

Monthly Report of September 2004

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THAILAND

News in September 2004

1. Fake Cannon
2. GMO papaya patented
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4. Patent law change urged
5. Music companies warned
6. GM papaya patent

1. Fake Cannon

(from Post Today Newspaper, Business Market Section, Page B3, Thailand, 3 September 2004)

According to Tilleke & Gibbins Law Firm, the advisor of Cannon, together with ECID seized the department stores and photo shops and raided many fake batteries of Cannon. They raided 7 people which would be fine not over 400,000 baht and imprison not over 4 years.

2. GMO papaya patented

(from The Nation Newspaper, Local News Section, Page 2A, Thailand, 8 September 2004

Krung Thep Thurakit Newspaper, Prime News Section, Page 1&4, Thailand, 8 September 2004

Post Today Newspaper, Local News Section, Page A8, Thailand, 8 September 2004

The Nation Newspaper, Local News Section, Page 3A, Thailand, 9 September 2004

Krung Thep Thurakit Newspaper, Prime News Section, Page 1&4&2, Thailand, 9 September 2004)

The Cornell Research Foundation, which worked alongside Thailand's Agriculture Department to research genetically modified (GM) papayas, patented the DNA structure of the papaya ring spot virus and a technique to make papayas resistant to the disease, Greenpeace adviser Gerard Greenfield said. The US Patents and Trademark Office (USPTO) awarded the patent to the foundation in mid-June, he said.

He said a Cornell researcher named Denis Gonzales had applied for the patent, claiming a discovery about the virus's genetic data. Greenfield suggested Thai researchers protest the patent.

He warned that life was set to become more difficult for Thai farmers, because at least 14 patents had been registered involving papayas. He said that in the US and Canada, many papaya growers had been sued for patent infringements.

A source from the Agriculture Department confirmed cooperation between the agency and Cornell University, but said he doubted any patent was registered involving Thai GM papayas. The source said a joint experiment was ongoing and was not yet complete.

The Thai side needed the US institution's GMO technologies and funding, said the source, explaining the collaboration. In their agreement Thai farmers have the right to benefit from the finding for free.

3. Fake Benz

*(from Bangkok Post Newspaper, Home News Section, Page 4, Thailand, 8 September 2004
Post Today Newspaper, Local News Section, Page A8, Thailand, 8 September 2004)*

Economic crime investigators have seized a large number of fake Mercedes-Benz spare parts in a search of two houses in Sam Phran district of Nakhon Pathom. Pol Maj-Gen Suchart Kanchanawiset, the division commander, said the search was carried out after a warrant was issued by the Central Intellectual Property and International Trade Court at the request of Ainsley Jong, representative of DaimlerChrysler Mercedes-Benz for Asia and the Pacific.

A total of 11,656 fake Mercedes-Benz car parts were found at the two houses. They had been manufactured by an unnamed company. The DaimlerChrysler would take legal against the company for intellectual property rights violations.

4. Patent law change urged

(from Bangkok Post Newspaper, Home News Section, Page 4, Thailand, 13 September 2004)

The National Human Rights Commission and Aids advocacy groups have urged the government to speed up patent law amendment, or issue an executive decree to ensure better access to anti-retroviral treatments for people living with HIV/Aids.

The groups said the government should change the law so it complies with the Aug 30, 2003 Doha Declaration on TRIPs and Public Health. The declaration pointed to a final hurdle: the effective use of compulsory licensing by countries unable to produce their own drugs.

The groups earlier proposed an amendment to article 51 of the Patent Act. If successful, Thailand would be able to import generic drugs to help treatment of ids, cancer and heart disease, and be able to export locally-made drugs to neighbouring countries.

5. Music companies warned

*(from Post Today Newspaper, Business Market Section, Page B2, Thailand, 24 September 2004
Krung Thep Thurakit Newspaper, Economic Section, Page 3, Thailand, 24 September 2004)*

GMM Grammy and R.S. Promotion, big music companies in Thailand, said that the way of infringement intellectual property is changed. Since they can write by the computer so the infringement is now cover not only the business but also the education area.

6. GM papaya patent

(from Bangkok Post Newspaper, Home News Section, Page 5, Thailand, 29 September 2004

Krung Thep Thurakit Newspaper, Life Quality Section, Page 13, Thailand, 29 September 2004)

Thai farmers risk being held liable for patent violations under patent application rights for genetically modified (GM) papaya being considered by American biotechnologists working with Thai scientists, experts said. They have urged the government to pay close attention to the issue and plan to discuss it with senators.

Experts also expressed concern over the second round of FTA negotiations between Thailand and the US on Oct 11 as they said talks may include intellectual property protection and genetically modified organisms.

PEOPLE'S REPUBLIC OF CHINA

News in September 2004

1. Private detective firm registers trademark
2. JEITA to strengthen Vigil on piracy via new Beijing office
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4. China defends decision to revoke Viagra patent
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23. Cultural associations focus on piracy
24. Crackdown on pirated software to be intensified
25. HK urges citizens to help protect IPR
26. US, Chinese group to discuss IPR
27. Pfizer confirms court appeal for Viagra's patent in china

1. Private detective firm registers trademark

(from Business Daily Update, 1 September 2004)

China's first private detective firm has registered its trademark. The private detective firm acquired its trademark after two years of examination by the government. In August 2002, China

issued new trademark registration regulations, to increase the number of registrable categories of goods and services from 42 to 45. Private bodyguard firms and companies devoted to tracking down mission persons can now also apply for a trademark.

2. JEITA to strengthen Vigil on piracy via new Beijing office
(from Jiji Press News Services, 2 September 2004)

The Japan Electronics and Information Technology Industries Association will strengthen its vigil on infringements of Japanese electronics firms' intellectual property rights in China. JEITA will pressure Chinese patent authorities and the electronics industry to reinforce measures to stop piracy through its Beijing office, which started operating this month.

Chinese companies' environmental measures and the Chinese government's move to set its own standards on electronic goods as being problematic. JEITA will hold a meeting with Chinese electronics firms on recycling and other environmental measures in October, and on protection of intellectual property rights in November.

3. Beijing bans brand names at free markets
(from Xinhua News Agency, 6 September 2004
BBC Monitoring Asia Pacific, 6 September 2004
Reuters News, 6 September 2004
The New York Times, 7 September 2004
The Globe and Mail, 7 September 2004
Business Daily Update, 7 September 2004)

A senior market regulator said that Beijing law enforcement bodies have banned Louis Vuitton, Chanel, Prada, Givenchy, Fendi and the rest 20 likes being sold at free markets in the city.

Regardless of providing genuine goods or counterfeits, Li Dongsheng, vice director of the State General Administration for Industry and Commerce, said, vendors who sell those luxury brandnames might face criminal charge for intellectual property violation.

In request of the foreign brand holders, the Chinese authorities issued the ban, with promise form the brand holders that they will not provide genuine goods to places other than authorized chain stores.

By the enforcement of August, Li said, local administrations for industry and commerce had posted 982 announcements at billboards in the city's 168 markets which sell clothes, shoes and accessories.

4. China defends decision to revoke Viagra patent
(from Xinhua Financial Network News, 6 September 2004)

China defended its decision to overturn Pfizer Inc's patent for Viagra in a ruling that was widely seen as a setback to the protection of intellectual property rights in the country. Deputy head of the State Intellectual Property Office (SIPO) Zhang Qin said the patent license originally granted in 2001 was invalidated after experts reviewed the case in response from complaints by more than 10 Chinese pharmaceutical companies.

The major reason for the patent office to do so was because the technological disclosure made in the patent's explanation document was insufficient. The head of Pfizer Inc Henry McKinnell has

said he is “extremely disappointed” and urged Beijing to be more serious in protecting intellectual property rights.

5. China promises tough measures against intellectual property

(from Dow Jones Chinese Financial Wire, 6 September 2004

Xinhua Financial Network News, 6 September 2004

The Asian Wall Street Journal, 7 September 2004

China Daily, 7 September 2004

Business Daily Update, 7 September 2004)

The crackdown which began this month and will conclude in August 2005 targets trademark, copyright and patent law violations in 15 provinces and municipalities including Beijing and the eastern coastal city of Shanghai.

The crackdown is a long-awaited official follow-up to Vice Premier Wu Yi’s commitments during April meetings of the US-China Joint Commission on Commerce and Trade to take serious action against IPR violations.

Authorities implementing the campaign will be backed by a judicial interpretation of IPR regulations expected by the end of the year that will impose lower thresholds for legal action against suspected violators. The anti-IPR violation campaign will also for the first time tackle head-on the ubiquitous streetside sales of pirated music CDs and DVD movies in China’s main urban centers.

6. GM copyright allegations against Chinese carmaker

(from WMRC Daily Analysis, 7 September 2004

Financial Times, 7&8 September 2004)

China’s deputy commerce minister, Zhang Zhigang, has queried the validity of General Motors’ (GM) allegation of a copyright violation against Chinese carmaker Chery. GM is currently investigating similarities between its Spark mini-car and Chery’s QQ model.

The deputy commerce minister has said that GM has not provided enough evidence to back up its allegations to warrant prosecution of Chery. According to SIPO, GM’s Spark design, which was obtained through its acquisition of Daewoo Motors in 2002, has never been patented in China and is therefore not protected by intellectual property laws.

7. Workshop highlights IPR legal responsibilities

(from China Daily, 8 September 2004)

Nearly 40 national officials responsible for intellectual property rights administration attended a two-day IPR workshop in Beijing focusing on legal issues they face on the job. The workshop was supported by the European Union (EU).

It was designed to raise awareness among China’s key administrative departments of their IPR legal responsibilities.

The event was part of the EU-China IPR co-operation programme which was prepared in 1996 and substantially implemented in 1999. The programme aims to propel China’s IPR development and particularly help China’s IPR system to further meet the standards of the WTO.

8. Court directive perfects IPR protection system

*(from Xinhua News Agency, 8 September 2004
China Daily, 8 September 2004)*

The Supreme People's Court will issue interpretations by the end of this year to elaborate criteria of crimes against intellectual property rights. The judicial interpretations are calculated to give more teeth to the country's war on IPR violations.

China's criminal code has an independent chapter on offences violating patents, trademark, copyrights and trade secrets, with harsh punishment of up to seven years in prison. However, the law stipulates the criteria of conviction in a vague way as "when circumstances are serious." It adds to the difficulty when judges handling these cases and leaves room for offenders to evade punishment.

The Supreme Court's interpretations will mend the law's loopholes and strengthen the protection of IPR. Officials expect that the detailed interpretations will help net many offences that could previously escape. Moreover, by making full use of the arsenal of law, the judicial interpretations will fortify the country's fight on IPR infringement which has been largely relying on administrative means so far.

9. Microsoft takes off gloves in war on pirates

*(from South China Morning Post, 9 September 2004
Reuters News, 9 September 2004
Dow Jones International News, 10 September 2004
Total Telecom, 10 September 2004
SinoCast China Business Daily News, 14 September 2004)*

Microsoft Corp has lodged its first anti-piracy complaint with China's copyright bureau against three mainland software producers. The company filed the case against two companies in Tianjin and one in Beijing, in its highest profile attack to date on the rising tide of software piracy in the mainland.

Senior Chinese officials have pledged to back Microsoft if the evidence supports the filing. It was not clear how large their operations are but the patent bureau said one assembly line could replicate 20,000 discs per day, generating millions of yuan in illicit revenue.

Instead of launching action against companies and customers who buy fake software, as it has done in the past, Microsoft is now going after leading replicators able to sell large volumes of software to mainland companies for export to the US and other countries.

The case may have deeper ramifications. There are indications the manufacturers may have hand connections to China's military and that they may have been part of a larger group set up to sell counterfeit software abroad.

According to Microsoft, the alleged counterfeiters buy expensive machines and set up factories to crank out large volumes of fake goods, often stamped with the special marks Microsoft employs to try to fend off piracy.

10. China's Hisense may sue Siemens

(from Xinhua Financial Network News, 10 September 2004)

Hisense Co Ltd, one of China's largest home appliance makers, said it may sue German electronic's firm Siemens to resolve a prolonged dispute over alleged trademark infringement. The dispute began in 1999 when the Chinese company's trademark "HISense" was allegedly preemptively registered by Siemens' 50-50 joint venture with Germany's Bosch - - Bosch-Siemens.

Hisense attempted to buy back the "HISense" trademark after Bosch-Siemens' registration, but Siemens wanted a price the company considered unacceptable. Hisense is also seeking to break the present stalemate through company-to-company negotiations and government intervention.

After Bosch-Siemens' registration of the trademark, Hisense launched an alternative variation of the trademark - - newly named "Hsense" - - in Europe.

11. HK, Guangdong customs combat cross-boundary piracy

(from Xinhua News Agency, 10 September 2004)

Hong Kong Customs officers concluded a two-day anti-piracy parallel operation with their counterparts in Guangdong Customs. As the 11th round of such operations, this parallel crackdown operation targeted cross-boundary vehicles smuggling, infringing optical discs and counterfeit products into Hong Kong.

Hong Kong Customs officers have seized from three incoming lorries 1.5 million HK dollars worth of infringing goods, including about 5,000 pirated optical discs, 1,000 counterfeit handbags, 4,000 pairs of sports shoes and 15,000 telephone accessories. They also arrested three drivers.

12. China puts copyright protection at Internet on agenda

(from SinoCast China Business Daily News, 15 September 2004)

According to Yan Xiaohong, the vice administrator of the National Copyright Administration (NCA), the copyright protection at Internet has been taken into China's legislation plan.

With the rapid development of the Internet industry, the copyright protection at Internet has become a hot issue in China nowadays. But this issue is quite complicated. Not only Internet service providers are required to strengthen internal regulations, but also government bodies are expected to issue the relative laws.

For the moment, the legislation of the copyright protection at Internet is stepping up the pace. Experts from NCA and WIPO are studying and preparing the new copyright laws.

Copyright protection under new environments has also become an important issue worldwide. By far, WIPO has issued two treaties regarding the protection of intellectual property rights. 42 countries and territories have accepted the new treaties. China is also endeavored to get in line with these two treaties. The relative content is shown in China's new copyright law.

13. China to tighten intellectual property enforcement

(from Nikkei Report, 15 September 2004

Asia in Focus, 15 September 2004

Asia Pulse, 15 September 2004)

China's Commerce Minister Bo Xilai told visiting Japanese business representatives that he is seeking to strengthen by year-end the criminal penalties against producing counterfeit and pirated goods.

Japanese representatives met with Bo stress the importance of protecting intellectual property rights. The Chinese official said the government has increased the personnel responsible for safeguarding intellectual property rights by 500,000 in the past five years. He indicated that full-blown enforcement efforts will continue.

14. China offers US firms opportunities but must protect copyright
(from *Xinhua Financial Network News*, 15 September 2004)

China's booming market offers opportunities for US manufacturers, even in the threatened textile sector, but local authorities must crack down on copyright violations, which are seriously hurting US firms, US Under Secretary for Trade Grant Aldonas said.

He said that the barrier was intellectual property rights violations. Even for a company in an area like textiles, there's a market here, but we've got to handle the barriers. Moreover, for so many American manufacturers, solving problems like intellectual property actually helps in terms of resolving the market access issues. US firms hurt by copyright violations are not only losing out in the China market, but globally, he added.

15. US warns of sanctions for China copyright theft
(from *Reuters News*, 15 September 2004
Vancouver Sun, 17 September 2004
The Kiplinger Letter, 17 September 2004)

The United States could slap sanctions on China if it does not take aggressive action to stop illegal copying of American products, such as music and films, a top US trade official said. The US can retaliate against trading partners for piracy of intellectual property under a provision of US trade law known as Special 301.

It rarely takes that step, although it has had \$75 million in annual sanctions on Ukraine for the past few years because of widespread piracy in that country.

16. US launches campaign to gauge China's actions against copyright piracy
(from *Xinhua Financial Network News*, 17 September 2004)

The United States Trade Representative's office sent out letter to key American business establishments seeking feedback on China's commitments to crack down on copyright piracy. The letter that their views were crucial in Washington's early 2005 review of China's pledges to significantly reduce infringements. The pledges were made at a bilateral forum last April.

The USTR office is roping in, among other business groups, the US Chamber of Commerce, the National Association of Manufacturers, the Motion Picture Association of America and the Business Software Alliance to help gather feedback from businesses cutting across wide ranging sectors. They said protecting intellectual property rights was "certainly our number one concern" in trade with China.

Foreign companies and governments are becoming increasingly frustrated with the continuing problems of piracy and counterfeiting in China, which lead to billions of dollars of losses each year. The US estimates the value of counterfeit goods in China at 19 bln to 24 bln usd annually.

China's commitments included increasing penalties for IPR violations, applying criminal sanctions to the import and export and storage and distribution of pirated and counterfeit products, and applying criminal sanctions to online piracy.

The early 2005 review was part of a formal program set by Congress to assess compliance of IPR and other trade issues among America's trading partners. China announced this month it was launching a far-reaching, year-long campaign to strengthen law enforcement and tighten up on punishment of rampant IPR violations.

17. No sea change for China's IP pirates

(from ComputerWire News, 17 September 2004)

China still has a long way to go to address concerns over intellectual property theft, according to a white paper issued by the American Chamber of commerce in China. The trade group said that while China had made headway in complying with its WTO obligations, it was still falling down on enforcing IP and cracking down on the counterfeiting of everything from designer clothes to software and microelectronics. The group has recently held meetings with officials to address the issue, but in the meantime believes the situation is actually getting worse.

18. Pfizer lobbies China to keep Viagra patent

(from The Asian Wall Street Journal, 20 September 2004)

US Pharmaceutical giant Pfizer Inc. is lobbying China's State Intellectual Property Office to restore the company's domestic-use patent for the erectile-dysfunction drug Viagra. Pfizer is "hopeful and cautiously optimistic" that the agency will reconsider its July decision to overturn the Viagra patent before an October 5 deadline for filling a formal court appeal.

The Patent Re-examination Board of the China intellectual property office in July overturned Pfizer's 2001 patent on the use of sildenafil citrate, Viagra's main ingredient, based on a judgment that Pfizer's official patent specifications failed to meet technical standards. The board didn't elaborate.

Pfizer is counting on the intellectual property office recognizing the "clear unfairness" of its revocation of the firm's Viagra patent to allow the company to continue such marketing efforts.

19. Syngenta wins damages suit in China patent infringement

(from Financial Times, 20 September 2004)

Syngenta, the Swiss agrichemicals company, says it has won an apology and damages for economic loss after suing two Chinese companies for patent infringement on one of its insecticides. The company says the two Chinese enterprises, Yancheng Luye Chemical and Yancheng Yongli Chemical, based in Jiangsu province near Shanghai, agreed to a settlement.

Chinese courts are also developing a greater expertise – and in some cities, a greater willingness – to hear legal cases launched by foreign investors. The central government has repeatedly

promised to back protection for intellectual property rights, touting in early September the fruits of its latest official crackdown on piracy.

20. Shanghai upgrades IPR protection through international cooperation

(from Xinhua's China Economic Information Service, 20 September 2004)

Shanghai Intellectual Property Administration (SIPA) began cooperating with international organizations this year in order to further its goal of building an intellectual property rights protection system.

SIPA has shared information with European Patent Office, German Patent and Market Administration, National Institute of Industrial Property of France and some IPR organizations in Switzerland and the United States.

20 officials with the SIPA are scheduled to travel to Antwerp in Belgium this October for a 21-day training course in IPR protection. SIPA has launched a united training program with American International Education Foundation, which will provide Shanghai with a number of IPR teachers, judges and government officials.

21. Chinese firms admit motorcycle design infringement

(from Xinhua Financial Network News, 21 September 2004

Jiji Press News Service, 21 September 2004)

Suzuki Motor Corp. said it has amicably settled copyright disputes with two Chinese motorcycle makers after they admitted their copyright infringement. A motorcycle maker in Jiangsu Province and another Chinese company agreed to publish apologies in local newspapers and magazines and to make payments over the disputes to Suzuki.

It was the first time that Chinese firms have admitted intellectual property rights violations in motorcycle-related copyright disputes.

22. IPR park set up in Shanghai

(from China Daily, 21 September 2004)

The Shanghai Intellectual Property Rights Park, located in Yangpu District, Shanghai's old industrial base, aims to become a public multi-function platform integrated services such as innovation, IPR application and safeguarding and education.

So far, more than 70 enterprises and organizations have come to the park. The city aims to help create 100 large IPR profit-making enterprises in the following five years.

23. Cultural associations focus on piracy

(from Business Daily Update, 23 September 2004)

China Audio and Video Association and four cultural associations in South China's Guangdong Province, including Guangdong Copyright Protection Association, joined together to further crack down on illegally-copied audio visual products.

The announcement was made before the China International Exposition of Audio-Visual Industry, which is scheduled from September 26-29 in Guangzhou, capital of Guangdong Province.

The five cultural associations vowed that they would not produce any fake audio-visual products, and would work with the government to further regulate the cultural product market.

Guangdong Province has become the center for making, copying, packing and distributing audio products in China. However, Guangdong is also one of the largest victims of pirated CDs in the country.

24. Crackdown on pirated software to be intensified

*(from Business Daily Update, 24 September 2004
China Daily, 24 September 2004)*

The National Copyright Administration will intensify efforts to crack down on the making of pirated textbooks and computer software, copying or selling fake audio-video products and infringing on the copyright of network works.

The provinces of Hebei, Shanxi, Shandong, Zhejiang, Henan, Hunan, Guangdong, Sichuan and Shaanxi are required to remedy their printing industries to prevent faked products.

From October to the first half of next year, the administration will work together with the Ministry of Public Security and other relevant departments, to inspect printing industries across the country.

In March next year, the administration will launch a national campaign to fight the production and selling of pirated CDs. The campaign will focus on docks, railway stations, stands around schools, underpasses, residential quarters, recreation centers and areas near shopping centers, where the selling of pirated CDs is rampant.

25. HK urges citizens to help protect IPR

(from Xinhua News Agency, 25 September 2004)

To enlist public support and demonstrate Hong Kong Special Administrative Region government's determination to stamp out piracy and counterfeiting, the Intellectual Property Department held the "I Pledge" Fifth Anniversary Concert.

They believed the concert and appeals by the participating entertainers would help enlist public support to not download music or movies illegally from the Internet. Launched in 1999, the "I Pledge" Campaign has attracted more than 8,000 members who have pledged that they will not buy pirated or counterfeit goods, and respect the intellectual property rights of others.

26. US, Chinese group to discuss IPR

(from Asia Pulse, 27 September 2004)

Helping US companies protect intellectual property rights assets in China's largest city and most important industrial center is a key goal of a workshop to be held in Shanghai, Oct 28-30. Government officials, educators, industry leaders and legal professions from the United States and China will attend the Shanghai IPR Workshop.

The Shanghai IPR Workshop is supported by the US Embassy in China, US Consulate General in Shanghai, US Federal Trade Commission, American Chamber of Commerce in China, Entertainment Software Association, Motion Picture Association of America, Pharmaceutical Research & Manufacturers Association, and US Information Technology Office.

27. Pfizer confirms court appeal for Viagra's patent in China

(from Xinhua Financial Network News, 28 September 2004

Associated Press Newswire, 28 September 2004)

US drug maker Pfizer Inc has issued a statement confirming it is appealing against a ruling revoking the China patent of its drug Viagra. The statement follows an earlier report in the China Youth Daily in which Allan Gabor, chairman and general manager of Pfizer Pharmaceuticals Ltd, the group's China operation, was cited as saying Pfizer Inc has launched an appeal at the Beijing's No 1 Intermediate People's Court.

Pfizer said in the statement it has a strong legal basis for the appeal and is confident about the outcome. Pfizer obtained a patent license for its erectile dysfunction (ED) treatment Viagra in 2001, only to see it revoked by the State Intellectual Property Office (SIPO) in July after Chinese experts reviewed complaints by more than 10 Chinese pharmaceutical companies.

Currently, Pfizer's patent on Viagra remains fully valid and enforceable, pending the final decision by the court, said Pfizer Pharmaceuticals in the statement.

MALAYSIA

News in September 2004

1. US wants tough action against pirated goods
2. VCD replicating machines worth RM5m destroyed
3. Govt should now emphasise more on IP

1. **US wants tough action against pirated goods**

(from The Edge Malaysia, 2 September 2004)

The US wants Malaysia to strictly enforce intellectual property laws and clamp down on producers of pirated goods to protect American companies investments in the country. Since the US was transforming into a knowledge economy, it became imperative that the US companies intellectual property rights were safeguarded. This issue would be discussed with the Ministry of Domestic Trade and Consumer Affairs.

2. **VCD replicating machines worth RM5m destroyed**

(from The Malay Mail, 13 September 2004)

For the first time in the country, the authorities destroyed VCD replicating machines seized in a raid three years ago. The five machines, worth a total of RM5 million, were confiscated during the raid at an unlicensed optical disc factory in 2001.

It showed the Government's commitment in making Malaysia a regional leader in the protection of intellectual property rights.

3. Govt should now emphasise more on IP
(from *The Edge Malaysia*, 13 September 2004)

The government, having outlined the importance of research and development (R&D) in Budget 2005, should emphasise more on proper intellectual property protection, says IP specialist Advanz Fidelis Sdn Bhd.

He said that moving forward, it was important for the government to actively promote the awareness and protection of IP in order to maintain exclusivity and safeguard the nation's IP assets. He provides one-stop integrated IP services with core competencies in patents, trademarks, copyright and industrial designs.

SINGAPORE

News in September 2004

1. Highlights of the Singapore Intellectual Property Act 2004
(from *Mondaq Business Briefing*, 9 September 2004)

The Intellectual Property (Miscellaneous Amendments) Act 2004, which came into force on 1 July 2004, incorporates significant changes to, among other things, the following copyright-related legislation, in line with Singapore's commitments under the United States of America - Singapore Free-Trade Agreement (USSFTA):

Copyright Act (Chapter 63, 1999 Edition)

Layout-Designs of Integrated Circuits Act (Chapter 159A, 2000 Edition)

The salient features of the amendments include the extension of the copyright monopoly period for original works and certain subject matter other than works by an additional 20 years, as well as the relaxation of rules governing the enforcement of exclusive licences for layout-designs of integrated circuits.

Copyright: Duration of Protection.

Briefly, the duration of copyright monopoly has generally been extended as follows:

For literary, dramatic, musical and artistic works (other than photographs) - copyright will subsist for the life of the author plus 70 years (previously: 50 years).

For photographs, copyright will subsist until the expiration of 70 years (previously: 50 years) after the end of the year of first publication of the photograph.

For subject matter other than works, such as sound recordings, cinematograph films and live performances, but excluding broadcasts, cable programs and published editions of works, copyright will subsist until the expiration of 70 years (previously: 50 years) after the end of the year of first publication of the subject matter.

These amendments apply only to:

Copyright arising on or after 1 July 2004;

Copyright that had arisen before 1 July 2004 and had not fallen into the public domain owing to the expiration of the original monopoly period as of 1 July 2004; and

Foreign copyright in works or other subject matter that qualify for protection in Singapore by virtue of the Copyright (International Protection) Regulations, including copyright that had arisen before 1 July 2004, provided the work or subject matter in question was still copyright-protected in its country of origin as of 1 July 2004.

Layout-Designs of Integrated Circuits and Registered Designs.

A qualified owner of a layout-design right or an exclusive licensee thereof is no longer required to:

join the other as a plaintiff; or add the other as a defendant, unless the Court otherwise orders. Similarly, an exclusive licensee of a registered design is no longer required to make the registered owner a party to any infringement proceedings.

These latest legislative changes are part of a concerted effort by the Singapore Government to consolidate Singapore's leading position amongst countries where valuable IP rights are respected and protected, as well as to complement its aim to develop into the region's IP hub. They also reflect Singapore's proactive approach in developing laws, suitable for small countries, which strive to fairly balance the rights of IP owners with those of the public.

The content of this article does not constitute legal advice and should not be relied on in that way. Specific advice should be sought about your specific circumstances.

2. McDonald's loses legal fight against MacNoodles

(from Reuters News, 20 September 2004

The Straits Times Newspaper, Singapore, 21 September 2004

AFX International Focus, 21 September 2004)

US fast-food giant McDonald's Corp. lost a legal battle in Singapore to stop a food company from distributing products named "MacNoodles", "MacTea" and "MacChocolate". McDonald said Singapore-based Future Enterprises Pte Ltd. Had copied McDonald's trademarks when registering its products in 1995. The High Court dismissed the case in April but McDonald's appealed.

The ruling ends a courtroom tussle over intellectual property rights and anti-monopoly laws, and comes as Singapore positions itself as a bastion of intellectual property protection in Asia in an aggressive bid to attract foreign investors.

Lawyers for Future Enterprises had argued that "MacNoodles", "MacTea" and "MacChocolate" bore no similarity to those of McDonald's. The Singapore products are packaged with an eagle logo and distributed in supermarkets and convenience stores.

THE PHILIPPINES

News in September 2004

1. Copyright training for NBI
(from *Manila Bulletin*, 3 September 2004)

BSA recently held a special training on Investigating and Prosecuting Software Infringers for the National Bureau of Investigation (NBI). The BSA training, which was attended by agents from the Intellectual Property Rights Division and Anti-Fraud and Computer Crimes Division, was aimed at helping the agents with further knowledge in identifying software theft.

Results from a global software conducted for BSA by technology research firm IDC showed that software piracy in the Philippines last year was 72 per cent with losses to the industry amounting to R3 billion.

2. Philippines' software investments falling due to intellectual property piracy
(from *AFX Asia*, 24 September 2004)

Philippines' software investments falling due to intellectual property piracy. Intellectual property piracy is robbing the Philippines of potential investments in software development, an industry study has found.

University of the Philippines School of Economics professor Ramon Clarete found a "high negative correlation" between investments in software development - - and information technology in general - - and estimates of intellectual property rights theft for the four years to December 2002. IT investments quadrupled from a year earlier in 2000 when the piracy rate posted a seven percentage - point decline to 70% in 1999.

INDONESIA

News in September 2004

1. YLKI request trademark counterfeiter firmly taken action
2. Market of counterfeit products
3. IPR recommended to be registered before launching products

1. YLKI request trademark counterfeiter firmly taken action
(from *Suara Pembaruan*, page 19, Indonesia, 2 September 2004)

Indonesia Consumer Institute Foundation (Yayasan Lembaga Konsumen Indonesia-YLKI) request government to take action firmly against trademark counterfeits because they disadvantaged the consumer.

There are many counterfeit circulated in market, but there is no actual action from law enforcer and also no action for sending the counterfeiter to court. Yarsi, the Head of Complaint Section of YLKI, said the government was not serious to handle this case. Not only the consumer who felt adverse but also the original producer. But consumers often proposed their complaint to legal trademark producers, whereas the producers were also as victim in this case. Unfortunately, consumers seldom informed to YLKI.

2. Market of counterfeit products
(from *Bisnis Indonesia*, 22 September 2004)

Indonesia has become a market for counterfeited popularly – foreign branded products, and this will make people label the country as an IPR-violating country. According to an Intellectual property Right legal practitioner, counterfeited products from China had flooded Indonesia. And also sold fake leather-made products from South Korea and pirated CDs, VCDs, and DVDs from Malaysia.

3. IPR recommended to be registered before launching products
(from *Bisnis Indonesia*, 27 September 2004)

Consultants remind business execs to register their intellectual property rights before producing or trading their products to avoid legal disputes that may arise. The Intellectual Property Rights registration is very important to protect a brand or a design.

In accordance with Brand Law (Law No.15/20010, legal protection of a registered brand will expire within 10 years and can be extended for another ten years.

VIETNAM

News in September 2004

1. Gov't crack down on labeling violations
2. Vietnam holds first international conference on IPR
3. Hanoi collect \$64,000 from fines for copyright violation
4. Vietnam to establish anti-counterfeiting body
5. Fakes thrive amid weak controls
6. Vietnam committed to intellectual property protection

1. Gov't crack down on labeling violations
(from *The Saigon Times Daily*, 6 September 2004)

The Government has tasked the Trade Ministry with drafting a decree on goods labeling to deal with increasing patent and trade violations. The Government needed to take strict sanctions to force producers to be responsible for consumer welfare. Violations against product labeling rules remain rampant despite increased inspections and control in the last three years.

2. Vietnam holds first international conference on IPR
(from *Vietnam News Brief Service*, 7 September 2004
The Saigon Times Daily, 6 September 2004)

Vietnam's Ministry of Science & Technology and Ministry of Culture & Information hold an international conference on intellectual property rights in Hanoi. The first conference of its type so far will gather nearly 500 national and international participants, representing three main interest groups including those who own intellectual property, consumer, who exploit intellectual property, and policy makers.

The conference aims to provide an overview of the implementation of intellectual property rights law in Vietnam, a nation which has ranked poorly by international standards in its management of the field, organizers revealed. It is also designed to develop measures to strengthen and raise the effectiveness of the action.

3. Hanoi collect \$64,000 from fines for copyright violation
(from *Vietnam News Brief Service*, 10 September 2004)

Copyright violation in Hanoi has become more serious with a sharp rise in the number of cases. Since the beginning of 2003, municipal organizations have collected nearly one billion VND(\$64,000) in fines related to the crime and destroyed 167,000 discs and tapes, nearly 19,000 book titles and 102,280 sheets of publications.

Although great efforts have been made to stamp out copyright violation, the practice seems to be immune from the effects of punishment. Copyright violation has become so popular not only here in Hanoi but also across the communist nation, that it is considered standard practice.

4. Vietnam to establish anti-counterfeiting body
(from *BBC Monitoring Asia Pacific*, 9&13 September 2004)

The government office has announced Deputy Prime Minister Vu Khoan's decision to establish an association for anti-counterfeiting and implementation of intellectual property rights.

It is necessary for foreign-invested enterprises to set up the association to conform to regulations for Vietnam international economic integration. However, there are currently not any documents to regulate such an organization in operation, therefore the deputy PM authorized the ministries of interior and justice to consider and guide enterprises which want to establish the association.

5. Fakes thrive amid weak controls
(from *Saigon Times Weekly*, 17 September 2004)

Trading in fake and imitation goods in violation of intellectual property rights has been increasing in Vietnam. Every year, market control agencies are alerted to or discover thousands of cases of counterfeit goods, of which 60% involve violations of intellectual property rights. The Government has specific policies for dealing with violations of intellectual property rights.

However, authorities are still weak in dealing with the violations, taking up only 20% of the cases discovered. One of the reasons is officials' poor sense of responsibility and loose supervision of production establishments and trading businesses. In particular, the lack of coordination between different agencies and unclear, sometimes overlapping, functions of authorities make it difficult to deal thoroughly with violations.

Tran Viet Hung, deputy director of the Intellectual Property Right Department, says there are two State agencies responsible for the issue, namely the agency that manages science and technology and the authority that controls culture and information. This means that industrial property rights are managed by one agency and copyrights by another.

Moreover, enforcement of these rights is assigned to many authorities, such as the courts and people's committees at different levels, market control authority, culture and information inspection agency, economic police and customs.

Nguyen Duc Thinh, director of the Market Control Department, says the enforcement of intellectual property rights in Vietnam is complicated because there is not yet an agency solely responsible for this business.

Nguyen Hoa Binh, director of the Economic Police Department, agrees with Thinh's advice, saying that the Government should set up a specialized agency responsible for fighting violations of intellectual property rights. Experts say Vietnam's legal system concerning intellectual property rights has followed the standards of the Trade-Related Aspects of the Intellectual Property Right Agreement of the World Trade Organization, in terms of objectives, principles and criteria for protection.

However, regulations on intellectual property rights are scattered in many documents, including laws, decrees, circulars and others. Guidelines for the enforcement of the rights for each specific authority like the court and customs have not yet been issued. This makes implementation difficult and inconsistent.

As a result, despite certain achievements in the implementation of intellectual property rights, violations are rampant and enforcement has yet to reach the expected efficiency. To prevent the production of copies, imitations and fakes, besides strong legal and enforcement systems, the Government should improve its socio-economic management capacity and control of the registration and protection of intellectual property rights. Violations when discovered should be punished quickly, and cooperation between agencies and between producers and authorities should be strengthened.

Also, efforts should be made to raise the awareness of the bad effects that fake and imitation goods have on the public and consumers so that the public is encouraged to fight the production and trade of these goods.

6. Vietnam committed to intellectual property protection
(from Saigon Times Weekly, 17 September 2004)

Vietnam is strongly committed to protecting the intellectual property rights as it is one of the requirements for the country to join the WTO. Violations of IP would discourage producers and foreign investors.

Ministry of Science and Technology is mulling higher fines and stronger enforcement for violations. One of the strong measures is to fine businesses a sum equivalent to 1,000 times of the value they violate.
