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## THAILAND

1. Thailand, Brazil lose trading privileges in wake of IP disputes  
(from *Drug Industry Daily*, 3 July 2007)

Brazil and Thailand recently accused of violating pharmaceutical intellectual property (IP) rights have now lost certain trading privileges with the U.S. The Bush administration removed Brazil and Thailand from the list of developing countries that receive duty-free treatment for certain exports, U.S. Trade Representative (USTR) Susan Schwab announced June 28.

The USTR had placed Thailand on the 2007 Priority Watch List for overriding patent protections on two HIV drugs, Kaletra (lopinavir/ritonavir) and Stocrin (efavirenz), as well as the heart drug Plavix (clopidogrel bisulfate) (DID, May 9). Brazil also issued a compulsory license for Stocrin after attempting to negotiate a lower price with the drug's manufacturer, Merck (DID, May 8).

The administration's decision, based on the annual review of the Generalized System of Preferences (GSP) program, "involved an analysis of petitions to withdraw or limit a country's GSP benefits for not meeting GSP eligibility criteria. These criteria include the extent to which a country provides adequate and effective protection of intellectual property rights," the USTR said.

2. Govt won't budge on breaking drug patent  
(from *Bangkok Post Newspaper, Home News Section, Page 2, Thailand*, 6 July 2007)

Thailand is sticking by its stance to override the patent of Abbott Laboratories' Aids drug Kaletra although Brazil has already agreed to buy the life-saving drug from the pharma giant. Health specialist Vichai Chokewiwat yesterday said the government would not accept Abbott's offer adopted by the Brazilian government.

"We understand that the Brazilian government has a reason to accept the deal. But we cannot do that. It's not the option we are hoping for," he said.

Dr Vichai, also chairman of the Government Pharmaceutical Organisation's (GPO) board, made his remark after Brazil Health Minister Jose Gomez Temporao accepted an offer from Abbott to cut the price of Kaletra by 30%.

Dirk van Eeden, director of Abbott's HIV communication & policy department, told the Bangkok Post in a phone interview that an agreement with the Brazilian government should set a precedent for Thailand to review the company's offer.

To date, Thailand and Abbott have been unable to strike a deal on the price of Aluvia, a heat-stable version of Kaletra.

The ministry has asked the company to cut the Aluvia price to about 5% higher than that of the generic version. But Abbott has insisted on selling the drug at 3,488.20 baht per person per month, or about 34,000 baht (US \$1,000) per person per year, which the ministry said is still too expensive.

Public Health Minister Mongkol na Songkhla preferred the price quoted by India's generic drug maker, Matrix Laboratories, which sells a generic version of Aluvia at 2,027 baht per person per month, or 24,324 baht (US \$695) per person per year.

In another development, the GPO is set to buy the first lot of two million tablets of the heart medicine chopidogrel, marketed as Plavix, from India for patients under the universal healthcare scheme.

### 3. GPO halts production during revamp to lift standards

*(from Bangkok Post Newspaper, Business Section, Page B1, Thailand, 6 July 2007)*

The Government Pharmaceutical Organisation (GPO) is renovating its production facilities as it works behind the scenes to provide information to various countries seeking to issue compulsory licences on essential drugs, says Public Health Minister Mongkol Na Songkhla.

Dr Mongkol said the GPO renovation was part of the government's effort to bring the factory up to international standards, an issue that drug companies raised during their campaign to counter the compulsory licences issued earlier this year.

The ministry is hoping to allay fears that GPO is producing substandard drugs that do not comply with World Health Organisation criteria. Until the renovation is complete, the GPO will stop producing all forms of medicine, he added.

Commenting on the contentious issue of compulsory licensing, Dr Mongkol said that his ministry might issue two more CLs for essential drugs in addition to three it issued earlier this year.

The Thai government has issued CLs for three life-saving drugs: Efavirenz, Lopinovir+Ritonavir (Kaletra), and Clopidogrel (Plavix). So far it has only imported a generic form of Efavirenz.

The ministry, he added, was also working quietly to offer advice to countries to help them issue CLs. Dr Mongkol said claims that CL takes away patients who could help pay for the research and development of

medicines were groundless as the richest 20% of the population who could afford expensive patented medicines would not switch to generic drugs produced by the GPO or other companies.

He suggested that drug producers try to make cheaper versions of the drugs on which lower margins would be offset by higher sales volume, saying: "Such a move will benefit all parties."

4. Agarwood producer sues rivals for patent violation

*(from Bangkok Post Newspaper, Business Section, Page B1, Thailand, 9 July 2007)*

The growing popularity of aromatic wood has led Agarwood Siam Co to sue two local agarwood producers for combined damages exceeding 100 million baht for illegally using its patent.

The lawsuits will be lodged against Touchwood Forestry Co, and Krissana Panasin Co, owned by local tycoon Boon Vanasin, for allegedly offering Agarwood Siam's patent for use or sale without the company's permission, according to Rujira Bunnag, a lawyer for Agarwood Siam.

Agarwood Siam owns Thai patent No. 18985 for a "wound-making technique to stimulate Aquilaria resin in Aquilaria trees". The patent was registered on Sept 21, 2005.

The damages sought are high because the aromatic oils and resins produced by the trees sell for hundreds of thousands of baht a litre.

According to Mr Rujira, the breach by the two firms has resulted in significant losses to Agarwood Siam. He will file civil and criminal cases at the Central Intellectual Property Court tomorrow.

According to Mr Rujira, letters were sent to the two companies on March 26 calling for them to cease infringement by ceasing to use, produce, or sell the invention method. But the two firms did not respond to the letters.

In the letters, Agarwood Siam also asked Touchwood Forestry Co to pay compensation of 100 million baht; it asked Krissana Panasin to pay 10 million baht. The amounts were based on the size of each firm, the lawyer said.

5. Abbot alleges doubles standards

*(from The Nation Newspaper, Prime News Section, Page 1A&4A, Thailand, 9 July 2007)*

Abbot Laboratories, the US drug manufacturer, yesterday criticised the government for a dramatic increase in military spending compared with public health.

The company's HIV communications director Dirk Van Eden said he was "disappointed" to see a 24-per-cent increase in defence spending compared with just 4.7 per cent for health in the next fiscal year. However, Thai Aids activists slammed the comparison as "absurd". The problem is not about money but the need for access by infected people to life-saving medicine at reasonable prices, they said.

"Under these circumstances, it's difficult for us to understand how Thailand can say it can't afford to pay for HIV drugs," Van Eden said from the United States. "Thailand's problem with its HIV budget is not poverty but priority."

Nimit Tien-udom, director of Aids Access Foundation said: "No matter how much money the government will allocate to HIV, it won't be enough to pay for the unreasonably expensive drugs. The problem is not about how much the government has to pay for HIV drugs but more about the fact that the company wants to sell us the drug at irrational prices."

Public-health officials added Van Eden had quoted wrong figures and was in "total ignorance of the health budget".

National Health Office secretary-general Dr Sanguan Nitayarumpong said money for HIV came from a separate fund that is not included in the annual budget of the Public Health Ministry.

Government funding of that increases every year, Sanguan said.

Abbot wants to persuade Thailand to cancel its plan to buy cheap, generic Kaletra from manufacturers in India. After Thailand imposed the compulsory licensing, Abbot offered to reduce the price of original drugs from US \$2,200 (Bt74,800) per patient per year to \$1,000. But, the Indian-made version will cost just \$695 per patient per year.

Food and Drug Administration secretary-general and chief negotiator for drug prices, Dr Siriwat Tiptaradol, said the country was prepared to pay Abbot 5 per cent more than the cost of the generic version, nothing higher.

Van Eden said the company would continue to negotiate although it had reduced prices as far as it was prepared to - equal to those offered to 45 other middle-low-income countries.

6. Pantip will be cleared of all illegal products

*(from The Nation Newspaper, Business Section, Page 4B, Thailand, 11 July 2007)*

Director-general Puangrat Asavapisit said Bangkok's Pantip Plaza, well known as a centre for pirated IT products, will be cleared of illegal products this year. The mall's counterfeit products include software, movies and music. The department also intends to stamp down on intellectual-property violations nationwide by sending teams of inspectors to problem areas.

She said that many "red zones" were now selling fewer illegal products because of stringent suppression by the police and the department. "The department will seriously crack down on violations as well as effectively implement punishment to ensure that violators will be afraid to do any illegal actions," said Puangrat.

The department will cooperate more with the police, judicial authorities, Customs Department and Food and Drug Administration to draw plans to crack down on illegal products nationwide, she said.

It also plans to destroy big lots of illegal products in September to show that the government has seriously stamped down on piracy.

As a way of increasing awareness of intellectual property rights, the department will host the IP Fair 2007 from July 20-22 at Bangkok's Queen Sirikit National Convention Centre. Puangrat said the fair would not only encourage people to be aware of rights but also promote enterprises to register patents. More than 60 booths will show innovative products that have been patented in Thailand and overseas.

Exhibits will include a fire-extinguishing ball, durian cosmetic gel for preventing bacteria, a flying boat and a foldable bicycle. The fair will also help businesses to find more opportunities with other enterprises, said Puangrat. The department will provide a booth for innovators to register their patents. It will also sell low-cost products and conduct a show of famous singers each day.

7. Music companies to collect on copyrights

*(from Bangkok Post Newspaper, Business Section, Page B3, Thailand, 12 July 2007)*

Music companies expect to reap higher copyright collection fees this year thanks to more aggressive government action against copyright violators.

Yongsak Ekprachyakul, the managing director of sales and marketing at GMM Grammy Plc, said revenue from music copyright collection fees this year would rise by 20% from 250 million baht earned in 2006. The fees will be collected from 50,000 clients that play Grammy music, including karaoke operators, jukeboxes, hotels, restaurants and even airlines.

He noted that co-operation among entertainment groups and government officials, especially with police to crack down on pirated movies and music in notorious venues in the Klong Thom area, has been improving, leading to higher revenues for entertainment firms.

RS, the country's second-largest music company, says that its revenue from copyright collection fees this year should rise to 200 million baht, up from 150 million baht last year, despite its ongoing dispute with karaoke operators.

As many as 5,000 karaoke booths have refused to pay fees to RS so far, according to Sutthisak Prasatkarukarn, director of the law and suppression department at Thai Copyright Collection Co (TCC), an RS subsidiary. The company charges 400 baht per booth per month.

Although the copyright collection practice has been applied for five years, many users are still enjoying a free ride, he said.

#### 8. Rusie Dutton gets legal protection

*(from Bangkok Post Newspaper, Prime News Section, Page 1, Thailand, 18 July 2007)*

Thailand has won legal protection in Japan for Thai "hermit" yoga postures known as rusie dutton. The Japan Patent Office has rejected a request by a Japanese businessman to register "Rusie Dutton" as a company name. The man tried to register the transcribed words with the office last year.

Somyos Charoensak, acting director-general of the department for the development of Thai traditional and alternative medicine, said that the Japan Patent Office had confirmed the phrase represented Thai wisdom, and therefore could not be used as a trademark.

The businessman who applied for the registration did not appeal against the ruling, and the 30-day deadline for appeals has now expired.

Dr Somyos said it was good news that Thailand could protect its wisdom.

According to Dr Somyos, foreigners often attempt to register patents for Thai traditional health practices including Thai massage, which is popular worldwide. One such measure is the formation of a board to protect and promote traditional Thai medicine.

The 20-member panel will include 10 government officials such as the permanent secretary for public health, the chiefs of the medical sciences department, intellectual property department, and the department for the development of Thai traditional and alternative medicine, as well as the secretary-general of the Food and Drug Administration.

The other 10 board members will represent the civil sector, including Thai traditional medicine practitioners and experts, herb growers or processors, and activists working in Thai traditional medicine. Dr Somyos said his department would receive nominations of candidates from the civil sector until this Friday.

The board will advise the health minister on Thai traditional and alternative medicine, push for relevant legislation and manage a government-sponsored fund to protect Thai traditional medicine.

9. Govt urged to reconsider CL policy

*(from Bangkok Post Newspaper, Home News Section, Page 2, Thailand, 21 July 2007)*

The government should think carefully before issuing compulsory licensing to bypass patents on cancer drugs since such action may cause long-term adverse effects, said Ramathibodi hospital doctor Saengsuree Joota.

Issuing a compulsory licence (CL) for Glivec may adversely affect some 900 leukaemia patients who already have access to Imatinib, a generic version of the cancer drug, through a philanthropic programme, said Dr Saengsuree, who also is president of the Thai Society of Hematology.

The philanthropic programme for patients could be cut once the government decided to opt for the CL policy, she warned.

"If the government aims to bypass the patent of the leukaemia drug and import the generic version, they should ensure that every leukaemia patient has equal access to the medicine because so far it's not so," she said.

Access to the drug is now limited to leukaemia patients who are civil servants, numbering about 200. Poor leukaemia patients, up to 800, under the universal healthcare scheme are eligible to access the drug through the philanthropic programme, sponsored by Swiss-based Novartis, the original maker of the drug.

Dr Saengsuree believes patients who are private company employees should also have access to the drug. Glivec maker Novartis also markets the generic Imatinib.

Public Health Minister Mongkol Na Songkhla earlier said compulsory licensing of cancer drugs was essential since the disease was the fifth biggest cause of death in Thailand, after accidents, HIV/Aids, heart diseases and old age.

The government spent over 1.2 billion baht last year on the treatment of some 50,000 cancer patients under the universal healthcare scheme run by the National Health Security Office, he said.

Sirilak Suteekul, country manager of Novartis, said she did not believe that the CL policy would be a long-term solution to improve public access to life-saving drugs. Public-private partnership should be improved to allow all the concerned parties to work together and seek long-term solutions to the medicinal access problem, she said.

Vichai Chokevivat, a health specialist chairing a committee considering the CL policy, said the panel would thoroughly consider the pros and cons of compulsory licensing and the existing health programmes for leukaemia patients before sending the CL policy to the public health minister for approval.

"Compulsory licensing is the last resort to expand access to not only leukaemia drugs but also other cancer drugs for the public," he said.

10. US still interested in Thai FTA

*(from Agence France Presse, 24 July 2007)*

The United States is still interested in a free trade deal with Thailand, the US embassy here said, adding that a top trade official had been misquoted as saying the deal was off. US Trade Representative Susan Schwab was misquoted in an interview with the Straits Times newspaper on

Monday 23 as saying that "we have given up having an FTA with Thailand," the embassy said in a statement.

"The Straits Times story inadvertently dropped the word 'not' in the above quote, completely reversing the meaning of Ambassador Schwab's words," the embassy said. The paper has agreed to run a correction on its website, the statement said.

Schwab actually said: "In the case of Thailand, that FTA stalled out shortly before the coup, and then obviously with the coup it became impossible to proceed. We have not given up having a free-trade agreement with Thailand."

The United States announced in November that free trade talks had been suspended until a democratic government was in place. The junta has promised to hold elections by the end of this year, but since taking power the army-installed government has pressed ahead with free-trade deals that had been negotiated under ousted premier Thaksin Shinawatra.

Thailand signed an FTA with Japan in April, and has moved to speed up talks with India.

Talks with the United States, which began in 2003, have been dogged by controversy, particularly over patent protections for US pharmaceuticals. The United States is Thailand's largest trading partner with two-way trade reaching more than 30 billion dollars last year, according to US government figures.

#### 11. RS revamps music rights

*(from Bangkok Post Newspaper, Business Section, Page B3, Thailand, 25 July 2007)*

RS Plc, the listed entertainment and sport content provider, is moving toward international standards by allowing copyright over music to belong to composers instead of the company, according to CEO Surachai Chetchotisak.

Mr Surachai said the change would encourage composers to create music because they would be able to fully have business advantage from royalty fees. Grammy Group, the country's largest music company in term of sales, continues to hold all the rights to music by its artists.

#### 12. Thailand to broaden patent breaking policy

*(from Bangkok Post Newspaper, Home News Section, Page 2, Thailand, 26 July 2007)*

Thailand is pressing ahead with its policy on compulsory licensing (CL) with a plan to expand the policy to cover all state healthcare programmes, enabling more people to access affordable life-saving drugs.

The plan, initiated by scholar-economist Ammar Siamwalla, was endorsed by the National Health Security Office board.

Currently, the CL policy on three important drugs for Aids and heart treatment - Efavirenz, Kaletra and Plavix – is basically limited to patients under the universal healthcare scheme run by the National Health Security Office (NHSO).

Under the plan, the CL policy will in principle cover all three schemes, said NHSO secretary-general Sa-nguan Nittayarumphong.

At the same time, he said, a sub-committee on CL has been set up to consider a group of essential drugs which CL should be further applied to. The panel comprises academics, health experts and

representatives from relevant state agencies such as the SSO, the Commerce and Foreign ministries, the Comptroller-General's Department, and the Budget Bureau.

Dr Sa-nguan, who chairs the sub-committee, believes patients under the SSO-run healthcare scheme should also benefit from this state policy.

He also pointed out that the new drug list for the CL policy has yet to be finalised.

So far, the sub panel has studied the possibility of enforcing CL on two cancer drugs, whose names have not been officially disclosed. But Dr Sa-nguan said all drugs listed for CL would be distributed to all healthcare schemes. Saengsuree Joota, a doctor at Ramathibodi hospital and president of the Thai Society of Haematology, last week urged the government to be careful in announcing CL on a leukaemia drug with the trade name of "Glivec".

She feared that the policy would result in a disadvantage for some patients who already have access to the generic version of the drug.

Mr Ammar urged health authorities to set up a system to manage and monitor drug distribution among state and private hospitals that provide medical services via the three healthcare schemes, to ensure that these drugs under the patent bypass would not be used for commercial benefit.

13. DEP and WIPO to assist entrepreneurs in creating brand name products  
(from *Thai News Service*, 26 July 2007)

The Department of Export Promotion (DEP) in collaboration with the World Intellectual Property Organization (WIPO) have announced plans to assist entrepreneurs in creating brand name products.

Ms. Supatra Srisuk, specialist of Product Development Center of the DEP, reports this is the second time that WIPO has arranged seminars and provided trainings to entrepreneurs. She says she has seen high quality copycat products made by Thai entrepreneurs. Ms Supatra added that if Thais are able to make such top quality products, then she has no doubts that Thais will be able to create their own line of product and be able to compete in the world market.

14. Cancer drug next  
(from *The Nation Newspaper, Local News Section, Page 2A, Thailand*, 27 July 2007)

Public Health Minister Mongkol na Songkhla wants to enforce compulsory licensing on breast and lung cancer treatments before the interim government steps down. He said that patients with breast and lung cancers had difficulty accessing effective treatments. Breast cancer is common among women and lung cancer among men in Thailand.

Compulsory licensing will make the medicines more affordable and more accessible. Licensing allows governments to force patent, copyright or other exclusive rights-holders to grant use to a state or others.

Usually, the holder receives royalties, either set by law or determined through some form of arbitration. Mongkol said his ministry's decision to enforce compulsory licensing on three medicines had attracted strong opposition. The medicines have been used to treat Aids and heart disease.

"We have to wait for the right time," Mongkol said, responding to questions about when the ministry would enforce compulsory licenses for the cancer medicines. However, he gave an assurance that he would do so before the government's term ends.

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## MALAYSIA

### 1. Boosting IP development (from *Tech&U*, 2 July 2007)

For the local information and communications technology (ICT) industry, the setting up of specialised intellectual property (IP) courts which will start hearing cases under the Trade Description Act 1972, Patent Act 1983, Copyright Act 1987, and Optical Disc Act 2000, underlines the Government's effort to position the country as a regional ICT hub.

Regardless of whether the investors are local or foreign, a fair and efficient system to hear, administer and dispose of IP infringement cases will inevitably enhance the business environment in the ICT sector, say observers.

However, based on the records that only 1,072 IPs were registered over the past 11 years from a pool of 1,737 MSC Malaysia companies, skeptics are wondering whether the establishment of the IP courts will actually have significant impact on the industry in terms of IP development.

Multimedia Development Corporation (MDeC)'s vice president of capacity development division Ng Wan Peng believes IP development will flourish if rights are respected and enforced.

Chairman of the Association of the Computer and Multimedia Industry Malaysia (Pikom) Lee Boon Kok said the setting up of the IP courts are a start towards increased IP development.

### 2. Malaysia ready to become region's intellectual property hub (from *Asia Pulse*, 4 July 2007)

Malaysia is ready to become a regional intellectual property hub with measures taken by the government to beef up the commercialisation aspect of IP and the operation of the IP court this month. However, Domestic Trade and Consumer Affairs Minister Shafie Apdal called for the intensification of efforts to commercialise IP to stimulate the country's economy.

"We've done a lot of research through the universities and the private sector and MyIPO (Intellectual Property Corporation of Malaysia) has to look into it (commercialisation) seriously," he told reporters after attending the monthly assembly for ministry staff here.

He said the ministry would hold a meeting with IP holders and the private sector soon to see how their inventions could be commercialised.

On the IP court, he said all states including Putrajaya would each have an IP session's court while the high court to hear civil and appeal cases on IP are to be set up in Kuala Lumpur, Selangor, Johor, Perak, Sabah and Sarawak. He also said MyIPO copyright division director A. Manisekaran would serve as consultant for the World Intellectual Property Organisation which is headquartered in Geneva.

### 3. Malaysia to have representative at WIPO in September (from *Xinhua News Agency*, 4 July 2007)

Malaysia will have a representative at the World Intellectual Property Organization (WIPO) in Geneva by September this year, local media reported.

A. Manisekaran, director of the Malaysian Intellectual Property Corporation's Copyright Division, will represent Malaysia at the organization. He is waiting for the approval of the related department of the Malaysian government before he leaves for Geneva.

Malaysian Domestic Trade and Consumer Affairs Ministry has said that it was important to have a Malaysian in the organization to get first-hand news of important matters, especially those that could affect the country's economy as well as sound a voice for the country.

4. Intellectual Property courts to be set up  
(from *New Straits Times Press*, 18 July 2007)

The cabinet has approved the Domestic Trade and Consumer Affairs Ministry's proposal to set up 21 Intellectual Property courts. They will include 15 Sessions Courts which will specifically handle criminal intellectual property cases. The courts will be set up in all states.

The others are six High Courts which will sit as "special designated courts" in states with the highest number of IP infringements: Kuala Lumpur, Selangor, Johor, Perak, Sabah and Sarawak.

Domestic Trade and Consumer Affairs Minister Datuk Shafie Apdal said the courts were expected to start hearing cases by next month.

"Malaysia is still under the international watch list of countries with a high number of IP offences. The setting up of the courts shows that we are serious about protecting intellectual property. Malaysia is second after Thailand in setting up such a court," he told a press conference.

Cases to be handled by the courts will include those under the Trade Description Act 1972, Patent Act 1983, Copyright Act 1987, and Optical Disc Act 2000.

In April, Prime Minister Datuk Seri Abdullah Ahmad Badawi had announced the setting up of a RM5 billion fund to protect local intellectual property, including helping inventors develop products and register their creations.

The prime minister had said the fund would also be used to set up the IP courts which would allow cases to be disposed of quickly. Compensation to aggrieved intellectual property holders could also be paid quicker.

Shafie said statistics provided by the court registrar showed 515 intellectual property-related cases had been filed in the magistrate's court as of June 30, last year, and another 1,030 in the Sessions Court as well as some 67 in the High Court as of Dec 31.

5. Anti-piracy seizures pass RM2.5m mark  
(from *The Malay Mail*, 20 July 2007)

The Domestic Trade and Consumer Affairs Ministry, in collaboration with the Business Software Alliance, has so far this year conducted 30 raids on companies which use pirated software and products.

Its deputy director-general (development), Iskandar Halim Sulaiman, said 19 of the raids were successful, leading to seizures estimated to be worth RM2.5 million.

Iskandar said the Government remains fully committed towards fighting software piracy, despite the country's deplorable 60 per cent software piracy rate last year, as reported in the BSA and IDC Global Software Piracy Study.

Iskandar reiterated that the use of software without proper licences in the course of conducting business is illegal under the Copyright Act 1987. If found guilty, the business and/ or its senior

management or directors are liable to a fine of between RM2,000 and RM20,000 for each infringing copy of software and up to five years' jail.

According to Iskandar, offenders may also face possible civil suits by copyright owners. Supporting the ministry's call, BSA director of anti-piracy (Asia) Tarun Sawney said many organisations do not weigh the risk of using pirated software and its consequences.

Sawney urged employees who are aware of their companies' illegal activities related to software piracy to report to BSA.

"It must be emphasised that the person who broke the law here is not the informant, but his employer who placed not only himself but also his senior managers at risk by insisting on the use of pirated software in business," he said.

Sawney said besides the reward, BSA also keeps the identity of informants secret. BSA operates a toll-free anti-piracy hotline, 1-800-887- 800, for reports on the use of unlicensed software in organisations, and provides a reward of up to RM20,000 for any information that results in a successful enforcement action.

6. Campaign launched to cultivate culture of going for original software  
(from *Bernama Daily Malaysian News*, 24 July 2007)

The Ministry of Domestic Trade and Consumer Affairs launched a campaign to cultivate in people the culture of "going original" in the attempt to weed out software piracy.

Minister Datuk Mohd Shafie Apdal said the "Sikap Tulen" campaign would include a series of activities that would spur businesses and consumers to adopt the culture.

"Through this campaign, we want to reach out to as many people as possible, not only owners of companies and boards of directors but even wider. We will conduct the campaign to spread knowledge and information to the public at large and talk to students as well," he told reporters after launching the campaign and unveiling the campaign logo.

Shafie explained that the campaign had six components -- "Sikap Tulen" Professional, "Sikap Tulen" Director, "Sikap Tulen" Company, "Sikap Tulen" Society, "Sikap Tulen" IT Mall and "Ops Tulen". He also said that up to May this year, the ongoing "Ops Tulen" enforcement operation had resulted in the confiscation of 81,452 pieces of software and 97 pieces of hardware valued at RM2 million in 15 cases.

Meanwhile, Chairman of the Business Software Alliance (BSA) Malaysia Committee Rama Tiwari said Vietnam had the highest percentage of software piracy in the world, at 88 per cent. This was followed by Indonesia (at 85 per cent), China (82 per cent), India (71per cent), Malaysia (60 per cent), South Korea (43 per cent) and Taiwan (41 per cent), he added.

7. For a piracy-free country  
(from *Tech & U*, 30 July 2007)

Software companies operating in Malaysia have voiced out that software piracy continues to be a large problem that is not only affecting their business in the country, but that of their ecosystem and ultimately the industry's contribution to the economy.

Symantec Corp's vice president for Asia South region Eric Hoh pointed out that what many people fail to realise is that the harmful effects of software piracy reach far beyond the software publisher.

"Pirating software is stealing, and that makes prices go up. The more revenue that is lost due to stolen goods, the less can be spent on research and development (R&D) of new products and new innovations. At the end of the day, the ultimate victim in this crime is the consumer," he said.

For Autodesk, software piracy affects not only its business, but also a broader scale of the economy and other sectors in the market.

Raymond Lee, the country director for Adobe Systems SEA, said that while piracy does negatively impact software companies, the damage affects the entire ecosystem, including the sales channel, distributors, retailers and consumers in this country.

Lee added that though the level of piracy in Malaysia remains, in Adobe's view, the actions now being taken on a consistent basis to penalise offenders and educate the market are step in the right direction in the ongoing fight to reduce piracy.

Microsoft Malaysia's business development manager Celina Conti suggested that there is need to consider the root issues when discussing piracy.

"We believe it is really caused by public apathy, that piracy is a crime and every time we purchase pirated software, we continue to feed this social ill. We need to continue educating society on the benefits of using original and licensed software and nurturing them to respect intellectual property in all areas of their lives.

"The second problem is of course policing - putting into effect the laws of the land that are very clear on software piracy. evidently, this problem has proven to be more challenging than it seems, but we need to press forward with it nonetheless," she said.

Conti said Microsoft's position is no different than many other organisations faced with the issue of piracy. It is a crime, a risk to data security and the integrity of information, and also a serious social ill.

"Asia-Pacific markets constantly have to combat software piracy and it is in the interest of Government and industry to drive it down. To combat this problem effectively, it is imperative for key industry players, as corporate citizens, to align their efforts to the Government's initiatives and objectives to create a piracy-free Malaysia," Conti said.

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## SINGAPORE

### 1. Managing IP policy a delicate balancing act (from *Business Times, Singapore, 3 July 2007*)

The management of intellectual property (IP) policy requires a delicate balancing act, and each country has to decide how it can best use it for maximum gain, Intellectual Property Office of Singapore (Ipos) director-general Liew Woon Yin said.

Ms Liew said that policy makers have to balance the needs of users and owners, regulation and development, and national development with international norms and expectations.

She was speaking at the launch of a week-long programme by the National University of Singapore (NUS) to train 32 policy makers, academics and members of the judiciary from 12 Asian countries in intellectual property.

The programme is sponsored by Microsoft Singapore and is part of the agreement signed between the NUS Faculty of Law and Microsoft last year to develop IP awareness and training for academics and policy makers in Asia.

Microsoft associate general counsel Rich Sauer said yesterday that Microsoft spends more than US\$6 billion in research and development to produce innovative technologies, and that without adequate IP laws, these efforts would not be sustainable.

Mr Sauer said that while Microsoft expects its IP rights to be respected, it also respects the rights of other companies, and spends more than US\$1.4 billion just licensing-in the intellectual property of other companies.

He also said that the debate surrounding open source software (OSS) and proprietary software should not be a question about which is better, but how both models can work together to meet the market demands.

In fact, customers are increasingly demanding that their OSS vendors provide assurances that the OSS products they are installing and servicing do not infringe on the IP of other vendors, Mr Sauer said.

## 2. Jetro survey gives high marks to Singapore in IPR protection (from *Business Times, Singapore, 5 July 2007*)

The progress Singapore has made in protecting intellectual property rights (IPR) is mirrored in a recent survey, which shows only 17 per cent of 87 Japanese companies polled here have been hit by piracy. And even then, the damage was largely not serious.

Only one of these 15 Japanese companies - manufacturers and distributors - indicated it 'suffered serious damage', according to the survey done in January and February by the Japan External Trade Organisation (Jetro) in Singapore.

Just over half - 50.6 per cent - of the companies polled said they 'never suffered any damage from imitation products'. Just under a quarter, or 24.1 per cent, of the respondents said they were affected outside Singapore, reflecting that many of the Japanese companies here function as Asian regional sales headquarters for their parents in Japan.

Some indicated that 'the situation is uncertain, although there seem to be imitation products', while others were 'not sure', according to the poll, which was the first of its kind carried out by Jetro in Singapore.

'By positioning the attraction of knowledge intensive and R&D companies as well as having a high concentration of industry as the pillar of its national strategy, the Singapore government has been strengthening protection of intellectual property rights, including enforcement of its revised copyright law,' Jetro says in a summary of the poll results.

Still, Yoshichika Terasawa, Jetro's MD in Singapore, was surprised to see 15 companies which reported violation of their intellectual property rights, despite the government's strong fight against piracy.

'Based on the survey, most counterfeit products were suspected to have come from overseas,' he said at a press briefing. 'However, the actual distribution network of the products is not clear from this initial survey.'

Jetro is continuing discussions with the Japanese companies to shed more light on the actual situation.' But Mr Terasawa acknowledged that 15 cases is still a very much lower figure than in other countries, 'reflecting the success of Singapore's copyright protection efforts'.

Of the 15 companies reportedly hit by imitation and counterfeit products, 12 said their trademarks had been violated. Nine of the companies indicated infringement of their designs, four complained about their patents and one referred to other areas.

Only two companies said that 'some counterfeit products are produced and sold in Singapore' and 'some are produced and sold in Singapore, but the actual fact is now known'. But none believed or suspected that the pirated goods were made here and exported.

Six of the 15 companies hit by piracy said 'it is true that some counterfeit products are brought into Singapore from foreign countries and sold in the Singapore market'. Another six only suspected that this is the case, but 'the actual fact is not known'.

Two companies indicated 'it is true that some counterfeit products are brought into Singapore from foreign countries and re-exported to foreign countries'.

3. Far East Plaza shop raided for selling fake goods  
(from *The Straits Times Newspaper, Singapore, 5 July 2007*)

A fifth floor retail outlet in Far East Plaza was raided for peddling counterfeit luxury goods. Three men in their 30s and 40s were arrested during the raid by the Criminal Investigation Department's Intellectual Property Rights Branch.

Several thousand fake watches, handbags and wallets carrying fake labels of luxury brands such as Louis Vuitton, Gucci and Chanel, with an estimated street value of \$80,000, were also seized.

According to lawyer Wong Siew Hong, who represents the Louis Vuitton Group here, these knock-offs are usually made in 'Chinese sweatshops'. Runners sometimes 'hand carry' them in. In other cases a syndicate's overseas counterpart posts packages of counterfeits to a local pickup address. These are then sold at up to four times the manufacturing cost.

This is the third reported raid in recent years on syndicates peddling knock-offs in the Orchard area.

4. Online copyright seminar to be held in Singapore  
(from *Media Blab, 9 July 2007*)

The World Intellectual Property Organisation is hosting a seminar on 'Legitimate Distribution of Copyright Works Online' in Singapore tomorrow, in cooperation with the Intellectual Property Office, and the Intellectual Property Academy of Singapore.

Key players in online copyright businesses – lawyers, academics, business people and policy-makers in the Asia-Pacific region – will shed light on this rapidly changing field.

Online businesses use digital technologies to reach consumers in new ways – for example peer-to-peer file sharing and social networking sites hosting user-generated content involving amateur video, mobile phone photography, podcasts, wikis and blog.

But copyright piracy has also risen to levels that threaten the sustainability of online businesses. Questions also arise about legal liability, such as who should be responsible for losses from piracy? With over 10 million users logging on to peer-to-peer networks at any one time and up to 600,000

films being illegally downloaded every day, it is clear that creative businesses are facing huge challenges associated with a rapid and dramatically changing commercial environment.

The seminar will explore opportunities and challenges for distributing copyright content online in the current legal and political environment.

5. Focus on IPR in Suzhou Park

*(from Business Times, Singapore, 9 July 2007)*

Since the first days of the Suzhou Industrial Park, a showcase project between the Chinese and Singapore governments, the importance of protecting intellectual property rights (IPR) has been recognised. With globalisation and the knowledge explosion, intellectual property rights have become a key competitive strength for both companies and nations.

Said Liang Chang, an officer overseeing IPR at the park: 'The Suzhou Industrial Park, as an important cooperative project between China and Singapore, has placed technology advancement as the basis for its development, and continues its pursuit of promoting the technology innovation environment.'

'Protection of intellectual property rights promotes innovation. The Suzhou Industrial Park, which has grown rapidly, has come to realise the close connection between preserving intellectual property rights and attracting external capital, encouraging innovation and accelerating economic and social development.'

Mr Chang, who is deputy chief of Technology Development and the Intellectual Property Rights Bureau, added: 'The three mainstay industries during the starting period - integrated circuits and optical, mechanical and electronic integration - all require protection of intellectual property rights.'

'The Intellectual Property Rights Bureau and Intellectual Property Rights Joint Conference have been established in the park, which have issued independent innovation policies. Each year, a forum and a seminar on the protection of intellectual property rights are held in the park, to highlight basic laws and regulations relating to the issue. This helps boost the innovative environment at the park.'

Internationalised environment

Added Mr Chang: 'The emphasis on intellectual property rights has drawn the attention of the State Intellectual Property Rights Bureau and the park was chosen to be the first State Intellectual Property Rights Test Park in April, 2006 in Jiangsu province.'

'The test park will be completed in three years, creating an internationalised intellectual property rights environment.' The park was the first to establish an Intellectual Property Rights Protection Centre in the development zones of the country to serve as a strong service support for IPR applications, protection, and brand strategy implementation for enterprises in the park.

For instance, a research scientist who returned from the US had set up a biotechnology enterprise in the International Technology Park and wasn't aware until recent discussions with the Intellectual Property Rights Protection Centre that his company could apply for over 30 patents from the results of its research.

However, with limited knowledge of domestic patent application and limited personnel, the firm had not started the application process. Now, its problems can be resolved by Intellectual Property Rights Protection Centre, which provides services that meet the needs of the many technology enterprises.

6. Night Markets raided for fake goods  
(from *The Straits Times Newspaper*, 14 July 2007)

Three Chinese nationals and two Singaporeans were arrested this week for distributing and selling fake designer and sports goods from makeshift stalls at night markets.

The police, in a 13-hour island wide sting operation on Wednesday, picked up the five, aged between 31 and 51 and believed to be part of a local distributor and syndicate that hawks counterfeit luxury and sportswear products.

The raids in Ang Mo Kio, North Bridge Road and People's Park Complex netted more than 8,500 trademark infringing items, including leather bags and wallets. The street value of the cache was estimated at \$300,000. The police had been tipped off in March on these makeshift stalls operating in night markets or pasar malam in housing estates across the island.

They also found out a major local distributor was feeding the stalls with counterfeits. They have been remanded while further investigations are on. The two Singaporeans are also still being investigated.

Head of the Intellectual Property Rights Branch of the Criminal Investigation Department Sharmaine Ong said: 'Police will not tolerate such blatant disrespect of the intellectual property rights law and will continue to take swift and stern action to eradicate piracy syndicates in Singapore.'

Those found in possession of, selling or manufacturing counterfeit products might face a fine of up to \$100,000, a jail term of up to five years or both.

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## PHILIPPINES

1. OMB nets close to P100-March fake discs  
(from *Business World*, 13 July 2007)

The Optical Media Board (OMB) seized close to P100 million worth of optical media discs and media production paraphernalia last month, the Department of Trade and Industry (DTI) said.

Citing an OMB report to Trade Secretary Peter B. Favila, the department said a total of 224 enforcement operations had resulted in the confiscation of 374,00 media discs and media production paraphernalia worth P97.273 million.

"The continued piracy activities of unscrupulous businessmen in the country, which disregard the rights of creators and performers of films and musical recording, are stumbling blocks to the economic growth of the country," Mr. Favila was quoted as saying.

The operations were conducted in the cities of Manila, Makati, Mandaluyong, Quezon, Caloocan, Muntinlupa, Las Pinas, and Pasig, and the provinces of Rizal and Cavite.

OMB conducted 193 enforcement operations and seized an estimated P85.748 million worth of optical media discs and media production paraphernalia in May.

The Office of the United States Trade Representative recently placed the Philippines and 29 other trading partners on the lower level watch list from the priority watch list of its Special 301 Report. The country has been on the priority watch list since 2001 and was relegated to the ordinary watch list in 2006.

The OMB is composed of four ex-officio members from the DTI, Department of Interior and Local Government, Department of Finance, and the Director General of the Intellectual Property Office or their duly authorized representatives; and five regular members to be appointed by the President.

2. IP Philippines holds workshop to create first collection society for the visual arts  
(from *Hechanova Bugay & Vilchez Law Office*, 20 July 2007)

The Intellectual Property Office of the Philippines (IP Philippines) in cooperation with the International Confederation of Authors and Composers Societies (CISAC) recently conducted the “Seminar-Workshop on the Collective Administration of Visual Arts in the Philippines” at the Bahia Function Room of the InterContinental Manila. Filipino participants composed of visual artists namely, painters, sculptors, photographers, illustrators, and owners of image banks and galleries attended the event.

“One of our strategic goals for the year is to institutionalize our Copyright Support Services, which includes helping artists form collection societies to manage their copyright royalties similar to what FILSCAP is doing for musicians,” Atty. Adrian S. Cristobal, Jr., Director General of IP Philippines, said.

Copyright governs the creative industries from paintings to literature, publishing, recording, film, broadcast media, print media, and many others. The workshop tackled issues particular to the visual arts community.

During the workshop, Atty. F.D. Nicholas Pichay, an artist and legal practitioner, discussed basic copyright in the visual arts. “This topic can shed light on some misconceptions about copyright. An example is that one must apply and register from a government agency to obtain a document certifying one’s copyright. This is false because original artistic and literary works are protected from the moment of their creation,” Cristobal said.

Cristobal added that the registration and deposit of copies of copyrighted work in the National Library and the Supreme Court Library are for the records of the National Library and the Supreme Court Library, and as evidence of ownership if the need arises. This must not be construed as a means to acquire copyright.

3. Anti-piracy group hauls in P1.4b  
(from *Manila Standard*, 20 July 2007)

The government has seized a total of P1.39 billion worth of pirated goods in the first six months of the year, surpassing the P1.35 billion it confiscated last year.

“This figure is the outcome of strengthened institutional linkage among members that share vital information that yield successful raids,” said lawyer Adrian Cristobal Jr., director general of the Intellectual Property Office of the Philippines.

In 2005, a total of P1.5 billion worth of counterfeit products were confiscated by the various enforcement agencies. The National Committee for Intellectual Property Rights, which groups a number of government agencies, has hauled in close to P4 billion worth of pirated items since its creation in 2005.

IP Philippines is the lead inter-agency coordinator of the NCIPR. The enforcement groups are the Bureau of Customs, National Bureau of Investigation, the Optical Media Board and the National Police.

NCIPR members include the Department of Justice, the National Book Development Board, the National Telecommunications Commission and the Supreme Court. NCIPR enforcement agencies have so far conducted total inspections of 870 sites from 262 search warrants. The agencies were also able to issue warrant seizure and detention in 10 operations.

Customs continues to take the lead this year by contributing P458 million to the pirated goods seized so far this year. In 2006, Customs took possession of P723 million worth of fake goods or 53.56 percent of the total value of P1.35 billion seized for the year. For its part, OMB brought in P443 million worth of pirated discs in 2007. PNP seized pirated items valued at P340 million, arrested 86 individuals, and filed nine cases.

Meanwhile, NBI confiscated P153 million worth of fake goods and filed 110 cases with the justice department.

“All these efforts are in line with the President's directive of upholding intellectual property rights since this promotes diffusion of knowledge, develops local talent and creativity, and at the same time encourages more foreign investors to endow their strong qualities in the Philippine market,” Cristobal said.

4. NBI swoops down on printing press for labels of bold DVDs, VCDs, including bold anime cartoons  
(from *Philippines News Agency*, 28 July 2007)

Agents of the National Bureau of Investigation (NBI) swooped down on a printing press which is reportedly engaged in the printing of labels of pirated bold compact discs (CDs) and digital versatile discs (DVDs), including bold anime cartoons, in Malabon.

The operation resulted in the seizure of five sets of computers and three sacks of labels of pirated bold CDs and DVDs worth P500,000.

Regional Director Ruel Lasala, chief of the NBI National Capital Region (NCR), said the raiding team was armed with a search warrant issued by Judge Leonardo Leonides, of the Malabon Regional Trial Court (RTC) Branch 74, when they raided the premises of JMNS Printing located at 92 MH del Pilar corner Roque Streets in Tugatog, Malabon on Friday morning.

Lawyer Rommel Vallejo, NBI-NCR executive officer, said the printing press was reportedly the main source of the labels of pirated bold CDs and DVDs for the stalls in Quiapo, Manila and Greenhills, San Juan. Vicente Ipkin Wok, the alleged owner and general manager, who was at the printing press at the time of the raid, was not arrested.

Our search warrant contains the name of one Jose Chui as the alleged owner of the premises so we did not put Wok under arrest, said Vallejo, adding that they bureau is studying the appropriate charges to be filed against Wok.

Vallejo said the large printing equipment remained intact at the establishment. It remains intact because it was installed to the ground and we cannot just detach it, he said.

The NBI-NCR executive officer added only the labels of the bold VCDs and DVDs were seized by the raiding team and spared the labels for wholesome movies.

The warrant specifically says that only those bold VCDs and DVDs can be seized as the charges is for violation is Article 201 under the Revised Penal Code as amended by PD 969 for indecent doctrines, publication and exhibition, he said.

Vallejo said they applied for search warrant for violation of indecent publication and not the violation of Intellectual Property Rights (IPR), the reason why they spared the other labels.

5. Trademark listings in RP seen to surge  
(from *Philippine Daily Inquirer*, 30 July 2007)

Trademark registrations with the Intellectual Property Office are expected to continue to surge as the agency adopts further measures to shorten the approval process.

Adrian S. Cristobal Jr., IP Philippines director general, said in an interview that listings increased 21 percent with 13,263 trademarks approved in 2006 from 10,475 in 2005.

"To date, just halfway through the year, we have already approved the registration of 9,936 marks," Cristobal said. "We are confident of still another high-growth year this year considering that trademarks registration is not seasonal like business name registration, which is done mainly at the start of the year," he added.

When talking about trademarks, Cristobal was actually referring to four kinds of marks that distinguish goods (trademark) and services (service mark), and even enterprises (trade name) and websites (Internet domain name) from one another.

From 2003 to date, IP Philippines has approved the listing of 43,457 marks. Of these, 34.2 percent or 14,873 are domestic marks while 21 percent are from American firms; 7 percent Japanese; 5 percent Swiss, and 4 percent German.

"The registration process from filing to approval used to take around four years, which was a disincentive for business owners to protect their mark," he said.

Cristobal said there were many cases where enterprises complain about and take legal action against copycats. "But their case gets weak because their marks were not registered," he said.

Cristobal explained that IP Philippines could now bring an application for mark registration through the entire process in as fast as six months. The agency was able to pare down the four-year waiting time to two years in 2005 and 12 to 15 months in 2006.

6. Arroyo supports passage of bill seeking to cut medicine costs  
(from *Asia Pulse*, 31 July 2007)

Senator Mar Roxas welcomed the support of Philippine President Gloria Macapagal-Arroyo for the passage of a bill seeking to lower the prices of medicines, as she expressed intentions to make sure that it would be finally enacted in the 14th Congress.

"I welcome the Presidents remark on the bill during her SONA (State-of-the-Nation Address), and I also see hope in the House Speakers intention to expedite its approval. Let us exhaust all avenues for consultations with health and economic experts as well as with civil society to ensure the passage of the best laws for this advocacy to become a reality," he said, adding that both chambers should now just get down to work and ensure that it would be passed.

Roxas has refiled the bill, which was approved on third reading by the Senate in the 13th Congress, as Senate Bill No. 101. He said there would be no obstacle anymore to the passage of the bill since it has now the support the Executive Department and the Lower House.

He also said that the most suitable thing to adopt now is through an open and genuine consultation between the proponents and the stakeholders and experts as well.

"The correct and reasonable thing to do is to thresh out all arguments on the merits and differences of all the versions that have been filed, in open consultation with experts and constituencies yearning for a good law that can stand the test of time," he said.

Further, the senator has urged the Department of Health to be more proactive in the issue, especially as it would be the lead agency in implementing the proposed measure.

Senate Bill No. 101, authored by Senator Roxas, is the same version as the bill that had been certified as urgent by the President during the 13th Congress, and that the Senate had approved on third reading. Unfortunately, the Lower House was unable to approve its version due to lack of quorum.

The bill enjoys the support of those in the public and private sector, including the broad stakeholder coalition Ayos na Gamot sa Abot-Kayang Presyo (AGAP); Cut the Cost, Cut the Pain Network (3CPNet); the Department of Health and its attached agencies; the Department of Trade and Industry, including the Intellectual Property Office; Philippine Chamber of the Pharmaceutical Industry, the group of the local generics manufacturers; international organizations such as the World Health Organization and OXFAM International and various other stakeholder groups and non-government organizations.

SB101 would ease restrictions found in the Intellectual Property Code and allow the parallel importation of identical yet much cheaper medicines from other countries. It also allows generic drug manufacturers to begin experimentation, production, and registration of drugs before expiry of patents.

The bill also prevents patent holders on extending their patents on flimsy reasons such as the discovery of a new use of the patented drug. Lastly, the bill grants the government discretion in use of patents when public health is at stake, and provides a framework for ample compensation to the patent holder.

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## INDONESIA

### 1. Indonesia chairs WIPO meeting (from *The Jakarta Post Newspaper*, 21 July 2007)

Deputy head of the Indonesian permanent representative to the United Nations and International Organizations in Geneva I Gusti Agung Wesaka Puja recently chaired the 11th session of the World Intellectual Property Organization (WIPO) on genetic resources in Geneva. The meeting was held from July 3 to 12 in Geneva.

The objective of the meeting was to formulate international norms and regulations to protect intellectual rights in genetic resources, traditional knowledge and folklore.

During the session, Indonesia's delegation voiced the aspirations of the Asian-African nations, including decisions calling for legally binding regulations to protect genetic and traditional knowledge rights.

### 2. Mastroto hit by patent problems (from *The Jakarta Post Newspaper*, 30 July 2007)

Renowned Italian leather firm Gruppo Mastroto is unable to market its products in Indonesia due to the fact a local firm patented its brand name first.

"The police have closed down Mastroto's storehouses. The company is not allowed to market products using its name here because it is considered to be violating intellectual property rights," Eddy Widjanarko, head of the Indonesian Footwear Association, said.

He said the Italian firm has been using the name as a global brand for decades. Its leathers are widely used for sofas and seats.

"This sort of thing often happens here. The real owner of a famous brand can't use its own name in Indonesia because a local company has earlier patented it. Our regulations allow for such a thing to happen," Eddy said.

Because of the problem, Suprpto Suwardi, director of PT Mastroto Indonesia, a local unit of Gruppo Mastroto, said the firm would cancel its plan to increase its leather production for the footwear industry and would proceed only with leather production for sofas and seats.

Anshari Bukhari from the Industry Ministry said the government was keeping a close eye on the matter. "We'll find a solution to this problem. We will talk to the directorate general for intellectual property rights about it."

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## VIETNAM

### 1. 7 Switzerland helps protect intellectual property rights (from *Vietnam News Agency Bulletin*, 17 July 2007)

The Swiss government is to provide 1 million USD for Viet Nam to implement a 2007-2010 joint programme on intellectual property rights (IP).

An agreement to this effect was signed by Vietnamese Minister of Science and Technology Hoang Van Phong and the Swiss Minister of Economics, Doris Leuthard, in Ha Noi on July 16. The programme is the second phase of a project which has been carried out by the Viet Nam Intellectual Property Department and the Swiss Federal Institute of Intellectual Property since 2001. The 2001-2006 first phase focused on building an IP legal framework, meeting the demand for Viet Nam's WTO accession.

Under the programme, the Swiss government will help Viet Nam improve the capacity of intellectual property right enforcement agencies, speed up the IP teaching at universities and establish a system for traditional knowledge protection.

Switzerland has given its funding to Viet Nam since 1993 in an effort to help the Southeast Asian country reduce poverty through sustainable economic development.

### 2. Ministries draft rule to combat illegal publishing (from *Thai News Service*, 18 July 2007)

The ministries of Public Security and Culture and Information have worked together draft a circular that aims to boost the fight against illegal printing operations. Illegal printing has become an increasingly serious problem for the publishing industry during the past years as sanctions have proved too light to deter violators from breaking the law.

Many illegally-printed products already break several laws, including the Publishing Law and Intellectual Property Law, while also dodging taxes.

According to State officials, the most severe current fine of 30 million VND is not high enough to deter criminals, who can absorb fines with huge profits from illegal publications. In developed countries, sanctions for the crime are much more severe.

Speaking at a conference on fighting illegally printed products held earlier this month in Vinh Phuc province, a representative from the police said it is not too difficult for officers to find offenders.

At the conference, delegates agreed that the most feasible measure is to strengthen cooperation between sectors including cultural inspectors, and market watch teams, as well as between the Government and localities to carry out periodic and surprise inspections. However, many worried about an overlap of responsibility.

Vu Xuan Thanh, an inspector from the Ministry of Culture and Information, said the cooperation of the mass media is required to publicise the names of those who ran illegal printing operations.

To put public pressure on printers and publishers who are breaking the law, their names must be made public, said Thanh.

Director of the Publishing Department Nguyen Kiem said illegal printing has become more and more sophisticated and one single measure or agency cannot handle the problem. It requires coordination between relevant agencies to stop this, said Kiem.

3. 1 new intellectual property measures launched  
*(from Vietnam News Agency Bulletin, 26 July 2007)*

The Department of Intellectual Properties on July 26 rolled out six new initiatives to encourage intellectual property promotion and protection within the country. The new mechanisms have been designed to clamp down on violators of trademark protection laws and raise public awareness on the benefits and negative impacts of the misuse of intellectual protection.

The Truong Thanh Technological Investment and Development Company has been charged with implementing the "Trademark promotion" programme, the Trade University the "To establish and promote product brands" scheme, the Viet Nam Fund in Support of Technological Innovations with a public awareness campaign entitled "Information campaigns on industrial property" and the Ministry of Science and Technology's southern representative office has been handed the "To create a model of managing intellectual property operations" project.

The two remaining initiatives revolve around two of the country's most well known agricultural products. The Bac Giang lychee and Phu Tho's pomelo are set to benefit from trademark building as Science and Technology embark on an ambitious project to build and protect the fruit's unique brand.

The new schemes are part of a wider government effort to support intellectual property rights and enforcement for the 2005-2010 period.

4. INVESTIP Industrial Property joint stock company made debut  
*(from Thai News Service, 30 July 2007)*

The INVESTIP Industrial Property Joint Stock Company made its debut in Hanoi on July 26 with the aim of assisting domestic and foreign investors and businesses in trading activities and protecting their intellectual products.

INVESTIP is Vietnam's leading company specialising in trade consultancy and intellectual property services. Established in 1998, INVESTIP has developed gradually and become a big intellectual

property business in Vietnam. It is now a member of Asia Patent Attorney Association (APAA), International Trademark Association (INTA), ASEAN Industrial Property Association (ASEAN-IPA), International Association for the Protection of Industrial Property (AIPPI).

In addition to intellectual property protection, INVESTIP provides consultancy services in investment, trading, technology, the environment and information.

5. IP protection – a key task in integration process

*(from Thai News Service, 31 July 2007)*

Fully and properly protecting intellectual property rights to inventions, designs and trademarks will make significant contributions to promoting research and creativity, encouraging healthy competition, attracting foreign investment, and giving fresh impetus to socio-economic development.

The Intellectual Property Department under the Ministry of Science and Technology met on July 28 to celebrate its 25th anniversary of the establishment and receive the Labour Order, second class, in the presence of Minister of Science and Technology Hoang Van Phong.

After 25 years of establishment, the Intellectual Property Department has greatly contributed to building and perfecting legal documents on intellectual property, gradually meeting the country's development requirements and international standards. The department has received tens of thousands of industrial property registrations and granted intellectual property certificates for domestic and foreign individuals and legal entities.

It has closely worked with relevant agencies in the field of international cooperation, actively engaging in negotiations on multilateral and bilateral trade agreements, effectively implementing Vietnam's international commitments, developing the intellectual property information system, socializing the protection of intellectual property right and raising public awareness about this field.

Speaking on the occasion, Mr Phong said, We are now better aware of the significance and necessity of protecting intellectual property rights in the process of national development and international integration. Fully and properly protecting intellectual property rights to inventions, designs and trademarks will make significant contributions to promoting research and creativity, encouraging healthy competition, attracting foreign investment, transferring technology and giving fresh impetus to socio-economic development.

However, the tasks assigned to the department after Vietnam's entry to the World Trade Organisation (WTO) are very challenging. Vietnam's intellectual property activities would help raise the competitive capacity of the national economy while ensuring the effective implementation of its bilateral and multilateral commitments on intellectual property in the process of international integration.

To reach this goal, the Department should maintain close cooperation with related intellectual property agencies, perfect the legal system, ensure the quality and timely process of handling industrial property registrations and intensify professional training of staff involved in intellectual property protection.

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## INDIA

1. Duplicate parts, cosmetics seized

*(from The Times of India, 8 July 2007)*

In raids conducted in different parts of Ahmedabad on July 4, the crime branch of Gaekwad Haveli seized a large quantity of duplicate auto parts and cosmetic products of an international brand.

The officials conducted the raids at six different places on the complaint received from Suryakant Kharat of Enforcers of Intellectual Property Rights (EIPR). The seized goods include duplicate auto parts of Lucas, Mico and cosmetic products in large quantities.

M D Upadhaya, sub inspector (crime branch) said, "All the six accused in the case have been produced in the court and have been sent to judicial custody on Saturday." The items recovered included 413 pieces of duplicate Mico auto parts worth Rs. 48,836 and 263 pieces of Lucas auto parts worth Rs. 22,431.

Kalupur police station officials in a joint operation with EIPR conducted raids at five different places in Ahmedabad and arrested Hirabhai Tikvani of Rainbow Selection, Sharbhai Shah of Karan Enterprises, Sanjay Tekhwani of Lalit

Novelty, Mitesh Bhavsar of S V Enterprises and Vijay Nanda from Rajesh Traders and seized duplicate cosmetic products of an international brand in large quantities.

## 2. Indo-Pakistan moves at rice diplomacy yet to bear fruit (from *Business Times, Singapore, 10 July 2007*)

Despite their longstanding differences, India and Pakistan are attempting to work together to fight a global legal battle to protect their intellectual property rights for Basmati rice, a major crop in both countries.

The move is part of their broader economic diplomacy that aims to broaden and deepen bilateral trade. India has requested Pakistan to allow imports of more Indian products, while Pakistani banks plan to open branches in Indian cities.

While many of the other issues are still in gestation, the two countries are proceeding on a rare agreement, made last year, that they would study ways to prevent the infringement of their intellectual property rights for the Basmati brand.

Indian and Pakistani concerns result from earlier attempts by an American company to patent Basmati rice in 1997. India produces around one million tonnes of Basmati and exports two-thirds of it, while Pakistan exports around 800,000 tonnes a year.

This is not to downplay the differences between the two countries, even on this issue. Both countries have serious differences over which one actually has the rights to Basmati rice.

Some Indian experts feel that India alone has the right to register Basmati under Geographical Indications (GI) Law of the Trade Related Intellectual Property Rights (TRIPs). This is because Basmati was originally grown in the Dehradun area of India's Uttar Pradesh province, and was later also cultivated in the Punjab region of Pakistan.

Last June, India claimed to have developed a new brand dubbed Super Basmati rice. India's Punjab Agricultural University said that it created the new Super rice after refining and further developing rice seeds brought to India from Pakistan. Pakistani officials and rice traders say that as a result of India marketing the Super Basmati rice in Europe, Pakistan's exports of the same Super brand to Europe had plunged.

The Indian minister of state for commerce, Jairam Ramesh, put a positive spin on the issue by saying that India and Pakistan would jointly seek GI registration in Europe and the US for Basmati. He said that India would not file for a registration on its own because Basmati is also grown in Pakistan.

According to Mr Ramesh, the Indian government would jointly own the intellectual property rights to Basmati with the Pakistani government.

While a trademark gives rights to an intellectual property belonging to a person or a company, a GI is granted for a product owned by a community. The TRIPs clause defines geographical indication as 'a good originating in the territory of a member, or a region or locality in that territory, where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin'.

The Indo-Pakistan accord holds that Basmati rice is as exclusively associated with India and Pakistan as Champagne is to France and Scotch whisky is to Scotland.

Against this background, India and Pakistan began coordinating a joint marketing strategy for Basmati rice in April this year, as both sides have come to accept the reality that the cultivation of Basmati is a common traditional knowledge of both countries. In May, India tried to speed up rice diplomacy. India's commerce and industry minister Kamal Nath asked Pakistan to speed up filing joint applications to register GI for Basmati.

He told the Pakistan government that while India had chosen members of a joint taskforce to prepare for GI registration, Pakistan had neither taken similar action nor did it have in place the necessary domestic GI law.

So, it appears that the much trumpeted rice diplomacy has yet to bear fruit. Both nations should realise that they must act quickly to thwart biopirates, otherwise they will be played off one against the other and both stand to lose out.

### 3. Patent board reserves verdict on Novartis plea (from *Business Standard*, 11, July 2007)

The Indian Patent Appellate Board (IPAB) reserved judgment on Novartis' appeal challenging the appointment of former Controller General of Patents S Chandrasekhar as a technical member of IPAB, which is hearing its appeal against the Indian patent office's move to not allow patent protection to its anti-cancer drug Glivec in India.

The Swiss pharma major had objected to the composition of the IPAB patents cell on the grounds that Chandrasekhar was Controller General of Patents when the company's original application for Glivec was rejected.

Chandrasekhar joined IPAB a few months ago, following his retirement from the IP office.

Arguing on behalf of Novartis, senior counsels Shanthi Bhusan and Habibullah Basha submitted that the technical cell could have one more technical member in addition to Chandrasekhar or the tribunal could ask the government to appoint another person. The Patents Act allows only one judicial member and one technical member at present.

Additional Solicitor General V T Gopalan, arguing on behalf of the Centre and Controller General of Patents before the tribunal, defended the appointment of Chandrasekhar as technical member of IPAB.

He contended that Novartis should have made its objection when the case was shifted to the appellate board. Since it had failed to do that, it was not right to raise the issue now, he added. He argued that once a statutory order was passed, the tribunal should start hearing the case without asking for appointing another person.

IPAB is hearing the patent case following a decision of the Madras High Court to transfer one of the cases - on the decision of the Chennai patent office to reject the Glivec patent - to IPAB.

4. India should be intellectual property creator  
(from *Indo-Asian News Service*, 20 July 2007)

With global brands flooding the Indian market, it is time the country became a creator of intellectual property rather than merely using it, said Commerce and Industry Minister Kamal Nath.

"India should not only be an intellectual property user but an intellectual property creator," Kamal Nath said while launching a portal for filling patent and trademark applications online. Applicants will now be able to file the patents through the Internet and they can now also make payments through a payment gateway of authorised bankers.

"Time has come when Indian brands would be recognised world over. E-filing is a major step towards modernizing our intellectual property structure having complete transparency," the minister said.

"India is also at an advanced stage of joining the Madrid Protocol on trademarks. The bill for making the changes necessary in the trademark law would be introduced in the forthcoming session of parliament," he added. "India's membership in the Madrid Protocol would help Indian companies to register their trademarks in the member countries of the protocol through a single application."

Currently, about a dozen or so countries such as the US, EU, Japan, South Korea and China have e-filing facilities.

5. Patent & Trademark get e-filing facility  
(from *The Economic Times*, 21 July 2007)

The government has launched a facility for e-filing of patent and trademark applications to speed up the process of securing exclusive rights over a product or trading symbol.

"Applicants can file their patent and trademark applications from anywhere in the world at any time at their convenience through Internet. Payments can also be made through payment gateways of authorised bankers, which would save time and money and hassles involved in visiting offices," commerce and industry minister Kamal Nath said.

Last year, 29,000 patent application were filed in the country, of which 8,000 were approved. Mr Dua said the number of patents in the country increased by over 600% from 1999-2000, when less than 5,000 applications were filed.

The modules for e-filing and online processing have been developed by the National Informatics Centre while the payment gateway is currently being provided by the State Bank of India.

Mr Dua said the government had undertaken a Rs 153-crore programme to modernise infrastructure of intellectual property offices in the country. The fund was used to build four offices in metros.

6. Local cos can eye patents in US  
(from *The Economic Times*, 24 July 2007)

A Crucial bill making its way through the US Congress is set to give a new inexpensive option for Indian drug makers to attack the patents that give monopoly rights to top-selling MNC brands in the largest pharmaceutical market.

The bill passed by the judiciary committees of the House and the Senate last week, for a sweeping overhaul of the US patent system, allows an interested party to invalidate patents outside a court of law. They could approach the US Patent and Trademark Office (USPTO) for this after the patent is issued.

"The patent reform is beneficial to Indian companies as they are usually not patent holders and are often excluded from the US market by the threat from weak patents," said US-based intellectual property law firm Darby & Darby PC's Washington DC Office managing principal Dr Raj S Dave.

There will be two windows for filing petition for cancellation of a patent. The first is within 12 months of issue or reissue of the patent. The second window is available if the continued existence of patent claim is likely to cause the petitioner significant economic harm and the petitioner has received a notice from the patentee alleging infringement, said Dr Dave in reply to an ET questionnaire. It allows one to challenge a patent anytime during its life at a fraction of the cost of litigation.

"This provision will subject many existing US patents to an immediate threat of invalidation as it makes easier to show the obviousness of the invention. Seeking invalidation of patent is likely to be a part of the patent strategy that Indian generics companies may follow in the US. Companies could either make use of this provision or opt for the existing process of litigation or a mix of both depending on legal advice on a case to case basis," said Indian

Pharmaceutical Alliance secretary general DG Shah. Now, requesting marketing approval for a patented drug's generic copy leads to the innovator suing the applicant.

There are some major differences between moving the patent office for revoking a patent and filing for marketing approval and risking litigation. If the patent is invalidated at the patent office, the market for the drug is open to all generics makers unlike in the second case, where the successful generics company gets a six month market monopoly. Since only the first company to successfully file para four application is entitled to the six month market monopoly, companies may not wait for the patent office's decision.

"The provision has to be used judiciously," says Ranbaxy executive director corporate affairs and global corporate communications Ramesh L Adige. "The documents and arguments a petitioner relies on for invalidation at the patent office cannot be relied upon in a court of law, as the law stands today. Therefore, losing the case at the patent office means the company needs fresh ground to challenge the patent elsewhere," he told ET.

He added that the reforms are still some way off as they need to be voted in the full house and senate. The reforms will give more flexibility and freedom for adopting the appropriate patent challenge strategy on a case to case basis, said Anoop Narayanan of Mumbai-based law firm Majmudar & Co.

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## UNITED ARAB EMIRATES

### Campaign against illegal software vendors

*(from Asia Pulse, 2 July 2007)*

Joint anti-piracy entrapment operations have resulted in the arrest of three illegal traders and confiscation of various counterfeit items during separate raids launched earlier this month in Sharjah. The raids were initiated by Microsoft, as a Business Software Alliance (BSA) member.

A combined team of anti-piracy operatives and UAE authorities seized nearly 100 assorted pirated CDs and three personal computers installed with illegally downloaded software during the surprise operations.

Juma Al Leem, Director of Censorship Department, Dubai Government, said, "The only way to deter the proliferation of these unlawful elements is through a compelling show of force. Our efforts are also a way of encouraging consumers to deal only with resellers offering genuine software as doing otherwise would be tantamount to supporting these criminals. By keeping the industry free of illegal software distribution, we are encouraging more foreign investments and consequently generating new wealth for the economy."

BSA - the international association established by the software industry to promote a safe and legal digital world - has also recently signed a Memorandum of Understanding (MoU) with the Ministry of Economy, which is considered to be the first agreement of its kind in an economy in the region.

Jawad Al Redha, Co-Chairman, Business Software Alliance, Middle East, said, "It is important that we sustain our tactical initiatives to send a strong message to cyber crime syndicates that we will find and remove them. Our collaborative efforts with local authorities and private organizations have yielded excellent results and have even encouraged other business establishments to join our campaign by providing valuable information about illegal traders in their area."

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## LEBANON

### 1. Lebanon destroys 100,000 pirated CDs, DVDs (from *Daily Star*, 6 July 2007)

Lebanese authorities destroyed an estimated 100,000 pirated CDs and DVDs valued at \$3 million and security officials said the crack down on violators of intellectual property rights will continue without relent. Using small bulldozers and steamrollers, municipality workers, under the watchful eyes of security forces and representatives of software companies, smashed the pirated CDs near the Aley municipality square.

This was the biggest batch of counterfeit CDs and DVDs ever confiscated in Lebanon's history, according to authorities.

Lebanon, which is ranked one of the top copyright violators in the Middle East, has come under increasing pressure from software companies and Western countries to combat piracy.

A senior security official told *The Daily Star* that authorities have arrested 60 suspects involved in the manufacturing and distribution of pirated CDs.

Speaking on condition of anonymity, the officer said that the destruction of the seized and pirated CDs does not mean that the war against computer piracy has been won. "We realize that ridding Lebanon of pirated CDs and other intellectual property violations is a very long road. However, we are determined to pursue the violators everywhere," the officer said.

He added that the authorities also seized the machines which copy the CDs and DVDs.

Representatives of software associations hailed the government's move. "Reducing piracy rates and limiting the use and trade of pirated products including software, music and movies has a crucial role

in the economic, cultural and educational development of the country," said Aly Harakeh, the Business Software Alliance (BSA) spokesperson for the Eastern Mediterranean region.

He added that BSA, the Beirut and Mount Lebanon Chamber of Commerce and Industry's Intellectual Property Committee and other local and international organizations have started a project to educate businesses and consumers about the laws regarding property rights and to press for the enforcement of these laws. The International Federation of Phonographic Industry, the Motion Picture Association and various law enforcement agencies are involved in the effort.

"Lebanon's reputation as the birthplace of innovators and creators is being tarnished by the conduct of individuals and companies seeking quick profit. The Lebanese authorities will no longer tolerate rampant piracy and will continue their crackdown against the software, music and film pirates," the officer said.

He said some pirates manufacture large quantities of illegal CDs and DVDs and smuggle them to other countries.

BSA estimates that Lebanon's computer piracy rate was at 73 percent in 2006, with the total losses that year totaling \$39 million.

The government is keen on speeding up the crackdown on violations of intellectual property rights in order to improve Lebanon's chances of gaining entry into the World Trade Organization (WTO). Economy and Trade Minister Sami Haddad said last month that intellectual property enforcement is one of the conditions to join the WTO.

Insiders say that raiding illegal operators requires political will on the part of all the concerned parties in the country.

## 2. Piracy destroys livelihoods in Lebanon *(from Daily Star, 31 July 2007)*

Problems with piracy and the state of intellectual property rights (IPR) in Lebanon lead to adverse effects on technical innovation and international trade, warned participants at a United States Agency for International Development (USAID)-funded work shop.

"Piracy destroys [the] livelihood [of the Lebanese]," said Ralph Oman, an American lawyer and lecturer on issues of intellectual property at Washington D.C.'s George Washington University Law School. "[They] can't pay their rent, can't feed their children. There's no future in piracy."

"Lebanon has a unique type of piracy," added Lebanese lawyer Walid Nasser, referring to what he said were the 650-700 cable pirates present in the country - people who provide cable to at least 90 percent of cable-consuming households. Nasser also said that the proliferation of pirated DVDs harms Lebanon by discouraging investment in local films.

The participants also discussed problems related to pirating of computer software source codes and the disincentives the practice creates towards innovation.

The issues associated with piracy and IPR may be a potential barrier to Lebanon's desired 2008 accession to the World Trade Organization (WTO), according to Susan Slomback of the US-based nonprofit Institute for Trade and Commercial Diplomacy (ITCD).

"It's a serious concern [for WTO accession] because IPR affects so many industries," Slomback told The Daily Star. "It's a serious concern for countries potentially looking to use Lebanon as a trading partner."

Although participants focused on problems with IPR in Lebanon, some speakers pointed out that the Lebanese IPR situation is not as bleak as the situations in some other countries.

"[The] laws are actually in pretty good shape," said Oman, a fact which he attributed to the "long list of creative Lebanese" who have given Lebanon a respect for principles of intellectual property.

Lebanese businesses need better education about IPR, suggested Aly Harakeh of Microsoft Corporation and the Business Software Alliance. "We need to get everyone speaking the same language," he said, adding that Lebanon needs "to promote [IPR] not just in law schools," but also in fields like engineering.

Harakeh supports the stricter implementation of penalties for people involved in piracy. "The only language [pirates] understand is the money in their pockets," he said. "We need deterrent fines." He also said that the recent imprisonment of around 60 people on charges of piracy "sends a strong message to pirates."

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## MIDDLE EAST

### Samsung Electronics responds to counterfeit cartridge issue (from *Middle East Company News*, 22 July 2007)

Samsung Electronics Co. Ltd. announced that it will take stronger action in response to manufacturers and providers of counterfeit printer cartridges, which confuse customers seeking to buy original Samsung Printing Supplies Products.

Samsung is taking action to protect consumers and help ensure that purchase decisions are the right choice for high-quality Samsung products.

The company is redoubling its efforts to enforce intellectual property rights, investigating any manufacturers and traders who counterfeit Samsung Printing Supplies with inferior quality and no guarantees. Samsung is not only identifying and closing down illegal traders, but is also taking punitive action against counterfeit suppliers, working closely with professional investigators and police authorities.

Inam Butt, Samsung Marketing Manager KSA stated that counterfeiting and piracy costs Arab countries and estimated \$50 billion a year according to a recent study conducted by the Arab League. This study only highlights the problems that we face in the Arab world and Samsung has dealt with this problem through proper training of its employees and distributors in the GCC.

Samsung offers regular training and awareness workshops for enforcement authorities, delivering up-to-date information on how to differentiate between original and counterfeit supplies and products. These workshops are available at all times. As part of this effort, Samsung attended a technical seminar in the UAE organized by ICCE (The Imaging Consumables of Coalition of Europe Middle East and Africa), the anti-counterfeit association focusing on the EMEA markets.

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