

Monthly Report of August 2003

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THAILAND

News in August 2003

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1. Domain Name

*(from Post Today Newspaper, Business Market Section, Page B4, Thailand, 1 August 2003
Post Today Newspaper, Business Market Section, Page B1, Thailand, 9 August 2003)*

DIP is preparing to draft a Domain Name Bill to protect domain name especially for Thai traders. As the present there are some foreigners registered domain name by using Thai common name such as Bangkok or Pattaya etc. So the rights owners also have to willing to incorporate to solve this problem while waiting for the bill.

2. Hom Mali to be registered as Thai plant in 50 countries

*(from Post Today Newspaper, Today's News Section, Page A3, Thailand, 5 August 2003
Thai News Service, 8 August 2003)*

Thailand will have Hom Mali or Jasmine rice registered in 50 countries worldwide as an indigenous plant geographically identified with Thailand. The Intellectual Property Department, the Foreign Trade Department and the Trade Negotiations Department recently decided to have Hom Mali rice registered in the United States, China, Europe, and Middle Eastern countries as a Thai plant. Its categorization corresponds to geographical identification laws, according to

director-general of the Intellectual Property Department Yanyong Puangrat. The registration is made amid fears that the Thai rice genus might possibly be grown in other countries and falsely claimed non-Thai.

3. Piracy-free zones to be designated this month

(from Bangkok Post Newspaper, Business Section, Page 3, Thailand, 8 August 2003

Post Today Newspaper, Business Market Section, Page B1, Thailand, 8 August 2003)

In a move to step up its anti-piracy campaign, the Commerce Ministry plans to designate certain areas in Bangkok as well in the provinces as piracy-free zones within this month. According to Deputy Commerce Minister Watana Muangsook, the ministry will sign an agreement with local and foreign copyright owners to map out areas to be zones as piracy-free.

In a related development, Mr Watana said the Internal Trade and Foreign Trade departments had been assigned to closely monitor the imports of pressing machines used to make pirated discs. In addition, he said the ministry planned to end plea-bargaining in piracy cases through an amendment in the Optical Disc Control Law, which is now before the parliament.

Under the proposed draft of the law, piracy would be treated as an offence against the state that could not be settled through plea bargains or out-of-court negotiations.

4. US urges tighter crackdown on copyright infringes

(from Post Today Newspaper, Today's News Section, Page A2, Thailand, 7 August 2003

Krung Thep Thurakit Newspaper, Prime News Section, Page 1 & 4, Thailand, 7 August 2003

Organisation of Asia-Pacific News Agencies, 8 August 2003

Thai News Service, 11 August 2003

Krung Thep Thurakit Newspaper, Economic Commerce Section, Page 21, Thailand, 13 August 2003)

Thailand and the United States were left at loggerheads on the issue of intellectual property rights violations, with the US declaring Thailand's much-trumpeted campaign against infringements as being 'unsatisfactory', and Thailand accusing prior to negotiations on the establishment of the US-Thai Free Trade Area (FTA) at the end of the year.

Deputy Minister of Ministry of Commerce, Mr Watana said that the government had worked continually to stamp out the problem and had made a certain amount of progress, but that at the same time Thailand needed the cooperation of copyright owners, and that often in the case of US copyright owners this cooperation had not been forthcoming.

He noted that on several occasions US copyright owners had not sent their representatives to help in suppression exercises, and that discrepancies remained between Thai and US data. He said that the government had sent a letter to the US embassy, asking for help in liaising with US companies, and that at the end of the year the government was organizing a workshop on intellectual property rights for the embassy.

At the same time, he noted, the government was working to amend legislation concerning intellectual property rights violations to ensure that such cases could no longer be settled out of court.

In addition, he said, the CD and Products Act had now been approved by the Juridicial Council, and would be considered by the parliament prior to the Asia Pacific Economic Cooperation

(APEC) summit in October. This act, once in force, would be used instead of existing regulations, and would cover the management of all CD-related issues, he stated.

5. Label owners to join piracy-free zoning

(from Post Today Newspaper, Business Market Section, Page B4, Thailand, 11 August 2003

Bangkok Post Newspaper, Business Section, Page 3, Thailand, 15 August 2003

Post Today Newspaper, Business Market Section, Page B1, Thailand, 15 August 2003

Krung Thep Thurakit Newspaper, Economic Commerce Section, Page 22, Thailand, 15 August 2003)

Local and foreign copyright owners have agreed to cooperate with the Commerce Ministry's stepped up efforts to fight counterfeit products through the establishment of strategic piracy-free zones.

Certain areas in Bangkok and in big cities in the provinces have been designated as piracy-free zones, which will be subject to intensive monitoring from officers and copyrights owners. The campaign is to begin on Sept 1.

The zones specified are at Patpong Road, Sukhumvit Soi 3 to 19, Mahboonkrong, Klonog Thom and Saphan Lek, Pantip Plaza, Zeer Rangsit and Ban Mo. Provincial areas specified are popular beaches in Phuket such as Karon, Patong and Kata, Night Bazaar in Chiang Mai, markets in Hat Yai including Santisook, Yongdee and Kimyong and Pattaya in Chon Buri.

6. Indigenous plants, animals 'safe'

(from Bangkok Post Newspaper, Home News Section, Page 2, Thailand, 16 August 2003

Post Today Newspaper, Today's News Section, Page A3, Thailand, 15 August 2003

Krung Thep Thurakit Newspaper, Education News Section, Page 15, Thailand, 15 August 2003)

The Ministry of Commerce has done a U-turn and will now protect indigenous plants and animal strains, including jasmine rice, under the Geographical Indication (GI) bill. A House-Senate joint committee revising the bill voted 11 to 3 to delete a clause in article 3 which said that plant and animal strains were generic.

The Ministry of Commerce, the Natural Resources and Environment Ministry and academics have been arguing about whether unique plant and animal varieties would continue to be regarded by the international community as "generic" if their names did not contain an indication of geographical origin.

But Yanyong Puangraj, director-general of DIP, said the ministry and the government were now in favour of deleting the clause. The recognition of special strains in Thai laws would help protect indigenous varieties in international trade negotiations, he said. The ministry's intention, which had always been to provide protection for Thai produce, was misinterpreted, he added.

7. Seize and destroy

(from The Nation Newspaper, Local News Section, Page 6A, Thailand, 16 August 2003

Post Today Newspaper, Today's News Section, Page A2, Thailand, 16 August 2003

Krung Thep Thurakit Newspaper, Economic Commerce Section, Page 15, Thailand, 16 August 2003)

Smuggled goods seized from a warehouse in Bangkok's Lat Krabang district are displayed by the Customers Department. The contraband, worth over Bt2 million, includes 8,000 fake Rolex watches and imitation Louis Vuitton, Chanel, Gucci and Christian Dior products.

8. FTA would hurt Thais, expert warns

(from Bangkok Post Newspaper, Home News Section, Page 5, Thailand, 19 August 2003)

A free trade agreement with the United States would lead to a broader application of intellectual property rights that could hurt Thais –from farmers to Internet users – an expert has warned. Jakkrit Kuanpot, an intellectual property rights expert from Sukhothai Dhammathiraj University, said a FTA agreement would have an even more severe impact than the WTO's Treaty on TRIPs.

In exchange for special trade privileges under the FTA, Thailand would have to provide special protection for US intellectual property rights, he said. Thailand's current Plant Varieties Protection Act has slowly added new strains to the list, so farmers could develop their own common varieties without having to rely entirely on patented seeds. Thai laws may need to be amended to support the agreement. The US had tried to impose its domestic laws on copyrights on Internet materials, he warned.

9. World film makers honour Prime Minister for anti piracy

(from Thai News Service, 22 August 2003)

Prime Minister Thaksin Shinawatra will be presented with a plaque of honour from leading filmmakers of the world for his government's earnest and continuous actions in the suppression of intellectual property rights violation.

The presentation would be held at the Government House on August 27 in the presence of several executive members of world-famous film studios. She indicated that the award was the first of its kind in the world.

10. Lacoste delights Phuket

(from Krung Thep Thurakit Newspaper, Economic Commerce Section, Page 21, Thailand, 22 August 2003)

Lacoste' owner from France delighted the Phuket's commerce with their suppression in counterfeit products. During June – 18 August, they raided counterfeited products worth 46,496,550 baht and arrest 34 persons.

11. IP seizures by police double over last year

(from Post Today Newspaper, Business Market Section, Page B4, Thailand, 26 August 2003

*Krung Thep Thurakit Newspaper, Economic Commerce Section, Page 21, Thailand, 26 August 2003
Business Day, 26 August 2003)*

The Department of Intellectual Property said police had seized 3,993,913 illegally copied products from 2,625 separate prosecutions in the first six months of this year. Both the number of seized products and cases before the courts during the first half of this year rose significantly over last year, when a total of 1,526,459 copied items were seized by the police from 2,424 cases, said the department's deputy director-general Boonnaris Suwannapol.

To solve the issue effectively, the Deputy Minister of Commerce Wattana Muangsuk has asked the owners of intellectual property rights, as well as concerned state agencies including the Royal Thai Police and the customs department, to sign a memorandum of understanding with the department, said Boonnaris. The second MoU to be signed identifies more ways to ensure illicitly copied products are not being shipped to foreign markets or to Thailand, he said. Officials are to meet once a month to assess their progress, he said.

12. Thai Bank, Finance Corporation set aside loan pool for intellectual property

(from Bangkok Post Newspaper, Thailand, 27 August 2003)

The SME Bank and Industrial Finance Corporation of Thailand (IFCT) have set aside 250 million bath as the first batch of loans to support the government's scheme to help people convert intellectual property rights into capital.

The financial institutions will extend loans to intellectual property owners, with amounts based on applicants' business plans, said Kajit Sukhum, director of promotion and development of the Intellectual Property Department.

He said that as the IP-to-capital scheme was rather new, the appraisal value of the property might not be high and banks might offer only 20-30 per cent of the appraised value to minimize risks.

13. Hollywood to Thailand: keep up the fight

(from Bangkok Post Newspaper, Business Section, Page 10, Thailand, 29 August 2003)

The Motion Picture Association (MPA), the powerful lobby group for major Hollywood film studios, has urged the Thai government to continue its anti-piracy campaign in order to help erase the country's negative image as a haven for copyright violations.

Anti-piracy programmes should not only be aimed at raiding illegal DVD and VCD manufacturing plants and pirate stores, but should include laws regulating disc manufacturing machines, the group said.

According to a Thai executive, a survey by the MPA office in Bangkok this month showed the piracy rate had dropped to about 48%, with a noticeable drop in blacklisted areas such as Khlong Thom and Tawana.

14. Thai urged to seek intellectual property protection

(from The Nation Newspaper, Business Section, Page 2B, Thailand, 30 August 2003)

Deputy director-general of the department Thawatchai Sophastienphong said Thai entrepreneurs, especially those from small and medium-sized enterprises, should take into account the importance of protecting their products both in the domestic market and internationally.

Rights certificates from Thai authorities, however, can only protect products in the Thai market. In order to enforce rights protection abroad, Thai manufacturers must apply for certificates from the country in which they would like to have their products protected.

15. Four plans on IP

(from Krung Thep Thurakit Newspaper, Economic News Section, Page 4, Thailand, 30 August 2003)

Ministry of Commerce draws the IP plans which are, firstly, encourage Thais to be more confident in their intellectual and willing to create things or develop the local property. Secondly, persuade them to register their IP rights in Thailand and also overseas. Thirdly, support them to convert IP into capital and lastly, eradicate intellectual property rights infringement.

PEOPLE'S REPUBLIC OF CHINA

News in August 2003

1. Property rights lawsuits increase
2. Toyota takes Geely to court
3. Starbucks mulls action against Xingbake
4. Destroy 42mln CDs, DVDs
5. Committee pledges effort to protect Beijing Olympic logo
6. China's 1st patent agent guild established in Shanghai
7. Three former Huawei employees arrested over IPR dispute
8. 6C sends warning letter
9. Peninsula discovers a four-star pretender

1. Property rights lawsuits increase (from *China Daily*, 4 August 2003)

Beijing's courts at various levels have accepted an increasing number of lawsuits relating to intellectual property rights in the first half of this year. Local courts in the capital accepted 428 such cases between January and June.

Cheng Yongshun, deputy chief judge from the IPR division of the Beijing High People's Court, noted that, although most of the cases dealt with by the division still involve foreign companies suing their Chinese counterparts for infringement of intellectual property rights, more and more Chinese enterprises have begun to initiate lawsuits to safeguard their legal rights.

2. Toyota takes Geely to court

(from *Kyodo News*, 7 August 2003

Xinhua News Agency, 7 August 2003

Shanghai Daily, 7 August 2003

Xinhua's China Economic Information Service, 8 August 2003

Bangkok Post Newspaper, Business Section, Page 4, Thailand, 8 August 2003

The Nation Newspaper, Business Section, Page 6B, Thailand, 8 August 2003

Krung Thep Thurakit Newspaper, International News Section, Page 29, Thailand, 8 August 2003

Xinhua Financial Network News, 11 August 2003

The Nation Newspaper, Business Section, Page 7B, Thailand, 13 August 2003)

Japan's number one automaker Toyota has launched legal action against China's Geely Group for alleged trademark infringement and illicit competition. Toyota is demanding 14 million yuan (US\$1.7 million) in compensation from the privately-owned Geely.

"The logo of Geely Group's Merry is very similar to the Toyota logo, constituting infringement of our client's well-known trademark," Shi Yusheng, the lawyer representing Toyota said in court. Shi listed a report by the Beijing-based Shaohai Market Investigation Company which says that "most consumers consider that vehicles with the Merry logo have connections with Toyota."

Among the 317 consumers surveyed, nearly 67% thought that vehicles with the Merry logo were Toyota products, while only 6.9% identified such vehicles as Merrys produced by the Zhejiang-based Geely Group.

Geely argued that the report lacked factual evidence and further listed another investigation on the same issue to support their stand. Research by Horizon Research showed that 44.6% of the surveyed people recognized Merry cars when shown pictures of them and only 7.2% misidentified them as Toyota s or Xialis, another domestic brand, Geely contested.

Later after discussion, they had failed to reach a settlement over a trademark infringement dispute.

3. Starbucks mulls action against Xingbake

(from Shanghai Daily, 6 August 2003

Bangkok Post Newspaper, Business Section, Page 5, Thailand, 7 August 2003

Post Today Newspaper, International Economic Section, Page A11, Thailand, 7 August 2003

Krung Thep Thurakit Newspaper, International News Section, Page 29, Thailand, 7 August 2003)

Coffee chain giant Starbucks is at the center of a brewing copyright row with Xingbake, a Shanghai coffee shop it claims has copied the US-based company's logo and name. The world's most ubiquitous coffee shop group is pondering legal action, claiming Xingbake's round green logo looks suspiciously similar to the Starbucks brand.

Starbucks, named after the character in the classic American novel Moby Dick, also alleges that "Xingbake" sounds phonetically similar to the pronunciation of "Starbucks" in Chinese. "Xing" means star in Chinese, and "bake" somewhat sounds like bucks, making it a popular name for the chain across China.

Xingbake officially registered its name in January 2000 before Starbucks opened its first store in Shanghai but well after the US group opened its first shop in China – in Beijing – in 1999. Like many copyright wrangles in China, Xingbake claims it never violated the Starbucks trademark or copied the design of the logo.

4. Destroy 42mln CDs, DVDs

(from AP Online, 12 August 2003

Xinhua Financial Network News, 14 August 2003

Bangkok Post Newspaper, International News Section, Page 6, Thailand, 14 August 2003)

Chinese authorities destroyed 42mln smuggled and pirated CDs and DVDs, in what is said to be the largest ever crackdown on illegal audio and video discs. The crackdown was jointly organized by the General Administration of Customs, the General Administration of Press and Publication and the National Officer for Cracking Down on Pornography and Piracy.

5. Committee pledges effort to protect Beijing Olympic logo

(from The Nation Newspaper, World News Section, Page 10A, Thailand, 14 August 2003

China Daily, 14 August 2003)

The Beijing Organising Committee for the Games of the XXIX Olympiad (BOCOG) pledged to work harder alongside the relevant authorities to protect the intellectual property rights of the 2008 Olympic Games logo. Since the logo was launched on August 3, some T-shirts using the logo without the committee's authorization have been found in Beijing.

Beijing's market watchdog had seized 134 items of clothing that were illegally using the emblem in Beijing clothes markets such as the Xiushui or Silk Market.

6. China's 1st patent agent guild established in Shanghai
(from *Business Daily*, 15 August 2003)

China's first professional patent agent guild is established in Shanghai on August 12, as part of the city's effort to fill the gap in patent attorney demanding. The city has 530 professional patent attorneys currently, yet only 210 of them are in the actually business now.

Beginning last year, the Shanghai Intellectual Property Service Center under Shanghai Intellectual Property Administration has given courses to train professional patent agent. Finished trainees will have professional qualification in patent deputize, master degree in IPR and lawyers' licence. The center also sends trainees overseas for advanced studies.

7. Three former Huawei employees arrested over IPR dispute
(from *Xinhua Financial Network News*, 22 August 2003)

Three former employees of Huawei Technology Co Ltd, one of China's largest telecom equipment manufacturers, have been arrested and accused of infringing Huawei's intellectual property rights. The police found reliable proof showing the former employees illegally using Huawei's optical transmission technology to make similar products.

Huawei reported the IPR case to police in northeast China's Heilongjiang province last October, which is allegedly where the copycat products were on sale.

8. 6C sends warning letter
(from *Interfax China Business News*, 28 August 2003)

The Japan-based DVD 6C Licensing Agency (6C), an association of seven major DVD-related patent holders in the world, has issued a warning letter to more than 50 mainland Chinese PC manufacturers, reminding them to respect 6C's DVD intellectual property rights.

In the warning letter, which has been sent nearly all mainland Chinese branded PC manufacturers, 6C claims that any branded PC using a DVD produced by an unlicensed DVD manufacturer, can be regarded as infringing on 6C's intellectual property.

The China Audio Industry Association had previously in the middle of last year, on behalf of domestic DVD driver/player manufacturers, reached an agreement with 6C and 3C, to pay USD 4 and USD 5, respectively, for every unit of exported DVD product. Under the agreement, domestic companies need not pay for DVD products manufactured and sold in China (excluding Hong Kong, Taiwan and Macao).

9. Peninsula discovers a four-star pretender
(from *South China Morning Post*, 31 August 2003)

Counterfeiters on the mainland now turned out what may be their most elaborate work of all – a fake luxury hotel. Lawyers for the Hong Kong-based Peninsula Group are preparing to take action after being alerted by the Sunday Morning Post to a four-star called the Peninsula in Yichang, Hubei province.

Lawyers are now looking into the matter to see how it can put a stop to what the Peninsula Group's company lawyer described as a "blatant infringement" of the hotel chain's trademark rights.

HONG KONG

News in August 2003

Five arrested over counterfeit tablets

(from South China Morning Post, 17 August 2003)

Seventy-two cans of the fake tablets were seized when customs officers raided four pharmacies in Causeway Bay. The raids were made after a complaint was lodged by the registered trademark owner two or three weeks ago.

Keith Wong Wing-fai, head of the Customs Trade Descriptions Investigation Division, said it was possible that some of the counterfeit products had been sold before the operation. Mr Wong said the packaging of the bogus items was of good quality but that the fake tins could be identified by blurred labels. He said he suspected the bogus products were smuggled from the mainland.

MALAYSIA

News in August 2003

1. Muhyiddin to open intellectual property rights conference on Sept 2

(from Bernama Daily Malaysian News, 15 August 2003)

More than 100 people are expected to attend an intellectual property rights conference with the theme, "Trademark Development and Branding Strategies", in Malaysia on Sept 2.

The conference is organized by the Intellectual Property Alumni Association of Malaysia (IPAAM) a non-profit association dedicated to the dissemination of intellectual property awareness, together with the Perbadanan Harta Intelek Malaysia (PHIM), Japan Patent Office (JPO) and Japan Institute of Invention and Innovation (JIII).

There will be discussions on local and regional perspectives on the trends, developments, issues and challenges faced by intellectual property owners, including country outlooks and perspectives from leaders in intellectual property from Indonesia, Japan, Malaysia, the Philippines and Thailand.

2. Piracy in Malaysia at minimal level

(from Bernama Daily Malaysian News, 18 August 2003)

Piracy in Malaysia is now at a low level according to an assessment by the International Intellectual Property Rights Federation, an organization representing the musical and filming industry. Domestic Trade and Industry Minister Tan Sri Muhyiddin Yassin said intense enforcement to curb piracy throughout the country had brought down such activities to below 25 per cent.

However, he said the ministry did not want to make any official announcement on the matter as it wanted to ensure that there was no increase in piracy after the government had launched a “war” against such illegal activities.

He said besides statistics on the seizures of pirated products by the ministry, evaluation on the level of piracy was also based on the volume of original optic discs sold in the market.

INDONESIA

News in August 2003

1. Indonesian, Korean governments sign MoU on patent rights
(from *Asia Pulse*, 8 August 2003)

The Indonesian government signed a memorandum of understanding with Korea’s Intellectual Property Office on cooperation in patent rights. The MoU was signed for Indonesia by Director General of Intellectual Property Rights Abdul Bari Azed and the Commissioner of Korean Intellectual Property Office. The cooperation on patent rights with Korea would be effective on January 1, 2004, Walter said. He said the government has signed similar agreements with several other countries, including Australia.

2. Copyright law hits Internet business
(from *The Jakarta Post Newspaper, Indonesia*, 29 August 2003)

The new copyrights law could hamper the growth in the number of Internet users, as software products cost Internet service providers more. Heru Nugroho, the secretary general of the Indonesian Internet Service Provider Association said Law No. 19/2002 on copyrights may lead to the collapse of Internet services such as Internet cafés, locally known as warnet. The law also covers intellectual property rights for software, fundamental to Internet service provider.

VIETNAM

News in August 2003

1. Vietnamese firms able to register trademarks in the US via Internet
2. Trademark registration to be publicized to all
3. Seminar highlights importance of foreign trademark registration
4. EC to strengthen IP cooperation with VN

1. Vietnamese firms able to register trademarks in the US via Internet
(from *Vietnam News brief Service*, 14 August 2003)

Vietnamese enterprises can register their trademarks in the US market via the Internet. Local enterprises can register their trademarks in the US market at www.uspto.gov, the website of the US Invention and Trademark Organisation, at a fee of US\$335.

Vietnamese enterprises have so far registered 164 trademarks in the US, while US firms have registered 8,988 trademarks in Vietnam.

2. Trademark registration to be publicized to all
(from *The Saigon Times Daily*, 15 August 2003)

Applications for trademark protection will be publicized before the mark is registered to ensure the transparency of the job and provide for opposition from those who are likely to be affected by the registration. A change aims to improve the legal framework on intellectual property protection to make it in line with regulations by the WTO and provisions in the Vietnam-US trade pact.

3. Seminar highlights importance of foreign trademark registration
(from *IPR Strategic Information Database*, 21 August 2003)

More than 90 per cent of farm produce exports are yet to adopt trademarks in foreign markets. The figure was released at a seminar on Vietnam's farm produce trademarks and brand-names held in Hanoi. Many entrepreneurs proposed that the State punish any trademark violation, thus reducing the quantity of fake and low-quality goods. They also asked for State assistance in developing trademarks and brand-names.

A recent survey conducted by the Agriculture and Rural Development services in 14 northern provinces and cities showed that 37 of 173 State enterprises involved in the production of farm produce, seedlings, poultry, fertilizer, pesticide, and veterinary medicine have applied for domestic trademark protection, while only two have applied overseas.

4. EC to strengthen IP cooperation with VN
(from *The Saigon Times Daily*, 22 August 2003
WMRC Daily Analysis, 22 August 2003
Vietnam News Brief Service, 22 August 2003)

The European Commission (EC) and the Ministry of Science and Technology have inked a national component worth 1.5 million euro within the framework of EC-ASEAN Intellectual Property Rights Cooperation Program.

Under the program, European intellectual property experts will be sent to Vietnam and Vietnamese will be provided with scholarships and will join study tours to Europe. This starts this year and lasts until end-2006. European experts will support Vietnamese enterprises on how to register and develop trademarks and brand names in Europe.
