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THAILAND

1. Pirated DVDs worth Bt60 mln
(from www.ipthailand.org)

On August 1, 2006, police officers together with deputy director-general of Intellectual Property Department, Mr. Banyong Limprayoonwong, took the warrant to look around a townhouse in Ta-ling Chan district. They found over 50,000 of pirated music and movie DVDs. Then they followed the suspect to another house in Bangkok-Noi district. They found more pirated DVDs, 150,000 items, total worth Bt60 mln. The police believed that they plan to distribute to many places in Bangkok.

2. Bid to patent Combid drug draws protest
(from *Bangkok Post Newspaper, Home News Section, Page 3, Thailand, 8 August 2006*)

Hundreds of people with HIV protested outside the offices of drug maker GlaxoSmithKline in Bangkok to demand that the British pharmaceutical firm drop its effort to patent a key Aids drug in Thailand. The company introduced the drug Combid to Thailand four years ago, but the Government Pharmaceutical Organisation (GPO) produces its own generic version at one-fifth the price, or about \$40 (1,500 baht) for one course of treatment.

The drug combines existing medications into a single pill, which makes it easier for patients to comply with their treatment programmes.

The activists from the Aids Access Foundation argue that the medication does not merit a patent because combining existing drugs does not constitute a new invention. They say Britain rejected a patent on similar grounds recently when the firm applied for it.

The activists fear that if the patent is granted, Thailand will no longer be able to produce the generic version, which would threaten treatment for tens of thousands of patients.

3. Dept to increase number of its IP professionals
(from *The Nation Newspaper, Business Section, Page 3B, Thailand, 8 August 2006*
Krung Thep Thurakit Newspaper, Commerce Section, Page 7, Thailand, 8 August 2006)

The Intellectual Property Department is to increase the number of its officers working in both the private and government sector. The move is part of a plan to encourage Thai inventors to be more aware of intellectual property protection. The plan also aims to upgrade the skills and knowledge of the officers so they become more "IP professional" in both the patent and trademark registration process and law.

Kanissorn Navanugraha, the director-general of the department, said these experts would work as representatives on behalf of rights owners and inventors in registering any intellectual property. Owners would be more willing to protect their rights by allowing these professionals to work on their behalf. In addition, it will mean shorter times for registration approval, Kanissorn said.

"They [the IP professionals] will work not only as rights owners' representatives but also as consultants in case of rights violations," he said, adding that a lack of intellectual property knowledge had caused rights owners to ignore protection of their rights. Kanissorn said the IP professionals would help ascertain whether certain products, designs and logos were duplicated anywhere before applying for rights registration.

The department receives 10,000 rights applications per year but only 2,000 of these are approved, while 38,000 trademark applications are made of which 27,000 logos are approved. Only 110 officials have worked on all registration processes, including checking information from around the world, which is why rights applications in Thailand take at least one year before being approved.

The department is working closely with the World Intellectual Property Organisation and the European Patent Office, who have sent experts to train potential IP professionals such as academics and lawyers, as well as officials to have a better understanding on international standards and regulations.

"These professionals will soon require licences to ensure standard services," said Kanissorn, adding that the department is drafting the plan for implementation next year. These professionals will directly support small and medium-sized enterprises to create more value-added products, he said.

4. US Embassy, Royal Thai Police show new technique to nail pirates of Intellectual Property
(from *Post Today Newspaper, Today's News Section, Page A2, Thailand, 8 August 2006*
The Nation Newspaper, Business Section, Page 3B, Thailand, 9 August 2006
Thai News Service, 9 August 2006)

U.S. Charg d'Affaires Alexander A. Arvizu, Department of Intellectual Property Director-General Kanissorn Navanugraha, and high-ranking officials from the Royal Thai Police witnessed a demonstration of a new optical disc forensics microscope that promises to open a new front against movie and music pirates in Thailand.

The U.S. Embassy financed the procurement of the microscope as part of efforts to combat intellectual property piracy in Thailand. Using forensics technology similar to that used in ballistics investigations, the microscope will aid police in determining the source of pirated CDs and DVDs in order to prosecute their manufacturers.

During the demonstration held at the Royal Thai Police Headquarters in Bangkok, Charg d'Affaires Arvizu said, it has been all too easy to find pirated discs for sale on the streets of Thailand. With evidence obtained using this microscope, the Royal Thai Police will be able to expand and improve their anti-piracy efforts by targeting the problem at its source-the pirate disc factories themselves.

Police officials explained during the event that the manufacturing process of a CD or DVD leaves certain defects on the disc that, like a fingerprint, are distinct to the machine that made the disc. Using the microscope to detect these defects, a pirated CD or DVD can be traced back to its original source by matching the fingerprint on the CD directly back to the machine that made it.

The International Intellectual Property Alliance estimated earlier this year that the recording, movie, and software industries lost \$278 million in sales in Thailand alone due to piracy in 2005. Losses have risen over the past few years as CD and DVD use has become more widespread and replication technology has become more advanced. Pirated CDs manufactured in the Kingdom have been discovered and seized in ports around the world.

5. Agencies in bid to beat the pirates
(from *The Nation Newspaper, Business Section, Page 2B, Thailand, 14 August 2006*
Post Today Newspaper, Business Market Section, Page B3, Thailand, 14 August 2006)

The Intellectual Property Department will sign an agreement with 37 agencies in a push to cap piracy at 4 per cent.

Banyong Limprayoonwong, deputy director-general of the department, said caretaker Deputy Commerce Minister Preecha Laohapongchana would sign the agreement on Wednesday 16 August 2006 with the Royal Thai Police, the Bangkok Metropolitan Administration, music and film copyright-owners, cinema operators and 10 major department stores.

They will set up special-watch areas and implement stringent suppression measures.

Banyong said that 70 per cent of piracy in Thailand was committed by department stores and shopping malls and the rest by street vendors. The new measures will withdraw licences from street vendors found selling pirated goods and frequently inspect unregistered department stores and shopping malls.

"Copyright-owners often say that their sales drop because of piracy. The department will consider whether a root cause [for the success of pirated goods] is lower purchasing power and the economic situation" he said.

6. Govt moves to secure worldwide protection

(from The Nation Newspaper, Business Section, Page 3B, Thailand, 15 August 2006)

The Intellectual Property Department plans to apply to join the Patent Cooperation Treaty (PCT) and Madrid Protocol in an attempt to ensure global protection for the country's intellectual property worldwide.

Kanissorn Navanugraha, director-general of the department, said Thailand to create integrated protection for Thai copyrights, trademarks and patents. He said the country would apply for membership next year.

Facing right violations in overseas markets has prompted the government to seek a way to provide global intellectual property protection. Many Thai products, including Hom Mali rice (jasmine rice), silks and herbs, massage techniques and other locally derived treatments, are being violated in many forms. Recently the department set up a "patent watch" taskforce to protect Thai inventions from violation abroad.

As a member of the PCT, Thai inventions and intellectual property would be automatically protected in several countries under a single international patent application. The Kingdom would also be able to update new patent registrations, he said.

In addition, the Madrid protocol is a system whereby a single trademark application may be filed to obtain trademark protection in more than 50 countries. Thailand is already a member of the Berne Convention, which focuses on protection of literary and artistic works.

The Intellectual Property Department is also encouraging more Thais to register their intellectual property. As part of a wider scheme, laws are being amended in accordance with international standards. This will help facilitate the Kingdom's right to registration on the international market. In addition, it will also strengthen protection rights for foreigners who want to register in Thailand.

The department has also set up other activities to encourage Thai inventors to create and register more innovative products. The department wants to see an increased number of patents and trademarks registrations from Thai enterprises, particularly small and medium-sized firms.

To help give people a better understanding of intellectual property rights protection, the department has set up a special course for undergraduate students, in cooperation with universities in Thailand.

According to the department, more than 60 per cent of patents and trademarks are registered by foreigners. On average, 10,000 patent registrations are issued in Thailand each year, while 38,000 trademark registrations are also issued. Our concern for intellectual property has developed slower than in Singapore and Malaysia, Kanissorn said.

As part of the plan, the department will establish a database system for collecting intellectual property registrations worldwide. Kanissorn hopes Thailand will be the centre for an intellectual property database collected in Asia. The department is currently studying database systems developed by others countries.

Kanissorn said the database system would be a central library for students and other researchers who wish to develop their knowledge of intellectual property products.

In addition, to ensure the infringement of Thai copyright, patent and trademark decrease annually, the department will aggressively promote its campaign to make people aware of their rights.

The ministry last year reported 7,682 cases of intellectual property infringement and seized 2.09 million items. The number of infringement cases was up 7.8 per cent on 2004, while the number of items seized was down 10 per cent. Copyright infringements were the most common, followed by patent and trademark violations.

7. IP owners advised to sell their licenses
(from *Thai News Service*, 17 August 2006)

The Intellectual Property Department suggests intellectual property owners to sell their licenses to its central market if they do not want to set up their own businesses.

Department Director-General, Kanissorn Navanugraha said about 300 people were expected to apply for loans under the scheme to convert intellectual property into capitals this year. He stated that the figure is small since most intellectual property owners do not have business knowledge.

He said those who do not want to start their own businesses can sell their licenses to the central market set up by the department for promoting the use of intellectual property for commercial purposes.

Mr. Kanissorn said about 10 computer programmers have applied for copyright protection of their software. He said a central agency should be set up to help these programmers add value to their copyrighted products.

8. Thai retailers agree to band pirated products
(from *Asia Pulse*, 17 August 2006)

Thai government agencies led by the Ministry of Commerce's Department of Intellectual Property on Wednesday agreed, along with the country's leading department stores, to ban all sales of pirated products within stores and concessionary areas, according to the department's Deputy Director-General, Banyong Limprayoonwong.

The memorandum of understanding (MoU) covers concessionary areas rented or permitted in areas adjoining department stores, including mall corridors and sidewalks, as well as smaller agents within department store areas.

Deputy Commerce Minister Preecha Laohapongchana presided over the signing ceremony of the MOU at the ministry witnessed by officials of the Department of Intellectual Property, the Royal Thai Police, the Bangkok Metropolitan Administration (BMA), the Ministry of Interior and executives of department stores to join together to crack down on the sale of illegal products.

Under the agreement, the department stores will help supervise the shops and vendors inside and in front of the department stores to ensure that they will not sell products in violation of intellectual property agreements in effect, including CDs, DVDs and any other kinds of pirated products.

"If the independent shops and vendors are found selling the pirated products, the department stores will terminate their contracts and inform the authorities to prosecute the violators," the deputy director general said.

The Ministry of Commerce would ask for close cooperation from customs offices at border crossings to strictly prevent the influx of pirated movie VCDs and DVDs from neighbouring countries, he said. He noted that international film producers had given a 'thumbs up' to Thailand as the authorities were successfully cracking down on pirated products.

9. AIDs drug patent

*(from Bangkok Post Newspaper, Home News Section, Page 5, Thailand, 17 August 2006
AFX Asia, 17 August 2006)*

British pharmaceutical firm GlaxoSmithKline has dropped its controversial application to patent a key AIDS drug in Thailand and India, the company and international HIV campaigners said. Glaxo, which introduced the drug Combivir to Thailand four years ago, told AFP that it had informed the Thai government of its intention to withdraw the patent applications for Combivir in Thailand earlier this month.

The withdrawal of its application followed a protest by the HIV/Aids group, which said a patent would give the UK-based firm a monopoly on the drug's sale in Thailand. It could have forced the Government Pharmaceutical Organisation to stop producing a generic version, which is a lot cheaper.

A letter was submitted to the Department of Intellectual Property a day after local and international AIDS campaigners and some 500 HIV patients staged a protest in front of the Glaxo office in Bangkok on August 7.

Combivir, which combines Zidovudine and Lamivudine together, is part of a drug cocktail required as a complete treatment for HIV/Aids patients. The company has patents for Combivir in the US and Europe, and had been seeking a patent in Thailand since 1997.

In February, representatives of the Network of People Living with HIV/Aids met Commerce permanent secretary Karun Kittisataporn and asked the ministry to reject the Glaxo's application. They argued that Combivir was not a new drug, just a combination of drugs.

The group said Glaxo was trying to exploit the intellectual property law to make itself a sole distributor of the anti-retroviral drug in Thailand. This would allow the company to charge 8,300 baht per 60 tablets, making the medicine beyond the financial reach of many patients.

The Department of Intellectual Property's director for patents, Seksan Boonsuwan, said earlier that if Glaxo was granted a patent over Combivir, the GPO would have to stop production. That would have a big impact on people with HIV/Aids.

10. Fake pools case

*(from Bangkok Post Newspaper, Home News Section, Page 2, Thailand, 20 August 2006
Bangkok Post Newspaper, Business Section, Page B1, Thailand, 29 August 2006)*

The Department of Special Investigation (DSI) raided a factory in Phuket and seized counterfeit Desjoux swimming pools. Desjoux is a famous French swimming pool brand.

Yongyuth Srisattayachon, director of the Intellectual Property Crime Bureau, said JD Pools Co used to be a manufacturer for Desjoyaux Thailand, but its contract expired two years ago. Desjoyaux, a leading swimming pool manufacturer, later found that JD Pools had continued its production of the pools, which cost three million baht each, and sold them to customers in Bangkok and other countries, he said.

Wongkarn Karnchananopinit, Desjoyaux executive manager, said her company had learned about the copied products because a Phuket customer who ordered goods from JD Pools had complained to Desjoyaux about problems with the product. The quality of the counterfeit goods is not as good, and they leak.

She claimed that JD Pools' illegal copying of Desjoyaux products had cost the company more than 10 million baht in damage. Mr Yongyuth said he had asked for an arrest warrant for JD Pools Company's executive manager.

The DSI will also examine the company's factory in Samut Prakan province soon. Violation of intellectual property laws is subject to a jail term of not more than two years, or a 400,000-baht fine.

Around a week later, the Thai swimming-pool manufacturer JD Pools Group is preparing to sue the French pool company Desjoyaux Pools for around 100 million baht in damages in a patent rights dispute.

JD Pools said it would also sue Desjoyaux and the Department of Special Investigation (DSI) in connection with a raid on its warehouse in Phuket on Aug 18.

Tanusak Puengdej, JD's managing director, said the company and its lawyer were collecting information to pursue a legal case after the DSI and Desjoyaux seized 200 swimming-pool wall components and trucks from the warehouse.

"We deny all accusations of patent violation," he said. "The attempt initiated by Desjoyaux was a setup to damage our reputation and good image. We will continue to seek justice through legal procedures."

He said the DSI had not properly looked into the matter before taking the action against JD Pools. In a case of copyright violation, seizing the suspected materials can be legally done but the practice is different in patent case as the DSI must prove that the violation occurred before seizing the products.

Mr Tanusak said JD Pools was set up in 1997 as a swimming pool manufacturer and an importer of pool components from Desjoyaux. In 2004 the pair ended their agreement and JD Pools started manufacturing its own pool components while Desjoyaux also started a manufacturing business in Thailand.

"Since August 18, we have not received a call from the DSI asking us to provide a statement about the case," said Mr Tanusak.

11. BSA relaunches its piracy hotline

(from Bangkok Post Newspaper, Database Section, Page D2, Thailand, 23 August 2006)

The Business Software Alliance (BSA) has relaunched its Software Piracy hotline in Thailand and notes that Thailand's software piracy rate is now not only one of the highest in Asia, but had increased last year from 79% to 80%, in a time where piracy across the globe is dropping.

Informants to the hotline providing information to leading to a successful can receive an award of up to 250,000 baht.

BSA Director for Anti-Piracy in Asia, Tarun Sawney told a press conference how the BSA had membership ranging from the large and famous, such as Adobe, Microsoft and Symantec, to smaller companies such as Entrust and Borland. He said it was not true that the BSA only looked after American interests as companies such as SAP and Checkpoint software were also represented.

The piracy rate in Thailand has risen one percent since last year to 80%. This was unacceptably higher than the global average of 35% and was still bad compared with the 53% average in Asia, he said. In the past nine months alone, the BSA had triggered raids on 12 companies in Thailand where software in violation of the law worth 56 million baht had been found.

The BSA tries to make it clear that adhering to regulations will only bring wealth and prosperity to Thailand.

A ten-point drop in the piracy percentage would result in over 4,000 jobs in the IT sector. Furthermore, since business in software leads to more work in advertising, retail and much more, over 14,000 jobs will be created overall and US\$1.9 billion would be added to help the Thai economy.

More tax would also be given to the government, resulting in a stronger and healthier country in general, he added.

Sawney said that he had just returned from an MOU signing ceremony between 39 government and private partners aimed at delivering a "holistic" way of promoting intellectual property rights in Thailand.

"Hotline", the scheme used by the BSA over the years can earn an informant up to 250,000 Baht by calling 02-711-6193 for mobile phones or 1800-291-005 for landlines and making a report on piracy in companies. More and more reports are being made via the Internet at <http://www.bsa.com/thailand>. The amount will depend on the amount, quality and precision of the information provided.

12. Three local research efforts receive agency encouragement *(from The Nation Newspaper, Thailand, 29 August 2006)*

Local research work will no longer run the risk of being put on the shelf to collect dust once it is complete.

With the hope of pushing the results of local research and development into commercial use, the National Innovation Agency (NIA) has linked up with the Department of Science Service to license three research projects to private companies.

The projects - research into the technology behind producing goats' milk soap, the technology to produce a form of lime powder, and technology needed for making ceramic flowers - have been licensed to Kovic Kate International (Thailand), Thai Pure Agriculture Foods and CeraLampang, respectively.

The move is part of NIA's attempts to work with research institutions to bring local research projects into commercial practice. Six months ago the agency set up a new unit called Intellectual Property Management, to oversee matching local research work with business potential with private companies for further business development through technology licensing models.

The Science Ministry's permanent secretary Saksit Tridech, who is also a member of NIA's committee, said the three projects showed local research work could be turned into practical innovative businesses. Under the plan the department will transfer technology to private companies so they can adopt the ideas from research for use in mass production for the commercial market.

13. Patent Law considered to expand scope of patent protection
(from *Thai News Service*, 30 August 2006)

The Ministry of Commerce is currently reviewing the existing 1984 Patent Law, and is considering expanding the scope of patent protection to include not only the processes of plant and/or animal extraction, but also the plant and animal extracts themselves. The revised act would also raise the standard of petty patent registration by requiring that the innovations are truly "novel". The Ministry anticipates that the revised act would shorten the time taken under the application process and would reduce clashes over alleged violations.

MALAYSIA

1. International application PCT
(from www.myipo.gov.my)

With effective from 16 August 2006, the PCT international application can be made at MyIPO, by filing a completed form PCT/RO/101 accompanied with patent specifications and prescribed fees.

Under the PCT, all you need to do is tick which countries you want to register your patent in. There is no need to spend money to fly to another country to register the patent. This will also expedite the process, said Domestic Trade and Consumer Affairs Minister Datuk Shafie Apdal.

Among the other benefit of the PCT is the sharing of information between the 131 signatory countries, he added.

2. Manufacturers wary of US move on patent
(from *Business Times*, 22 August 2006)

Malaysian manufacturers are wary of any move by the US to incorporate software patents and pharmaceutical patents in ongoing Free Trade Agreement (FTA) talks between the US and Malaysia.

According to the Federation of Malaysian Manufacturers (FMM), the US track record in FTAs elsewhere shows that the Americans seek to extend patents beyond what is accepted globally under the World Trade Organisation (WTO).

Such a move would not have a positive impact on trade facilitation and market access for Malaysian manufacturers, FMM president Datuk Yong Poh Kon said in Kuala Lumpur yesterday. Strengthening intellectual property rights (IPR) enforcement generally boosts confidence among foreign companies to invest in research, software, pharmaceutical, biotechnology and technology-based industries in Malaysia.

As a WTO member, Malaysia is signatory to the Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPs), a comprehensive multilateral agreement on intellectual property.

Yong said the US FTAs in Chile and Singapore, however, saw the US seeking to extend patents for 30 to 40 years through what it called "Trips Plus".

"We have indicated to the Government to stick to the original clause (of TRIPs) as there is no additional benefit for it to be extended. We feel it is a dangerous position for us to agree to as the US has a large resource of companies that would patent certain software instructions," he added.

Yong said if Malaysia agrees to extend patents beyond Trips, manufacturers would also face difficulty to produce generic drugs.

FMM adviser on WTO and FTAs and former Malaysian ambassador to WTO Datuk M. Supperamaniam said Malaysia has negotiated in the WTO for flexibility where developing countries that do not have manufacturing facilities can import generic drugs from other countries, like India. The FTA talks between Thailand and the US broke down mainly because of this issue.

SINGAPORE

1. Requirements for examined claims for grant

(from Managing Intellectual Property Magazine, UK, Issue 161, Page 103-104, July/August 2006)

For Singapore patent applications, it has been common practice to make voluntary amendments, in particular to the claims, at any time before payment of the grant fee. The patent applications could proceed to grant even though the amendments were not searched and examined.

However, this practice is no longer suitable in view of the amendments to the Singapore Patents Act, which came into effect on July 1, 2004. For Singapore patent applications with filing dates on or after July 1, 2004, there is a requirement for each claim to be related to at least one examined claim.

According to Section 2(3A) of the Singapore Patents Act, a claim is related to another claim if the two claims are identical, or each limitation in the second claim is identical to a limitation in the first claim, or if it differs from a limitation in the first claim only in expression but not in content. More than one claim may be related to a single claim.

Therefore, each claim in the application has to be related to at least one claim which has been examined and referred to in the relevant report relied on at the time of paying the grant fee. Similarly, the requirement for examined claims also applies if an applicant relies on prescribed information relating to a foreign corresponding application.

The new requirement thus imposes restrictions on the voluntary amendments that can be made to the claims of the applications before grant. Even where no voluntary amendment is made, the new requirement for examined claims is still relevant. This is because there may be instances where not all of the claims are examined in the examination report relied on for grants, such an application would not satisfy the requirement for examined claims at grant stage.

As a requirement for grant, the presence of unexamined claims should result in the Singapore Patent Office refusing to allow the application to proceed to grant. However, where applications are erroneously allowed to proceed to grant, the presence of unexamined claims can still have severe consequences.

More particularly, the court or the Registrar may refuse to award damages, make an order for an account of profits or grant any other relief in proceedings for infringement if the alleged infringed claim is not related to any examined claims. Thus, it is important that applicants are aware of these consequences and proactively address this new requirement for examined claims.

2. Don't over-react to IP litigation, investors urged

(from Business Times Singapore, 14 August 2006)

Investors here appear to need more education on patent issues, going by their knee-jerk reaction each time a company issues an announcement on legal action related to intellectual property rights.

IP Academy director David Llewelyn recalled that the share prices of heart stent maker Biosensors International Group often fluctuate with the released information on its patent infringement suits with other firms.

Besides, patent litigation is very common in the US, which has the biggest life sciences industry in the world. So much so that the great inventor Thomas Alva Edison once said a patent is simply an invitation to a lawsuit.

According to Mr Llewelyn's estimates, there are about 1,600 patent infringement action a year in the US, of which only about 100 get to a court judgment.

3. Singapore patent are top in Asia-Pacific
(from *Business Times, Singapore, 22 August 2006*)

Singapore may be small but its innovations are of the highest 'quality' and have some of the greatest technological impact in the Asia-Pacific, a study by the National University of Singapore (NUS) Entrepreneurship Centre has found.

According to the study - which was commissioned by the IP Academy and will be presented today at a forum on intellectual property - Singapore patents ranked number one in terms of quality in the Asia-Pacific based on a relative citation index of patents granted here between 1996 to 2004.

The index, which measures the propensity of a patent to be cited by other patents, is a rough benchmark which is used to judge the quality of a country's inventions.

The study looked at 17 countries in the Asia-Pacific region using figures culled from the US Patent and Trademark Office database. To qualify as a Singapore patent, at least one co-inventor must be a resident in Singapore.

The study found that Singapore emerged tops in the region with an index of 0.94 for patents granted between 1994 and 2004 - higher than Germany (0.62) and Ireland (0.89). Regionally, Japan came in second at 0.91 and Taiwan third at 0.79. Comparatively, the US had a relative citation index of 1.21 in the same period.

Wong Sheng Kwai, Assistant Director-General of the Intellectual Property Office of Singapore (Ipos), said Singapore's patent quality could stem from the 'inventiveness of the innovations' coming out from Singapore and also the quality of work that has been put into patent documentation by patent professionals representing clients in Singapore.

In terms of patents per million, Singapore is also punching above its weight. The study found that Singapore had 105.3 patents per million population as of 2005, placing it third in the region after Japan (253.1 patents) and Taiwan (269.6).

However, the study also found that a large proportion of patents invented in Singapore - and in the Asia-Pacific in general - are owned by foreign entities and individuals.

PHILIPPINES

1. Government told to restrict import of anti-hypertension drug
(from *Business World, 18 August 2006*)

Pfizer Philippines, Inc. got the upper hand in an infringement case it filed against government agencies after a court order effectively upheld the firm's patent for anti-hypertension drug amlodipine besylate until its expiration next year.

In an order issued in open court, Makati Regional Trial Court Branch 149 Judge Cesar Untalan directed the board of directors of government-owned and -controlled Philippine International Trading Corp.

(PITC) to issue a resolution that states it will not import the patented drug, which is sold under the brand Norvasc in the Philippines, until the expiration of its patent in June 2007.

At the same time, the order also asked the Bureau of Food and Drugs (BFAD) to make sure any certificate of product registration it issues on the said drug's efficacy and safety would have an affectivity date that falls after expiration of the drug's patent to protect the patent holder.

In return, Pfizer will consider dropping the infringement case it filed against the government agencies.

2. Philippines ranks lowest in piracy among 5 South East Asian countries
(from *Asia Pulse*, 24 August 2006)

The Philippines has been declared by Japanese-affiliated manufacturing companies as having the lowest rate of piracy among five countries in Southeast Asia in 2005, and it even ranked lower from China and India.

This was according to the results of a survey that was conducted early this year by the overseas research Department of the Japan External Trade Organization (JETRO) among 1, 865 affiliated firms in Southeast Asia, India and China, of which 966 companies issued valid responses.

The survey results validated the removal of the country from the Priority Watch List of the Office of the United States Trade Representative's Special 301 list due to its campaign against piracy and its strengthened interagency coordination on the drive.

IP Philippines Director General Adrian S. Cristobal Jr. welcomed the results of JETRO's survey, saying that it recognized the Arroyo administration's campaign against piracy and its overall effort in protecting and promoting intellectual property rights in the country.

Out of the 185 companies surveyed in the Philippines, only 14 firms or 7.9 per cent said that pirated goods poured into the local market, while 19 companies or 9.5 per cent made the same assertion in Thailand and 53 or 18.6 per cent in China.

The results of the same survey in other countries: Malaysia, 16 or 9.5 per cent; Singapore, 16 or 16.8 per cent; Indonesia, 18 or 11.5 per cent; Vietnam, 18 or 21.7 per cent and India, 13 or 20 per cent. The questionnaire on the inflow of counterfeit goods into the market of each of the country forms part of the overall survey on how well Japanese-affiliated firms have performed last year.

The same companies were also asked about their profit projections for this year, wherein 11.4 per cent of the 185 firms in the Philippines said that they were expecting improvement.

INDONESIA

1. Counterfeit glue maker gets 2 years
(from *The Jakarta Post Newspaper, Indonesia*, 10 August 2006)

A businessman was sentenced to two years in jail for counterfeiting two brands of glue, a punishment more lenient than the one proposed by the prosecutors.

Tangerang District Court judges said the defendant, Darmono, 49, was guilty of violating the 2001 Intellectual Property Rights Law.

Darmono started producing fake Castrol and Alteco glue in a warehouse in Tangerang in May 2005. On Oct. 25 the police arrested him after Basuki Rahmat, the owner of the Castrol factory in Surabaya, notified the authorities.

Basuki said customers had started to complain of poor quality glue.

The prosecutor asked that maximum punishment be handed down -- five years' prison, along with Rp 1 billion fine for faking the Castrol brand and Rp 1 billion for faking the Alteco brand.

2. Police praised in piracy war

(from The Jakarta Post Newspaper, Indonesia, 10 August 2006)

The Jakarta Police have received an award from the worldwide copyright protection organization, the Motion Picture Association (MPA), for their work in the protection of intellectual property rights in Indonesia and the ongoing fight against piracy.

MPA representative for Indonesia Alex Arena presented the award Wednesday at city police headquarters, with stacks of pirated VCDs confiscated in recent raids in the background. The association also donated a van to support police operations during raids.

"This is an expression of appreciation for their achievement in the first-time fight against piracy in the Asia Pacific region," Arena told reporters.

Special crimes unit chief Sr. Comr. Sigit Sudarmanto said the police would hold regular raids on pirated VCD producers.

VIETNAM

1. Vietnam, EPO cooperate in boosting patent protection

(from Thai News Service, 1 August 2006

Vietnam News Brief Service, 1 August 2006)

The Vietnam Intellectual Property Department and the European Patent Office (EPO) signed a memorandum of understanding (MoU) to promote bilateral co-operation in the field of patent protection in Hanoi on July 31.

Signatories were Director of the Vietnam Intellectual Property Department Pham Dinh Chuong and President of the European Patent Office (EPO) Dr Alain Pompidou.

The MoU aims to strengthen technical cooperation in the field of invention between the two agencies through activities of renovation, development and trade.

Mr Chuong announced that the contents of the MoU would be realised in a programme compiled by both sides to improve Vietnam's industrial property system.

Under the MoU, the Vietnam Intellectual Property Department will be able to access EPO databases quickly and directly with more than 55 million documents of patents. EPO will also support the department to announce Vietnam's inventions through EPO database.

2. 123 local brands protected internationally

(from The Saigon Times Daily, 18 August 2006)

The National Office of Intellectual Property (NOIP) said there had been 123 local brands registered abroad for protection. Tran Huu Nam, an expert of NOIP, said the first brand was registered for

international protection in 1986 and that many local companies had begun realizing the importance of brand protection abroad.

NOIP called for exporters to register their trademarks for integration at a two-day intellectual property seminar that began in HCMC, with 200 companies attending.

Vietnam has joined the Madrid Protocol, which came into effect last month, so local businesses should register their trademarks at NOIP to avoid brand violations.

“Businesses could register their trademarks for protection in 56 countries and territories that are members of the Madrid Protocol, he said. Companies that register trademarks for international protection pay a fee of some US\$100, according to NOIP.

3. Technology transfer draft law too vague (from *Thai News Service*, 18 August 2006)

Last week, the Government released a new draft Law on Technology Transfer for public comment. The law would replace Government Decree No 11 from 2005.

Lawmakers should be aiming to facilitate technology transfer in a clear manner, allowing parties maximum flexibility in determining the terms of licences, while protecting the interests of the State by regulating the transfer of certain dangerous or undesirable technologies.

Measured against these goals, the draft law introduces one positive change but remains problematic in many respects.

A fundamental problem with the draft law, however, is that its definition of "technology" is too vague to provide any certainty to its potential subjects. Article 3(1) of the draft law, technology is defined as "solutions, processes and know-how (whether or not associated with tools and means) to turn resources into products." This definition is both too broad and too narrow.

For example, under this definition, the process involved in manufacturing garments in a factory would seemingly be considered "technology" while a missile delivery system would not. "Technology" is admittedly difficult to define but using the conversion of "resources" into "products" as the criterion seems inappropriate.

The draft law also defines "objects of technology transfer" as industrial property as well as "technology in franchising". This presumably means that intellectual property and franchising contracts, subject to the specialized IP and franchising laws, will also be subject to the Law on Technology Transfer. This raises the specter of enterprises having to comply with multiple laws and register their contracts with multiple State bodies, with a corresponding increase in time and expense and potential for disagreement between the various authorities.

The laws either need to be harmonised into a single body of intellectual property law that includes everything from trademark to franchising and licensing of technology, or their various scopes clearly demarcated.

4. Expert call for brand protection (from *Thai News Service*, 22 August 2006)

In an era of increasing globalisation Vietnamese enterprises should protect their trademarks by registering them both at home and abroad, experts told an international seminar on registering trademarks held in HCM City.

Inaugurating the meeting organised by the Intellectual Property Right Office (IPRO), the municipal Science and Technology Department, and Swiss Federal Institute of Intellectual Property (SFIIP) on the Madrid international trademark registration system, the IPRO vice head underlined the importance of trademarks.

Trademark is one of the most valuable assets for a company in production, trade, import, and export. It's also an important factor in international economic integration. But it was not easy for a business to protect its trademark in many countries because international laws only protected it in countries it had been registered. The Madrid system, including the Madrid Agreement and Protocol, will help enterprises resolve the problem, saving a lot of time, effort, and money.

It means that an enterprise, after registering its trademark in Vietnam, can register in many other nations through the World Intellectual Property Organisation (WIPO). The WIPO will then register the trademark in the Madrid system member-nations.

At present, there are 46 countries that are members of both the agreement and protocol, 10 only of the former, and 22 only the latter. For nations in the Madrid Agreement, enterprises need to send an application plus a fee of around US\$100 and wait for 12 months. If accepted, their trademarks will be protected for 20 years.

Vietnam has been a member of the Madrid Agreement since 1949 and became member of the Madrid Protocol on July 11 this year.

5. Vietnam, Japan sign scientific cooperation agreement
(from *Thai News Service*, 23 August 2006)

A framework agreement on scientific and technological cooperation between Vietnam and Japan was signed in Hanoi on August 21.

The agreement signed between the two governments will facilitate exchanges of information and scientists and technicians to help Vietnam improve their professional skills and protect their intellectual property rights.

Under the agreement, each side will ensure favourable conditions for individuals and units from both private and public sectors to join cooperative activities.

Scientific and technological cooperation between Vietnam and Japan has flourished in recent years. Apart from granting hundreds of undergraduate and postgraduate scholarships for Vietnamese students each year, Japan has also supported Vietnam in a number of projects aimed at modernising its intellectual property system, developing atomic electricity and radiation safety, as well as medical and food processing research.

6. Intellectual property protection in Vietnam remains weak
(from *Vietnam News Brief Service*, 30 August 2006)

Vietnam still witnesses a considerable increase of intellectual property violations though the Intellectual Property Law came into effect early July this year.

On average, over 3,000 violations on intellectual property, brands and hundreds of trade frauds and counterfeit good cases are detected annually, covering over almost all types of commodities and economic sectors, said Tran Viet Hung, deputy director of National Office of Intellectual Property.

According to the market management department under the Trade Ministry, the main reason is the existing limitations and contradictions in prevailing regulations on intellectual property protection.

In particular, punishments are not strict enough as the heaviest fine currently is only VND100 million, leading to the high rate of repetition. Additionally, Vietnamese enterprises and consumers have not yet paid a sufficient attention to and are not fully aware of intellectual property rights.

Reportedly, only 10% of local firms have expressed their concern to protect their products while there are only 25% of companies having registered for brands.

To overcome the situation, Hung said, authorities for protecting copyrights including market management force, economic police, science and technology inspectors, administrative authorities and court should improve their performance and take part of the responsibility for the task.

More importantly, the country needs to spend more money and trains a professional force of judges who are capable to govern the trials on brand disputes in the courts.

LAO P.D.R.

Honda protects its rights under Lao IP law

(from Organisation of Asia-Pacific News Agencies, 15 August 2006)

The Lao laws on trademarks and intellectual property (IP) were highlighted last week following the violation of the IP rights of major car manufacturers Honda Motor Company.

A meeting was held in Pakse, Champassak province on Friday to explain the Prime Minister's Decree and Regulations on Trademarks and the Protection of IP Rights, at the province's Science Technology and Environment Agency (STEA).

Mr Khampou Souliyavong, Chief of Champassak province's STEA Cabinet and Mr Viengnakhone Boualapanh, Head of the Intellectual Property, Standardisation and Metrology Division chaired the event.

The meeting raised the issue of the violation of the IP rights of Honda Motor Co., Ltd in relation to its power products "GX Engine" and all other registered trademarks belonging to the company. The meeting was convened to reiterate that these Honda trademarks and related trademarks and devices have been already registered in Laos.

In accordance with the Prime Minister's Decree on Trademarks and Regulations, any individual and legal entity wishing to import and/or distribute any kind of power products by fixing a brand or logo or related to the rights of Honda Motor Co should be authorised, or risk legal sanctions.

The meeting recalled all participants to be aware of and acknowledge the illegal activities of this matter, and to stop all actions of infringement of the Honda trademarks and power products.

The representative of Honda Motor Co of Japan stated the company has been making many efforts to satisfy customers through the business of producing and selling high-quality products in compliance to worldwide standards. In Laos, the company has been providing Lao customers with such Honda products through its authorised business partner, New Chip Xeng Co, upon the same policy.

In this regard, the company had serious concerns about counterfeit motorcycles of poor quality imitating Honda products, which carried safety risks for customers as they were being sold unchecked in large quantities on the Lao market.

Honda Motor Co representatives expressed thanks for the Lao Government's endeavours, and for the fact that such countermeasures had been taken quite rapidly by the Official Execution Team.

The representatives also confirmed that it would keep a resolute attitude against the infringement of IP rights, while making continuous efforts in developing and launching high quality products for consumers, and continuously support investment and development in Laos.

INDIA

1. New IPRs regime unequal (from *The Hindu*, 6 August 2006)

Stresses need for academic dialogues to influence decision making says new Patent Law not beneficial to society Chief Minister V.S. Achuthanandan has called for using knowledge as a weapon in the resistance against highly unequal and exploitative regimes being put in place by multinational companies (MNCs) and foreign powers.

He was inaugurating the valedictory session of a three-day international conference on 'India and the New Global Intellectual Property Rights Regime' organised by the School of International Relations (SIR) at Mahatma Gandhi University.

According to Mr. Achuthanandan, the new intellectual property rights regime (IPRs), which has been put in place, was highly exploitative and unequal. The power and right of a civil society to decide on the utilisation of wealth was being curtailed. The right over a plot of land cannot be used to exploit the entire groundwater of the area, he said.

Under the new regime, the society was paying a heavy price, he added. The amended Patent Law, by incorporating the arbitrary 20-year patent period, has excluded the civil society from enjoying the fruits of the product for a long period.

The right and control of the Government and society over such patents were getting restrained under the new law, he added.

Studies and researches should be conducted on the subject, The Chief Minister said. Raju Thadikkaran, director, SIR, called for the setting up of a State Commission on Intellectual Property Rights. Such commission, drafting expertise from professionals, Government officials and those from the legal profession could formulate policy framework for the State.

They could also study the experiences of other nations. The focus should be on traditional knowledge, biodiversity and geographical indication, he said. No State in the country has set up a commission for IPR, he said. Vice-Chancellor Jancy James presided over the function.

2. Kolkata group against GSK's Aids patent (from *Business Standard*, 8 August 2006)

Drug major GlaxoSmithKline's plan to patent its HIV/AIDS drug - Combivir - in India may hit a roadblock as a Kolkata-based NGO, Manipur Network of People Living with HIV/AIDS, has filed a pre-grant opposition with Patent Control Office in New Delhi.

The NGO claimed that Combivir, a fixed-dose combination of two essential AIDS drugs - zidovudine and lamivudine, does not deserve an exclusive patent right as both these drugs are already off-patented and are in the public domain.

GSK has filed applications for a patent on Combivir in many developing countries affected by AIDS, including India. GSK had earlier projected Combivir as one of the most promising products in its portfolio to be launched in the country.

However, the move to oppose the patent application is likely to thwart the company's plan to launch the drug in India with an exclusive right.

The activists associated with the NGO said its pre-grant opposition is valid as this drug is a widely used fixed-dose combination of zidovudine and lamivudine and is used extensively in the AIDS treatment programmes in India, Thailand and some other developing countries.

3. 75 handicrafts to get geographical indication status
(from *Business Standard*, 14 August 2006)

In a bid to put an end to cheap imitations and increase the brand equity of Indian handicrafts, the government plans to bestow geographical indication (GI) status to over 75 special products that are unique to a region, apart from an overall brand identity for handmade products from the country.

Under this initiative, three crafts from each state will be identified for GI status and these will be registered with the Geographical Indications Registry, Chennai. Twenty-one handicraft items from around the country have already been identified by the Ahmedabad-based National Institute of Design (NID) from seven states; Karnataka, Gujarat, Tamil Nadu, Rajasthan, Bihar, Kerala and Madhya Pradesh.

This is the first time GI status is being given to handicrafts though handloom products such as Pochampalli sarees and Chanderi silk already have intellectual property rights protection under the Geographical Indications of Goods (Registration and Protection) Act, 1999.

Among the crafts that have been short listed by NID for GI status are sandalwood carvings, Navalgund durries, Kutch embroidery, Agate stonework, Thanjavur art plates, Jaipur blue pottery, Udaipur claywork, Sikki grass products, Sujuni embroidery, zari work from Bhopal and block printing from Bagh.

"The legal documentation process for the 21 GIs is complete and the applications will be filed by next month. In all, we plan to get GI for 75 handicrafts. Fifty should be implemented by this financial year itself," said Sanjay Agarwal, Development Commissioner (Handicrafts).

4. Indian seed growers need awareness
(from *Financial Express*, 14 August 2006)

Having become a signatory to the TRIPS agreement and passed the Protection of Plant Varieties and Farmers' Rights (PVPFR) Act, the Indian seed industry is yet to wake up to register their varieties and move towards the big picture of patent regime. While there are many intellectual property rights (IPRs) issues cropping up globally, the Indian scenario looks like as if there is enough room for many from elsewhere and register their varieties given the poor awareness about PVPFR Act. Though the Act has been enacted by force' in reality, the awareness is yet to become widespread.

According to S Nagarajan, chairperson, Protection of Plant Varieties and Farmers' Rights Authority, said due to poor awareness levels, "the Indian seed industry is napping." It's time for the seed industry players to wake up and understand the reality in a patent regime, he said at a workshop on Protection of Plant Varieties and Farmers' Rights (PVPFR) and Seed sector', organised by the All India Crop Biotechnology Association and Biotech Consortium India Ltd.

The workshop was aimed to create awareness among the key stakeholders about the nuances of the Act with respect to IPRs.

Accepting the fact of poor awareness about PVPFR, Paresh Verma, director (research), Bioseed Research India Pvt Ltd, said, "The current scenario is like a tiger without teeth. The mindset has to

change among the scientists, breeders, and farmers as there were no IPRs in the agriculture sector. However, the industry is slowly realising and a change is happening in the industry."

The industry is yet to prepare as per the Act, which is confirming to all international standards and recognised by over 130 countries, he added. Describing the scenario among farmers, Deepak Mullick, director, International Affairs, Association of Seed Industry, said that there is lot of bureaucracy involved in the registration process. While most of them do not go for protection of varieties, the registration process is yet to be approved by the Parliament. The PVPFR Act is a legal framework to protect breeders' rights.

5. Indian IP institute joins hands with US IPR firm
(from *Asia Pulse*, 28 August 2006)

Institute of Intellectual Property Research and Practice (IIPRP) has tied up with US-based intellectual property law firm Sughrue Mion, to train Indian Pharmaceutical and Biotechnology companies in US Patent issues.

"Protecting intellectual property is one of the core issues facing pharmaceutical and bio-tech companies today. It is critical that everyone related to these industries must be aware of each and every legislation but also of international scenario, particularly of the US, to ensure that their patents are protected," IIPRP President Amar Raj Lall said.

The institute would organise a two day seminar on US Trademark Laws and practices in Delhi on September 8 and 9 and in Mumbai on September 11 and 12.

The seminar would be attended by various homegrown pharma and biotech majors and legal experts from both India and the US. IIPRP has previously organised various workshops on patents issue, attended by various big and small pharma players like Pannacea Biotec, Jubilant, Ranbaxy among others.

6. Microsoft asks state to protect intellectual property rights
(from *The Hindu*, 31 August 2006)

Chief Minister Y.S. Rajasekhara inaugurates new building of the company Inspects facilities in the building Assures "fullest support" to Microsoft Corporation, the IT giant with its India development centre located in Hyderabad, has urged the State Government to take steps to protect intellectual property and copyrights of the companies that have established their operations here.

Microsoft India Development Centre Managing Director Srini Koppolu said that the Government should take more licences for the use of Microsoft products rather than using the same software across the departments. "We asked Chief Minister Y.S. Rajasekhara Reddy to ensure that IP is honoured in all Government departments," he said.

PAKISTAN

Campaign to curb IPRs violation likely
(from *Business Recorder*, 28 August 2006)

With a view to curbing the illegal practice of violations of Intellectual Property Rights (IPRs), the government was considering to frame laws apart from launching a campaign against all types of violations of (IPRs), which was hitting hard to foreign investment.

According to information gathered by 'Business Recorder' here on Saturday, the government has asked the pertinent authorities to take necessary steps to curb the illegal practice of the violations.

It may be mentioned that being a signatory to WTO and TRIPs Agreement, Pakistan was under obligation to provide a minimum level of protection to the IPRs. Pakistan accordingly was upgrading its laws related to IPRs to bring them in conformity with the WTO agreements, it had been known.

GENERAL

1. New Zealand refuses to drop sensitive issues from ASEAN trade talks (from *Agence France Presse*, 18 August 2006)

New Zealand said it would not drop the sensitive issues of labour, environment and intellectual property rights in trade talks with ASEAN despite opposition from the 10-member regional bloc.

"We had a further discussion around the issue but each party maintains their current position," New Zealand's Martin Harvey, lead negotiator with the foreign affairs and trade ministry, said. "It is a New Zealand position (to include the three issues)," he added.

Harvey defended New Zealand's position saying: "It is not a new thing. We already have arrangements on labour, environment and intellectual property as part of our FTAs with Thailand, Singapore and Brunei."

2. More respect urged in Asia for intellectual property (from *The Nation Newspaper, Thailand*, 23 August 2006)

Experts on intellectual property rights have urged Asian countries to instill a greater awareness of intellectual property among their people from an early education level, to bolster the regional economy and the growth of individual countries.

At a two-day Global Forum on Intellectual Property in Singapore, delegates from around the world were advised to create awareness of intellectual property (IP) rights in all dimensions, but particularly in business because it can boost national economic growth.

Singapore's deputy Prime Minister and Minister for Law, S Jayakumar, said Asia is witnessing a shift in the global IP landscape. There will be a huge increase in the Asian regional economy if business people understand more about the value of IP.

"The improvement of creativity, protection and management in business will strongly increase our economic growth," Jayakumar said.

The director of Singapore's IP Academy, David Llewelyn, said economic growth in Asia averages 7 per cent to 8 per cent per year. However, a wider awareness of IP will help GDP growth in the region to rise to 8 per cent or 10 per cent a year.

"The education of children is a basic need, to increase general awareness of IP," Llewelyn said. "This awareness will help reduce the costs of governments and private companies in protecting themselves against counterfeit problems."

The Singaporean government modernised by introducing IP awareness to its education system many years ago. The result has brought Singapore many competitive advantages over other countries in Asia and even over developed countries, Llewelyn said.

The global anti-counterfeiting counselor for Unilever Plc, Richard Heath, said that according to his studies, about 5 per cent to 7 per cent of world trade is faced with problems of counterfeiting. Seventy per cent of all counterfeits originate in China and most of the rest from developing countries in the Asian region.

Suzanne Harrison, director of LECG, a leading manager of intellectual assets in the US, said that unless action is taken, the counterfeit problem will hinder the economic growth of every nation in the long run. Recent US government statistics suggested that the total US trade in counterfeits is valued at US\$512 billion a year, largely because of lack of awareness of IP, Harrison said.

A former senior patent judge from the UK, Sir Hugh Laddie, said developing countries should upgrade their intellectual property laws to give them a greater influence on society.

3. US to grant market access to ASEAN countries in return for increased intellectual property rights
(from *Global Insight Daily Analysis*, 23 August 2006)

The United States and the Association of Southeast Asian Nations (ASEAN) will sign a trade and investment pact on Friday. It will allow greater U.S. market access for the ten members of ASEAN in exchange for better protection of U.S. intellectual property rights. The draft text of the Trade and Investment Framework Arrangement (TIFA), states that all parties must "promote transparency and good governance, including by combating and preventing unlawful activities in international trade and investment".

It also says that ASEAN and Washington should recognise "that effective protection of intellectual property rights encourages technological innovation and investment", but did not give specific measures. ASEAN secretary general Ong Keng said the TIFA, which is a step short of a free trade pact, is a way of promoting increased economic integration with the United States despite continued U.S. economic sanctions against ASEAN member Myanmar.
