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## THAILAND

### 1. Firms told to cut price of drugs

*(from The Nation Newspaper, Local News Section, Page 2A, Thailand, 3 October 2007)*

Four cancer drug manufacturers must cut prices or face compulsory licensing, the Food and Drug Administration warned. The FDA set October 18 for talks with the patent holders for imatinib, docetaxel, erlotinib and leuprorelin.

Novartis markets imatinib as Glivec, Sanofi-Aventis makes docetaxel as Taxotere and erlotinib is manufactured by OSI Pharmaceuticals as Tarceva. They are prescribed for leukaemia and breast and lung cancers. Leuprorelin is a steroid.

FDA secretary-general Siriwat Tiptaradol said if the government could not negotiate price reductions it would impose compulsory licensing. He is collating information about the use of these drugs in Thailand, their imports and costs, and the expiry of their patents.

Dr Wichai Chokevivat, chairman of the compulsory-licensing implementation committee, said the National Health Security Office (NHSO) had recommended compulsory licensing of the four drugs to Public Health Minister Mongkol na Songkhla.

He said the committee agreed because the drugs were especially expensive and out of reach for many cancer patients.

Novartis Thailand has donated Glivec for cancer patients under the universal healthcare scheme. But Siriwat said this did cover other patients. The Government Pharmaceutical Organisation is now seeking generic manufacturers of the drugs.

An India-based manufacturer is seeking FDA registration and could be tapped if the government invokes compulsory licensing.

### 2. Judges wary of digital recording in courts

*(from Bangkok Post Newspaper, Home News Section, Page 2, Thailand, 9 October 2007)*

The introduction of an innovative digital audio system to record testimony has still not gained acceptance with judges of the Central Intellectual Property and International Trade Court one year later.

The court president, judge Surapol Konglap, said he was the only one of 26 judges in the IP court to try the new audio technology. The court was chosen for a pilot programme to produce paperless and precise records of testimony using digital recording technology.

Judges can decide whether to use the new or old systems. But digital recording still requires the consent of all parties. The system is designed to replace summarised hard-copy records, where judges summarise the testimony on to a tape cassette and a court reporter transcribes it on a typewriter.

Mr Surapol said the new technology allows judges to concentrate more on their legal responsibilities, focusing on the testimony given and observing the witnesses. Under the old system court proceedings were interrupted whenever the judge pauses to summarise the testimony into a tape cassette.

"With digital recordings judges have no documents to refer to as a basis for writing their judgments. In my case, I take notes," judge Surapol said.

The new system was not popular because it was not used by all courts, he said. The Supreme Court, for one, did not use it.

Problems could emerge during hearing of a petition in the Supreme Court, because then all digital files would have to be transcribed and typed out in full, creating more work for court officials. Despite the hiccup, Mr Surapol endorses the use of digital technology, in particular for criminal cases in which precise details, such as physical descriptions and circumstantial evidence, were crucial.

In addition to the IP court, the Central Bankruptcy Court has been making recordings of testimony since it was first established in 1999. Its system was converted to digital last year.

A study by King Mongkut's University of Technology Thon Buri found that judges, court staff, lawyers and witnesses were happy with the new technology.

Judges were not convinced senior judicial officials were seriously pushing the digital technology, the study found. But although they wonder if digital recording will really save time and money the judges have requested access to other technologies, such as video conferencing for long-distance witness testimony.

### 3. BSA plan to slash software piracy

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

The Business Software Alliance (BSA) hopes to reduce the piracy rate from 80 per cent of software products to 70 per cent within the next four years.

Jeffrey Hardee, vice president and regional director for Asia-Pacific, said the piracy rate had been at this high level for two years.

"It has stood at 80 per cent for two years, even though the number of PC units is growing. The Economic Intelligent Unit reported that Thailand was using a high rate of illegal software and lacked research and development and infrastructure," said Hardee.

The BSA has drawn up a four-year plan to reduce software piracy by 10 percentage points. It will run campaigns to encourage cracking down on illegal software. It will also cooperate with the government to create a national campaign against fake goods, banning counterfeit software and providing knowledge to users about intellectual property and using legal software.

"The BSA is committed to working with government and industry to ensure that Thailand offers significant protection of intellectual property rights for copyright owners," said Hardee. The association has also set up a website to allow people to report illegal software via [www.bsa.org/Thailand](http://www.bsa.org/Thailand) [<http://www.bsa.org/Thailand>]. It is investigating 250 cases of illegal software.

#### 4. Govt wants cancer drugs price cuts

*(from Bangkok Post Newspaper, Home News Section, Page 3, Thailand, 19 October 2007)*

The government is piling the pressure on leading pharmaceutical companies to cut the prices for four cancer drugs or face compulsory licensing. Speaking after chairing a three-hour discussion about price reductions with Roche and Sanofi Aventis, Food and Drug Administration (FDA) secretary-general Siriwat Tiptaradol said three options had been proposed to the drug firms holding patents for four cancer drugs in a bid to cut prices and widen access to the life-saving treatments.

The drugs being discussed were Docetaxel, Erlotinib, Letrozole and Imatinib.

The first option calls for the drug manufacturers to lower the price of the medicines to what Mr Siriwat said was an "acceptable level". The second option tabled at the talks were for the companies to give voluntary licences which would enable the Government Pharmaceutical Organisation to produce and sell generic versions of the cancer treatments.

If the companies did not agree to either of those options, then the government would be forced to issue compulsory licences for the drugs, he said.

Health officials and the pharmaceutical firms that produce the relevant cancer drugs met for the first time after the National Health Security Office (NHSO) last month asked the Public Health Ministry to consider overriding the patents on cancer drugs.

The NHSO wants cancer treatment to be available to all Thais, not just those who can afford it, and hopes to make the life-saving drugs available to the roughly 48 million people eligible for the universal healthcare scheme.

#### 5. BSA step up to fight software piracy

*(from Bangkok Post Newspaper, Database Section, Page D1, Thailand, 24 October 2007)*

The Business Software Alliance (BSA) has appointed a country representative for Thailand in order to engage with local businesses, software vendors and government to combat the endemic problem of software piracy which has stubbornly hovered around the 80 percent mark here for the past three years.

Siripat Patrangul now represents the face of BSA in Thailand when working with government to formulate policy as well as with liaise with industry to promote the message of the importance of intellectual property rights.

Making the announcement in Bangkok, BSA vice-president and regional director for Asia-Pacific Jeffrey Hardee explained how the growing PC market, forecast by IDC to increase by 18 percent this year, meant higher and higher losses in absolute terms and that it was now time for Thailand to clean up its industry for everyone's benefit.

Various studies have shown a direct correlation between a low piracy rate and the health of a country's IT industry. Hardee said that if Thailand were to bring down the piracy rate by 10 percentage points over the next four years, this would translate to over 5,000 highly paid IT jobs, 1.9 billion US dollars in GDP growth and over 75 million dollars in extra tax for the government. He stressed that of this growth, one billion would go to local suppliers and system integrators and thus directly benefit the local economy.

According to a survey by the Economist Intelligence Unit on IT competitiveness, Thailand today languishes in 41<sup>st</sup> place out of 64 countries. Perhaps not too surprisingly, the study showed that we fared worst in terms of our legal environment, lack of R&D and an inadequate IT infrastructure.

Siripat, on her first day on the job, said she looked forward to working with the Association of Thai ICT Industry (ATCI), Association of Thai Software Industry (ATSI), the Ministry of ICT's Software Industry Promotion Agency (Sipa), the Ministry of Commerce's Department of Intellectual Property and the Ministry of Justice's Economic and Technological Crime Suppression Division (Ecotec) to help Thailand's IT industry grow and to play a role in helping to shape government policy.

In the first nine months of this year, the BSA has had 250 leads for corporate piracy submitted to its hotline and five of the informants have been paid a portion of the reward money of 250,000 baht.

However, most cases end in an agreement and education rather than a formal prosecution, she noted. Asked how the move to more free software, both Open Source and proprietary, would affect the BSA's work in the future, especially now that IBM has announced that Lotus Symphony the office component of Lotus Notes, will be given away for free, Hardee said that the BSA always welcomed competition and innovative business models, whether it was paid for up-front, with paid-for support or otherwise.

However, it was the choice of a developer to engage in software development using Open Source tools and to give it away for free, he said. Open Source is based on the principle that developers have that choice to protect their intellectual property and keep that code free.

Hardee also praised Thailand for the maturity of its legal system. Thailand today has a separate intellectual property court and he listened to a Thai judge talking about the court at a recent seminar in Bhopal, India, where they were trying to set up their own special IP court. Taiwan and Malaysia have both just recently set up IP courts, long after Thailand did, he said.

#### 6. Bangkok hosts conference to develop IP-crime network

*(from The Nation Newspaper, Thailand, 26 October 2007*

*Bangkok Post Newspaper, Business Section, Page 10, Thailand, 27 October 2007)*

The US Justice Department convened a regional conference in Bangkok of about 70 key law enforcement officials from more than a dozen nations, with the aim of developing an international network targeting large-scale intellectual-property (IP) crimes.

The department has organised the weeklong gathering with the assistance of Asean, the US Patent and Trademark Office and the US State Department. High-level police and customs officials and prosecutors from the US, China, Australia, Brunei, Cambodia, Indonesia, Japan, Laos, the Philippines, Singapore, South Korea, Thailand and Vietnam are participating.

The event seeks to enhance cross-border cooperation in the fight against IP theft through the establishment of an Intellectual Property Crimes Enforcement Network.

At the end of a four-day meeting, Thailand agreed to join a US-initiated regional network to combat intellectual property crimes.

The US Department of Justice and the US Patent and Trademark Office teamed up with Asean countries to establish the regional Intellectual Property Crimes Enforcement Network (IPcen) to build on the success of the G- 8's collaboration a decade ago, said Sigal Mandelker, the department's deputy assistant attorney-general for the criminal division.

Enhanced contacts between law enforcement officials would result in better information sharing and arrests of wanted criminals, said Ms Mandelker.

#### 7. Thailand to apply to the EU for jasmine rice protection

*(from The Nation Newspaper, Thailand, 28 October 2007)*

Thailand is planning to apply to the European Union for geographical indication (GI) protection for Thai jasmine rice from Thung Kula Rong Hai, the country's largest planting area, which would be the first such registration by an Asean country.

Intellectual Property Department director-general Puangrat Asavapisit said yesterday that jasmine rice from this famous area had been registered by the department.

Together with the Agriculture Ministry, Foreign Trade Department and the private sector, the agency will draft an application to the EU. The draft is expected to be finished in February or March. If approved, jasmine rice from Roi Et, Yasothon, Surin, Maha Sarakham and Si Sa Ket would be protected. Thailand will seek support from France for the registration.

So far, 41 applications for GI registration have been received, of which 34 are from Thai companies and the rest from foreign firms. Already 22 applications have been registered.

8. Fake machines seized

*(from Bangkok Post Newspaper, Home News Section, Page 3, Thailand, 30 October 2007)*

Pol Maj Gen Visuth Vnichabutr, the commander of the Technology and economic Crime Suppression and Technology Division, lead team to seize copycat farming machinery. Most of the confiscated machines are copies of Honda equipment including water pumps, insecticide sprayers, hand-held grass trimmers and lawn movers. The fake products are sold at low prices but have no warranties.

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## MALAYSIA

1. An intellectual property consultant

*(from New Sunday Times, Malaysia, 21 October 2007)*

The future of intellectual property consultancy in Malaysia looks promising but little is known about this exciting career option. Intellectual property consultant Samantha Ann Samson says the average Malaysian is still vague about what intellectual property is all about.

"For instance, some Malaysians go to their lawyers for advice on intellectual property," she adds. But a lawyer is not necessarily an intellectual property agent, she says.

A law degree (LLB) qualifies a person to be an agent but there are other steps that the individual must take before becoming a full-fledged intellectual property consultant.

Intellectual property is defined as the "property of one's mind or intellect". These are, among others, patents (exclusive rights for new or improved products or processes), trademarks (a mark which distinguishes the foods and services of one trader from another such as words, logos, pictures, names or a combination of these) and industrial design (the aesthetic aspect of an article such as pattern or ornamentation).

2. VCD factory raided

*(from The Malay Mail, 30 October 2007)*

Federal Territory Domestic Trade and Consumer Affairs Ministry, in collaboration with its Putrajaya headquarters, seized two CD duplicating and processing machines, raw materials and 1,500 pirated CDs worth RM2 million.

The ministry's chief enforcement officer, Othman Nawang, said 15 officers from the FT department were involved in the operation. They were joined by two officers from Putrajaya's optical disc unit.

The operation, which took place at a factory lot in Rawang's industrial area, was led by the head of the FT department's intellectual property unit, Basharuddin Mohyiddin.

Othman said the department received a tip-off, alerting them of the activities taking place in the premises for the past two months. He added that the mastermind is still unknown. Investigations revealed that the premises was rented and does not have proper documentation.

Othman added that the landlord claimed he had not met the tenant and that all transactions were done through the bank. Othman said up till now, the department had seized materials worth RM3.7 million in such operations. This raid marked the biggest seizure by the department so far this year.

3. Intellectual Property Court helps boost economic growth  
(from *Business Times*, 31 October 2007)

The idea of establishing an Intellectual Property (IP) Court in Malaysia, was strongly pursued by Domestic Trade and Consumer Affairs Minister Datuk Mohd Shafie Apdal.

The Minister was concerned over the rising number of pirated copyright materials and counterfeit goods in Malaysia, among others. Since then, the Ministry together with the Intellectual Property Corp of Malaysia (MyIPO) had been working hand in hand in coming up with a concept paper on the establishment of an IP Court in Malaysia.

Prior to the official launch of the IP Court, on July 17 2007, one of the sessions courts in Kuala Lumpur viz the criminal session court 4 was designated as a dedicated court to attend to the criminal IP cases. Since then, many criminal IP cases were heard while work continued to progress towards establishing a proper IP court.

In April 2007, a concept paper proposing the establishment of an IP Court in Malaysia was finally finalised and tabled to the Cabinet in June 2007 and on June 6, the proposal was approved.

The Government has approved the establishment of 15 sessions courts with criminal jurisdiction known as "Session Court (IP)", one in each state including in Putrajaya.

Malaysia's IP Court was recently launched in July and handles only IP cases, said MyIPO deputy director general (Industrial Property) associate professor Rohazar Wati Zuallcoble. It is hoped that with the establishment of Intellectual Property Court in Malaysia, it would further enhance Malaysian economic growth and social development as a whole, she said.

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## SINGAPORE

More action sought against fake goods globally  
(from *The Straits Times Newspaper*, Singapore, 19 October 2007)

At International Bar Association (IBA) conference session at Suntec City on measures to combat counterfeiting and piracy, delegates spoke strongly about the issue - one seen as not only an economic threat but also involving serious safety, health and environmental concerns.

A global IBA survey on counterfeiting involving 39 countries is under way. It will be presented at next year's conference in Argentina.

The fake goods, ranging from boutique bags to designer clothes and other high-tech goods, take up between 5 and 7 per cent of the global trade, said Mr Clive Elliot, who is spearheading the survey.

The lack of enforcement action 'remains the rule rather than the exception' and the purpose of the survey is to identify key challenges and draw up a set of guidelines to use globally, he added. Part of the allure for counterfeiters was in the cash windfalls to be made.

Canadian counsel Ira Nishisato pointed out that profit margins in the industry was 1,100 per cent compared to 300 per cent for heroin, citing a Motion Picture Association report.

Delegates also heard some 250 million such products were seized in the European Union countries alone last year, up from 75 million in 2005. Fakes caused losses of between 120 billion euros (\$250 billion) and 270 billion euros a year worldwide and some 200,000 European jobs.

In a sign of its strong anti-piracy approach, the EU countries handled more than 37,000 cases last year - a 40 per cent jump over 2005, said Brussels-based lawyer Gerard van der Wal.

'But the problems have not disappeared despite all the attention given,' he added. One issue is the scant attention given by some countries to the problem, he said.

Sports giant Adidas' Hong Kong-based in-house counsel Rayan Tai pointed to inadequate enforcement action in China and the high domestic market demand for counterfeits there.

In Singapore, the problem is 'very minuscule' when compared to the region due to its strong enforcement action and deterrence, Mr Edward Neubronner, director of operations (Asia-Pacific) for the Motion Picture Association, told The Straits Times.

An education programme started in the schools several years ago has cooled a younger generation towards fakes and curbed demand, said lawyer Cyril Chua at the session.

'We are helping to groom an IP-savvy generation and the feedback from the schools is very encouraging,' said spokesman Jennifer Chen of the Intellectual Property Office of Singapore, which runs the programme.

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## PHILIPPINES

### 1. Senate approves cheaper medicines bill (from *Business World*, 3 October 2007)

Despite opposition from large pharmaceutical groups, the Senate approved on second reading a bill that seeks to amend the law on intellectual property to improve access to lower-priced medicines from other countries.

In a statement, trade committee chairman Senator Manuel A. Roxas II assured that the bill complies with existing laws and adopts international best practices.

Senate bill 1658, or the Cheaper Medicines Bill, amends the Intellectual Property Code and allows the parallel importation of medicines from abroad. It also adopts the "early working" principle and bars the grant of new patents on grounds of "new use."

The measure calls for the establishment of a framework for government use and compulsory licensing. It provides the President's authority to impose drug price ceilings in times of calamity, public health emergencies, illegal price manipulation and other instances of unreasonable drug price increases.

Committee report 6, filed by the committees on trade and commerce and health and demography, called for mechanisms that would ensure that the bill would enhance the access to affordable and quality drugs.

Among its recommendations are strengthening the Bureau of Food and Drugs (BFAD) that will be tasked to curb attempts to bring in fake or substandard medicines.

This would be done by allowing the agency to retain its operating income from fees and other charges so it could upgrade its facilities and beef up its human resources. The report also called for the establishment of a Congressional Oversight Committee on Quality Affordable Medicines, and allocation of an initial P25 million to the Health department for the implementation of these measures.

"Other countries have used the same tools with undeniable success. They have amended their patent laws to adopt internationally accepted best practices that have made medicines more affordable and accessible," Mr. Roxas said.

For its part, the House of Representatives vowed to pass its own version of the cheaper medicines bill by Oct. 13.

"Between now and Oct. 13 when Congress goes on recess, we in the House of Representatives will have approved the medicines price-reduction bill which our people are waiting for," Speaker Jose C. de Venecia, Jr. said in a

The bill, however, has been opposed by large drug firms, warning this would lead to the entry of low-quality and counterfeit drugs.

Despite being certified by the President, the cheaper medicines bill was bypassed in the 13th Congress due to the House of Representatives' failure to muster a quorum to approve the bill. The Senate passed its draft on final reading while the House version got stuck after approval on second reading.

Some legislators and nongovernmental organizations accused PHAP of resorting to bribery to prevent the passage of the bill, but the pharmaceutical group denied the accusation.

## 2. RP losing millions of dollars daily due to software piracy (from *Manila Bulletin*, 6 October 2007)

The Philippines loses millions of dollars – in lost revenue opportunities daily – just because of software piracy. But if only most computer users respect intellectual property rights, the country stands to gain an additional \$ 25 million in taxes.

Software piracy in the country is incredibly alarming, but the revenue opportunity if software piracy in the country is cut is even much more unbelievable.

For a mere 10 percent reduction in the piracy rate – from 71 to 61 percent -- in four years, the country would earn \$ 25 million more. Still, with the present software piracy rate, total losses reach \$ 119 million annually.

These figures are being tossed to the public by Roland Chan, director for marketing in Asia for the Business Software Alliance (BSA), adding that 2,000 new information technology jobs will be created

and \$ 325 million in sales revenues for local software vendors will be achieved if only software piracy is decelerated to 61 percent from the current 71 rate.

"The Philippine economy will gain a lot by reducing software piracy," said Chan in a press conference in Cebu City.

The research firm IDC said that software piracy in the Philippines is already alarming with the 71 percent since 2004. This means that for every 100 computers in the country, 71 are using pirated software, said Chan.

"This figure equates to a loss of \$ 119 million to the software industry," said Chan.

Despite the existence of the Intellectual Property Rights law in the country, Chan said software piracy is still rampant although he admitted that the government has shown its will power to improve protection of intellectual property rights here.

Chan said it is not the price of original software that pushes an individual or business organization to resort to using pirated software stressing that based on a recent study, the most pirated software are those that are cheap.

An original anti-virus utility software could cost around P1,000 or more but a pirated version sold on sidewalks costs only P80 to P100. But Chan said ignorance of the law and not the price of software is a major factor in piracy.

3. Fake rubber shoes seized  
(from *Philippine Daily Inquirer*, 8 October 2007)

The National Bureau of Investigation has seized P1.5 million worth of counterfeit rubber shoes in Pasay City. NBI Director Nestor Mantaring said that agents of the Intellectual Property Rights Division recently confiscated 840 pairs of fake Vans rubber shoes during a raid on stockrooms of Shoelink Trading at Harrison Shoe Plaza. IPRD chief Elfren Meneses identified the company's owners as Yolly Sy and Benny Sy.

They were charged with violation of Sec. 155 (trademark infringement) in relation to Sec. 170 or Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines.

4. House targets budget, drug bills' approval  
(from *Business World*, 12 October 2007)

The House of Representatives vowed to hold marathon sessions to pass the 2008 budget and the Cheaper Medicines Bill before going on recess.

Speaker Jose C. de Venecia Jr. said he, along with 185 House members, had a breakfast meeting with President Gloria Macapagal-Arroyo to assure her that the chamber would approve both bills on final reading.

Both measures have been certified by the Palace and are part of the President's legislative agenda. The 14th Congress is scheduled to end its first regular session today and legislators are scheduled to return to work on November 4.

But House trade committee chairman and Palawan Rep. Antonio Alvarez said the bill on lower priced medicines, which he would sponsor, might not even be tackled as the budget was the priority.

In a statement, Mr. de Venecia said approval of the two bills was part of a commitment to the people.

House Bill 2844, meanwhile, seeks to amend the Intellectual Property Code of the Philippines and the Generics Act to enhance access to lower priced medicines sourced from other countries.

The bill seeks to allow parallel importation of drugs and establish a Drug Price Regulation Board to set a ceiling price for medicines. The measure was almost passed during the last Congress but stalled at the House.

5. IP Philippines eyes decision of Pfizer case this year  
(from *The Manila Times*, 16 October 2007)

The cancellation case filed by the Philippine International Trading Corp. against the pharmaceutical giant Pfizer Inc. on its patent for a hypertension drug will be resolved before the year ends despite the expiration of the patent, the Intellectual Property Office top official said.

Adrian Cristobal Jr., director general of the IP Philippines, said the pending case on the cancellation of the patent rights of Pfizer's Amlodipine Besylate (Norvasc) should have a decision within the year, which will serve as precedent for a local legal decision following the resolution of the US Court of Appeals to uphold the petition of Apotex Inc., a Canadian generic drug maker that challenged the patent of Pfizer on amlodipine besylate.

"[The] [case] is very technical. After the decision either of the party can appeal the decision or go to [trial] court," Cristobal said.

He added that IP Philippines is making sure that the case is acted upon, saying that "much of the concern now is that amlodipine besylate patent has already expired and it is now within the public domain."

This means, the P1.5-billion-a-year market for Norvasc in the Philippines could now be taken advantage both by the generic medicine manufacturers and the bigger public.

6. Drive vs fake goods targets more seizures  
(from *Business World*, 16 October 2007)

The government is eyeing to seize close to P3 billion worth of pirated items by yearend in an effort to speed up the country's removal from an international watch list of intellectual property rights (IPR) violators.

Intellectual Property Office of the Philippines (IPO) Director General Adrian S. Cristobal told that his agency was targeting to double confiscations to P2.6 billion from P1.3 billion last year, with the view of a delisting by next year.

"Based on the performance of law enforcement agencies this year, it's most likely we'll double last year's accomplishments," he said.

The United States Trade Representative has the Philippines and 29 other trading partners on a lower level watch list of IPR violators. The country had been on the priority watch list since 2001 and was relegated to the ordinary watch list in 2006.

The US government has said that strong IPR enforcement in the Philippines "is critical to encourage investment and entrepreneurship in the Philippines, particularly in knowledge-based service sectors where Philippine firms have the potential to excel."

Industry groups have estimated that US firms lose around \$200 million annually through intellectual property theft in the Philippines.

The IPO said the government had seized P2.3 billion worth of fake goods as of September, from P2.16 billion in August.

7. Internal reforms push trademark filing up  
(from *Asia Pulse*, 17 October 2007)

The Intellectual Property Office of the Philippines reported that trademark filings have reached more than 110,000 for trademark applications and trademark registrations exceeded 60,000. These figures were compiled from the database of the office from 1998 to 2007. The year 2006 posted the highest recorded number of trademark applications and registrations for the nine-year period with 14,488 and 13,336 respectively.

The internal reforms implemented by IP Philippines to improve its trademark registration system and improve turnaround time from application to registration resulted in the increase in trademark registrations from 6,817 in 2004, to 10,481 in 2005, and 13,336 in 2006. From January to October 2007, the number of trademarks registered reached 12,098 or 96 per cent of 2006 registrations.

IP Philippines listed more local trademark applications in the last seven years compared to foreign applications.

Records from the office indicate that there were 49,960 local trademark applications or 57 per cent of the 82,261 total trademark applications filed.

Delivering quality and timely trademarks forms part of the mission statement of the office in fostering creativity and competitiveness for national development using IP as a strategic tool.

The National Capital Region (NCR) had the highest number of trademark applications from 1998 to August 2007 with 47,933 from the total number of local applications of 59,853. Region IV which includes Cavite, Laguna, Batangas, Rizal and Quezon (Calabarzon) and Occidental Mindoro, Oriental Mindoro, Marinduque, Romblon and Palawan (Mimaropa) is a far second with 1,701 applications. Region IX or the Zamboanga Peninsula places third with 1,502 applications followed by Region III or Central Luzon with 1,176 trademark applications.

From January to October 2007, local trademark applications have reached 6,793 while local trademark registered now total 5,162. Total trademark applications for the year are now 81 per cent of trademark filings in 2006.

Cristobal explained that the hike in local trademark filings could also be attributed to the overall positive economic climate that the country experienced from 2005 to-date. In 2005, gross domestic product (GDP) was at 5 per cent, it rose to 5.4 per cent in 2006. In the second quarter of 2007, GDP grew by 7.5 per cent vis-a-vis 5.5 per cent during the same period last year.

Trademarks, any visible sign that distinguishes the products of an enterprise, are powerful economic assets that serve three main functions: an indicator of source, a guarantee of quality, and an advertising tool.

IP Philippines through its Bureau of Trademarks registers applications by conducting a search of its trademark database and examining marks to determine their registrability. Once registered, the trademark is protected for 10 years, and may be renewed for succeeding periods of 10 years.

8. NBI seizes fake shoes worth P8.4 million in Davao  
(from *Philippines News Agency*, 20 October 2007)

Agents of the National Bureau of Investigation (NBI) seized 1,409 pairs of counterfeit Lacoste shoes worth of P8.4 million during raids on nine establishments in Davao City. Raided were three outlets of FITS Right Shoe Center and six outlets of Shotzty Shoes Shopping Center all located in Davao City.

Regional Director Lawyer Edward A. Villarta, chief of the NBI-National Capital Region (NCR), said the raids stemmed from the complaint of Lacoste S.A. which requested the assistance in investigation and prosecution of retailers, importers, and/or distributors for unfair competition.

The NBI conducted surveillance and test buys which confirmed information that the raided establishments have been reportedly selling and distributing class A counterfeit Lacoste pairs of shoes.

Armed with search warrants issued by Executive Judge Reynaldo G. Ross, of the Manila Regional Trial Court (RTC) Branch 33, the raiding teams swooped down on the establishments.

Investigation report of Special Investigator (SI) Glenn Lacaran showed that the raids led to the seizure of 1,409 pairs of counterfeit Lacoste shoes worth of P8.4 million.

Villarta said each pair of counterfeit shoes is being sold for P800 to P900 and the pairs shoes were considered class A.

The owners of the raided establishments are facing violation of Republic Act 8293 otherwise known as the Intellectual Property Code of the Philippines.

9. Investors discouraged by rampant software piracy, says group  
(from *Business World*, 23 October 2007)

The Philippines is responsible for \$119 million out of \$40 billion in worldwide losses from personal computer software piracy in 2006, a representative of the international lobby group of software companies said, claiming the country has been losing out on investments because of rampant intellectual property theft.

Ronald Chua, committee chairman of the Business Software Alliance Philippines, said the country continues to lose the confidence of foreign and domestic investors, noting the 71% piracy rate since 2004.

Aside from discouraging investments, piracy also reduces the incentive for innovation, he said.

Piracy prevents "local software technology from advancing as fast as the software industries of countries where there is strong enforcement of (intellectual property rights)," Mr. Chua added.

Software companies offered mixed views on the effect of piracy in their businesses.

In the recent launching of the Adobe Creative Suite 3, Adobe Systems, Inc. Regional Director for Southeast Asia Raymond Lee said fighting piracy goes along with the firm's growth plans. Because of piracy, Adobe has chosen not to put up retail outlets in the country, selling instead through distributors like Wordtext Systems Inc., and Ingram Micro, Mr. Lee said.

The Business Software Alliance's Mr. Chua believes the government has been doing its best to curb piracy.

Four agencies - the Intellectual Property Office, the Department of Trade and Industry, the Commission on Information and Communications Technology, and the Bureau of International Revenue are supporting a campaign to promote the use of licensed software among businesses in the Philippines, he said.

Seow Hiong Goh, the alliance's director for software policy in Asia, said the collaboration between the government and the software industry in creating a "conducive environment for innovation" is critical in improving the country's competitiveness in information technology.

The Philippines ranks 11th in Asia-Pacific in terms of competitiveness in information technology, a study by the Economist Intelligence Unit earlier bared.

10. Pirated software found in Ayala mall, university belt, shopsville  
(from *Business World*, 26 October 2007)

Authorities claim to have intensified a drive against software piracy, reporting 13 raids in establishments using or selling illegal business software and confiscating more than P39 million worth of computers, software, and machines used to replicate optical discs, this month.

The raids were in Ayala Center, the Ayala Metro Rail Transit station, and Park Square in Makati City; the University Mall, the university belt, and Claro M. Recto Avenue in Manila; Shopsville in San Juan; and Gilmore Street in Quezon City.

Other raids cracked down on offices using illegal software. Forty computers with unlicensed Autodesk and Microsoft software valued at nearly P4 million pesos were confiscated from Filipinas Multi-Line Corp. and three of its subsidiaries in Quezon City.

Illegal versions of the Autocad software valued at P5 million were found in China Geo Engineering Corp.

The raids are being carried out by the "Pilipinas Anti-Piracy Team" composed of the National Bureau of Investigation, the Optical Media Board, and the Philippine National Police. Software piracy is a violation of the Intellectual Property Code of the Philippines, and is punishable by up to nine years of imprisonment and a fine of up to P1.5 million.

11. NBI seizes P5-M worth of fake Lacoste in Subic  
(from *Philippines News Agency*, 27 October 2007)

Agents of the National Bureau of Investigation (NBI) seized 1,357 pieces of counterfeit Lacoste T-shirts and other clothing products worth P5 million during raids in Zambales. Raided were Puregold Duty Free (Subic) Inc. at Building 1109 Palm St., Subic Bay Freeport Zone, Olongapo City, Zambales and Freeport Exchange and International Freeport Traders at Building 640 Sampson Road, Subic Bay Freeport Zone, Olongapo City, Zambales.

Regional Director Elfren L. Meneses Jr., chief of the NBI Intellectual Property Rights Division (IPRD), said the raids stemmed from complaints of Lacoste S.A. for unfair competition and trademark infringement.

Surveillance and test buys were conducted that confirmed the complaints of the Lacoste S.A.

Armed with search warrants issued by Judge Reynaldo G. Ros, of the Manila Regional Trial Court (RTC) Branch 33, the NBI conducted raids on the firms. The raids resulted in the seizure of 1,357

pieces of T-shirts, 12 pcs. of jogging pants, nine pieces of jackets and 39 pairs of shoes all bearing the counterfeit trademark of Lacoste.

12. Agents seize big shipment of fake Tide soap in city  
(from *Manila Standard*, 31 October 2007)

Thousands of boxes of counterfeit Tide detergents worth P9 million were seized in a raid in Tondo, Manila, the National Bureau of Investigation said.

Elfren Meneses, head of the bureau's intellectual property rights division, said the raids were conducted in response to complaints filed by Procter & Gamble. The bureau's agents raided Junchem Trading and seized 1,113 filled boxes and 16,800 empty ones bearing the bullseye and eraser design used by P&G on its Tide products.

The owner of the establishment, a Democrito dela Cruz, would face charges of violating the Intellectual Property Code, Meneses said.

Also yesterday, Customs Commissioner Napoleon Morales ordered the destruction of 16 container vans of onions seized at the Port of Manila two months ago. Morales said the Bureau of Customs must destroy the shipment soon to avoid speculation by some farmers' groups that the onions were being diverted and sold.

Farmers have accused Customs officials of conniving with onion smugglers and traders, but Morales has disputed their claim.

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## INDONESIA

1. RI proposes international treaty for traditional heritage  
(from *The Jakarta Post Newspaper, Indonesia*, 3 October 2007)

Indonesia and several other developing countries have proposed the establishment of an international treaty to protect cultural heritage and folklore, says an Indonesian official.

"We had a conference organized by the Foreign Ministry and World Intellectual Property Organization in June, and we agreed to propose an international treaty on cultural heritage and folklore," said Andy Noorsaman Sommeng, director general for intellectual property rights at the Justice and Human Rights Ministry.

He said pushing the proposal through would be difficult because many developed countries opposed the idea. Many Indonesians are becoming anxious about the protection of their cultural heritage, especially after the Malaysian government used the song *Rasa Sayange* in its "Truly Asia" tourism campaign.

*Rasa Sayange* is believed to have originated in Maluku, where it is thought to have been sung for generations by people to express their love for their environment.

Andy, however, said it was difficult for the Indonesian government to claim any right over the song.

"From the side of intellectual property rights, if we can find out who wrote the song and that person wanted his or her rights to be protected, then we could sue Malaysia. If not, the song will remain in the public domain and can be used by anyone," he said.

He said a property right was a personal right that would be protected during the lifetime and 50 years after the death of the creator of a piece of intellectual property. After that the creation enters the public domain.

He acknowledged that this task was difficult because the government did not have a database on Indonesia's cultural heritage.

Asked if the Malaysian government really had patented batik and angklung, as had been rumored, he said this was not true.

"I have checked in Malaysia and there are no patents for batik or angklung," he said.

He said if there were any patents, they would likely be for any new technology to make batik. He said to get a patent, a person had to prove their creation was a new invention or innovation and that it was applicable in industry.

## 2. IPRs and Indonesian economic growth

*(from The Jakarta Post Newspaper, Indonesia, 10 October 2007)*

If international patent applications (technological inventions) are a benchmark for economic growth and productivity, Indonesia needs to get its act together.

A recent publication released by the World Intellectual Property Organization (WIPO) titled *The International Patent System in 2006: PCT Yearly Review* is worth a mention. One of the tables in the publication shows that applications for international patents from Indonesia in 2006 under the PCT (Patent Cooperation Treaty) scheme ranked very low, with barely eight applications submitted.

Compared to other developing countries, in 2006 Indonesia's patent applications outnumbered only those from Mongolia (six), North Korea (four), Algeria (four), Uzbekistan (one) and Antigua, Barbuda and Zimbabwe, who did not file for any patents at all last year.

In the same year, countries whose applications have exceeded Indonesia's include Vietnam (nine), Kazakhstan (17), the Philippines (20), Cuba (21), Colombia (29), Malaysia (59) and Mexico (176).

Based on these observations as well as the research there is one crystal clear message; Indonesia must pay greater attention to the importance of IP. Furthermore, it may be assumed that Indonesia's slow economic progress has been duly impacted by our failure to recognize the significance of IP as a strategic tool of economic development.

On a national level, however, Indonesia's IP achievements are far more encouraging. As an example, data at the Indonesian Directorate General of Intellectual Property Rights (DJHKI) shows a relatively high number of national patent applications.

Nevertheless, with the dramatic effects of globalization on the world economy in recent decades, international patent applications have become more crucial than national ones.

It follows that Indonesia must strive to make up for lost time in this area. If it fails to do so, the Indonesian economy will continue to develop slowly, while other economies will progress at a much faster pace.

It is now high time for Indonesia to re-adjust its IP strategy while taking into account other factors that may prevent the implementation of the strategy.

3. RI to better manage its cultural heritage

*(from The Jakarta Post Newspaper, Indonesia, 24 October 2007)*

The Cultural and Tourism Ministry and the Justice and Human Rights Ministry signed a memorandum of understanding (MOU) around preserving the nation's cultural heritage. The agreement would be effective from next week and covers the protection and development of the country's cultural heritage as well as the protection of intellectual property rights on cultural heritage.

But Cultural and Tourism Minister Jero Wacik said there was still much to be done by his ministry, including the development of a registration system at the Justice and Human Rights Ministry.

Minister for justice and human rights Andi Mattalata said the government had not made enough of an effort to trace the country's heritage, especially partly-anonymous items including folk songs, traditional food and costumes.

"We will give direction around the registration period for such anonymous property," Andi said. "We urge all craftsmen, artists and local administrations to immediately register their properties."

4. Tighter IPRs regulation has no significant effect on computer sales volume

*(from Bisnis Indonesia, 29 October 2007)*

Apkomindo views the application of tighter intellectual property rights regulation to IT products, usually software ones, doesn't have significant effect on the computer sales volume in Indonesia.

Until the end of 2007, the overall computer sales volume is even estimated to reach more than 8.5 million units on the increase in demands for notebooks by 20%.

James Ticalu, Head of Communication at the Association of Indonesian Computer Businesses (Apkomindo), revealed previously the computer businesses were worried that the domestic computer sales volume would slide following the application of the Intellectual Property Rights Law. However, a recent evaluation showed the government's policy had no significant effect.

Some organizing members of Apkomindo in regions even revised the target in the wake of the application of the Intellectual Property Rights Law. They assumed the computer prices would become more expensive and the sales volume would fall.

Some companies, he continued, chose to change their computer units with the legal ones, while some computer traders dealt with the regulation by selling computers without installing pirated software.

He was optimistic with various efforts to socialize Intellectual Property Rights to corporate customers, the computer sales volume in 2008 would be able to grow by 15%- 20%. However, he admitted that the Internet kiosk business would be sluggish a little bit following the application of the regulation.

"We are aware that most of internet kiosk businesses are small and medium enterprises that find it difficult to afford buying original software."

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## VIETNAM

City seminar seeks to protect well-known trademarks

*(from Thai News Service, 16 October 2007)*

Vietnamese and Japanese speakers at a seminar in Ho Chi Minh City together sought ways to protect well-known trademarks and create innovative brand strategies in the global marketplace. The day-long event heard experts, officials and corporate members discuss ways to promote their brands and trademarks.

Tran Viet Hung, general director of the National Office of Intellectual Property of Vietnam (NOIP), said that trademarks had become an efficient tool that help businesses, large and small, to access, develop and secure market share.

"Well known trademarks, however, are highly vulnerable to copying and reduplication and harm the prestige of the brand," he said.

Trademarks possess a huge asset value and must be legally protected, he said.

Hung said the Paris Convention, launched in 1884 with a current membership of 170 countries, has protected well-known trademarks internationally. The regulations under TRIPs (Trade-Related Aspects of Intellectual Property) of the World Trade Organisation also helps in the effort, he added.

Several difficulties, however, still remained, he noted, citing the inconsistency between local and international law on trademark protection, and the procedures and criteria required for a well-known trademark.

More international co-operation in the field is needed as well, he said.

Nguyen Van Bay, of the NOIP's Center for Research and Training, argued that well-known trademarks were legally defined as trademarks popular with Vietnamese consumers and their protection would ensure owners' rights and consumers' interest.

Vietnamese intellectual property law defines well-known trademarks based on several criteria, including the length of time that it has been used, popularity, the number of countries that recognise Vietnamese trademarks, and the transfer value, he said.

Reiko Toyosaki, patent representative of Japan's Toyosaki and Associates, explained Japan' s intellectual property laws and the registration procedures and protective measures.

The seminar was organised by the National Office of Intellectual Property (NOIP) of Vietnam in coordination with the Ho Chi Minh City Department of Science and Technology, the Japan Patent Office and Japan Institute of Invention and Innovation.

NOIP estimates that this year there will be 30,000 applications for trademark registration from local and foreign businesses, a 20 per cent increase over last year' s figure.

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## CAMBODIA

### 1. EU helps Cambodia in IPRs co-operation (from Xinhua News Agency, 1 October 2007)

The European Union (EU) and the French Development Agency (AFD) has provided financial support to Cambodia for intellectual property rights co-operation and drafting Geographical Indication Law which was required by the World Trade Organization (WTO), officials said.

With assistance from the EU, Cambodia has reached the stage where the Geographical Indication (GI) can be used as an important tool to rural area development as well as the economy as a whole, Moa Thora, Cambodian undersecretary of state for the Ministry of Commerce told a seminar and consultation on Geographical Indication.

EU provided nearly 1 million U.S. dollars and AFD donated about 100,000 U.S. dollars to help Cambodia to draft GI law and protect intellectual property rights, he added.

Samrith Sakaru, deputy chief of geographical indications and intellectual property department of the Ministry of Commerce, said that GI law will protect the names and specific qualities of Cambodian products.

GIs also improve the reputation of local products in international trading and they are part of national patrimony that should be protected, he added.

In 2006, EU provided about 9 million U.S. dollars for intellectual property rights co-operation programs in ASEAN (the Association of Southeast Asian Nations) countries, according to an EU statement issued at the seminar.

## 2. Cambodia newspaper sues Radio Free Asia (from *The Washington Times*, 3 October 2007)

A small Cambodian newspaper has sued Radio Free Asia for purported copyright violations, charging that the station routinely copied and distributed issues to its staff in Washington and Bangkok and posted some of the paper's work without permission on the Internet.

Officials at Radio Free Asia (RFA), a private, nonprofit broadcaster funded by the U.S. government, said they are aware of the lawsuit, but "vigorously reject" the charges in the filing and are prepared to "decisively refute [them] in court."

The Cambodia Daily, also a nonprofit operation, was set up in 1993 and publishes six days a week. In an attempt to reduce the risk of other press outlets using its material, the paper only posts a few selected feature pieces online.

Mr. Krisher, a former Asian correspondent for Newsweek magazine, said his paper writes for the people in Cambodia and sees no need to post its stories on the Internet.

The paper hires both Cambodian and foreign reporters but, because it is a nonprofit, the pay is very low.

Deborah Krisher Steele, Mr. Krisher's daughter and a former manager of RFA's Asian offices, testified that she saw an RFA employee in Thailand copying articles from an edition of the Cambodia Daily back in 1999. The copy had been faxed from RFA's Phnom Penh office.

Mr. Krisher told Cambodian prosecutors last month that he contacted Kem Sos, director of the RFA's Khmerlanguage service. Mr. Krisher said RFA agreed that it was in violation of the copyright law and had told its Phnom Penh office to stop the practice. RFA initially offered a small fee - \$5,000, according to Mr. Krisher - for the use of the paper as a source.

RFA officials deny using the newspaper's work without attribution, and say they considered the citation of excerpts from Cambodia Daily articles covered under the legal concept of "fair use."

An RFA spokeswoman in Washington said the settlement money was offered "in the interest of resuming our former good relationship with the Cambodia Daily, and because RFA thought it best to offer a reasonable sum rather than encouraging the extensive costs of a lawsuit."

David Moore, a patent lawyer for the Washington-based Staas & Halsey LLP, said that the newspaper could have a case if the material in question had been changed from print to electronic copies and also if the paper has been widely distributed among RFA employees.

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## INDIA

### 1. Delhi HC restrains local co from copying Harry Potter books (from *The Press Trust of India Limited*, 2 October 2007)

The Delhi High Court has restrained a Bangalore-based publishing firm from printing or selling counterfeit books of the famous Harry Potter series.

Justice B D Ahmed granted interim injunction in favour of noted author J K Rowling and her publishers, while restraining City Publication and its agents "from reproducing, adapting, printing and selling books of Harry Potter series".

The court went through the original book and the counterfeit product and found that it was a case of unauthorized adaptation of Rowling's book.

"It is apparent that the front cover has been copied though the printing is of very poor quality. The back cover is an unauthorised identical reproduction of the cover of the US edition of the said work. The matter contained in the book is an adaptation of the matter contained in the original work. The defendants have copied the main characters," the court said.

According to a suit filed through advocate Akash Chitranshi before the court, Rowling is the author of Harry Potter series, and Bloomsbury Publishing are the owners of copyright in the literary artistic works for all books, including the latest 'Harry Potter and the Deathly Hallows'.

These books are well known worldwide and the plaintiffs also have trademark registrations as well as copyright registrations in respect of characters, covers and literary contents, Chitranshi said.

She also informed the court that recently Bangalore police had seized 1,500 such fake copies from City Publication with identical front and back cover.

### 2. India adopts tough stand on yoga piracy (from *Business Times Singapore*, 5 October 2007)

The Indian government is taking a strong stand in the fight against piracy of yoga postures. The main offenders are companies based in the United States, a country where yoga is now an industry worth US\$40 billion annually serving a market of nearly 28 million people.

According to the Los Angeles-based Yoga Expo Inc, 77 per cent of America's yoga practitioners are women. It is estimated that 30 per cent of these people have an annual household incomes of up to US\$75,000, and 15 per cent have household incomes of US\$100,000 and more.

In May this year, New Delhi asked its embassy in Washington to lodge a protest with the US authorities over the misappropriation of traditional Indian knowledge after the United States Patent and Trademark Office (USPTO) had issued 134 patents on yoga accessories (yoga mattresses, grip blocks,

yoga socks, and some devices used in doing stretching exercises), and 2,315 yoga trademarks. More significantly, copyright protection for yoga postures is being granted liberally.

Little wonder that there is growing alarm within the Indian Commerce Ministry and the Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy over what appears to be wholesale intellectual property theft. Indian officials say that yoga postures have been part of their country's heritage for a thousand years at least, and the Indian challenge is based on the premise that a claim cannot be granted on what is already known and in the public domain. The Indian government's stand on the issue led to a flurry of news reports in June on the USPTO granting patents on yoga postures.

Promptly, a US embassy official in New Delhi said that the USPTO had not granted any patents on yoga postures, only on patents on devices used in conjunction with yoga. The US embassy said that the reports alleging the granting of patents on yoga postures were thus inaccurate. In a narrow sense, the embassy is correct.

The USPTO has never granted a patent to any US firm for yoga postures. But, as always with intellectual piracy by the West, that does not tell the entire story. The USPTO may not have granted patents, but the United States Copyright Office (USCO) has registered copyrights on yoga postures, which grant an even longer protection period than patents. When many in the Indian media complain against yoga patents, they actually mean copyright.

In any event, the result is the same. Elements from India's intellectual heritage, already in the public domain for centuries, have been converted into the private property of a US firm. A US enterprise, Bikram Yoga, has succeeded in getting copyright protection on 26 yoga poses and two breathing exercises.

The matter has been a source of controversy for several years. According to the USPTO, a patent grants property rights to a person who has invented something. The inventor possesses the right to exclude others from producing or selling the invention. However, a copyright protects the form of expression rather than the subject matter of the writing.

Bikram Choudhury, the holder of the copyright to those 26 contested yoga postures, has appropriated major elements from the traditional Indian knowledge of yoga, and staked a claim to it after making small modifications. For instance, Bikram Yoga is performed in a room where the temperature is a sweltering 40 degrees Celsius.

### 3. IPR for plant varieties (from *Business Standard*, 9 October 2007)

India has joined the elite club of countries which have put in place a well-crafted intellectual property protection regime for plant varieties as required under the trade-related intellectual property rights (TRIPs) agreement.

Barely one or two countries in the developing world, and none in our neighbourhood, have done so yet. The Protection of Plant Varieties and Farmers' Rights (PPV&FR) Authority set up for this purpose in late 2005 has formally begun accepting applications for the registration of plant varieties. This will enable seed companies and other developers of new varieties, including hybrids and transgenics, to have ownership rights over them, as also exclusive rights to market the seeds of these varieties for the ultimate benefit of the farmers.

As such, this will prevent the piracy and misuse of protected material by others. Besides, this will pave the way for healthy growth of the research-based seed industry, providing farmers access to better seed for higher and superior quality production.

Significantly, the PPV&FR Authority has received good response from the seed sector. In about three months of opening up of the plant variety register, the Authority has received about 150 applications for the registration of new crop varieties. Interestingly, most of them are for hybrids or the parent lines meant for developing hybrids.

What is particularly noteworthy is that some private companies have applied for protection to wheat material that will quite likely be used for evolving the much sought-after hybrid wheat.

The PPV&FR Authority seems to have done a good deal of spadework, highly technical in nature, for evolving elaborate criteria for determining the distinctness, uniformity and stability (DUS), besides the novelty, of a new variety to qualify for getting intellectual property safeguards. PPV&FR Authority chairman S Nagarajan, a well-known agricultural scientist, held a series of meetings with various stakeholders before finalising the DUS norms and the guidelines for the applicants.

The Authority has already published the descriptors for identifying new varieties and the locations where the varieties offered for registration would be tested to verify their characteristics. Also, it has begun publishing a monthly Plant Variety Journal of India which will enjoy the status of Gazette for notifying registered varieties and putting out other relevant information.

The varieties developed by public sector research organisations and farmers and farm communities will also get this protection. So also will foreign companies wanting to protect their plant varieties in India.

This protection, provided under the PPV&FR Act of 2001, will be along the lines of the patent protection available for industrial products and other inventions. It will be valid for 18 years for trees and vines and 15 years for other plants.

The Indian PPV&FR statute, enacted as sui generis legislation for plant variety protection under TRIPs is unique in the world as, apart from protecting plant breeders' rights, it retains the rights of the farmers to re-use, sell, share or exchange with their neighbours even seeds produced by themselves from legally protected varieties. However, they are barred from selling branded seeds of such varieties.

This apart, the law even recognises the contribution made by the farmers in conserving, improving and making available plant genetic resources over the decades and provides for benefit sharing in case these are used for evolving new varieties. Measures are included for the protection of bio-diversity as well.

This legislation, thus, conforms to the 1978 version of the UPOV (Union Internationale Pour La Protection Des Obtentions Vegetales) convention administered by the Geneva-based global organisation for the protection of new plant varieties. Besides, this is also compatible with Agenda 21 of the United Nations Conference on Environment and Development (UNCED) and the global Convention on Biodiversity. This law is now being viewed as a model by other developing countries to emulate.

To begin with, variety registration has been opened for 12 crops. These are rice, bread wheat, maize, sorghum, pearl millet, chickpea, pigeon pea, green gram, black gram, lentil, field pea and kidney bean. Nagarajan feels the authority will soon be able to expand this list to include at least four species of cotton, two species of jute, ornamental plants like rose and chrysanthemum, oilseeds like rapeseed-mustard and sunflower, and commercial crops like sugarcane. The procedural details for these crops are being worked out and may be notified soon.

4. Geographical Indication assumes importance in trade talks  
(from *Mondaq Business Briefing*, 10 October 2007)

India and European Union have embarked on a bilateral trade & investment agreement, which envisages liberalization of trade in Goods, Investment & Service and higher protection for Intellectual Property Rights including Geographical Indications. The details of the agreement are being worked out.

The geographical indications as intellectual property rights have assumed importance in the negotiation of this bilateral trade and investment agreement as India is insisting on EU to extend the protection to non-food items as well under its domestic regulation protecting geographical indications. EU provides protection to mainly food items as GIs.

According to sources, European Union wants India to extend protection to hundred of its food items originating in the 27 member block. For India the list is diverse and includes food as well as handicraft items. India wants GI protection for a number of handicraft items like Kanjeevaram sarees, chikankari and kantha work, and bidri pottery as machine made handicraft items from other countries is posing a big threat to the exports which has made it important to ensure protection of traditional handicrafts.

The underlying concern of European Union for the protection of its wide array of food products is to stop them from becoming generic or acquiring a generic status. Names having a common usage in one region give rise to controversies when they are found protected in another region.

Some may claim that the geographic names, which have become commonly associated with the food products, should not belong exclusively to a specific group of producers in a specific geographic location as consumers expect these names to identify a class of products that can be produced in many locations.

On the other hand, proponents of geographical indications argue that the products associated with the name have a certain quality that derives from the geographic region and specific production process used. Thus, the protection of the name helps prevent the development of a generic association thereby preserving the ability of the product to be made in the traditional manner.

While the arguments about the value and necessity of legal protection for the names of food products may be disputed, it is clear that there are foods that do contain qualities that derive from their geographical origin.

5. Fake toners seized  
(from *Daily News & Analysis*, 11 October 2007)

Duplicate toners worth Rs 90000, were seized during a raid at a stationary shop in sector 2, Vashi. The duplicate toners were being sold under the Samsung Company, intellectual property rights agency Enforcers of Intellectual Property Rights said.

The counterfeit toners were being sold at Apollo Stationery & Xerox. A complaint has been registered under Copyright Act sections 51 and 63 against the shop owner Pratap Chaganbhai Patel (22) with Vashi police. Vashi police assisted sleuths of EIPR, India's largest investigation agency specializing in anti-counterfeiting solutions, in carrying out the raid last week, EIPR officials said.

Sale of pirated products had increased in the recent past in the city. Besides pirated CDs and other products, duplicate cigarettes of a popular brand have also been seized in the city.

6. Mechanism for IPR of telecom products  
(from *The Economic Times*, 17 October 2007)

The Centre for Development of Telematics (C-DoT) and the Department of Industrial Policy and Promotion (DIPP) will together put a framework in place for management of the Intellectual Property Rights of the products and services developed by the Telecom Centres of Excellence (TCoEs).

The concept of TCoEs, which was first unveiled last year, will see the setting up of in-house research and talent development centres in renowned institutes such as Indian Institute of Technology, Indian Institute of Management amongst others with support from India's telecom operators.

Sources said that while TCoEs were non-commercial ventures, the government was still concerned about the management of the IPR rights developed by these centres. The Telecom Commission, the apex body of the department of telecom, has therefore decided that mechanism needs to be put in place - C-DoT, an autonomous body under the telecom department and the DIPP has been entrusted with the task, sources added.

"The DIPP would assist these TCoEs by providing expert assistance whenever needed. Its officials will also be sent from time to time to check whether the IPR norms are being violated. A bi-monthly visit would be apt," a DIPP official said.

The Centre at IIT Kharagpur will be sponsored by Vodafone Essar and Texas Instruments and will focus on Next Generation Network (NGN) and network technology while the Centre for Excellence at IIT Delhi will be sponsored by Bharti Airtel, Indian Institute of Science, Bangalore, by Aircel, IIT Chennai by Reliance Communications, IIT Kanpur by BSNL, IIT Mumbai by Tata Teleservices and IIM Ahmedabad by Idea.

The MoU for setting up the TCoEs was signed between IIM Ahmedabad and Idea and IIT Kharagpur and Vodafone Essar in the presence of telecom minister A Raja. The Centre at IIM Ahmedabad will deal with policy, regulation, governance, customer care and marketing. The remaining centres will be set up in the first half of 2008. It would be a good idea for these TCoEs to develop telecom and IT solutions for rural areas at an affordable price," Mr Raja said.

The Centre at IIT Delhi will handle telecom technology and management, IISc Bangalore's expertise will be in information security and disaster management of infrastructure, IIT Kanpur will specialise in technology integration, multimedia and computational mathematics, IIT Chennai will focus on telecom infrastructure and energy and IIT Mumbai is scheduled to handle rural applications.

#### 7. Govt brews GI tag for Darjeeling Tea (from *The Economic Times*, 26 October 2007)

The government is planning to make Darjeeling Tea an exclusive product of India. The tea variety will soon have a geographical indication (GI) in all international markets. In the absence of GI identification, the name is being used by any manufacturer or retailer from around the world, for any variety of tea. This leads to major revenue losses for Indian tea exporters.

At present, Champagne is the only products that commands a GI worldwide. The issue of GI for Darjeeling Tea has been doing the rounds for the last couple of years through various national and international forums. It was raised in a recent meeting of the commerce and industry ministry's consultative committee by Congress MP Rajeev Shukla.

"The commerce minister has assured that the necessary formalities for GI registration is under process and should be complete soon," Mr Shukla told ET. While the government has filed for GI in the US and Canada, it has also spruced up the process in other international markets.

India is the second largest producer of tea in the world and Darjeeling Tea is considered to be the most sought after variety. Despite this, India commands less than 13% share in the export market. "To a great extent, this could be attributed to the fact that India is also the largest consumer of tea in the world.

However, losses due to lack of GI for Darjeeling Tea cannot be ruled out," Mr Shukla said.

The Centre is also planning to set up a body which will monitor and regulate tea exporters. Import of tea from India has been banned in some East Asian countries, mainly on quality issues. Till about the early 1990's, India happened to be one of the leading tea exporters in the world.

This share has continuously dipped since then, due to various reasons. However, in the last 6-7 years, there have been an aggressive takeover of tea gardens by corporate, and almost 80% tea production lies with the organised sector now.

Overall, the organised sector comprises around 1,600 tea estates with a holding size of over 10 hectares.

8. Call to create awareness on IPRs  
(from *The Hindu*, 27 October 2007)

Chief Executive Officer of the Shimoga Zilla Panchayat P. Bore Gowda said that the intention of introducing laws under Intellectual Property Rights (IPRs) was to help people protect innovations made by them.

Addressing a gathering as chief guest at a one-day workshop on Intellectual Property Rights here he said the laws were of immense significance in the present context.

The workshop was organised by the Karnataka State Council for Science and Technology, Karnataka Council for Technical Upgradation, the District Industries Centre and the Shimoga District Chamber of Commerce and Industry.

Mr. Gowda said that though farmers had taken up many innovative farming methods they were not aware of the Patents Act to register the innovations in their names. It was possible that their efforts were likely to be misused by those who would claim rights on them, he said.

He said it was necessary that people particularly farmers be enlightened about the significance of IPRs and the Patents Act. Referring to an experiment of the local youth who had come up with an areca nut peeling machine, Mr. Gowda said there was possibility of their experiment being claimed by others under the Patents Act, if it was not registered.

He said that laws under IPRs would help prevent misuse of unique innovations.

President of the Shimoga District Industries Association K.S. Anantharamaiah explained the difference between physical and intellectual properties. President of the Shimoga District Chamber of Commerce and Industry K.V.

Vasanthkumar stressed the need for giving more importance to documentation and registration of new innovations. The IPRs played a vital role in this process, he added. Joint director of the District Industries Centre P. Prabhudev, nodal officer of the Karnataka State Council for Science and Technology P.R. Dhanavantri, scientist Yashwantdev Panvar and senior patent consultant Raju Bhupathiraju spoke. Copyrights management patent attorney Gaurav Miglani gave details about the IPRs.

9. Seminar to focus on IPRs  
(from *The Hindu*, 29 October 2007)

The Department of Botany, N.S.S. College, Nemmara, will organise a national seminar on 'Intellectual Property Rights'.

The seminar, being organised in association with the Kerala State Council for Science, Technology and Environment, will be inaugurated by P. Chandra Mohan, Vice-Chancellor, Kannur University. Principal of N.S.S. College M.P. Rajan said the seminar was being organised to create awareness among the people on the need to adopt legal measures to protect their intellectual properties.

India has a rich cultural heritage, traditional wisdom and natural resources. It is one of the few countries with the highest number of scientists, doctors and engineers. Despite possessing such assets, the number of patents filed or intellectual properties registered in the country remains very low. There will be four technical sessions at the seminar.

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## OMAN

Oman in anti-piracy crackdown  
(from *Global Insight Daily Analysis*, 2 October 2007)

Omani anti-piracy agents, working in tandem with representatives from computer giant Microsoft, have launched a number of raids against Omani companies involved in software piracy. Oman, which signed a free-trade agreement (FTA) with the United States in 2005, has launched a clampdown on violators of intellectual property rights, allocating resources to apprehend repeat offenders. Oman has one of the highest piracy rates in the Gulf.

A Microsoft regional representative applauded the efforts of the Omani government, saying, "the government of the Sultanate of Oman has been very proactive in the fight against piracy and Microsoft is pleased to announce another breakthrough in our joint effort. The visits and subsequent settlement agreements are excellent examples of how close cooperation between government and private entities along with effective law enforcement and information campaigns can create a huge boost for our mission to build a digital society that is free of criminal elements".

Significance: Despite efforts by the Omani government to enforce anti-piracy laws, violations of intellectual property rights remain widespread, with pirated goods being visibly available throughout the Gulf.

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