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THAILAND

1. Govt told to be prepared

(from The Nation Newspaper, Thailand, 2 September 2007)

Thai private enterprises and legal experts called for the government to prepare carefully for negotiations on intellectual property and services under the European-Asean Free-Trade Agreement (FTA), to ensure a minimum impact for all concerned parties.

At a seminar entitled "Preparation for the EU-Asean FTA" organised by the National Economic and Social Advisory Council, panellists said Asean must cooperate in developing its domestic trade and intellectual property rights (IPRs) regulations before starting negotiate a free-trade pact with the EU.

The two regions started unofficial talks on the FTA this year. They are scheduled to conduct official negotiations early next year.

The seminar agreed that the EU had shown high development on trade regulations, particularly on intellectual property rights protection and trade regulations. Sectors that will benefit Asean countries include agricultural trade, while sensitive sectors for Asean members include issues on IPR, the environment and non-tariff barriers.

Nandana Indananda, a judge of the Central Intellectual Property and International Trade Court, said that a previous study of the EU on free trade pacts with other countries showed the region required data exclusivity under IPR negotiations.

Thailand and Asean members must carefully study IPR protection. For instance, EU companies have many pharmaceutical patents. An acceptance of data exclusivity will extend the protection period of the drug patents of EU companies. This will restrict local manufacturers from producing patented drugs at lower cost to allow people access to drugs at a lower price than imports.

Others issues that the EU will require from the pact include copyright, trademarks, geographical identification, patents and plant-variety protection.

Nandana said the Thai government must ensure that the requirements of the EU do not damage local enterprises and consumers.

2. Thailand urged to seek UN support to bypass patents

(from Bangkok Post Newspaper, Home News Section, Page 2, Thailand, 2 September 2007)

A UN agency has recommended Thailand seek United Nations support on its move to bypass patents on Aids and heart drugs in order to access life-saving medicines for Thai patients.

Cecilia Oh, representative of the United Nations Development Programme's Asia-Pacific trade and investment initiative, has urged the government to seek technical support from the UN organisations in assessing economic and social implications of its compulsory licensing policy to ensure the scheme will run smoothly.

Compulsory licensing will allow Thailand to import or produce generic versions of patented drugs for non-commercial use.

"The Thai government needs to take the bull by the horns in order to push forward the policy necessary for developing countries and marketing flow so people would gain access to affordable life-saving drugs," she said during a recent symposium on the sale and access to anti-Aids medicines held in Colombo, Sri Lanka.

The UNDP official's recommendation came after Bangkok was put under political and trade pressure after the government's announcement that it planned to introduce compulsory licensing to bypass patents on Aids drugs Efavirenz and Kaletra, and heart drug Plavix, earlier this year.

The decision of the US Trade Representative's office to downgrade Thailand on its Priority Watch List of countries to be closely monitored for protection of intellectual property rights has been viewed by health advocates as reflecting negatively on the country's compulsory licensing policy.

3. Swedish politician defends Thailand in medicine licensing debate
(from *Thai News Service*, 3 September 2007)

Carl Schlyter, Swedish member of the European Parliament, has defended Thailand's right to use compulsory licensing on several patented medicines to ensure that they are made available at more affordable prices than they would otherwise be.

Carl Schlyter's remarks comes as Peter Mandelson, the European commissioner for trade, has criticized Thailand for enforcing the decision to produce cheap generic drugs based on the more expensive, patented original medicines for the treatment of people suffering from Aids and certain heart diseases.

"The Commission fails to understand the purpose of the compulsory licensing system," Carl Schlyter says, adding that the executive "should be happy" that Thailand has been making use of the flexibilities applying to intellectual property rules.

Peter Mandelson has called on Thailand to revise its efforts to provide cheap medicines to people with AIDS over concerns that the country could be undermining global rules on intellectual property.

Mandelson has expressed concern that Bangkok "may be taking a new approach to access to medicines" by stating that if drug companies wish to do business in Thailand, they should offer their drugs for no more than 5 percent above the cost of generic versions of the products in question.

"This approach would be detrimental to the patent system and so to innovation and the development of new medicines," Peter Mandelson said. "It risks forcing more drug companies to abandon their patents and could lead to the isolation of Thailand from the global biotechnology investment community."

Carl Schlyter argued that the European Commissioner has been trying to ensure that compulsory licenses are only used by countries classified as 'least developed' by the United Nations, rather than by any poor and middle income country facing serious health problems. Thailand has an estimated 600,000 people who are HIV positive and has recorded some 300,000 deaths from AIDS.

The World Bank has predicted that the Thai government's resort to compulsory licenses would reduce the cost of second-line drugs by 90 percent, saving the country 3.2 billion dollars over 20 years.

4. Over 3,000 IP infringement cases during 1st half of 2007
(from *Thai News Service*, 5 September 2007)

The Director-General of the Department of Intellectual Property, Mrs. Puangrat Asawapisin, said there were more than 3,000 intellectual property infringement cases during the first half of this year.

During the opening ceremony of the seminar on the suppression and prevention of intellectual property infringement in Surat Thani province, Mrs. Puangrat said officials filed 3,533 cases and confiscated more than 1.93 million infringed goods from January to June, 2007.

Furthermore, the United States Embassy to Thailand and intellectual property owners said most illegal merchandises are commonly found in Chiang Mai, Bangkok, Chonburi, Prachuab Kirikhan, Surat Thani, Songkhla and Phuket provinces.

Mrs. Puangrat said the Intellectual Property Department is implementing the strategy to solve intellectual property infringement by promoting asset capitalization.

5. Customs cleared

(from Bangkok Post Newspaper, Business Section, Page B10, Thailand, 5 September 2007)

Chaowalit Sethameteekul, the director-general of the Customs Department, displayed more than 20 million baht worth of goods seized for violations of intellectual property and customs laws. Almost goods are from China and Hong Kong. There are calculators (Casio, Citizen), handbags (Louis Vuitton, Gucci, Chanel, etc.), clothes (Anna Sui, Polo, Armani, etc.), etc.

6. Thai-Italian chamber to promote IP awareness

(from The Nation Newspaper, Business Section, Page 4B, Thailand, 12 September 2007)

The Thai-Italian Chamber of Commerce has called on the government to educate people seriously on the issue of intellectual property rights violations, as it says continuing high levels of IPR infringements may harm public safety and Thailand's economic growth.

Chamber secretary-general Federico Bogna said that although Thailand was among many Asian countries improving their suppression of IPR violations, the government must still strive to increase public awareness of the fact that many products are counterfeit copies. This, he said, would ensure that the country's economic growth was not affected by a high rate of IPR violation.

"Thailand can no longer rely on low-labour-cost manufacturing, as in the past. It is stepping into value-added and high-technology industries that have greater concerns about intellectual property rights. The government must promote a greater awareness of IPR issues before a high rate of violations destroys the growth of these industries," he added.

The chamber wants the government to increase IPR awareness in all sectors, particularly regarding the violation of pharmaceutical IPR, as fake drugs may harm consumers' safety. Other IPR violations in Thailand involve CDs and DVDs, brand-name products, computer software and automobile spare parts.

According to a Food and Drug Administration report, 33 sellers of fake drugs were arrested and 340,900 items seized in the first half of the year. Last year there were 285 cases and 74,500 items were seized. Public prosecutors also reported 2,614 legal cases for copyright infringement, 2,087 trademark cases, and two cases of patent infringement in Thailand in the first eight months of the year.

Bogna said the Kingdom's efforts to suppress IPR infringement over the past few years should have prevented the US government from downgrading the country to its priority watch list for IPR violations. However, at a public level, many people still do not consider the importance of IPR.

To increase awareness, the chamber suggests the government should begin by educating children about IPR issues at school level. It should also gradually provide knowledge on IPR through all kinds of media to people of all ages.

It believes the government should also improve its communication with the private sector and with government officials from other countries.

7. Asean asked to extend IP rights

(from The Nation Newspaper, Business Section, Page 4B, Thailand, 19 September 2007)

Australia and New Zealand have called on Asean countries to extend protection of intellectual-property (IP) rights beyond World Trade Organisation (WTO) commitments to ensure their products will be guarded from infringement.

At a recent meeting to finalise details of the Asean-Australia and New Zealand Free-Trade Agreement (ANNZFTA), Australia and New Zealand sought to persuade all Asean countries to include the "TRIPs-plus" concept in the pact. In exchange, the two countries would allow imports of more Asean goods.

The Trade-Related Aspects of Intellectual Property Rights (TRIPs) is a normal standard for protecting IP rights to which WTO members have committed. However, TRIPs-plus is more rigorous and requires extended protection of patents and trademarks, more restrictions on registration of generic drugs and other safeguards demanded by developed nations.

A Commerce Ministry source said that most Asean members did not agree with the proposal, because TRIPs-plus would increase difficulties for developing countries. However, some countries, including Singapore and Malaysia, do agree with the proposal, because they have already provided protection beyond what is called for in the WTO agreement after finalising free-trade negotiations with the United States.

The source said a meeting of Asean countries' senior economic officials from Sunday to Friday of next week would consider whether to accept the proposal.

Trade Negotiations Department director-general Chutima Bunyapraphasara said a conclusion of the ANNZFTA would be postponed from this year to the middle of next year, due to disagreement on many issues. These include the free flow of investment and services, tariff reductions and cooperation on sanitary standards.

8. Exporters urged to maximize GSP benefits
(from *The Nation Newspaper, Thailand, 20 September 2007*)

Thailand and the US suggested Thai exporters sell more under the US Generalised System of Preferences (GSP) and increase awareness of intellectual-property (IP) rights.

At a seminar entitled "US Trade Policy: Implication for Thai Exports", Foreign Trade Department director-general Apiradi Tantraporn said that Thai exporters should use the GSP to increase exports to the US. Manufacturers and exporters were advised to increase their IP-rights standards, in order to ensure higher benefits for the US.

Jean Kelly, Thailand desk officer at the US Commerce Department's International Trade Administration, told the seminar that to increase export opportunities in the US, Thailand must develop its system of IP-rights laws and enforcement thereof, improve Thai customs practices and promote transparency in the customs regime.

US Pacific Basin Office director Juliet Bender said that Washington expects to restart free-trade-agreement (FTA) negotiations with Thailand and Malaysia next year. This will increase trade opportunities for both sides. Washington has concluded 15 FTAs with 20 countries worldwide, with implementation pending for Costa Rica, Oman and South Korea.

9. DIP push to suppress IPRs violation
(from *Krung Thep Thurakit Newspaper, Commerce Section, Page 7, Thailand, 24 September 2007*)

Puangrat Asavapisit, director-general of Intellectual Property Department, said about suppression in IP violation that DIP would discuss with True Corporation Co., Ltd. to find the plan of cable and satellite violation suppression. DIP also plan to discuss with Commission on Higher Education and Ministry of Education to find the direction of textbooks copyright.

10. Thailand mulls issuing CL for three cancer drugs
(from *Thai News Service, 26 September 2007*)

Thailand is considering more compulsory licences on three cancer medicines, while another key cancer drug will not be targeted after the patent holder agreed to give free access to patients under Thailand's medical healthcare scheme.

Earlier, the National Health Security Office revealed it might propose that the Ministry of Public Health impose compulsory licenses, or CL, on four cancer drugs if the negotiations with drug companies for lower prices proved fruitless.

The drugs that could be affected include Imanitib and Letrozole from Novartis; Docetaxel from Sanofi-Aventis; and Erlotinib from Genentech. The medicines are used to treat various kinds of cancer, ranging from tumours, breast and lung cancer.

Thailand's Public Health Minister Dr. Mongkol Na Songkhla affirmed that the government will carefully and thoroughly consider its move to effectively 'break the patents' of the cancer medications, but he stressed that the move was necessary if the government wanted to ensure broader access to necessary medicines.

Dr. Wichai Chokewiwat, in his capacity as chairman of the Public Health Ministry's committee on compulsory licensing, said Imatinib would be exempted under CL since the company which holds the drug patent has agreed to give free access to Thai patients under universal healthcare scheme.

Earlier this year, the Public Health Ministry issued compulsory licences for the heart disease drug Plavix, made by Bristol-Myers Squibb and Sanofi-Aventis and Abbott Laboratories' Kaletra to treat HIV/AIDS.

11. Roadshows begin drive to boost competitiveness

(from The Nation Newspaper, Thailand, 26 September 2007)

The Office of Industrial Economics has staged the first in a series of roadshows aimed at encouraging industrial operators around the country to focus on productivity and intellectual property, in a bid to boost their global competitiveness.

As well as showcasing business models aimed at improving productivity and intellectual property innovation, the roadshows will also gather suggestions from small- and medium-sized enterprise operators on how the models can be improved, said director-general Atchaka Sibunruang.

The roadshows will be staged in five provinces: Chon Buri, Khon Kaen, Chiang Mai, Ayutthaya and Trang. Atchaka said the two model schemes had a budget of around Bt460 million. A total of 37 projects will follow the productivity plan and four projects covering 13 industries, including textiles, automotive, food and electronics, will follow the intellectual property model.

The projects will start next year and will take five years to complete.

The productivity plan aims to boost industrial labour productivity by 5 per cent per year. The Office of Industrial Economics expects that in the five-year course of the projects, the number of participants will double from 4,500 operators to 9,000 operators in 25 industries.

The aim of the intellectual property plan is to give 35 per cent of Thailand's industrial operators the ability to create their own innovations to meet consumer demands in domestic and international markets.

12. Ministry to survey biological resources

(from Bangkok Post Newspaper, Home News Section, Page 3, Thailand, 26 September 2007)

Thailand is set to conduct its first-ever nationwide survey and inventory of biological resources in a bid to protect precious resources from bio-piracy and boost the local economy. The country has been recognised as one of the world's richest in terms of biodiversity, but state agencies have failed to preserve and properly use its valuable resources, said Natural Resources and Environment permanent secretary Petipong Pungbun na Ayudhya.

"A systematic database and good management of biological resources will not only help the country protect our resources from acts of bio-piracy, but also bring economic benefits to all sectors including local communities, businesses and scientific circles," he said.

The ministry's newly established Biodiversity-Based Economy Development Office will be tasked with conducting a thorough survey and compiling a database on biological resources such as plants, animals, microbes and traditional wisdom. The office will also act as a facilitator for fair access to resources by local and international organisations.

"If we can come up with a complete list of biological resources and a proper preservation plan, we are confident that the problem of bio-piracy will be diminished," he said, adding that the agency also plans to patent all newly discovered biological resources and traditional wisdom to ensure that benefits are shared fairly between the country and their users.

The agency plans to run a pilot project on studying biodiversity and preservation in 10 communities next year.

SINGAPORE

Two karaoke lounges raided

(from The Straits Times Newspaper, Singapore, 11 September 2007)

Two karaoke lounges were raided by police on suspicion of breaching copyright laws. Multimedia Company Innoform Entertainment issued a statement over the weekend that The Bar in Neil Road and Nessesia Karaoke Lounge in Upper Thomson Road had played unlicensed music on their karaoke-on-demand (KOD) systems.

Officers from the Intellectual Property Rights Branch of the CID seized computerised KOD systems and catalogues of song lists. The raid was conducted following a complaint filed by Innoform, the exclusive licensee to the KOD rights of nine music companies, including Sony BMG, Universal and Warner.

In conventional karaoke systems, a jockey plays the songs from discs picked by the patron. But in a KOD system, the songs are stored as digital files on a computer. Nightspots, pubs and other establishments pay a yearly royalty fee of between \$80 and \$30,000 to play music stored in computerised systems.

This is not the first time Innoform has cracked down on copyright infringers. In June, the Valve Bar in Beach Road was raided. The case was settled out of court, said Ms Nancy Seah, Innoform's general manager.

According to her, there are about 600 entertainment outlets equipped with the KOD systems and only half of them have paid up, despite repeated reminders.

PHILIPPINES

1. NBI seizes P300,000 worth of cloned electrical products (from *Inquirer*, 1 September 2007)

Agents of the National Bureau of Investigation seized P300,000 worth of counterfeit electrical products during a raid on an establishment in Manila.

Elfren Meneses, chief of NBI Intellectual Property Rights Division (IPRD), said his men seized 219 pieces of assorted counterfeit electrical products bearing the trademark "Fuji Electric" when they swooped down on Sky Electrical & Pneumatic Control Center (Sky Electrical) on C.M. Recto Avenue, Sta. Cruz, Manila recently.

The items included magnetic contractors, circuit breakers, and overload relays, among others.

Meneses said the raid stemmed from a complaint filed by Yu Eng Kao Electrical Supply and Hardware Inc., the authorized distributor of Fuji Electrical products. Armed with a search issued by Judge Aida Layug of the Manila Regional Trial Court, the NBI agents conducted the raid following surveillance and test-buys.

Charges for violation of Section 168 (unfair competition) in relation to Section 170 of Republic Act 8293, known as the Intellectual Property Court of the Philippines, were filed against the owners of the establishment.

2. IP programs boost business development initiatives in C. Mindanao (from *Sunstar Davao*, 6 September 2007)

The Department of Trade and Industry (DTI) in Central Mindanao has adopted the National Government's policies on intellectual property in a bid to enhance its continuing business development initiatives in the area.

DTI Assistant Regional Director Dorecita Delima said they have started the introduction of various intellectual property (IP) programs among businesses in the region to help raise awareness on various opportunities that it offers for the business sector.

"We are presently integrating intellectual property policies so we could use it as a tool to create or expand markets for our SMEs (micro, small and medium enterprises)," she said.

Through assistance from the Intellectual Property Office, the DTI, Department of Science and Technology (Dost), five colleges and universities and the six small and medium enterprise development councils of Central Mindanao signed a memorandum of agreement (MOA) "to collaborate and advocate the use of intellectual property as a strategic tool for development and global competitiveness."

Under the agreement, the core group will network with the SMEs, local government units, colleges, universities and technical-vocational schools and other strategic alliances to effectively deliver its business development services.

"Ipas shall spearhead the activities that will enhance intellectual property consciousness across sectors in Region 12 and bring intellectual property policies closer to SMEs through effective and aggressive awareness programs," the MOA cited.

DTI was tasked to promote IP and encourage the registration of various intellectual property assets in the area, facilitate the development of mark designs at the company level, assist in the formulation of

standards for collective mark users facilitate the conduct of program-related activities such as fairs, conventions, fora, benchmarking, and database management.

It was also mandated to link up the local IP stakeholders and facilitate their application with the Intellectual Property Philippines and serve as the secretariat of Ipas, she said. Delima said they targeting to start the integration of intellectual property subjects in the curriculum of these colleges and universities within the next three years.

She said they would be coming up with training programs and public seminars within the next few months to jumpstart the promotion of the intellectual property policies and programs.

Since they started to introduce the intellectual property policies and programs in the region last June, Delima said at least two products - muscovado of President Quirino town in Sultan Kudarat and fresh bananas of Tupi Bongolan Growers Association - have registered their trademarks with the Intellectual Property Office while five others are now in the application process

3. Senate tackles cheap drugs bill

(from Business World, 10 September 2007)

The Senate committees on trade and industry, and health and demography, will start hearings on Senate Bill 101 which seeks to amend the Intellectual Property Code to increase competition and lower the price of medicines.

Proposed by Senator Manuel Roxas II, the bill intends to allow the parallel importation of more affordable medicines and allow generics manufacturers to begin experimentation, production and registration of drugs prior to the expiry of patents.

Mr. Roxas said in a statement existing laws providing affordable medicines should be amended to address new challenges to providing cheap drugs. He cited as an example the common maintenance drug for diabetes, Daonil, which costs P9.86 for a 5-mg tablet taken twice a day. The same tablet, however, could be imported from India and sold for P0.80.

Mr. Roxas, as Secretary of the Department of Trade and Industry six years ago, had started an importation program for drugs.

4. Philippines making progress on software piracy

(from Agence France Presse, 11 September 2007)

The Philippines is making progress in its fight against computer software piracy with 76 people arrested this year, an anti-piracy group said.

Tarun Sawney, the South Asian director of the Business Software Alliance, an anti-piracy watchdog body, said that while piracy rates in this country were still high, government agencies were now consistently enforcing intellectual property laws regarding copying of computer programmes. He called this a "fantastic achievement," which he credited to the government's creation of an anti-piracy task force in 2005.

The head of the national police intelligence group Noel delos Reyes said that from January 1 to August 31, they had arrested 76 people for suspected software piracy.

The National Bureau of Investigation meanwhile said it had filed 892 criminal cases against alleged violators of intellectual property rights (IPR) from 2006 to the present day. The Business Software Alliance said in May that of all the software sold in the Philippines 70 percent is pirated.

5. OMB changes tack in deterring optical media piracy in RP
(from *Inquirer*, 11 September 2007)

Instead of conducting constant raids of local establishments, the Optical Media Board (OMB) has been making its presence felt in malls and known establishments in Metro Manila where stalls of pirated movies, software and music abound.

With only 15 operatives available to conduct raids nationwide, the OMB is now trying to "deny the market" of pirated software, movies and music in malls, said lawyer Rosendo Meneses, executive director of OMB, during a briefing of the Pilipinas Anti-Piracy Team (PAPT).

PAPT is composed of law enforcement agencies, namely the Philippine National Police, the National Bureau of Investigation, the OMB, and private stakeholders of intellectual property rights protection in the country.

In an interview, OMB Chairman Edu Manzano added that several popular malls are now "pirate free," with more mall owners slowly policing their own operations. Manzano said the agency has filed cases against some mall owners who had been violating intellectual property laws.

While OMB understands that malls are businesses, he urged them to prevent retailers from selling illegal software, movies, music and games. "We hope to entice mall owners to see it from our perspective," he said.

To date, the OMB said that it has seized a total of P643 million worth of pirated movies, music and software. Still, these illegal goods are being unrelentingly sold in the local market.

This shift in strategy has effectively closed down retailers of pirated DVDs, CDs and other optical media in St. Francis Square in Ortigas Center, Pasig City, said Meneses. The OMB lawyer disclosed that the agency is now working closely with the head of security of Shopsville in Greenhills, where illegal software, music, games and movies are being sold.

The agency is also set to sign a deal with the owners of "Circle C," which operates a mall in Commonwealth Ave. in Quezon City.

OMB is hoping that malls in the country will actively police their own operations against retailers selling products violating intellectual property, Meneses said.

The government executive admitted that conducting raids of malls has become an embarrassment for OMB. He said that during raids, the retail stall owners would abandon their pirated goods. The next day, would go back to normal operations.

The new strategy, however, has resulted in the complete closure of sales of pirated goods in one mall. "We now give them [malls] advance notice that we're coming. Next on our list is Metro Walk in Ortigas, Makati Cinema Square, and later Quiapo," he added.

6. Fakes costing RP billions of pesos a year, says exec
(from *Philippine Daily Inquirer*, 25 September 2007)

The country has incurred revenue losses running to billions of pesos due to the entry of counterfeit goods in the market, said Adrian Cristobal, director general of Intellectual Property of the Philippines (IPP).

"We lose a lot of revenue on taxes that may have been used for social services because of these fakes' under valuation and illegal importation (smuggling) that affect the local industries and intellectual

property owners,” Cristobal told participants of a seminar on intellectual property policy held at the Western Visayas State University on Sept. 19 for the business sector and on Sept. 20 for the academe.

He said that, for the first six months of 2007 alone, the government has seized P1.4 billion worth of local and foreign counterfeit goods, including pencils, medicines, shampoos, bags and shoes, among others. “We really have to strengthen the Bureau of Customs,” Cristobal said, citing the high volume of counterfeit goods coming in from other countries.

However, he noted that enforcement alone of the intellectual property right (IPR) law could not solve the problem and that it has to be stopped at the borders and at the level of suppliers.

Cristobal said there was a need for public awareness, education, enforcement and stronger border controls to promote the importance of intellectual property in the Philippines.

“Consumers must also respect the intellectual property rights (IPR). There are a lot of fake cosmetics and medicines being sold. They patronize these because they are cheap but they pose risks,” Cristobal said.

7. IP Philippines backs senate move to fast track passage of cheaper Medicine Bill
(from *Philippines News Agency*, 26 September 2007)

The Intellectual Property Office of the Philippines (IP Philippines) supports the Senates move to fast track hearings for the passage into law a bill amending the Intellectual Property Code. The amendments will help make medicines accessible and affordable to the Filipinos.

Senate Bill 101, introduced by Senator Manuel Roxas II, seeks to amend certain provisions in Republic Act No. 8293, or the IP Code, pertaining to non-patentable inventions (section 22), limitation of patent rights (section 72), use of invention by government (section 74), and limitations on rights conferred on trademark owners in cases of importation of medicines (section 147). The proposed law is more popularly known as the Cheaper Medicines Bill.

We agree with the decision of the joint committees on trade and commerce, and the health and demography that the IP Code amendments must follow a course separate from other bills that propose other measures like price control, Atty. Adrian S. Cristobal Jr., Director General of IP Philippines, said.

Lumping them together will just delay important legislation to reform the patent system to make it more responsive to the health needs of the Filipinos, Cristobal added.

The upper house is expected to release the report next week for plenary deliberation and has pledged to pass the bill before it adjourns on October 13.

The Senate will conduct further hearings to remedy unfair medicine practices in the country.

During a committee hearing last week in the House of Representatives, Undersecretary Alexander Padilla of the Department of Health (DoH) said that IP amendments should proceed independently of other issues such as price regulations, and supply and demand.

Malou Buensuceso, president of the Philippine Chamber of Pharmaceutical Industry (PCPI), expressed a similar view saying that amendments to the IP Code should be discussed independently as it is an enabling law that will increase access to cheaper medicines.

Inclusion of other health-related issues in the proposed bills will delay the process, she added.

The economic rights of patent owners will be protected in the amended law, which complements IP Philippines efforts in balancing their rights and the public health needs, Cristobal said. Amendment to the patent laws of the IP Code forms part of the legislative agenda of IP Philippines.

IP Philippines through its Bureau of Patents (BoP) provides the registration and grant of patent for inventions. A patent is a legal right granted by the government to a patent owner to exclude others from using the patented item for a specified period of time in exchange for patentable information and disclosure.

From 2003 to 2006, IP Philippines received a total of almost 11,000 patent applications. The office also granted close to 3,000 applications from 2003 to 2007.

An invention must embody a technical solution to a problem, with the solution offered fulfilling the following criteria: it must be new, involves an inventive step, and possesses industrial applicability. A patented invention is protected for 20 years from the filing date of application, and this cannot be renewed.

8. Intellectual property committees seizes close to P5-B fake goods since 2005
(from *Philippines News Agency*, 28 September 2007)

The National Committee for Intellectual Property Rights (NCIPR), led by the Intellectual Property Office of the Philippines (IP Philippines), supported by law enforcement agencies, have confiscated P2.16 billion worth of pirated items from January to August this year.

This figure for the eight-month period comprises almost half of the total value of seized items of P4.67 billion since the committees creation in 2005.

The Bureau of Customs (BoC), the National Bureau of Investigation (NBI), the Optical Media Board (OMB), and the Philippine National Police (PNP) form the enforcement groups of NCIPR.

Improved coordination among NCIPR member agencies and partnerships with the private sector has boosted enforcement figures and shows that the campaign against fake products is sustainable, Atty. Adrian S. Cristobal, Director General of IP Philippines, said.

But the challenge is still on border controls, arrests and prosecutions that lead to actual serving of sentences, he added.

From January to August 2007, BoC accounted for the biggest contribution to the total confiscated items of P2.16 billion, bringing in P847 million worth of fake goods.

OMB followed suit with P762 million worth of seized products from 1,560 spot inspections in areas including Quiapo, Binondo, Metrowalk in Ortigas, Makati Cinema Square, and Greenhills, San Juan.

The PNP confiscated P372 million worth of fake goods after conducting 28 operations in areas that include Binondo and Greenhills. The police have arrested a total of 86 violators to-date. Removing counterfeit products from the market remains a national priority to protect local businesses from unfair competition and consumers from fake or substandard products, such as medicines and cosmetics, that threaten health and safety, Cristobal said.

The Department of Justice (DoJ), the Supreme Court (SC), the National Telecommunications Commission (NTC), and the National Book Development Board (NBDB) comprise the other core members of NCIPR.

According to the data submitted by the Office of the Court Administrator of the Supreme Court, as of May 2007, there are 550 pending cases on intellectual property rights nationwide, 438 of which are lodged in commercial courts in the National Capital Region (NCR).

Aside from coordination, our training program pushed the figures up this year. In partnership with industry associations, the Intellectual Property Rights Protection Training Program (IPROTECT) has provided trainings to 153 law enforcers and other government officials, Cristobal revealed.

We have also sent judges and prosecutors from the Task Force on Anti-Intellectual Property Piracy of the DoJ to a seminar on IPR enforcement organized by the Association of Southeast Asian Nations (ASEAN) and the United States Patent and Trademark Office (USPTO). This is also under IPROTECT, he said.

VIETNAM

1. Workshop discusses intellectual property rights protection for SMEs (from *Thai News Service*, 3 September 2007)

The Vietnam Chamber of Commerce and Industry (VCCI) and the US Chamber of Commerce (Amcham) opened a workshop on protecting intellectual property rights for Vietnamese small-and medium-sized enterprises (SMEs) in Hanoi on August 31.

Elaine Wu, attorney advisor of the United States Patent and Trademark Office (USPTO) stressed the importance of protecting intellectual property rights for SMEs. By developing intellectual property, the prestige and position of an enterprise will always be improved and enhanced to help sharpen its competitiveness and earn more market share and profits. But, in fact, most enterprises have not yet fully realised the importance of intellectual property in this field.

Meanwhile, Tran Vu Hoai, head of the Public Relations Department of Unilever Vietnam, shared the company's experience in combating counterfeit goods and knock-off copies. The firm has built a strategy for protecting intellectual property.

Mr Hoai also pointed out weaknesses in implementing the law on intellectual property rights.

Participants also discussed difficulties in accessing the latest technology, credit loans and opportunities for technological exchanges with partners.

2. Counterfeiters get off too easy (from *Thai News Service*, 13 September 2007)

Newly-introduced punishments for the makers and sellers of fake goods are too lenient, delegates at a conference to discuss ways to combat counterfeit products have agreed. The delegates, who met in Hanoi last Saturday, argued that the punishments were mostly administrative.

And in addition to having to carry the cost of prosecuting the offenders, some provinces had the added burden of pollution because they did not have the money to destroy the counterfeit goods.

All famous brand-name goods preferred by consumers were counterfeited, Public Security Ministry representative Hoang Van Truc told the conference. Previously, counterfeit goods had been produced domestically. But now they were imported and diversified, he said.

A Public Security Ministry report shows that fake goods arrive in Vietnam through border posts, by sea and by air. The imports are mostly those that cannot be made in Vietnam such as electronic and telecommunication equipment and automotive spare parts, the report says.

Public Security Ministry Colonel Pham Van Lay told the conference that counterfeiters not only abuse Intellectual Property Rights, they also hurt people's health and spirits, especially with fake medicine. The conference was told that more than 1,090 counterfeit goods incidents were detected from 2002 to the mid 2007.

Almost 1,500 people had been found making and trading counterfeit goods in more than 43 provinces and cities.

Especially, as counterfeit packaging, labels and stamps made in Vietnam were eventually used for imported fake goods. Hanoi and Ho Chi Minh City had the worst records. About 160 incidents and 266 people had been arrested in Hanoi.

In Ho Chi Minh City, the figure was 127 incidents and 169 "bootleggers" arrested.

3. Enterprises should take the initiative in protecting goods and services
(from *Thai News Service*, 18 September 2007)

Over the past five years, the economic crime investigation police detected nearly 1,100 cases of trading fake goods in 43 localities throughout the country.

Methods to increase the efficiency of preventing the trade of bogus goods and violations of intellectual property rights was a major topic discussed at a recent seminar to prevent the sake of false products in Hanoi.

Currently, fake or copy goods sold at the market include food, beverages, clothes, footwear, household utensils, motorbikes, electronic products, CDs, tapes and medicines.

Between 2002-2007, functional agencies such as the market management, the customs, and the inspection department under the Ministry of Science and Technology have detected thousands of cases of trading and production of bogus goods and violations of intellectual property laws, according to a report from the Ministry of Public Security.

In fact, the production of fake products and violations of intellectual property rights have not yet been cracked down on as operations run by criminal organisations are becoming more complicated and well-organised, posing a great challenge to the prevention of bogus goods and violations of intellectual property rights.

Self-protection knowledge

In order to prevent the situation, apart from cooperating with relevant agencies in controlling the trade and production of fake goods, enterprises should be more active in combating bogus goods. Reality shows that many enterprises and craft associations have not yet given proper attention to protecting their products by registering their trademarks, while the Law on Intellectual Property Rights stipulates that enterprises are responsible for protecting their intellectual property rights and goods.

If the production of fake goods or violations of intellectual property rights are detected, enterprises should report the incidents to functional agencies and work with them to tackle the problem. Regarding this issue, Chief Inspector of the Ministry of Science and Technology Le Van Kieu said enterprises must scrutinise all regulations in order to know which agencies will be responsible for handling violations.

Secondly, businesses must spend much more on human resources to protect their rights. For example, big enterprises should establish a group to undertake market surveys in order to know which markets are selling knock-off copies of their products. Third, enterprises must closely co-ordinate with law enforcement agencies.

They should further invest in improving technology to design special features for their own products so that other companies cannot make copies. In fact, if products are of good quality and reasonable price, low-quality fake and knock-off copies of real products cannot find a foothold in the market.

In the fight against knock-off copies of books, Nguyen Dang Quang, an assistant to the general director of the Education Publishing House said if businesses expect only the authorities to fight against illegal printing and knockoff copies, they won't achieve high results. Businesses must devise measures to protect themselves from production to circulation.

Fines too light

People said that authorities should apply stricter punishment for violations of intellectual property rights and trafficking of fake and bogus goods. So far violations primarily incur only fines and thus traffickers are no overly concerned about being caught. Only if the goods cost over VND30 million is the crime dubbed a criminal offence.

The General Department of Police is establishing mechanisms to exchange information between police and businesses and citizens to detect traffickers and violators of intellectual property rights. The department is coordinating with relevant agencies to guide enterprises to protect their products. These measures will help businesses improve their awareness about the need to prevent the production and trade of fake and bogus goods.

4. Difficulty in struggle for intellectual property rights protection (from *Thai News Service*, 25 September 2007)

Violations of Intellectual Property Rights (IPRS are increasing and causing great losses for enterprises. In the meantime, sanctions against violators are not heavy enough.

Together with a rapid economic growth, the strong development of goods production and the expansion of the market, competition on the market is getting fiercer and fiercer. In addition, the scientific and technological revolution is taking place rapidly at home and in the world so that violations in the production and trade of fake goods and infringements of IP rights are increasing. Meanwhile the management ability of relevant authorities is limited, not meeting the national development demands. The legal system has been reformed but is not complete so criminals often make use of this weakness.

Serious crimes and no heavy sanctions

Although a system to protect the IPRS has been adequately designed, there are still violations in IPRS.

Colonel Nguyen Hoa Binh, Deputy Head of the PGD said compared to the target for protecting and promoting initiatives to create a healthy competition environment and the international economic integration process, the efficiency of the IP rights mechanism is still low.

Violations of IPRS still remain complicated, including copyright and related rights, industrial designs and rights in plant varieties. Goods which violate IPRS are not only produced at home but also in foreign countries. Customers find it difficult to identify real or fake goods as producers apply high technology to produce fake goods.

Le Viet Hung from the National Office of Intellectual Property of Vietnam said in 2006 the office received more than 24,000 applications for trademark and IPRS registration. This demonstrates that businesses' awareness of intellectual products is improving.

According to Tran Vu Hoai from the Unilever Vietnam Company, although Vietnam issued the Law on IPRs, the implementation of the law is still weak. So far violations primarily incur only fines and thus traffickers are not overly concerned about being caught. Only if the goods cost over VND30 million is the crime dubbed a criminal offence.

Mr Hung also said so far IPRS violations have mainly been fined at around VND30-40 million and no cases have been fined at VND100 million so the number of violations is continues to increase.

BRUNEI DARUSSALAM

Getting tough on piracy

(from Borneo Bulletin, 27 September 2007)

As part of the United States efforts to combat transnational crime and promote the rule of law and the protection of intellectual property rights (IPR) worldwide, the US State Department recently approved 13 projects totaling US \$3 million in anticrime funds.

Two of these projects - valued at over half a million US dollars in total - will make training available to law enforcement officials from Brunei Darussalam and other APEC and Asean member countries.

According to a press release from the US Embassy in Brunei, these funds enable US law enforcement agencies and diplomatic missions to collaborate in the delivery of international enforcement training and technical assistance programmes on intellectual property rights protection.

US Ambassador to Brunei Darussalam Emil Skodon said, "Protection of intellectual property is a key pillar for building an advanced, knowledge-intensive economy here in Brunei.

"The US welcomes the efforts of His Majesty's government to combat the theft of intellectual property in all its forms. IPR fraud is not just illegal copies of computer software, movie DVDs, and music CDs. It is also fake auto parts and consumer goods which can pose a serious hazard to the health and safety of the people of Brunei.

"I hope that these new training opportunities, combined with the close cooperation of our two governments with intellectual property rights holders, will help further improve enforcement skills among police and customs officers and prosecutors," he added.

Training and technical assistance in the investigation and prosecution of intellectual property crime will be provided to foreign law enforcement partners in nations across the Pacific Rim, Latin America, Eastern Europe and Africa.

The US State Department's Bureau of International Narcotics and Law Enforcement Affairs and Bureau of Economic, Energy and Business Affairs selected the projects after considering input from industry, other federal agencies, overseas missions, and Congress.

The 13 projects are:

- 1) Asia Pacific Economic Cooperation (APEC) \$348,800 - Seminars for enforcement officials focused on effective measures to implement the APEC Model Guidelines on supply chain integrity.

- 2) Association of Southeast Asian Nations (Asean) \$232,402 - Training for Asean customs and border officials in anticipation of Asean establishment of a customs union.
 - 3) Brazil \$75,940 - Training for enforcement in support of new Pernambuco Anti-Piracy Task Force.
 - 4) Caribbean \$170,114 - IPR criminal enforcement training for Bahamas, Jamaica and Trinidad and Tobago, with participation from Antigua.
 - 5) Chile \$206,890 - Enforcement training for Chilean border and customs enforcement officials.
 - 6) India \$315,516 - Judicial training focused on the Delhi and Bangalore high and regional trainings for police and judicial officials in New Delhi, Mumbai, Kolkata and Ahmedabad.
 - 7) Indonesia \$640,000 - Continued funding for two full-time US senior technical advisers to assist Indonesia in implementing new optical disc anti-piracy laws.
 - 8) Mexico \$327,189 - Enforcement training workshops in Monterey, Merida, Manzanillo, Guadalajara and Puebla/ DF.
 - 9) Nigeria \$47,780 - Training in support of the new presidential-level IPR initiative called the Strategic Action Against Piracy (STRAP).
 - 10) Russian Federation \$115,788 - A series of two-week visits by customs officials from each of Russia's seven customs districts to US ports of entry to observe practices and procedures.
 - 11) South Africa \$346,986 - Training in combating high-tech related IPR crime in light of the expected expansion of high-speed Internet access prior to the next World Cup.
 - 12) Turkey \$47,595 - A series of focused training exercises for Turkish border and customs officials on implementation of new Turkish customs regulations, including streamlining the application system where rights holders can register their IP, detection techniques, seizure procedures, 'ex-officio' authority, cooperation with rights holders, and coordination with other enforcement agencies.
 - 13) Ukraine \$125,000 - Assistance to assist Ukraine in creating a sustainable Ukrainian IPR enforcement training capability.
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INDIA

1. Bajaj Auto to sue TVS for IPR violation
(from *The Press Trust of India Limited*, 1 September 2007)

Country's second largest two-wheeler manufacturer, Bajaj Auto Ltd is planning to sue south Indian rival TVS Motor Co, accusing it of infringing upon intellectual property rights of its patented digital twin spark ignition (DTSi) technology.

Bajaj Auto's move to sue TVS comes two days after the Chennai-based company announced plans to roll out its latest 125 cc bike 'Flame' with Controlled Combustion Variable Timing Intelligent (CC-VTi) technology.

"This is a case of IPR infringement issue. Prima facie we have a strong case. While we have had Chinese companies infringing our patented technology, this is the first time a fellow Indian company is doing it to us," Bajaj Auto Ltd (BAL) CEO (Two-Wheelers) S Sridhar told PTI.

He said the company was convinced that there was a clear case of IPR violation by TVS on three counts and the company's legal department was preparing to go to court at the earliest.

"The first is the purpose for which they are doing it (use of twin spark ignition for enhanced performance and better mileage). Secondly, the size (of engine) is same and third, construction of engine is also the same," Sridhar added.

TVS officials were not immediately available for comments.

BAL's some of the most popular models 'Pulsar' and 'Discover' are powered by DTSi engines and Sridhar said the company holds the global and Indian patent for the technology for small engines.

TVS had claimed that its 'Flame' is powered by an engine with CC-VTi technology, which features two different intake ports called swirl port and power port. TVS CMD Venu Srinivasan had said that the company planned to sell about 30,000 to 35,000 per month after the model's proposed market launch by November.

2. Private firm bags biodiesel patent (from *New Indian Express*, 27 September 2007)

The patent for a new variety of biodiesel derived from non-edible vegetable oil, formulated by the department of chemical engineering of the Centre Leather Research Institute (CLRI), was transferred to the private company Vel Biodiesel Energy Pvt Ltd in the city.

Addressing media persons here, AB Mandal, Director, CLRI, said the patent and other documents pertaining to the biodiesel was handed over to the company upon payment of approximately Rs 1 crore, inclusive of taxes.

Once production begins, the company would have to pay an additional Rs 384 lakhs to CLRI in four installments. The company is likely to set up a plant in Trichy for the trial production of the biodiesel with an investment of Rs 2 crore, and conduct commercial trials with the help of CLRI.

3. Non-food items need GI protection (from *The Economic Times*, 28 September 2007)

India wants the European Union to accord protection for Indian geographical indications (GI) in all sectors rather than limiting them to agriculture products such as Darjeeling tea, Alphonso mangoes and Basmati rice.

Various items including Kanjeevaram sarees and Kolhapuri chappals should also get protection, officials have emphasised. In the bilateral trade and investment agreement being negotiated by the two, India will insist on the EU changing its domestic regulations to allow GI protection for non-food items as well.

The EU, on its part, wants India to extend GI protection to hundreds of food items originating in the 27-member block like cheeses and wines. While GIs are accorded protection within a country, it is difficult to get similar protection in other countries. This could be achieved through bilateral agreements. So, if India and the EU decide to include GIs in the trade and investment agreement that they are currently negotiating, they would be according protection to their GIs in each other's markets.

Commerce ministry officials pointed out that the problem with the inclusion of GIs in the agreement was that the EU seemed interested in only according protection to food-related items. "The EU has a long list of items it wants to be accorded protection in India. But it includes only food items. However, for India, the list is diverse and includes food as well as handicraft items," an official said.

Since the EU domestic laws recognise GIs for just food items, India has to ensure that the laws are suitably amended to include non-food items if GI protection is to be included in the bilateral pact.

India wants GI protection for a number of handicraft items like Kanjeevaram sarees, chikankari and kantha work, and bidri pottery. "It is very important to ensure protection for our traditional handicraft since machine-made handicraft items from other countries is posing a big threat to our exports," the official said.

At the WTO - the forum for framing multilateral rules - extended GI protection has been given to just wines and spirits. Under extended GI protection, the name of the product cannot be used in any other form by producers of similar products. For instance, wine producers in other parts of the country will not be allowed to say even champagne-like wine as the district Champagne in France has got the GI protection for the drink champagne.

The proposed bilateral trade & investment agreement between India and the EU envisages liberalisation of trade in goods, investment and services and higher protection for intellectual property rights (IPR) including GIs. The India-EU high level trade group will meet in New Delhi next week to work out the details of the agreement.

PAKISTAN

Two Pakistani firms in media piracy get Dhaka in trouble

(from Indo-Asian News Service, 30 September 2007)

Two Pakistani firms operating from Dhaka have been found to indulge in piracy of CDs and DVDs for markets in India and Europe, leading the US to place Bangladesh on its watch list for copyright violations again.

With the inclusion of Bangladesh on the list by the United States Trade Representatives (USTR) for violating intellectual property rights (IPR), the US can now ask its entrepreneurs to withdraw their investments from the country or impose a trade embargo, The Daily Star said.

Apprehensive that this could seriously hurt its exports, the Bangladesh government is moving to lobby with the US.

According to a report titled 'Special 301' on the adequacy and effectiveness of intellectual property rights (IPR), published by the Office of the USTR, some disk manufacturing plants indulging in piracy shifted to Bangladesh from Pakistan following a crackdown in the latter country.

The Pakistan-Bangladesh nexus was revealed in a report released in the US on April 30. It disclosed that currently six optical disk plants producing pirated products are operating in Bangladesh and exporting to India and Europe, as well as saturating the local market.

The USTR report suggested that Bangladesh introduce regulations controlling optical disk manufacturing so that licenses can be issued to manufacturers and law enforcers to inspect the plants. It also suggested that if any manufacturer is found guilty of piracy, the plant should be closed down and the owners prosecuted.

The report said the harm from piracy in Bangladesh "is not only to the US and other countries that have similar businesses, but is also felt keenly by Bangladeshi genuine entrepreneurs". It said the Bangladesh government's response to the problem is inadequate in terms of results from enforcement actions taken.

A high official of the commerce ministry said the country's name had been first included on the watch list in 2004, but later USTR dropped Bangladesh from the list following the previous government's negotiation with it.

The National Security Intelligence (NSI) carried out an investigation and found that two companies mainly owned by Pakistani entrepreneurs had set up optical disk plants in the country.

The companies are AKA World Com situated at 189/B Tejgaon, which is owned by a Pakistani citizen Solaiman Azmi, and Sonic Enterprise Bangladesh Ltd at Konabari of Gazipur, owned by another Pakistani citizen Sayed Ashraf Ali.

The NSI investigation found that the first company set up a Taka 20 million (\$330,000 approx) plant that can produce 50,000 disks a day. An unnamed commerce ministry joint secretary was quoted by the newspaper as suggesting that the government should review its decision regarding allowing "any foreign investment especially from Pakistani companies in the sector".

The official said the ministry decided to initiate lobbying with the US in an attempt to keep Bangladesh off the 'watch list' for copyright violations.

This year's Special 301 report places 43 countries on Priority Watch List (PWL), Watch List (WL), or Section 306 monitoring list.

KUWAIT

Fake cosmetics trade rampant

(from Kuwait Times, 25 September 2007)

Fake cosmetics are flooding Kuwaiti souqs and small retail shops. From Lancome's foundation cream and Givenchy's eyeliner to Christian Dior's lipstick and L'Oreal mascara, customers can find any international brand they want at any souq.

A stroll through any of Kuwait's souqs and traditional shopping areas reveals a mass of retailers plying their counterfeit cosmetic products and fragrance bottles. The lucrative multi-million business of counterfeit cosmetics and toiletries has grown into a \$210-million business in the Gulf region, according to last year's industry report. Many of those fake cosmetics products are cleverly imitated as per the genuine ones making it difficult to be distinguished from their original counterparts.

Consumer Protection Officials at the Consumer Protection Department affiliated with the Ministry of Commerce and Industry say that customers must keep their receipts for any products they buy to prove that they are fake.

According to the official, without a receipt the department can't help the consumer and as many of the small shops don't give receipts, there is never a guarantee that the deceived customer will get his/her money back. Moreover, it is important that the seller says his goods are genuine before the sale takes place.

Retailers caught selling counterfeit products can be fined but only the company whose products are being copied and sold have the right to file a complaint. Asking on how the Consumer Protection Department knows the difference between fake and original products, the official said they usually compare both products to know the difference.
