without attachment, judgment enforcement would be difficult. The evidentiary standard is "vindication"—lower than full proof required at trial. Security deposits equal 100% of claimed amount must be posted in cash. Once granted, attachments freeze debtor's bank accounts, real estate, corporate shares, and other assets within Korean jurisdiction. **Critical timing: 50-60% of debtors attempt asset dissipation within six months of disputes arising**—early provisional attachment increases ultimate collection success by 40-50%.

Preliminary injunctions preserve non-monetary rights

Preliminary injunctions (가처분) come in two types: (1) prohibiting disposal of disputed property, and (2) temporarily establishing parties' legal positions. Courts decide within one month after reviewing respondent's objections (unlike ex parte provisional attachments). Applicants must demonstrate prima facie case of irreparable harm if relief isn't granted. Security deposits are required but amounts vary based on court discretion.

PART VI: JUDGMENT ENFORCEMENT AND ASSET RECOVERY

Korean judgments provide multiple enforcement mechanisms

Compulsory execution proceeds under the Civil Execution Act through: (1) bank account seizure (fastest, 2-3 months), (2) salary garnishment (ongoing monthly payments), (3) real estate auction (8-14 months due to appraisal and bidding procedures), (4) corporate shares seizure (6-12 months), and (5) movable property seizure (usually not cost-effective due to storage and auction costs).

Enforcement success depends on swift action

Success factors include: (1) Acting within 3 months of judgment (50-60% asset dissipation rate after 6 months), (2) Using multiple enforcement methods simultaneously, (3) Having defendant's Korean resident registration number, (4) Filing criminal fraud complaints when applicable, (5) Considering bankruptcy petitions if defendants transfer assets, and (6) Pursuing corporate veil piercing when shell companies are involved. Major obstacles: 15-20% of judgment debtors file bankruptcy proceedings, 30-40% are genuinely insolvent, and cross-border asset movement is increasing.

PART VII: RECOGNIZING AND ENFORCING FOREIGN JUDGMENTS

Four requirements govern foreign judgment recognition

Article 217 of Civil Procedure Act requires:

International jurisdiction: Foreign court must have had jurisdiction recognized under Korean law or treaty

Proper service: Defendant received adequate notice and opportunity to defend

Public policy: Recognition doesn't violate Korean good morals or social order

Reciprocity: Mutual guarantee exists or recognition requirements aren't substantially different between countries

Arbitration awards enforce more easily than judgments

New York Convention membership (Korea joined 1973) provides streamlined enforcement for arbitral awards from 172 contracting states. Recognition orders (not judgments) issue in 2-4 months with 90%+ success rates versus 60-70% for foreign judgments. **Strong preference: Include KCAB or other institutional arbitration clauses in international contracts rather than litigation clauses.**

PART VIII: ALTERNATIVE DISPUTE RESOLUTION OPTIONS

Court-annexed mediation provides quick, binding resolution

Korean courts actively promote mediation (조정) with judges or conciliation committees facilitating settlement. Since 2002, courts can mandate mediation without party consent for appropriate cases. Mediation decisions accepted by parties become enforceable as court judgments with same claim-preclusive effect. Parties have 2-week objection period; absent objection, settlement becomes final. Costs are minimal—a fraction of litigation fees.

KCAB provides internationally-recognized commercial arbitration

Korean Commercial Arbitration Board (KCAB), established 1966, has handled over 7,000 arbitration cases with approximately 400 annually. KCAB INTERNATIONAL (launched 2018) operates under UNCITRAL Model Law-aligned rules at the Seoul International Dispute Resolution Center. Filing fees start at 1 million KRW (~\$770) with total costs significantly below ICC, SIAC, or HKIAC for comparable matters.

Key advantages:

- New York Convention enforcement in 160+ countries
- Confidential proceedings
- Expert arbitrators with industry knowledge
- English-language proceedings available
- Fast-track procedures for claims under 500 million KRW (3 months)
- Emergency arbitrator provisions
- Competitive costs compared to major Asian institutions

PART IX: COSTS, TIMELINES, AND COMPARATIVE ADVANTAGES

Court filing fees follow predictable formulas

Filing fees (인지세) are calculated progressively: **approximately \$500 per \$100,000 of claim value**. A \$1 million claim costs ~\$5,000 in filing fees; a \$10 million claim ~\$50,000. Service fees add \$100-200 per case. Additional costs include expert witness fees, court-ordered translator services, and document production expenses.

Attorney fees represent the largest cost component

Cost recovery limitations: Winning parties recover court-calculated attorney fees following Supreme Court formulas—typically only 30-60% of actual fees incurred. The loser-pays principle applies to filing fees, service costs, and statutory attorney fee portions.

Timeline comparisons reveal Korea's speed advantage

First instance civil litigation:

Korea: 12-18 months (6 months for simple cases)

United States: 18-36+ months

Japan: 12-36 months

Germany/France: 18-30 months

Discovery elimination provides massive cost savings

U.S. discovery costs for medium commercial cases: \$100,000-\$1,000,000+ for e-discovery, document review, depositions, expert witnesses, and motion practice. Korean discovery costs: \$5,000-\$20,000 primarily for court filing fees requesting specific document production. Savings: 90-99% on discovery expenses alone.

PART X: PRACTICAL FAQ FOR FOREIGN CLIENTS

Do I need to appear in person in Korean courts?

No—personal appearance is not required. Korean-qualified attorneys represent clients at all hearings and proceedings. Foreign parties can litigate entirely from abroad without visiting Korea. Remote preliminary hearings are available with all parties' consent (standard since 2020 COVID procedures). Exception: Some family law matters require personal attendance.

Can I sue a Korean company from abroad?

Yes—entirely possible through remote representation. Hire Korean-qualified counsel who files complaints on your behalf, handles service through court channels (Hague Convention for member countries), submits documents via Electronic Case Filing System, and appears at all hearings. Judgments are served internationally through official channels.

What happens if the defendant has no assets in Korea?

Critical issue—winning judgments without enforceable assets are worthless paper. Conduct thorough asset investigation before filing using Korean attorneys' access to credit reports and property registries. Consider provisional attachment immediately upon dispute arising (even during foreign litigation) to freeze assets before dissipation. If no Korean assets exist, consider enforcing Korean judgment in countries where assets are located, though this requires separate proceedings subject to foreign recognition requirements.

Can I enforce my foreign judgment in Korea?

Yes—subject to four requirements: (1) foreign court had recognized jurisdiction, (2) defendant received proper service and opportunity to defend, (3) recognition doesn't violate Korean public policy, and (4) reciprocity exists or requirements aren't substantially different. File enforcement judgment petition with Korean district court presenting certified judgment with Apostille, Korean translation, proof of finality, service evidence, and reciprocity demonstration. Timeline: 12-24 months. Better option: Include KCAB arbitration clause for New York Convention benefits (2-4 months enforcement).

PART XI: WHY CHOOSE SAEMUNAN LAW OFFICE

Elite credentials meeting international standards

SAEMUNAN's attorneys bring unmatched experience from Korea's premier legal institutions. Our team includes alumni of Kim & Chang (Korea's largest law firm ranked 59th globally), Ministry of Justice positions providing inside knowledge of regulatory perspectives, and proven track records in high-stakes international disputes. This combination delivers sophisticated legal strategy with practical government insights unavailable at boutique firms lacking such pedigrees.

Proven international arbitration expertise

SAEMUNAN achieved a landmark investor-state arbitration victory representing Republic of Korea in ISDS proceedings—one of the most complex international dispute resolution mechanisms. This demonstrates our capability to handle sophisticated cross-border matters where Korean and international law intersect.

True bilingual capability for nuanced communication

English proficiency separates adequate from exceptional counsel for foreign clients. SAEMUNAN's attorneys received training at international institutions and major global law firms, providing genuine fluency rather than basic legal English. We understand foreign business clients expect weekly updates, detailed explanations, and responsive communication—not the passive approach traditional Korean firms offer. Our communication protocols match Western standards while maintaining Korean legal excellence.

Entrepreneurial approach understanding business realities

SAEMUNAN operates with an entrepreneurial mindset recognizing litigation as a business tool, not merely legal exercise. We analyze cost-benefit considerations, enforcement likelihood, and strategic alternatives before recommending litigation. Our attorneys understand foreign businesses' commercial objectives, cash flow concerns, and risk tolerance—providing business-oriented counsel integrated with legal expertise.

Right-sized for foreign SMEs and mid-market companies

Large Korean firms excel at matters over \$10 million but often provide excessive staffing ("gang tackling"), premium pricing, and bureaucratic processes unsuitable for small and medium enterprises. SAEMUNAN offers partner-level attention at boutique pricing—senior attorneys handle matters directly rather than delegating to junior associates. For foreign companies with \$100,000-\$10 million disputes, we provide the optimal balance of expertise and cost-effectiveness.

Transparent, flexible fee arrangements

We offer multiple fee structures tailored to client preferences: hourly billing with detailed itemization, contingency arrangements for appropriate matters (10-20% success fees), hybrid models combining reduced hourly rates with success bonuses, and fixed fees for defined-scope matters. Our engagement letters specify staffing, billing increments, and cost ceilings upfront—no surprise bills months later.

CONCLUSION: MAXIMIZING SUCCESS IN KOREAN LITIGATION

Korean courts offer foreign parties an efficient, fair venue

The Korean judicial system provides world-class litigation infrastructure combining civil law efficiency with high judicial quality. Foreign parties face no systematic bias—indeed, statistical evidence shows foreign patent holders succeed at higher rates than Korean patent holders. The absence of expensive U.S.-style discovery, combined with 12-18 month first-instance timelines, creates a 60-75% cost advantage while maintaining sophisticated e-filing systems and specialized expertise.

Success requires understanding critical differences

Korean litigation fundamentally differs from common law systems: no party-driven discovery, no depositions, no jury trials, written submissions carry more weight than oral arguments, and all proceedings occur exclusively in Korean language. Foreign parties must gather comprehensive documentary evidence before filing, budget 10-20% for certified translations, and work with Korean-qualified bilingual counsel understanding foreign client expectations. The limited settlement rate (7% versus 60-70% in U.S.) means cases typically proceed to judgment rather than settling mid-litigation.

Asset investigation determines enforcement success

Winning judgments without enforceable assets creates worthless paper—the single most critical mistake foreign parties make. Conduct thorough asset investigation before filing using Korean attorneys' access to property registries and credit reports. File provisional attachments within days of disputes arising (before 50-60% asset dissipation occurring within six months). Strategic use of Korea's efficient provisional remedy procedures—obtaining ex parte attachment orders within 2-3 weeks—provides the decisive advantage between successful enforcement and empty victories.

The bottom line

Korea offers foreign clients an increasingly sophisticated, efficient legal system delivering professional judicial quality at a fraction of common law jurisdiction costs. Success requires early engagement of Korean counsel, thorough pre-filing asset

investigation, comprehensive documentary evidence preparation, strategic use of provisional remedies, realistic timeline expectations, and cultural intelligence bridging Korean and foreign business practices. When these elements align, Korean litigation provides foreign parties with a powerful tool for protecting business interests in one of Asia's most dynamic economies.

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