

Monthly Report of January 2006

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THAILAND

News in January 2006

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1. Thai-US FTA talks

(from The Nation Newspaper, Thailand, 12 January 2006

Bangkok Post Newspaper, Home News Section, Page 3, Thailand, 14 January 2006)

Thai negotiators discussing intellectual property rights (IPR) in free-trade talks with the US requested the presence of independent experts to assist them in understanding the technicalities related to the issue. The negotiators requested the presence of the experts because they feared that Thailand might lose out if the US negotiators had their way.

A source in the meeting room told that a group of Thai delegates negotiating intellectual property rights proposed that the government allow experts in IPR to observe the talks. However, the proposal was turned down by leading Thai negotiators who said only representatives of participating states are allowed to have a seat in the meeting room, according to the source.

The US wants Thailand to be stricter in its enforcement of intellectual property laws including patent and trademark protection. Moreover, it wants to extend the patent period for drugs from 20 years to 25 years, which could be interpreted as extending the period during which Thais must consume expensive drugs.

The US also demanded that the Thai government accept the patenting of living organisms, which would secure benefits for US biotechnology and genetic engineering firms, said the source.

Two days later, with little progress being made on talks on intellectual property, US negotiators said they would need to consult Washington on how to proceed with the free trade area (FTA) negotiations given their tight timeframe.

Barbara Weisel, assistant US trade representative and head of the US negotiators, said her team hoped to make significant progress to conclude the FTA agreement with Thailand by the spring. "We have made progress in many chapters, but still have much work ahead," she said.

Ms Weisel said she needed to consult her boss Robert Portman in Washington to develop specific work plans and a path to resolve sticking points. Massive protests against the deal have disrupted the weeklong negotiations in Chiang Mai, prompting the US chief negotiator and her 75-member team to seek meetings with civic groups as well as parliamentarians, academics and local drug producers in Bangkok.

Ms Weisel described as a misunderstanding the belief of some FTA opponents that the agreement would lead to a rise in drug prices. The issue affected the welfare of Thais with HIV/Aids and other patients and deserved serious discussion, she said.

The US has sought a further five years on top of a 20-year patent protection on American pharmaceuticals, restrictions on compulsory licensing on drugs for government use, and the limitation or cancellation of parallel imports. Ms Weisel said the US has been providing \$12 million (474.5 million baht) a year to the Thai government to help HIV/Aids patients. "We would not include anything in the FTA that undercuts this effort," she said.

2. Khon Kaen University open Patent Clinic

(from Krung Thep Thurakit Newspaper, Innovation Section, Page 12, Thailand, 16 January 2006)

Director of Academic Service Centre at Khon Kaen University said at Technology and Innovation Exhibition about Patent helping registration clinic that would not only guide how to register patent but also give intellectual property information.

3. Medicinal herbs under threat

(from Bangkok Post Newspaper, Home News Section, Page 4, Thailand, 23 January 2006)

Several medicinal herbs used to treat major illnesses are facing extinction in Thailand, a survey has found, and the Public Health Ministry is stepping up its herbal plants conservation scheme.

The latest herb put on the near-extinction list is mok bor wai, a rare Thai herb thought to contain substances that could be used to treat liver cancer and malaria, said Public Health Minister Phinij Jarusombat.

The minister and senior health officers yesterday visited a community forest in Nong Khai's Phon Phisai district which is said to be the last habitat of the herb in Thailand.

Scientists have found that mok bor wai (*Drosera indica* L.) contains flavonoids, a substance that eases inflammation.

The Brazilian species of the plant also has substances useful in treating cancer. Specialists in Thai traditional medicine say mok bor wai can be used to treat dropsy - swelling from excessive accumulation of fluid - caused by liver cancer, which kills about 12,000 people a year in Thailand.

To provide better protection and sustainable use of Thai herbs such as mok bor wai and other traditional medical treatments the ministry has drafted a regulation on intellectual property rights protection of Thai traditional medicine.

Public health deputy permanent secretary Manit Theeratantikanon said the regulation, expected to be enacted this year, would provide intellectual property rights over traditional herbal medicine formulae, general knowledge of herbal medicine and individual prescriptions. Although less than 5% of people use alternative medicine, the department expects this to increase from three million to 25 million within 10 years.

4. Laws to give FTA talks a boost?

(from The Nation Newspaper, Business Section, Page 4B, Thailand, 25 January 2006)

The government may have to enact new legislation to support the bilateral Thai-US free-trade agreement (FTA), as it did some years ago when two acts were implemented to support the World Trade Organization (WTO) agreement, according to a legal expert.

The government introduced two acts, one on the Customs Code and the other to govern WTO operations as part of the government's commitment to WTO rules.

The source, who asked for anonymity, said that generally there are three circumstances under which the government has to seek House approval. First, if the issue relates to national territory or national boundaries. Second, if the issue relates to an area of state jurisdiction, and third, when it requires the implementation of an act of Parliament. The source said that the Thai-US FTA might fall into the third category.

Unlike previous FTAs that Thailand has entered into, the planned Thai-US FTA would cover more than tariff cuts on goods. The Thai-Australian FTA, for instance, covers mainly tariff cuts and doesn't require any changes to the law.

However, the planned FTA with the US is the most complicated bilateral trade pact that Thailand has ever negotiated. It will cover trade and investment as well as intellectual-property protection. The government may have to change some laws to accommodate the Thai-US FTA, said the source.

For instance, the agreement may enable investors to file a lawsuit against the government in certain cases. The government may have to seek parliamentary approval for a new act if the Thai-US FTA results in changes to domestic laws related to intellectual property provisions or investment regulations. However, the source said it's difficult to speculate at the moment because the deal has not yet been finalized.

5. Thailand standing firm over IP negotiations with US

(from Daily International Pharma Alert, 25 January 2006)

Thailand is taking a firm stance against US demands for stricter intellectual property protection, as the two countries continue to negotiate over a bilateral Free Trade Agreement (FTA). Thai opposition has grown recently, as it appears that the US is seeking new IP laws that could be tougher than TRIPS.

The US trade representative is reportedly requesting a five-year data exclusivity period in addition to a 20-year patent term and restrictions on compulsory licensing. However, Thai officials have refused to implement any accords that reportedly exceed TRIPS, fearing that it will harm access to "generic" drugs.

Thailand's concerns focus on its HIV/AIDS treatment programme. The country has recently become the first in the world to provide universal free antiretroviral (ARV) treatment to AIDS sufferers. This has been made possible by government production of cheap copy versions of patented HIV/AIDS drugs. Approximately 570,000 people in the country have the disease.

The US has insisted that the new IP regime will make allowances for this scheme, with officials adding that stricter patent laws will provide the country with greater access to innovative drugs in the long term. Thai negotiators appear unconvinced - as does the public, which has greeted the talks with fierce protests.

6. Medical Council upset by US move

(from The Nation Newspaper, Local News Section, Page 2A, Thailand, 31 January 2006)

Demand for IT protection to apply for medical treatments is against medical ethics, council president insists. A demand by US trade negotiators that intellectual-property-rights protection be applied in the case of medicinal treatments violates medical ethics, Dr Somsak Lolekha, president of the Medical Council of Thailand, said.

Somsak said council members would meet next week to discuss the health-care implications of the US demand, made during free-trade talks early this month, and relay their concerns to the Thai negotiating team, he said he hoped members of the team would heed professional medical advice before taking up negotiations during the seventh round of talks.

Among the demands the US submitted to Thailand in early January was a request for patent restrictions in order to protect American medical firms' diagnostic, therapeutic, and surgical innovations from being copied without permission. That demand riles Thai medical professionals.

Somsak said that all medical innovations should automatically become common property rather than be allowed to be monopolized by certain companies. He added that patent restrictions on medical procedures would hamper the development of medical sciences and the skills of doctors.

Somsak said Thai patients might be unable to gain access to such cutting-edge treatments as stem-cell therapy, which would be patented by US companies that are world-leaders in biotechnology.

"Members of the Thai negotiating team should think twice before they trade off public health with some GSP trade benefits for a few commodities," he said. "The GSP would last for a few years, but patents might last forever."

MALAYSIA

News in January 2006

1. Johor a hub for DVD pirates

(from The Nation Newspaper, Regional News Section, Page 5A, Thailand, 5 January 2006)

The Southern Malaysian state of Johor has become the hotbed of pirated and pornographic DVD online operations, a multi-million ringgit industry that serves customers across the Causeway in Singapore. Illegal disc syndicates have set up web sites that offer pirated DVDs as well as Xinhua News Agency-box video games and Playstations2 games.

Customers use passwords to access the websites, which contain search functions for them to look up the latest titles available. The syndicates operate out of lots in shopping complexes and hypermarkets.

State Domestic Trade and Consumer Affairs Committee chairman KS Balakrishnan said enforcement officers had literally come up against a wall in their efforts to bust the pirated disc operations. Also Unit Director Fahmit Kasim said more than a million copies of pirated DVDs, VCDs and CDs worth more than 8.3 million ringgit were seized in 3,096 raids conducted statewide last year.

2. Malaysia fires broadside at DVD pirates

(from Guardian Unlimited, 18 January 2006)

Malaysian authorities have crippled two DVD and video CD (VCD) piracy rings in Malaysia, arresting 30 people and seizing nine duplicating machines worth 36m ringgit (£5.4m). It was the biggest seizure this

year in Malaysia's fight against illegal copying of Hollywood, Hong Kong and local movies, a thriving trade that has placed the country on a US watch list of serious copyright violating nations.

The seizures and arrests were made in two raids on factories in the capital Kuala Lumpur yesterday, carried out with the help of the Motion Picture Association of America, the lobbying group that represents the interests of all the major Hollywood studios.

Despite extensive government crackdowns, Malaysia has a flourishing pirate VCD industry. Pirated movies are sold locally as well as shipped to other countries in the region. Bootleg movies are sold openly in shopping complexes and by street vendors for as little as 10 ringgit (£1.5) each.

3. BSA warns of single platform support
(from *New Straits Times, Malaysia, 23 January 2006*)

Business Software Alliance (BSA) has urged governments which have been supporting the adoption of open source software to jumpstart the domestic software industry, to be more cautious in their approach.

Its director for software policy (Asia) Goh Seow Hiong said these governments need to carefully examine whether promoting a specific software development model over another will necessarily bring about the desired end benefits.

According to Goh, rather than promoting a specific software development model, the governments should perhaps consider developing a domestic software industry by building on their country's background and inherent competitive advantages.

According to BSA, in practice, software companies in the service- oriented business segments are capable of providing support or other professional services based on both the open source and commercial software approach.

The software industry can be broadly segmented into off-the-shelf products, customizable products, custom-built products and embedded software products. The software solutions that most consumers use on a daily basis are off-the-shelf products.

Larger organizations use customizable products that are tailored to meet their business operations. For very specialized requirements, a software product can also be custom-built for a customer. Embedded software solutions are typically created in conjunction with hardware innovation.

SINGAPORE

News in January 2006

Singapore jails software fraudster
(from *ZDNet UK, 11 January 2006*)

A Singapore court has jailed a university student for four months after finding him guilty of selling fake copies of Microsoft software.

Ang Chiong Teck, a 26 year old computer sciences student, imported counterfeit Microsoft software from Hong Kong at a cost of around S\$80 (£28) per disc and resold them as genuine software for S\$180 to S\$320 — a 30 percent discount on normal retail prices.

It reported that the counterfeits, which included high-quality packaging and fake certificates of authenticity, were "virtually indistinguishable from the real thing". The scam was only uncovered when customers complained to Microsoft that their software lacked the electronic code needed to register their purchase and download updates.

"In this specific case, Microsoft had received a public complaint and referred the matter to the Singapore Police for investigation," she said in an emailed statement. "The sentence delivered on this specific case sends a strong signal to dishonest individuals out there who do not respect intellectual-property rights. We support and are fully committed to working closely with the authorities in Singapore."

Ang was arrested in September and 100 copies of counterfeit software with a value of over S\$20,000 (£7000) were confiscated, according to <cite>The Star</cite>. His sentencing was postponed until December, to allow Ang to complete his examinations at Nanyang Technological University in Singapore. Singapore tightened up its intellectual-property laws at the beginning of 2005, after signing a free-trade agreement with the US.

PHILIPPINES

News in January 2006

1. IPRs courts
2. US to rule on RP IPR compliance soon
3. Anti-piracy body acts against cable TV operator
4. Makati, Cubao raids net pirated software, pornographic anime
5. Intellectual Property school eyed

1. IPRs courts

(from *Business World*, 3 January 2006
INQ7.net, 7 January 2006)

The Intellectual Property Office (IPO) yesterday said the Supreme Court's decision to temporarily defer the creation of special courts that will exclusively handle cases of intellectual property rights violations will not affect the country's chances to be removed from the United States Trade Representative's (USTR) list of countries that violate IPR.

Adrian S. Cristobal, Jr., IPO director-general, said in an interview, "I don't think [the court decision] has affected our chances [since] the process of specialization of [court] personnel [on property rights issues] has already started," Mr. Cristobal said. The USTR is conducting an out-of-cycle review to determine whether the Philippines should be removed from its priority watch list in its latest special 301 report.

Those included in the list are countries that do not provide an adequate level of protection or enforcement or market access for persons relying on intellectual property protection.

The Supreme Court recently approved a plan by the Intellectual Property Office of the Philippines (IPO) to provide judges and court staff special training on intellectual property. The IPO will conduct the training through the SC's Philippine Judicial Academy (PHILJA), which is tasked to give continuous training for the SC's trial court judges, clerks, legal researchers, stenographers, among others.

Cristobal said that the special IP courts were necessary to strengthen the country's handling of many IP cases. Cristobal had previously taken steps to remove the Philippines from the United States' watch list of IP violators.

2. US to rule on RP IPR compliance soon
(from *Business World*, 4 January 2006)

The United States government is expected to conclude within the month its out-of-cycle review of the Philippines' compliance with intellectual property rights laws.

Embassy Spokesman Matthew Lussenhop said representatives from the US Trade Representative's (USTR) Office and Department of Commerce came to Manila in November last year for the ongoing review.

Adrian S. Cristobal, director-general of the Intellectual Property Office, said an out-of-cycle review is normally concluded in January or February. He said the Philippine government had submitted its comments to the USTR as part of the review process.

Mr. Lussenhop said the Philippines had a good chance of being removed from the list despite a Supreme Court decision rejecting the creation of local intellectual property rights courts. The US government was more concerned about effective enforcement of IPR laws as well as the conviction of violators, he pointed out.

The creation of special courts that will exclusively handle cases of IPR violations was one of the US's recommendations to help increase convictions in the country. American investors have been calling for the creation of such courts to speed up litigation of IPR cases and the conviction of offenders.

The Philippines was placed in the Tier 2 of the US priority watch list last year. It has been on the list for the fourth consecutive year.

An out-of-cycle assessment is done in between the annual reviews done by the US government. The US 2005 report, which lists 52 countries or economies with IPR-related problems, designated Ukraine as a "priority foreign country," making it the subject of trade sanctions worth \$75 million a year.

A downgrade to a priority country category will have severe implications on trade particularly in the US generalized system of preferences, a system where duty-free status or reduced duties on imports are granted to developing countries such as the Philippines in order to promote industrial, regional integration and sustainable development.

There are now at least 1,500 cases of intellectual property rights violations pending in the Department of Justice, almost half of which had either been dismissed or filed in courts.

3. Anti-piracy body acts against cable TV operator
(from *BBC Monitoring Media*, 11 January 2006)

The Cable & Satellite Broadcasting Assn. of Asia, representing 110 cable TV companies, has filed 12 new copyright-infringement lawsuits against Maguindanao Skycable.

Maguindanao, based in the southern Philippines city of Cotabato, is one of several cable operators raided in September by the National Bureau of Investigation's Intellectual Property Rights Division for illegally acquiring and transmitting copyrighted programming.

Casbaa claims Maguindanao continued to air cable channels without authorization even after the raid.

The organization filed the complaints with the Dept. of Justice on behalf of channels AXN, CNN Intl., Cartoon Network, Discovery Channel, the Disney Channel, ESPN Star Sports, HBO Asia, MTV Asia, National Geographic, Star Movies, Star World and Star Sports.

Casbaa CEO Simon Twiston Davies said the Philippine government lost some \$40 million last year as a result of pay TV piracy.

The Philippine Cable Television Assn. said eliminating cable signal piracy could easily double the number of subscribers in the country. Beyond the 1.5 million paying subs, an estimated 500,000 are illegally connected.

4. Makati, Cubao raids net pirated software, pornographic anime
(from *INQ7.net*, 25 January 2006)

A recent government-led raid in Makati and Cubao, Quezon City has confiscated about 6,000 CDs containing pirated software and pornographic anime movies worth 1.4 million pesos, the Optical Media Board (OMB) said.

Agents from the OMB, the Anti-Fraud and Commercial Crimes Division of the Criminal Investigation and Detection Group of the Philippine National Police conducted the raid in the branches of the magazine store Filbar's at Glorietta 2 and Greenbelt 1 in Makati City, and branches of Pro-Con Computer Center and Genex Mediatech in AliMall, Cubao, Quezon City.

The joint OMB-PNP operations were part of the Pilipinas Anti-Piracy Team, the government campaign to promote awareness of intellectual property rights and curb piracy in the country.

Since last year, the OMB has been filing cases against store owners and has sent written warnings to owners of malls that are well-known sources of pirated goods. The Business Software Alliance (BSA), a non-profit trade association promoting the use of licensed software, lauded government's effort.

5. Intellectual Property school eyed
(from *Business World*, 31 January 2006)

Geneva-based World Intellectual Property Organization (WIPO) and the Intellectual Property Office of the Philippines will put up by middle of this year a training school for local practitioners.

Dubbed as the IP Academy, this will be housed in one of the floors in the main office of IP Philippines in Makati City. To be funded initially by WIPO and IP Philippines, the training school is envisioned to be a self-sustaining organization in the future.

In a press briefing, director general of IP Philippines Adrian S. Cristobal, Jr. said the IP Academy will be the country's first-ever center of education, training and research on IP.

Specifically, the IP Academy targets to raise IP awareness and knowledge among academic and research and development (R&D) institutions, small and medium enterprises (SMEs), business, IP users and right holders through training programs.

This will also provide continuing education and training to IP practitioners; develop partnership and networks with universities and individual practitioners; promote the inclusion of IP in basic and secondary education; develop information materials to promote public awareness on IP; conduct research on IP and build up policy research capacity to improve the legal and policy infrastructure of the country on IP.

To start, Mr. Cristobal said the training school will work with the Philippine Judicial Academy so that judges will be more familiarized with IP laws. He noted that in most companies now, about two-thirds of their assets are intangible such as R&D results.

Rowena S. Paguio, head of WIPO Singapore office which oversees the Southeast Asia region, said WIPO is now more aggressive in rolling out grass-root programs on IP. Prior to the establishment of the regional office in Singapore last year, most of the WIPO programs were being run by the Geneva headquarters.

As it stands now, lawyer Josephine R. Santiago, intellectual property rights consultant and practitioner partner of S.A. Santiago & Santiago Law Offices, said there is a general lack of awareness on IP in the country. Some of the challenges include the lack of database of patent application in the IP office, and the Commission on Higher Education has no model policy guidelines.

INDONESIA

News in January 2006

1. Law on copyright and exclusive right
2. Scouts are requested not to use pirated software
3. NGO helps fight software piracy
4. Europe helps drafting governmental regulation on popular brands
5. Authority to start from producer to stop book piracy
6. Du Pont's lawsuit for patent violation rejected

1. Law on copyright and exclusive right
(from *Suara Pembaruan*, Page 6, Indonesia, 8 January 2006)

Nowadays there had been many infringements happened to music copyright, both infringements in case of mechanical right and performing right. Protection and law enforcement of copyright as part of Intellectual Property Rights (IPR) nowadays became serious problem in Indonesia. It was because internationally Indonesia had been included in category of Priority Watch List in IPR infringement (included copyright).

In field of performing right, in fact there were many business performers who in their business activities (user) had used music but did not ask permission first to author and or holder of copyright thereof of the music utilization, such as restaurant, café, karaoke, hotel etc.

Based on data obtained from Indonesian Creation Work Foundation as music copyright holder, especially performing right field, could be known that in Jakarta not less that 30% of users had used music without permission from author, and or other copyright holder.

Problem faced by authors was very conventional, namely attitude and view of entertainment entrepreneur who deemed that playing or singing other person's songs did not need to ask permission to author and or copyright holder thereof and did not need to pay royalty. They deemed that if they had bought cassette, CD or VCD, they had been free to use it for entertainment activities without being bound anymore to author and or copyright holder, whereas in their activities, the entrepreneurs sold entertainment by using and often from other person's creation work.

It was caused by lack of comprehension of provisions in the law and lack of awareness toward other person's creation work appreciation and therefore it needed to be grown, included the law enforcement toward copyright infringements of song and music.

It was also happened in playing activity and or music utilization through television instrument which was usually used in hotel business/room, train, airplane, airport and other places. They deemed that it was responsibility of broadcasting institution.

The fact was that what was given by copyright holder to broadcasting institution was permission or license of music and song announcement, and therefore broadcasting institution did not entitle to therefore

the related entrepreneurs in accordance with law on copyright had to ask for permission to author and copyright holder and perform royalty payment as legal obligation.

In accordance with Law No. 19 Year 2002, copyright (music) is the exclusive right in the meaning of right that was only given for author and or copyright holder to publish and or multiply his work and therefore there is no other party who can exploit without permission first from author and or from copyright holder.

Other party was they who use music creation work for a commercial activity and or interest related to commercial activity, such as hotel, hospital, mall, shopping centre, retail business, salon, spa & fitness, restaurant, pub and café, karaoke and discotheque, transportation, terminal, digital transmission, cinema, broadcaster, one off event, ticket selling background music, etc.

2. Scouts are requested not to use pirated software

(from Suara Pembaruan, Page 15, Indonesia, 13 January 2006)

Secretary General of World Organization of the Scout Movement (WOSM), Dr Eduardo Missoni, requested scouts in order not to use pirated software and always obey the law everywhere they were. According to Missoni, obeying the valid law was one of scout honour code which had to be always enforced. There were many ways which could be performed to obey the law, one of them was not to buy and use pirated software.

Missoni said that office of Secretariat General of WOSM in Geneva, had used open source software which could be obtained freely. We had also prepared various free software to be distributed to the scout organizations which needed it. He also said that if there was scout who used pirated software, he could not only damage scout's image but also could negatively affect for the involved scout, because he had to pay fine of big enough money.

3. NGO helps fight software piracy

(from The Jakarta Post Newspaper, Indonesia, 18 January 2006)

The National Police have a new partner in their war against computer software piracy. Non-profit organization the Business Software Alliance (BSA) helped police arrest and charge 22 people in December for pirating software.

The BSA said Tuesday the suspects included one person who worked for a computer assembler in Jakarta. He had copied several software programs that were later installed in 242 computers at the business, the group said.

The group also opened a telephone hotline last year that people can call to report software piracy.

"Any complaints or reports will be followed up on by our investigative team. If they turn out to be valid, our company will give the pirates a warning before the police take legal action," BSA legal consultant Justisari Perdanakusuma said after a meeting at the National Police Headquarters.

4. Europe helps drafting governmental regulation on popular brands

(from Bisnis Indonesia, 19 January 2005)

Indonesia gets assistance from advisory staff of the European Trade Mark Office in drafting governmental regulation on Popular Brands.

Director of Brand of the Directorate General of Intellectual Property Rights at the Department of Justice and Human Rights Affairs Emmawati Junus reveals that the inter-departmental deliberation of the draft has been completed and is now waiting for finalization.

"Indonesia gets help from Europe in drafting the regulation," Emmawati says.

The Governmental Regulation, she adds, is very important to give legal protection to popular brand-holders and to prevent other people from registering similar brands to the Brand Office.

Separately, Gunawan Suryomurcito, Head of the Indonesian Intellectual Property Rights Society, welcomed the government's plan. "With the regulation, law enforcers can share similar perception in determining whether a brand is popular or not.

According to WIPO, popular brands should have already been used for a long period of time; should have wide circulation; should be recognized by the people in one specific sector; should have wide promotion; and should have already been registered in numerous countries.

5. Authority to start from producer to stop book piracy
(from *Organization of Asia-Pacific News Agencies*, 23 January 2006)

Justice and Human Rights Minister, Hamid Awaluddin said, the attempt to stop book piracy in Indonesia must be started from its upstream sector which reproduced the book illegally. "It is useless if we raid street vendors who sell the books because they only act in downstream sector as the trader," Hamid said in a seminar on guideline for Asia copyrights.

Hamid said, the ministry's investigators would involve the Indonesian Book Publishers Association (Ikapi) in its raid of pirated books. The minister called on Ikapi to share data on perpetrators of book piracy and furthermore the ministry would take follow up measures for the information.

"Ikapi does not have people and authority to investigate the piracy, but I have it. I challenge Ikapi to give the data," he noted. The rampant piracy acts in Indonesia have put the country under strict monitoring of world's producers.

The US Trade Representatives has put Indonesia in its priority watch list since 2001. "This was done by the USTR because of high record of copyrights violation in Indonesia, especially on books, films, and music," Hamid said.

The government has taken necessary moves to stop piracy on copyrights among others through familiarization of copyrights in all regions which was held annually in cooperation with domestic and foreign institutions.

The Director General of Intellectual Property Rights has also conducted familiarization on the issue. Ikapi chairman, Makfudin Wirya Atmaja welcomed the ministry's move to conduct raid on pirated books and the association would give data on the piracy. "Ikapi has the same view with the minister in handling book piracy," Makfudin said.

6. Du Pont's lawsuit for patent violation rejected
(from *Bisnis Indonesia*, 26 January 2005)

E.I. Du Pont De Nemours and Company, a US-based company, has failed to receive a compensation of US\$10 million from PT Probio International Chemicals in the case of patent violation on methyl metsulphuron-based herbicide product.

The patented product is useful to control weeds in plantation's crops, such as oil palm, coffee, cocoa, rubber, and orange.

The judge assembly of the Jakarta Commercial Court doesn't grant Du Pont's request since the company's lawsuit is obscure. "It isn't clearly stated which patent that the accused has violated. Therefore, the court cannot grant the plaintiff's request," said Edy Tjahyono, the chief judge handling the case.

Based on information provided by witnesses during the trial, said the judge, it was revealed that the patent of methyl metsulphuron had become public domain. The judge assembly also gave options to Du Pont that the company could revise their lawsuit or make appeal to the Supreme Court.

After the trial, Ali Oksy Murbianto, legal representative of Du Pont, said he would consult first with his client before making any decision. On the other hand, Agustinus Payong Dosi, legal representative of PT Probio International Chemicals, said he was satisfied of the judge assembly's decree.

According to Agustinus, with the decree consumers should no longer hesitate to buy Biofuron WDG 20 product. Previously, Du Pont filed a lawsuit against PT Probio International Chemicals and asked the latter to pay a compensation of US\$10 million on ground that PT Probio had violated Du Pont's patent on methyl metsulphuron-based herbicide product.

VIETNAM

News in January 2006

1. Vietnam's trademark registration grows
2. Proposal to annual folding hammock patent overruled
3. Vietnam to join Brussels Convention on IPRs
4. Vietnamese ministries launch program to protect IPRs

1. Vietnam's trademark registration grows
(from *Thai News Service*, 10 January 2006)

The number of trademarks issued in Vietnam last year grew significantly, with 530 user-rights and 811 ownership-transfer trademarks being registered, according to the National Intellectual Property Office (NIOP).

A total of 21,000 registered trademarks were licensed in 2005.

NIOP has now granted exclusive protection certificates for 120,000 trademarks, 30,000 of which are owned by Vietnamese enterprises. Vietnamese companies, however, account for only 5 per cent of the office's total patents.

2. Proposal to annual folding hammock patent overruled
(from *The Saigon Times Daily*, 13 January 2006)

Vietnam's Intellectual Property Bureau has turned down a proposal by HCMC-based local hammock maker Truong Tho to annul the folding hammock industrial design patent granted to its rival Duy Loi.

In a statement issued early this year, Hoang Van Tan, deputy head of the bureau, said evidence supplied by Truong Tho failed to show Duy Loi's patented design features were similar to those produced before the issuance of the patent. The photos provided by Truong Tho as evidence that the design whose rights are now held by Duy Loi existed long ago are undated, so such proof is not strong enough, he said.

After being informed of the bureau's ruling, Nguyen Dinh Tho, director of Truong Tho, said he would continue the fight and that his company and eight other folding hammock producers in the city had proposed the bureau consider the case one more time.

Accompanying this proposal is a Vietnam Superintendence and Inspection Joint Stock Company (Vinacontrol) inspection of hammocks which Truong Tho claimed were present in the country's south before 1990.

3. Vietnam to join Brussels Convention on IPRs
(from *Thai News Service*, 16 January 2006)

Vietnam will become a full member of the Brussels Convention today (January 12, 2006), said Vu Manh Chu, director of the Culture and Arts Copyright Department (CACD) of the Ministry of Culture and Information.

The Brussels Convention was established to protect broadcasting organizations against unauthorized distribution of encoded programme signals.

By December 12, 2005, 28 countries had signed the Brussels Convention, said Chu at a press briefing in Hanoi.

Vietnam has become a signatory to three international conventions on intellectual property rights, including the Berne Convention on copyright protection for authors of literary, artistic and scientific works and the Geneva Convention on protection for phonogram producers against unauthorized duplication.

Vietnam is preparing to participate in the Rome Convention, drawn up to protect performers, phonogram producers and broadcasting organizations. The country plans to sign the TRIPs Agreement governing economic issues related to intellectual property rights after joining the World Trade Organization.

The CACD and the Publication Department have just completed the draft on "Assistance on Royalties for Publishing Activities" for the 2006-2010 period. According to draft estimates, copyrights of 2,250 literary works would be secured for Vietnamese translation.

4. Vietnamese ministries launch program to protect IPRs
(from *BBC Monitoring Asia Pacific*, 22 January 2006
Thai News Service, 24 January 2006
Vietnam News Agency Bulletin, 25 January 2006)

A cooperative programme on intellectual property right protection in the 2006-2010 period was reached by six ministries in Hanoi on 19 January. Signatories include the Ministries of Finance, Trade, Culture and Information, Science and Technology, Environment and Natural Resources, and Agriculture and Rural Development.

The programme set out six objectives to minimize intellectual property (IP) right violations such as boosting activities to raise people's awareness of IP rights like industrial property rights, copyright and other related rights; strictly settling violations; and organizing training courses to improve capacity in IP right protection.

The programme also aims to strengthen information exchanges, improve regulations on IP rights and facilitate IP right management activities.

To fulfill these above-mention objectives, the Ministries of Culture and Information, Science and Technology, and Agriculture and Rural Development will firstly focus on completing a regime to register inventions and useful solutions, industrial designs and trademarks, literary and artistic works and plant varieties, said Deputy Minister of Culture and Information Tran Chien Thang.

INDIA

News in January 2006

1. Filing of patents set to get cheaper and easier
2. GI registration and the textile industry
3. IPR for handicrafts
4. Pharma cos get patent wise in IPR era

1. Filing of patents set to get cheaper and easier
(from *Mondaq Business Briefing*, 9 January 2006
The Press Trust of India Limited, 10 January 2006)

Finally, the Government of India has amended the Rules, rolling back the official fee hike for patents. The amendments in the Rules have been published, but will come into force only when notified in the official gazette.

The fee for claims in excess of 10 (approximately US\$18 per claim) and the additional fee for pages in excess 30 in the specification made the total filing fee exorbitant, forcing many filers to rethink their patent filing strategy in India. With the latest amendments, patent filing will become cheaper as the government has removed the excess fee for claims and additional sheets in the specification.

In addition to this, another major change proposed in the amendments to the Rules is the time line for putting patent application in condition for grant. Under the draft rules, the period for filing of statements and undertakings by foreign applicants has been increased from three months to six months.

This is a major relief to foreign applicants who were finding it too short a time frame to respond to the Office Action with some degree to comfort. The time-period for requesting examination of an application has also been increased from six months to nine months.

2. GI registration and the textile industry
(from *Mondaq Business Briefing*, 13 January 2006)

The success of getting the Geographical Indication Registration for 'Pochampally Ikat' has motivated the Government of India and, more specifically the Union Textile Ministry to request the Andhra Pradesh Textiles Development Committee (APTDC) to identify all handloom products, which can be registered under the system.

APTDC would also be given a commission for carrying out a countrywide survey to locate such goods. A national programme for preparing the textile industry for globalization in the WTO regime has been initiated by the Textile Committee.

Items for which GI registration was applied in 2005 (awaiting registration) include the famous Kancheepuram Silk sarees and rumal (handkerchief) and equally famous Banarasi Silk Sarees from Uttar Pradesh. Mysore Silk Sarees, made-ups, ties and yarn have already got their registration.

3. IPR for handicrafts
(from *The Press Trust of India Limited*, 14 January 2006)

Monpa bags, carpets and wood carvings of Tawang in Arunachal Pradesh are being enlisted along with Kolahpuri chappal and Baluchari sarees and many other handicraft products for protection from rampant copying under Intellectual Property Rights through Geographical Indication.

The National Institution of Fashion Technology, Kolkata in collaboration with Union Textile Ministry is organizing an awareness programme for 120 master craftsmen from West and East Kameng districts of Arunachal from February six at Bomdilla in the first phase of the project.

The programme will help the documentation of the manufacturing process of identified handicrafts to be forwarded for protection, project coordinators Amandeep Singh Grover said.

The vibrant handicrafts and handlooms manufactured by communities are traditionally associated with a particular geographical region of the country. These products have certain typical characteristics of craftsmanship which make them unique and can be protected under Geographical Protection Act, Dibyendu Dutta another coordinator said.

"We need to make our tribal friends in Arunachal Pradesh of their rights and how they can protect their cultural heritage. If the state handicraft were protected under GI Act then the people of the state will have right over the manufacturing of such products.

It will prevent unauthorized use of copying of the products and thus will provide economic prosperity to the producers besides giving better recognition to the state artisans," he said. NIFT would produce logo for the products for their geographical Indication, he said.

4. Pharma cos get patent wise in IPR era (from *The Economic Times*, 20 January 2006)

Patents and intellectual property rights (IPR) have taken centre stage for the pharmaceutical industry over the past few years in the domestic as well as overseas market as the industry cranks up its in-house legal resources.

On the one hand, domestic pharma companies are expanding their legal teams and on the other most companies are ensuring that their research and legal teams are trained in the nuances of patent laws. Mumbai-based Glenmark Pharmaceuticals, for instance, has strengthened its team significantly in the last year by bringing IP experts on board with experience in the international and domestic markets.

"The increase in numbers addresses the increased IP needs globally, i.e. both domestic and international," a Glenmark Pharma official said. Institutions and universities offering courses in patent law and intellectual property rights have seen an increase in demand. According to VC Vivekanandan, professor of Intellectual Property Laws at the Nalsar Law University, demand for such courses has been growing by almost 50per cent every year in the last four years.

More than 90per cent of the students enrolled at Nalsar are from the pharmaceutical industry. Some of the courses provide students with an understanding of laws in other countries as well, such as the US and European patent laws.

PAKISTAN

News in January 2006

1. Coordination body on IP to set up two regional offices
2. \$10 billion lost annually to trade mark violations
3. Governor directs to devise inspiring IPRs policies
4. US clears Pakistan over copyright abuse sanction
5. Pakistan's IPRs

1. Coordination body on IP to set up two regional offices
(from *The Nation Newspaper, Thailand, 7 January 2006*
Frontier Star, 7 January 2006)

The Coordination Committee on Intellectual Property has decided to establish regional offices in Karachi and Lahore in order to raise awareness level about intellectual property rights in major cities. The 2nd meeting of the Coordination Committee on Intellectual Property (IP) was held in IPO HQs Islamabad. The representatives of IPO-Pakistan, Ministry of Law, Justice, and Human Rights, PEMRA, PAKISTAN Customs, Directorate General of Customs Intelligence, Federal Investigation Agency and Islamabad Police attended the meeting.

The Coordination Committee underlined the need for initiating a well-coordinated Public Outreach Program for increasing the level of IP awareness in the country. The capacity building requirements of IP stakeholders were also identified and the ways and means required to fulfill this need was deliberated. To begin with it was decided to establish Regional Coordination Committee in Karachi and Lahore to help raise the IP awareness level in these major cities. It was also decided to hold the next monthly meeting of the Coordination Committee in PEMRA HQ in Islamabad.

2. \$10 billion lost annually to trade mark violations
(from *Business Recorder, 19 January 2006*)

The government loses about Rs 10 billion, directly, in revenue because of the rampant counterfeiting and trademark infringement, says a report in the newly launched newsletter of Anti-Counterfeit and Infringement Forum (ACIF).

The publication also makes the stunning disclosure that the country's tobacco industry, which is one of the largest contributors to national GDP, with Rs 41 billion share in 2004, is currently confronted with the grave challenge of "systematic and technologically advanced counterfeiting".

So much so that out of total domestic market consumption of 71.8 billion "sticks", 56.4 billion were produced by the legitimate sector, and the rest, amounting to 15.4 billion, were contributed by the illegitimate sector. Quoting the International Anti-Counterfeiting Coalition the newsletter notes that Pakistan figures among 27 countries where the counterfeited and IPR-violated products have assumed the status of a parallel economy.

It also makes mention of European Union's anxiety to sign a deal with Pakistan, along with India and Thailand, to "fight influx of fake goods" which cost EU 5 billion euros a year.

United States, which is Pakistan's single largest trade partner and a major source of FDI inflows, has shown concern time and again over the "horrible situation of IPR violations", said the newsletter, adding that US Trade Representative (USTR) had put Pakistan on its "Priority Watch List". "It was because of this report that International Intellectual Property Alliance (IIPA) called upon USTR to suspend the GSP status given to Pakistan".

ACIF is a non-profit alliance of business organizations working together to "eradicate the menace of counterfeiting, infringement and piracy of Intellectual Property Rights". The gravity of IPRs violation is also reflected from an interview of Ibrar-ul-Haq published by the "Pledge" in which the famous singer claims that piracy of his five hit albums cost him Rs 1.5 billion.

3. Governor directs to devise inspiring IPRs policies
(from *Pakistan Press International Information Services, 21 January 2006*)

Sindh Governor Dr Ishrat ul Ibad Khan directed the authorities concerned to work for making the province a model with regard to Intellectual Property Rights. He said that in this way the interest of renowned artists, poets, writers, singers of the province would be safeguarded.

Dr Ibad issued these directives, when a delegation of Overseas Chamber of Commerce and Industries called on him at the Governor's House on January 18. He asked the authorities concerned to prepare a strategy on IPR and to take appropriate steps on priority basis for its proper implementation. Safeguarding the IPR would bring about remarkable improvement in the IT sector, Dr Ibad added.

4. US clears Pakistan over copyright abuse sanction (from *Agence France Presse*, 24 January 2006)

The US government cleared Pakistan from the threat of having its trade preferences withdrawn after the country took action to clamp down on copyright theft. US Trade Representative Rob Portman rejected a petition brought by US industries which wanted Pakistan punished over abuses of intellectual property rights, especially in relation to fake CDs and DVDs.

The petition, filed in 2001 by the US-based International Intellectual Property Alliance, called for Pakistan to be stripped from the US duty-free Generalized System of Preferences (GSP). But Portman said: "The United States is pleased with the recent progress Pakistan has demonstrated in fighting optical disk piracy." Pakistani authorities launched a concerted effort in April last year to destroy or confiscate pirated disks, close counterfeiting plants and arrest those responsible, the US trade chief said.

"In recognition of these positive developments, the United States has closed the review of the GSP petition concerning intellectual property rights protection and enforcement in Pakistan," he said.

Under its GSP system, the United States grants duty-free treatment for thousands of products from developing countries. In 2004, Pakistani exports worth 94 million dollars benefited from the scheme.

Portman's announcement coincided with a visit to Washington by Pakistani Prime Minister Shaukat Aziz, who told the US Chamber of Commerce Monday that his government was serious about clamping down on copycat piracy.

"Pakistan is very conscious of the fact that without an effective, transparent regime to manage, control and discipline the use of intellectual property rights, we cannot be serious players in IT (information-technology) or any business for that matter because patents have to be respected," he said.

Aziz recalled that Pakistan had set up an intellectual property organization with members drawn from across government and industry to enforce copyrights. "We will take strong action (to show) a sense of seriousness when it comes to patents and intellectual property rights," the prime minister vowed.

Portman added: "We look forward to working together with Pakistan to ensure that enforcement actions continue and that further steps are taken to strengthen its intellectual property environment."

5. Pakistan's IPRs (from *Business Recorder*, 25 January 2006)

Trade Related Aspects of Intellectual Property Rights commonly known as TRIPs world over is an important agreement of World Trade Organization (WTO). Pakistan is one of the founding members of this global body. It is obliged to enforce the agreement and protect IPRs here. But the level of awareness regarding this agreement is very low here.

Hardly any sense of respect of intellectual property can be witnessed, with violation so rampant all over the country. It is to stress here that WTO agreements are binding for all of its 150 members. The member

countries are required to enforce it for protecting of intellectual property in their economies. Though there have been some efforts, particularly in the recent past, enforcement of laws in this regard remains very weak in Pakistan.

Though there is Pakistan Intellectual Property Organization (IPO), the desired results are yet to be seen. The fact is that Pakistan is viewed as a country where violations of IPRs greatly hurt the investors. There is an urgent need to do away with this image. The concerned government functionaries need to adopt effective measures immediately.

SAUDI ARABIA

News in January 2006

1. Nod for draft investment pact with Saudi Arabia
(from *The Hindu*, 13 January 2006)

The government gave its nod for signing an accord with Saudi Arabia to promote and protect investments from either country. The decision comes ahead of the visit of Saudi King Abdullah who will be the chief guest at this year's Republic Day celebrations.

The Bilateral Investment Promotion and Protection Agreement was finalized during talks held here in September last year between the two sides, Information and Broadcasting Minister Priyaranjan Dasmuni told reporters here after a meeting of the Union Cabinet.

He said under the provisions, 'investment' is defined as "every kind of asset, including intellectual property rights in accordance with the laws and regulations of the country in which the investment is made".

2. Saudi Arabia pledges tougher anti-piracy drive
(from *Reuters News*, 26 January 2006)

Saudi Arabia, the newest member of the World Trade Organization (WTO), has pledged to jail violators of intellectual property rights in a fight against widespread piracy, a U.S. body said.

Saudi Arabia has stepped up raids against piracy but needs to do more to live up to the WTO's treaty, Trade-related Aspects of Intellectual Property Rights (TRIPs), said Eric Smith, president of the International Intellectual Property Alliance (IIPA). He said piracy accounted for 50 percent of local sales.

Smith told reporters that the Saudi information and culture ministry had pledged to a visiting IIPA delegation that it would jail counterfeiters in the country of 24 million, instead of only fining them.

The seizure late last year of 2.28 million pirated CDs and DVDs during a raid in the eastern city of Dammam, and other raids that netted up to 600,000 of both, highlight the magnitude of the problem, Smith said. Smith said fines of up to 50,000 riyals (\$13,330) that have been imposed against counterfeiters were not a deterrent.

The IIPA says trade losses in Saudi Arabia from piracy amounted to \$134 million in 2004, \$190 million in 2003 and \$63 million in 2002. These include entertainment and business software, books, motion picture and music records.

Saudi authorities also promised to allow distributors and producers access to information on piracy cases in order to appeal court decisions against violators if they think that verdicts against them were too soft, he said.

KUWAIT

News in January 2006

New steps to reduce software piracy rate
(from *Kuwait Times*, 3 January 2006)

The Kuwaiti Ministry of Information has intensified efforts to bring down software piracy rate in the country and has strengthened its association with Business Software Alliance (BSA), the organization dedicated to promoting a safe and legal digital world, in order to ensure protection of Intellectual Property Rights (IPR).

As part of their decision to more vigorously pursue the anti-piracy drive, the Ministry of Information and BSA will work closely together to ensure strict enforcement of IPR and copyright laws in the country and step up vigil against illegal software trade.

In addition, the two entities will widen the scope of their awareness campaigns to educate more segments of society on the perils of software piracy. "For Kuwait to achieve its true potential, it is imperative that the threat of software piracy is effectively tackled," said Ibrahim Abdel Mehsen Al-Nouh, assistant undersecretary for press and publications affairs, Kuwaiti Ministry of Information.

"To reduce piracy rate amidst an influx of new PC users and widespread adoption of IT solutions poses a significant challenge. This makes it necessary for the ministry to collaborate with organizations such as BSA, which is dedicated to the cause of IPR protection." Jawad Al-Redha, chairman, BSA Middle East, said: "BSA is committed to bring down the piracy rate in Kuwait, and we will work closely with the Ministry of Information to ensure that IPR laws are continued to be enforced vigorously in the country.

Simultaneously, we will organize more awareness campaigns and educational programmes targeted at specific society segments." "The extent of harm caused by software piracy is not fully comprehended by many people. Through our public awareness campaigns, we will highlight the adverse effects of software piracy at the individual and organization level as well as on the national economy," Al-Redha added.

Al-Nouh said, "Reduction of software piracy will send out a positive message to the rest of the world, which will help bring significant IT investments to Kuwait. This, in turn, would result in the creation of more employment opportunities and bring in more tax revenues."

According to the Economic Impact Study 2005 brought out by International Data Corporation (IDC), Kuwait can double the size of its IT industry to \$ 830 million by reducing piracy rate by 10 percentage points from the current rate of 68 per cent. The 10-point reduction in piracy level could increase local IT industry revenues by \$219 million.

The Business Software Alliance is the foremost organization dedicated to promoting a safe and legal digital world. BSA is the voice of the world's commercial software industry and its hardware partners before governments and in the international marketplace.

BSA helps governments and consumers understand how software strengthens the economy, worker productivity and global development and how its further expansion hinges on the successful fight against software piracy and Internet theft. BSA programs foster technology innovation through education and policy initiatives that promote copyright protection, cyber security, trade and e-commerce.
