

Monthly Report of October 2005

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1. Jetro outlines 10-point plan for Asean

*(from Bangkok Post Newspaper, Business Section, Page B3, Thailand, 5 October 2005
The Nation Newspaper, Business Section, Page 3B, Thailand, 5 October 2005)*

Japan has recommended a 10-point plan to improve the industrial competitiveness of Asean nations in preparation for the Asean-Japan Comprehensive Economic Partnership agreement. The agreement is expected to be concluded by April 2007, according to Atsuo Kuroda, the president of the Japan External Trade Organisation (Jetro) in Bangkok.

The recommendations call for: enhancing the industrial competitiveness of Asean through partnerships with Japanese firms; supporting Asean's efforts to narrow intra-regional disparities; facilitating logistic services; co-operating in environmental and energy conservation; harmonizing rules of origin; establishing transparent, simple and harmonized customs clearance procedures; eliminating non-tariff barriers and promoting harmonization and mutual recognition of standards; improving protection of intellectual property rights; improving business environments; and strengthening business relationships between Asean and Japan and between Asean and its neighbouring countries.

2. Police target pirates to win favour in US

(from Bangkok Post Newspaper, Home News Section, Page 2, Thailand, 5 October 2005)

Police will crack down on pirated goods in Bangkok and other tourist destinations to convince the United States that Thailand is serious about protecting intellectual property rights. Pol Maj-Gen Suchart Kanchanawisith, chief of the Economic and Technological Crime Suppression Division, said the crackdown would hopefully convince the US to take Thailand off an IPR watch list.

The office of the US Trade Representative has placed Thailand and four other countries – South Korea, Vietnam, Malaysia and New Zealand – on its watch list for alleged poor IPR protection since 2002 resulting in widespread distribution of pirated goods.

Yongyoot Srisattayachon, head of the Intellectual Property Crime Bureau, under the Justice Ministry's Department of Special Investigation, said the new campaign would target major producers and distributors – those holding up to five million baht worth of pirated goods.

More officials would be deployed in border areas to monitor the activity of IPR violators and coordinate with the local authorities to suppress them. The bureau has also trained students to act as its informants, he added.

3. Grammy acts over Marsha's image on sex drug

(from Bangkok Post Newspaper, Home News Section, Page 4, Thailand, 6 October 2005

The Nation Newspaper, Local News Section, Page 6A, Thailand, 6 October 2005

Post Today Newspaper, Prime News Section, Page A1, Thailand, 6 October 2005)

Entertainment Giant GMM Grammy, already facing problems with piracy involving its products, has run into a new intellectual property headache and this time with China.

Grammy representative Nitipong Hornak and the senior director of its legal division, Chitralada Hengyotmark, filed a complaint with the director-general of the Intellectual Property Department's director general, Mr Kanissorn Navanugraha.

They complained about two infringements. The first involves making an unauthorized copy of a copyright picture printed in a compilation issue of Image magazine, and the second is infringement of a celebrity's human rights.

China is a signatory to the Berne convention on protection of literary works and works of art, and it has also signed a bilateral memorandum of understanding with Thailand concerning patents, trademarks and copyrights.

Mr Kanissorn said his department would raise the matter with China's copyright office and its commercial attaché, as well as directing it to the Thai Embassy in China.

4. Autotrim director submits to probe team

(from The Nation Newspaper, Local News Section, Page 2A, Thailand, 8 October 2005)

The director of an auto parts manufacturer accused of producing fake components for BMW and Mercedes-Benz cars voluntarily submitted to police questioning on Saturday, a senior Department of Special Investigation (DSI) official said. Yongyuth Srisattayachon, head of the DSI's Intellectual Property Litigation Office, said Pensri Udonchainit, director of Autotrim International Transaction Co Ltd, was not charged with a criminal offence.

He said Delfino Zapico, an executive of the company, has one week to voluntarily meet DSI investigators before he is summoned and a warrant is eventually issued for his arrest. The Swiss national must show up for questioning as he is currently in the country, Yongyuth said. He did not say what Pensri discussed during the interview.

The authorised dealers of the German carmakers contacted the DSI to obtain information on the production of fake auto components by Autotrim in order to proceed their own legal action against the firm, Yongyoth said.

5. Thai movie retailer urges government to enforce anti-piracy law

*(from Krung Thep Thurakit Newspaper, Agriculture Commerce Section, Page 7, Thailand, 11 October 2005
Thai News Service, 13 October 2005)*

Mangpong Plc, a leading movie retailer, has called on the government to enforce tougher anti-piracy measures, saying its revenue from movies on discs could decline by up to half this year, the Bangkok Post reports.

Fake DVDs and VCDs of both Thai and foreign movies have been proliferating, a notable example being Tom Yum Kung, according to Khiesthieyarchai Threakevichiti, the company's president and CEO. He said pirated VCDs of the hit action movie were released just days after the movie made its big-screen debut and sold briskly despite their shoddy quality.

At the meeting, Deputy Commerce Minister Preecha Laohapongchana vowed to introduce stronger measures to protect IP rights including amending laws related to IP issues.

At the same time, he said, the ministry would step up campaigns to urge consumers not to buy pirated products. Based on information from the department, the number of arrests for IP violations in the seven months of this year totalled 4,633 cases, of which 3,384 were for copyright violation and the rest were trademark infringements.

6. Thai scientists patent rice genes

(from The Nation Newspaper, Prime News Section, Page 1A & 3A, Thailand, 30 October 2005)

A group of Thai biotechnologists has patented a group of genes in the rice plant that they claim are responsible for producing aromatic grain. Patent registration with the US Patent and Trademark Office is being followed by patent applications in another seven countries.

The leader of the Thailand Rice Genome Project, Apichart Wannavijitr, said it was the first time Thai researchers had received patent protection for genetic material and showed that Thailand's capacity in biotechnology was up with that in the rest of the world.

The project is a collaboration between the National Centre for Genetic Engineering and Biotechnology (Biotec) and Kasetsart University. The discovery was made last year and the patent registered earlier this year.

Biotec's director, Morakot Tanticharoen, said the team had spent several years studying the rice genome to discover the genes in Thai jasmine rice that gave it its unique fragrance. The sequence of genes giving a rice plant a fragrant aroma is now not only known but can also be used to create aromatic qualities in ordinary, non-aromatic rice varieties, she said.

The researchers found that fragrant rice was the result of a genetic mutation, the plant actually having abnormal genes. In the gene sequence of Thai jasmine rice, eight genetic "characters" are not working.

Laboratory tests on non-fragrant Japanese rice successfully changed it into fragrant rice. With this technique, researchers can improve other rice breeds to produce a better fragrance. It can also be applied to improving other crops, including wheat, corn, soybeans and coconuts, Morakot said. Apichart said it was important for Thailand to register the patent so as to keep the benefits for Thailand.

As well as the US, the research team is applying for patents in Australia, France, China, Vietnam, Japan, India and the Philippines. Among them are the country's main rice-growing competitors.

Morakot said the patent registration was aimed at protecting Thailand's intellectual property in having found the aroma gene and also its use to boost local rice-breeding efforts. In addition, the team has also developed a molecular marker for the aroma genes, called Aromaker. It will substantially shorten the time needed to develop new varieties.

PEOPLE'S REPUBLIC OF CHINA

News in October 2005

1. China enhances IP protection to boost technological innovation
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3. EU seeks anti-fake goods deal with Asian states
4. Business group creates cooperative anti-piracy initiative
5. Yamaha motor sues China's Yamoto, US's patriot over trademark breach
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10. Copyright review to boost piracy fight
11. 14 Asian nations to join hands on content business

1. China enhances IP protection to boost technological innovation
(from Xinhua News Agency, 1 October 2005)

Statistics from the State Intellectual Property Office (SIPO) indicated that Huawei made 1,231 patent applications in the first half of this year, ranking first in Chinese companies. So far Huawei has applied more than 8,000 patents, including about 800 patents in more than 20 countries and regions such as France, Germany and the United States.

Huawei invested more than 4 billion yuan (494 million US dollars), or ten percent of its annual sales, in research and development, which nears the level of profitable multinationals. Huawei is an example for China's latest boost for technological innovation and intellectual property protection.

A survey conducted by the Chinese Academy of Sciences showed that between 1993 and 2002, China's patent application was only ten percent of that of Japan and 25 percent that of the United States.

An effective legal system is the basis for intellectual property protection. In the last two decades, China adopted a series of laws to this effect, including the patent law, trademark law and

copyright law, which are compatible with the trade-related intellectual property regulations set by the World Trade Organization.

Jia Zhipei, who chairs the Supreme People's Court's intellectual property court, said in 2004, Chinese courts handled a total of 12,205 intellectual property cases, 31.65 percent more than the previous year.

While strengthening law enforcement in intellectual property protection, China sets a seven-year imprisonment as punishment for intellectual property infringement, which is toughest throughout the world.

The Chinese government promised in a latest white paper on intellectual property protection in April that it will take responsibility for intellectual property protection and carry out international cooperation in this field.

2. Japan to push Hong Kong to protect IPRs

(from Kyodo News, 4 October 2005)

Japan is set to call on Hong Kong to work harder to protect intellectual property rights, citing damage inflicted on Japanese electronics makers, government officials said. Japan has been probing the Chinese territory's IPR protection system after receiving requests from an association of Japanese electronics manufactures in April, the officials said.

Japan found Hong Kong needs to undertake more relief measures for companies suffering from unauthorized use and registration of corporate or brand names, they said. Japan will soon call for direct talks with Hong Kong authorities through diplomatic channels. The move, the first of its kind, comes after Tokyo launched its study of IPR breaches overseas.

The Japanese government has also learned that in Hong Kong, companies can register one corporate name quite similar to another unless it is absolutely the same. Even if complaints are filed and a plaintiff wins the lawsuit, a court judgment cannot nullify the nearly identical name, they said.

3. EU seeks anti-fake goods deal with Asian states

(from Reuters News, 11 October 2005)

The European Union wants deals with India, Pakistan and Thailand to fight the influx of fake goods, an illegal trade that costs the bloc 5 billion euros (\$6 billion) a year, an EU commissioner said.

As part of its campaign to crack down on copied goods ranging from Viagra pills to Nokia phones and champagne, the 25-member bloc already has a co-operation deal with China. The agreement led to Beijing adopting many EU anti-counterfeit laws which are seen as some of the strictest in the world.

The number of fake goods seized in the EU has risen tenfold from 1998 to 2004 when 100 million items were found. About 70 percent of the total came from China, the EU's commissioner for tax and customs, Laszlo Kovacs, said.

Some 3.5 percent of counterfeit goods found in the EU came from India in 2004, more than any country apart from China and Taiwan, with 7.5 percent, according to commission statistics released on Tuesday.

The plan also envisages closer co-operation with China including sharing information to close down production of fake goods and stop the trade. He said he hoped the committee would "hit the counterfeiters at the very roots" and that the proportion of fake goods entering the EU from China would fall.

4. Business group creates cooperative anti-piracy initiative
(from *Inside US-China Trade*, Vol. 5, No. 41, 12 October 2005)

Members of the International Chamber of Commerce (ICC) agreed last week to create a collaborative index of intellectual property rights violations, share successful methods of enforcing IPR laws and develop educational materials for policy makers and private industries promoting IP protection. The private endeavor is the latest in a series of efforts by business groups trying to fight IPR theft, particularly in countries such as China where piracy is rampant.

As part of the ICC's Business Action to Stop Counterfeiting and Piracy (BASCAP), the group will use the resources of individual companies to cull data on which methods have been found to be successful at protecting intellectual property, identify resources that exist to combat piracy, and offer a central index of the major IPR issues companies face. According to a press release announcing the initiative, the ICC will tap the resources of over 800 companies and trade organizations to support its efforts.

Also, according to the announcement, the ICC plans on compiling "a compendium of case studies and statistics -- the first global, cross-sectoral stock take of the counterfeiting and piracy problem -- which can be shared between businesses and governments."

The ICC said in a statement that one of the main goals of the initiative is to help governments take real action against IPR violators. "ICC has already worked to put counterfeiting and piracy on the agenda of the G8 governments," BASCAP Co-chair Jean-Rene Fourtou said in an Oct. 4 statement. "The aim of BASCAP is twofold: To ensure governments now turn words into action and to help them raise awareness among the public of the seriousness of the problem."

According to one source, private industries have been trying to bolster their own ability to protect intellectual property by working outside of the government, as well as working through government agencies. In China, sources said, companies have spent considerable amounts of money and resources to combat piracy privately.

5. Yamaha motor sues China's Yamoto, US's patriot over trademark breach
(from *AFX Asia*, 14 October 2005)

Yamaha Motor Corp said it filed a suit yesterday in Los Angeles Federal Court against Yamoto Motor Corp of China and its US importer Patriot Motorcycles Corp for trademark infringement, trademark dilution, false designation of origin, false advertising, copyright infringement and unfair competition.

Yamaha is seeking a permanent injunction to protect its Raptor line of ATVs and TT-R125 off-road motorcycles. Yamaha seeks both treble and punitive damages in its complaint and will ask

the court to compel the defendants to all submit all the infringing products and publicity to Yamaha for destruction.

6. IPR education among college students

(from Xinhua's China Economic Information Service, 14 October 2005)

The Intellectual Property Attaché with the United States embassy in Beijing, Mark Cohen, said the United States and China are facing a big challenge in encouraging young people to adopt a mature view about intellectual property rights (IPRs). Cohen, the first American special IPR attaché appointed by the US Department of Commerce to a particular foreign country, was appointed last November.

Once a college professor in the United States, Cohen knows clearly how young people feel about IPRs. They experience contradictions, he acknowledged. "They don't have much money but want to enjoy cultural products. They are used to downloading free music from the Internet."

As far as he knew, more than 50 percent of Chinese college students use pirate products due to cost concerns. Young people are currently unwilling to spend more money on intellectual property, he said. However, he added, they will benefit if they develop a correct viewpoint on IPRs.

7. Karaoke firm loses case

(from Bangkok Post Newspaper, Business Section, Page B6, Thailand, 19 October 2005)

A local arm of the US-based Warner music company has won a lawsuit against a Chinese karaoke firm that played its music videos without permission, state media said. Warner Music Hong Kong, a subsidiary of New York-based Time Warner Inc, won an award of 12,000 (\$1,500).

Warner Music Hong Kong also filed suit in Beijing last year accusing another karaoke chain – Taiwan-based Party-world, which has branches in mainland China – of illegally using its videos.

8. Fake electronic goods seized

(from The Standard, 22 October 2005)

Customs officers seized HK\$200,000 worth of counterfeit electronic goods which were to be sold through an auction Web site in Britain. The case is the biggest of its kind so far this year. Officers said a Hong Kong man sold fake items such as video camera batteries, chargers and memory chips at one third of their original price through eBay's British Web site.

Customs and Excise Department divisional commander Samson Chiu said they are stepping up efforts to stamp out such illegal activities. Anti-Internet Piracy Team officers mounted an operation in North Point Thursday and seized 1,500 counterfeit electronic products, including video camera batteries, battery chargers, memory cards and other accessories, worth about HK\$200,000. Chiu said the raid followed a complaint from trademark owners that counterfeit video camera batteries were sold via a popular Internet auction site.

9. U.S. demands China prove it is fighting war on piracy

(from Reuters News, 27 October 2005)

Krung Thep Thurakit Newspaper, World Business Section, Page 33, Thailand, 28 October 2005)

The United States asked China to prove it was trying to stop “rampant” piracy and counterfeiting of U.S. goods from movies, music and software to auto parts, medicine and shampoo. U.S. Trade Representative Rob Portman said the United States was invoking a rarely used World Trade Organization article to get evidence from China of what the country is doing to stop the practice.

“Based on all available information, piracy and counterfeiting remain rampant in China despite years of engagement on this,” Mr. Portman said in a statement. “If China believes that it is doing enough to protect intellectual property, then it should view this process as a chance to prove its case.”

U.S. movie, software and other copyright industries estimate they lose more than \$2.5-billion (U.S.) annually in China because of piracy. Losses from counterfeiting of American manufacturing and consumer goods could reach into tens of billions of dollars annually, industry officials say.

The issue has become a major irritant in the U.S.-China trade relationship. Many lawmakers say it contributes to the record U.S. trade deficit with China that is on track to surpass \$200-billion this year.

A recent private economic study put the value of all U.S. intellectual property at more than \$5-trillion, or equal to about 45 per cent of the U.S. economy. That has heightened concerns the United States must take stronger action to protect a major economic asset.

Dan Glickman, president of the Motion Picture Association of America, said Chinese piracy of American movies remained unacceptably high despite recent Chinese government actions to protect U.S. filmed entertainment.

“The U.S. government's request for information on the administrative, civil and criminal actions to enforce China's intellectual property rights obligations is critical to ensuring China's international commitments and to protecting the rights of the U.S. copyright industries,” Mr. Glickman said.

Japan and Switzerland have joined the United States in making the request at the WTO. Washington has asked Beijing to provide the requested information by Jan. 23. A complete report would allow the United States to identify deficiencies in China's enforcement and offer suggestions for how it could be improved, the U.S. official said.

10. Copyright review to boost piracy fight *(from The Standard, 27 October 2005)*

Hong Kong's Copyright Ordinance, the territory's main line of defense against intellectual property theft, will be reviewed to provide better online protection of intellectual property, Secretary for Commerce, Industry and Technology John Tsang said.

Speaking at the opening ceremony of the Cable and Satellite Broadcasting Association of Asia 2005 convention Wednesday, Tsang said the government had adopted a “multi-pronged approach encompassing public education, law enforcement and industry cooperation to address the problem of copyright infringement.”

The ruling by a Tuen Mun magistrate that Chan Nai-ming, 38, who is unemployed, was guilty of violating copyright using BitTorrent, a popular Internet peer-to-peer file-sharing program, was widely praised by the entertainment industry.

“The government has invited views on four issues, namely whether a technologically neutral right of communication should be introduced for copyright owners, how to facilitate copyright owners to take civil action against infringing activities on the Internet, whether statutory damages for civil infringements should be introduced, and the role of Internet service providers in the fight against Internet piracy,” Tsang said.

The government will study relevant foreign legislation and consult the public as soon as possible, he said. Meanwhile, Tsang said there has been more competition in the provision of television services in Hong Kong.

The government has been thinking of merging the broadcasting and telecommunications regulators, he said, and the industry and the public will be consulted on how to set up a unified regulator.

11. 14 Asian nations to join hands on content business

(from Daily Yomiuri, 28 October 2005)

Fourteen Asian nations, including Japan, South Korea and China, have agreed to cooperate to foster Asian content industries, such as the movie and music industries, and targeting markets across the world, Japanese government sources said.

The countries will hold a ministerial meeting in Tokyo and adopt a joint statement about practical measures, such as promoting joint production of content. Because Japanese animated movies and South Korean television dramas are popular worldwide, the nations aim to strengthen governmental cooperation in trying to develop films capable of rivaling those produced in Hollywood.

The pillars of the joint statement will be promotion of joint production among the countries; measures for fostering human resources and human exchanges in relevant industries; and improving trade and investment in content products. As practical steps, the countries will set up respective organizations to arrange joint production and provide financial assistance for content production, the sources said.

The countries also will help producers and others in the industries make contact with one another, foster experts in intellectual property and draft legislation for protection of intellectual property. In addition, the countries will establish an Asian network to link information and economic statistics about movies and other content products in the countries.

MALAYSIA

News in October 2005

Malaysia films badly hit by pirated VCDs

(from New Straits Times, Malaysia, 22 October 2005)

The pirated VCD industry may be sounding the death knell for local movies. Things have become so bad that the sales of Malay films on VCD has dropped by 90 per cent since 2000. Sales have fallen from 500,000 in 2000 to 50,000 today.

Malaysian Film Producers Association deputy president Ruhani Rahman claimed a Government decision to stop the sale of original VCDs at pasar malam had worsened the problem.

"Illegal VCD traders open shop anywhere and pack up and leave at a moment's notice," she said. Ruhani said the Government should beef up enforcement as video piracy had become a major problem.

"It has worsened. They now operate from shopping centres. "It breaks the hearts of producers to see their efforts at the stalls even before their movies are released," she said.

A former enforcement officer for VR Music K.A. Moorthi said the manner in which VCD pirates operated was disheartening. He cited the example of an illegal VCD shop that was raided 80 times. He said even court cases took too long with "syndicates knowing that going to court was not a serious thing".

National Film Development Corporation Malaysia (Finas) chairman Senator Datuk Jins Shamsudin said he had proposed that VCD printing machines be quarantined in one area. "This means all printers have to be placed in a specific area," he said.

Jins said the producers of films should ensure that all their movies were well guarded before screening so that they did not end up in the hands of the pirates. "Government enforcement officers should look into this to help both the local and international film and music industry," Jins said.

Deputy Domestic Trade and Consumer Affairs Minister Datuk S. Veerasingam said enforcement officers had been working hard to eradicate video piracy. "Every time we receive a call or information on piracy, our officers are immediately sent to the ground to check," he said. He admitted delays in taking video pirates to court but said the matter was being addressed.

Veerasingam said the ministry was in the midst of setting up its Intellectual Property court which should be ready to hear cases next year.

SINGAPORE

News in October 2005

Competition law to uphold patent rights

(from The Straits Times Newspaper, Singapore, 4 October 2005)

Guidelines on how intellectual property (IP) rights will be treated under Singapore's new competition law were issued yesterday by the Competition Commission of Singapore (CCS). Under the proposed rules, companies owning patents will be allowed to keep their monopolies over technologies they develop and are unlikely to run afoul of the new law, even if they enjoy a 'persistently high market share'.

The CCS, which was set up to administer and enforce the new law which comes into force next year, said it will step in only if these firms use their IP rights in an anti-competitive manner.

It explained that an IP owner may be prevented from dominating a market if close substitutes exist. Even if alternatives do not exist, other firms can still break into the market with their own innovations in the long term.

In the case of a company which enjoys an extended period of market dominance, CCS said that could just be a result of 'persistently successful innovation'.

THE PHILIPPINES

News in October 2005

1. Philippines warns travelers to US not to take pirated items or face deportation
2. Mango growers sue US traders for unfair trade
3. Philippine IP office seeks higher standards
4. Piracy, trade issues go to special courts

1. Philippines warns travelers to US not to take pirated items or face deportation
(from Associated Press Newswires, 8 October 2005)

The Philippine government has warned its citizens not to carry pirated goods into the United States, and that they could be immediately deported if they do so.

Citing a travel advisory from the U.S. Commercial Service, the Department of Foreign Affairs said in a statement that even one pirated CD, DVD, bag, cosmetic or book could result in "automatic deportation" of Filipino citizens.

American citizens would face arrest, prosecution and fines for violating intellectual property rights if caught trying to take in such items.

Pirated videos -- as well as counterfeit designer bags and shoes falsely claiming to be brand names such as Gucci, Louis Vuitton, Coach and Prada -- flood flea markets around Manila and are sold at a fraction of the cost of the originals.

Filipinos planning to take nursing exams in the United States also should take care not to carry pirated books with them, the government said. The warning comes ahead of the Christmas season, when many Filipinos travel to the United States to visit relatives and vice versa.

2. Mango growers sue US traders for unfair trade
(from Manila Standard, 13 October 2005)

Local mango producers may file an unfair trade practices suit against entities selling the fruit under the Manila Mangoes brand in the United States. Intellectual Property Office director general Adrian Cristobal Jr. said yesterday that no trademark on Manila Mangoes has been registered either with the US Patents Office or its Mexican counterparts, and local producers can sue whoever is using the brand name.

"Local producers could also file unfair trade practices against the one selling under Manila Mangoes brand if enough evidence is gathered. Whoever is selling under that brand name is misleading consumers since the mangoes in question did not come from Manila," Cristobal added.

He said that the case may be filed in the country where the said mangoes are being sold, in this case the United States.

Cristobal said that while it is only the private sector that could file such a case against those who are selling Manila Mangoes, government can provide legal advice to the local industry should they be able to gather enough evidence to support the charges.

3. Philippine IP office seeks higher standards

(from Asia Pulse, 17 October 2005)

The Intellectual Property Office is pushing for the elevation the standard of the patent system in the country by making use of the various techniques in patent drafting.

"We need to apply higher standards in evaluating and drafting a patent. We may not be aware of it, whether as a patent agent or an examiner, but our work can truly encourage more creativity or innovation or kill it," IPO director general Adrian S. Cristobal Jr. said.

Patent professionals, including examiners from the IPO gathered for a five-day seminar-workshop on Patent Application Drafting and Prosecution, with the aimed at educating them on the different drafting techniques and preparation for the Patent Agent Qualifying Examination which will take place early next year.

The seminar-workshop at the Dusit Hotel Nikko was held with the support of the European Commission-ASEAN Cooperation Programme on Intellectual Property Rights II (ECAP II).

Cristobal said that reforming the patent system has been among the biggest challenges that the IPO under his administration is facing. "For the IPO, the Philippines' patent reform is the litmus test on whether we will be true to our vision to foster an innovative/competitive Philippines that values, nurtures, and use intellectual property for national development," he said.

He said that IPOs reform program has five major components, and these are the review of the design of the patent system; using the patent system in public sector research; use of appropriate international patent harmonization strategy; promotion in the use of the system; and its efficient and effective administration.

The IPO is currently firming up measures to clear the backlog of patent applications and reduce the length of the application process, which is a common complaint among inventor-applicants. At present, the average period it takes to process an application is from three to five years, including the date the request for application is filed.

Meanwhile, Rene Sieron, the representative of the delegation of the European Commission to the Philippines said that it is through the patent system that the innovative force of any country can be strengthened and its value realized.

He said that the wealth of any country is no longer determined by the size of its territory and the availability of its resources, but by its innovative capability and the ability of its people to compete in knowledge society and information economy.

On the other hand, Niclas Morey, director of ECAP II, said that a patent system partly provides security to investment and so it is necessary that a patent application must be well crafted and accurate.

4. Piracy, trade issues go to special courts
(from *Manila Standard*, 29 October 2005)

The Philippines is studying the possibility of bunching up intellectual property cases with international trade issues to come with a more viable volume for special courts to handle.

Intellectual Property Office (IPO) director general Adrian Cristobal said the government was looking at a transition plan similar to the Thailand model, where special courts were created to handle both IP infringement and trade cases on antidumping and special safeguards issues.

"We need to combine IP-related and international trade cases to justify volumes," he said, adding that the Supreme Court is starting to monitor cases of IPR violations. Thailand in 1998 put up a special court to handle IP-related and international trade issues.

"We are studying this proposal along with the Supreme Court and the Philippine Judicial Academy but training of judges on IP will start this November, and we are sending three representatives to Bangkok."

Cristobal said the creation of special IP courts is one of the measures being proposed by government as part of its antipiracy campaign. The Philippines has been in the priority watchlist of the United States for three years now for violating intellectual property rights.

He said the training would also include judicial staff to make them better equipped to handle IP cases.

INDONESIA

News in October 2005

1. USTR delays reviewing Indonesia's position
(from *Bisnis Indonesia*, 25 October 2005)

The USTR has decided to delay conduction a review on Indonesia's priority watch list position until January 2006. The USTR, at a meeting with the Interdepartmental team for Intellectual property Rights Law Enforcement in Jakarta last week, sent a letter informing the Indonesian government that they would delay the review, which was previously scheduled for this month.

"The out-of-cycle review (OCR) will be conducted in January 2006," informed Abdul Bari Azed, Director General of Intellectual Property Rights at the Department of Justice and Human Rights Affairs, who was present at the meeting.

In April this year, the US put Indonesia on the priority watch list along with 12 other countries since the US was not satisfied with intellectual property rights legal enforcement in Indonesia. The USTR, he added, also expressed its wish for Indonesia to take hard measures against illegal optical disc-producing factories as well against disc traders.

Bari was optimistic that Indonesia would be able to get itself out of the priority watch list since there were significant progresses that the country had achieved in intellectual property rights legal enforcement.

2. WIPO Deliberates Harmonization of Patent Law

(from Bisnis Indonesia, 27 October 2005)

The World Intellectual Property Organization (WIPO) is currently deliberating harmonization of patent law. Member countries of the WIPO are touted to have approved the draft of patent law treaty, which aims to harmonize regional and national patent laws.

Patent Director at the Department of Justice and Human Rights Affairs Azami Dahlan, who attended the general summit of the WIPO in Geneva, Switzerland, currently informed that the draft covered general principles of patent law.

Azmi revealed that the draft would be deliberated again by member countries in January 2006 to converge perceptions had by the developing and developed countries.

The substances of the patent law treaty that would be deliberated, he added, covered novelty, inventive step, prior art and patent grade period. "The developing countries also want to deliberate issues on genetic resources and traditional knowledge," he said to Bisnis recently.

Profit sharing, the developing countries, he disclosed, wanted balanced profit sharing on the uses of genetic resources and traditional knowledge by the developed countries.

"All this time, the developing countries haven't gotten any compensation for the uses of their genetic resources and traditional knowledge by the developed countries."

If member countries of the WIPO approved the patent law treaty draft, he continued, it would affect patent laws in member countries. "In turn, Indonesia's Patent Law should be revised to be harmonized with the revised Patent Law Treaty," he added. Indonesia started applying patent law in 1991.

VIETNAM

News in October 2005

1. Vietnam prepared for APEC chairmanship in 2006
2. Vietnam's NA mulls draft laws on electronic transactions, IP
3. Vietnam's Duy Loi hammock wins US patent case
4. Fake Zippo vendor gets burned
5. Vietnamese PM calls for national trademark programming
6. NA deputies discuss draft laws on intellectual property and e-transactions

1. Vietnam prepared for APEC chairmanship in 2006
(from Thai News Service, 6 October 2005)

Vietnam is building up its image as an active member of the Asia-Pacific Economic Cooperation (APEC) forum by raising dozens of initiatives and increasing trade with other member economies to 70 percent of its export revenues over the past eight years.

Vietnam will take over the rotary chairmanship of APEC next year.

Within the APEC framework of economic-technical cooperation, Vietnam has received 2 million USD in aid through 20 projects on intellectual property, competitiveness improvement, and the development of medium and small - sized enterprises.

2. Vietnam's NA mulls draft laws on electronic transactions, IP
(from Thai News Service, 10 October 2005)

The process of presenting signatures electronically sparked a debate among members of the National Assembly Standing Committee yesterday on whether to write detailed regulations into the draft Law on Electronic Transactions.

The law's drafting committee told the National Assembly committee yesterday that regulations on electronic signatures were based on common and existing technological principles which were standard operating procedures for any business that would seek to conduct electronic transactions.

In a discussion of the draft Law on Intellectual Property, deputies agreed that the protection of IP rights has become important and that Vietnam must work to ensure the new law's enforcement as well as adherence to international conventions.

Many deputies called for a clarification of the power and responsibilities of different government agencies including courts, inspectorates, customs officials, police and market management forces in the enforcement of IP rights.

The draft law also needed to add regulations on the establishment and organisation of specialised associations that will play a role in settling IP disputes and enforcing IP rights, eg., by collecting and distributing royalties.

Opinions varied among the deputies on the appropriate terms for copyright protection, some suggesting a maximum 50-year protection period for photographic works and a 25-year cycle for other fine arts.

Deputies called for Article 208 of the draft Intellectual Property Law to specify compensation for damages in order to make it easier for judges to rule on IP violations. This would also make the law more compatible to the terms of the Trade-Related Aspects on Intellectual Property Rights Agreement (TRIPS) and the Vietnam-US Bilateral Trade Agreement, they said.

Some deputies called for the appointment of a key Government body to be responsible for the administration of IP-related business and production activities. The sentiment was that the Government should assign this task to a single ministry (such as the Ministry of Science and Technology) rather than many ministries at the same time.

3. Vietnam's Duy Loi hammock wins US patent case
(from *Asia Pulse*, 17 October 2005)

The US Patent and Trademark Office (USPTO) has awarded the patent for a hammock design to Vietnam's Duy Loi Co and cancelled a competing patent of Chung Sen Wu, a Taiwan enterprise, confirming that their hammock design infringes on Duy Loi's earlier design, according to the Pham and Associates law firm.

The portable hammock's design has been registered with the Vietnam National Office of Intellectual Property since March 2000, said Duy Loi director Lam Tan Loi, while Chung Sen Wu submitted an application for a US patent in August 2001 and received it in 2002.

Since May 2004, Pham and Associates, the firm which had helped Vietnam Tobacco Corporation regain its trademark in the Cambodian market, has represented Duy Loi in requesting the USPTO cancel the patent awarded to the Taiwan enterprise.

The resulting victory for Duy Loi will give the company an opportunity for its hammock products to penetrate the US market, said Loi. The hammocks are currently exported to South Korea, New Zealand, Australia, Japan and Germany.

4. Fake Zippo vendor gets burned
(from *Thai News Service*, 21 October 2005)

A business owner selling counterfeit cigarette lighters and lighter fluid in violation of the US' Zippo trademark was administratively fined by the Ministry of Science and Technology.

Inspectors and police found about 1,900 counterfeit lighters and 1,100 fluid cans pasted with the Zippo trademark at the Duy Hoang Shop in Nguyen Huu Huan Street in Hanoi. Shop owner Phung Duy Hai will pay a fine of around VND5 million (US\$320) and all merchandise bearing a false trademark will be confiscated and destroyed.

Hai said he had bought the violating goods on the open market and did not know their origin.

The Zippo trademark violation was discovered in Hanoi by the ministries of science and technology and of public security after representatives of the US's Zippo Co in Vietnam complained of violations of their intellectual property rights.

The Zippo trademark has been protected in Vietnam since 1996 following trademark certification granted by the National Office of Industrial Property.

A Zippo Co official said the HCM City Market Watch Team had discovered and handled two cases of Zippo trademark violations. Both counterfeit and authentic Zippo lighters were on display at a trade fair in Hanoi two months ago.

Nguyen Thi Thuy, director of Zippo Vietnam's Authorised Agent in Hanoi, said authentic Zippo lighters are only sold in Hanoi at 48 Tue Tinh Street.

Administrative fines for trademark violations are authorised by a Government decision made in 1999. Inspectors from the Ministry of Science and Technology would continue to co-ordinate with relevant authorities to handle violations of intellectual property rights, the ministry said.

5. Vietnamese PM calls for national trademark programming
(from *Thai News Service*, 28 October 2005)

The Prime Minister has issued a decision to set up a national trademark programming consultative council.

The decision says the council will be assigned to approve a criteria system to select products carrying the national trademark symbol and grant prizes for export achievements.

The council consists of 15 members and Minister of Trade Truong Dinh Tuyen in the chair.

The Prime Minister has also authorised the Minister of Trade to issue a working regulation for the council and set up an organising board and secretariat for the national trademark programme.

6. NA deputies discuss draft laws on intellectual property and e-transactions
(from *Thai News Service*, 31 October 2005)

National Assembly (NA) deputies discussed the draft laws on intellectual property and e-transactions. They heard a report on adjustments to the draft law on intellectual property from director of the NA Commission for Science, Technology and Environment Ho Duc Viet, and discussed some different opinions about the contents of the draft law.

Regarding to the protection of plant sampling property, deputy Vu Tuyen Hoang from Quang Nam said the contents stipulated in the draft law are too long and difficult to understand. Therefore, the draft law should be reconsidered by experts.

Deputy Mac Kim Ton from Thai Binh stressed the need to define the responsibilities of State agencies, especially the Intellectual Property Department under the Ministry of Science and Technology, Copyright Protection Department under the Ministry of Culture and Information and the Ministry of Agriculture and Rural Development, in order to facilitate enforcement of the draft law.

Mr Binh also said that it is imperative to clarify the authority of the court, relevant agencies and market management units when implementing the regulations specified in the draft law.

The draft law on e-transactions stipulates the legal value of data messages, e-signatures, e-confirmations, e-transactions and e-contracts by State organisations, non-State organisations and individuals that want to run online transaction activities.

However, the draft law also said that e-transaction will not be applicable to granting land use rights certificates, house ownership certificates and other real estate ownership certificates, marriage registrations, divorce decisions, certificates of birth or death and some other procedures.

The Government will take responsibility for intensifying the State management of e-transaction activities while the Ministry of Post and Telematics will be responsible for reporting to the Government its coordination with relevant ministries and sectors in implementing the draft law effectively.

INDIA

News in October 2005

1. Microsoft patent filings up 5 times in 2004
(from *The Hindu*, 16 October 2005)

India seems to have suddenly emerged the hot favourite for Microsoft. In 2004, the company saw a surge in patents filed by it in the country.

Microsoft's tally of 306 patent applications in 2004 is five times the previous year's 67 and nearly 22 times that of the 2002 filings. A major reason behind this could be the amendments to the Patents Act in May 2003, according to the Patent Facilitating Centre (PFC) of the Technology Information Forecasting Assessment Council (TIFAC).

Till May 2003, India did not allow grant of patents in software. However the amendments brought in thereafter mention that patents for software per se would not be granted. This provision would lead to opportunities and scope for many different interpretations to specific situations. Microsoft appears to be fully aware of such legal openings.

2. IP deal to give MNCs from 78 nations protection in India
(from *The Economic Times*, 17 October 2005)

Multinational companies in 78 countries will soon get trademark protection in India for their products and services by filing a single application in their home country. Indian firms will also get similar protection in all these nations by just filing here, reports Gireesh Chandra Prasad in New Delhi.

This will be possible as India plans to sign another international deal on intellectual property (IP) protection - the 1891 Madrid Agreement and its 1996 Protocol - to safeguard brand names globally. The country's accession to the treaty will substantially reduce the cost, effort and time in getting protection for brand names as well in modifying or renewing them by a single stroke in all Madrid union countries, an official said.

While corporates will benefit from the deal, the government and local trademark attorneys may lose out as it would reduce local filings considerably. Presently, a company has to remit Rs2,500 for registering one trademark in one of the 42 classes in India and wait for almost one year. The fee varies hugely from country to country.

The system of global trademark protection is administered by the World Intellectual Property Organisation (WIPO) which keeps a global registry and brings out a gazette. The Madrid system also eliminates language complications and makes possible filing in the home country in one of three languages - English, French or Spanish.

However, the treaty does not strip a member of its right to deny registration to a trademark as per the provisions in its local law. A member has to notify the rejection within a stipulated period, a maximum of 18 months, failing which protection is deemed to be granted. The applicant has a right to appeal in the country which has rejected the application.

3. DuPont bid to protect trademark
(from *The Hindu*, 27 October 2005)

Dupont India has initiated legal action against local traders and manufacturers for infringing its trademark `Teflon,' used more popularly as a non-stick coating for cookware.

In a case filed by DuPont India through its advocates Amarchand Mangaldas, the Delhi High Court in a recent order restrained a large manufacturer and several other wholesale traders in Delhi from using any labels or stickers mentioning either `DuPont' or `Teflon,' a company release said.

Subsequent to the High Court order, the Court-appointed commissioners earlier this week raided the premises of five traders in Delhi's Sadar Bazaar and surrounding areas, and sealed significant quantities of illegal labels of `DuPont' and `Teflon,' the release said
