

FACT SHEET
ON IP PROTECTION AND ENFORCEMENT IN THAILAND

Development at Policy Level

- IP Policy

- After the establishment of the new Royal Thai government, Thailand's IP policy has seamlessly continued under the auspices of the National Committee on Intellectual Property Policy, a permanent government committee chaired by the Prime Minister and consisted of two Deputy Prime Ministers and the Minister of Commerce as vice chairs, 18 heads of government agencies as Committee members, and the Director-General of the Department of Intellectual Property (DIP) as the secretary to the Committee.

- The 20-year Intellectual Property (IP) Roadmap consisting of six areas; (1) IP creation (2) IP protection (3) IP commercialization (4) IP enforcement (5) geographical indications (GIs) and (6) Genetic Resources (GRs), Traditional Knowledge (TK), and Traditional Cultural Expressions (TCEs) has continually served as the direction for the national IP developments including the reform of entire IP system and currently been implemented in its full operation.

- The Cabinet's Resolution

- To ensure that the modernized copyright and patent laws are put in place in a timely manner, the Cabinet, on 21 May 2019, instructed the Council of State and the Ministry of Commerce to work closely in accelerating the amendments of the Patent Act and the Copyright Act.

- Thailand has placed importance on driving the country under the Thailand 4.0 policy including the development of the digital economy. In this connection, the Royal Thai Government has taken serious consideration on use of legal software in both private and public sectors as it is deemed as a component part to efficiently carry out the said policy. In this connection, the Cabinet, on 21 May 2019 instructed all government agencies to take careful consideration to ensure that the illegal software is avoided in acquiring computers.

- The Establishment of Ministry of Higher Education, Science, Research and Innovation

- On 2 May 2019, the Ministry of Higher Education, Science, Research and Innovation, which integrates several existing government entities such as the Office of Higher Education Commission, the National Research Council of Thailand, the Thailand Research Fund, and the Ministry of Science and Technology, was established with an aim to ascertain harmonized aspects of education, R&D, science, and innovation. In particular, the new Ministry has majorly played a significant role on innovation-driven developments of the country by enhancing the inter-connectivity of various functions of science, research, education, and innovation. Its role will also greatly bolster the implementation of the IP Roadmap especially in accelerating the growth of IP creation directly linked to IP commercialization.

Legislative Development and Accession to International Agreements

- Patent Act: Thailand is in the process of amending the Patent Act B.E. 2522 (1979), which is divided into two phases.

- > The first phase focuses on streamlining patent registration procedures, complying with the Amendment of TRIPS Agreement, and addressing the formality of application for patents related to genetic resources and traditional knowledge. On 29 January 2019, the Cabinet approved the principle of the draft amendment of the Patent Act. Currently, the draft amendment is under the review of the Council of State.

➤ The second phase focuses on streamlining industrial design registration procedures and preparing for Thailand's accession to the Hague Agreement Concerning the International Registration of Industrial Designs (Hague Agreement). *The Committee on the Patent Act Reform has substantially prepared the draft amendment. The draft amendment will be open for the public hearing on the DIP website in due course.*

➤ During the legislative amendment, *the Guideline on Examination of Patent and Petty Patent* effective on June 7, 2019 was recently published on the DIP's website.

- Copyright Act: To clarify the amendment of the Copyright Act related to the Marrakesh Treaty, which was entered into force on 11 March 2019, the Ministry of Commerce issued the Notification on the Use of Copyright Exception for Disabled Persons on 28 February 2019, making it clear on the scope of copyright exception for disabled persons and providing a list of authorized entities eligible to carry out such exception. In addition, the DIP has recently published the Guideline on Use of Copyright Works for the Benefits of Disabled Persons on its website.

- Thailand is presently in the process of further amending the Copyright Act B.E. 2537 (1994), which is divided into two phases.

➤ The first phase aims at enhancing mechanisms to protect copyright in the digital environment and preparing for Thailand's accession to the WIPO Copyright Treaty (WCT). *The draft amendment of the Copyright Act* in this phase was approved in principle by the Cabinet on 18 October 2018 and *successfully reviewed by the Council of State on 16 August 2019. The Council of State is currently preparing the draft amendment to be published on the DIP website for another public hearing before being submitted to the Cabinet and the Parliament respectively.* Upon the completion of the amendment, Thailand will be ready to join the WIPO Copyright Treaty (WCT) as approved by the National Legislative Assembly on 21 December 2018.

➤ The second phase covers Thailand's preparation for the accession to the WIPO Performances and Phonograms Treaty (WPPT). The DIP is now working on the draft amendment of the Copyright Act to allow Thailand's accession to the WPPT.

Enforcement Efforts

- Steering Mechanism

- To continue the robust coordination and integration of relevant enforcement agencies, the Sub-Committee on IPR Enforcement chaired by General Prawit Wongsuwan, Deputy Prime Minister responsible for security and crime suppression matters, together with its appointed three working groups: (1) Working Group on Suppression of Intellectual Property Violation (2) Working Group on Suppression of Intellectual Property Violation on the Internet and (3) Working Group on Destruction of IPR Infringing Goods, has continued playing a major role in determining measures and overseeing all enforcement operations in Thailand

- To ensure the continuity and sustainability of IPR enforcement, the three working groups chaired by the director of the 3rd Operational Cooperation Center under Internal Security Operations Command (ISOC) regularly meet to assess the current IPR infringement situation so as to optimize operations and strengthen tactics being used at all areas nationwide. Over the past year, the operations of the said working groups result in effective eradication of IPR infringing goods and/or activities in both physical and online markets.

- Enforcement in Physical (Offline) Markets

- In 2018, the Royal Thai Police, the Department of Special Investigation and the Customs Department totally conducted 6,938 raids, resulting in seizures of 10.8 million IPR infringing items approximately.

- During the first quarter of 2019, the enforcement agencies conducted 1,471 raids and seized almost 500,000 IPR infringing items. For the second quarter, while the statistics is being gathered, attention may be paid to a recent significant case on IPR enforcement. On 12 June 2019, officers from the Customs Department and Thai FDA conducted 12 locations in Bangkok and seized 400,000 trademark infringing drugs (such as Glutathione, Botox and Stem Cell) valued more than 80 million Baht. In this case, the authority has also traced financial routes of the infringers and found 800 million Baht of cash flow, which will then be subjected to the procedures under the Anti-Money Laundering Act

- Furthermore, the DIP in collaboration with the Royal Thai Police and the Internal Security Operations Command (ISOC) continues to operate the IP Enforcement Center (IPEC) in 5 areas, namely the MBK Mall, Rong Kluea Market, Chatuchak Market, Patong Beach and Karon Beach (Phuket). Enforcement officers from the DIP, the Royal Thai Police and the ISOC together with rights holders always base at the IPECs throughout the business hours of the respective areas to receive complaints and information on any infringing activities, conduct inspections, and take further relevant actions.

- Enforcement against Online Infringement

- Since the entry into force of the revised Computer Crime Act on 24 May 2017, rights owners have undertaken the online blocking mechanism under the said Act to combat online infringement. Since 2018, the courts have issued court's orders to block or disable access to copyright infringing content in a total of 1,268 URLs.

- Since 18 December 2018, the "COPTICS" has served as an online enforcement center to receive complaints and information related to online IPR violation. The operation of "COPTICS" is carried out in supplemental to the online blocking procedures under the revised Computer Crime Act. Based on the data on 17 January 2019, the COPTICS received requests to block 1,080 URLs emerging IPR infringing activities. 89 of them were already blocked. The rest 991 URLs have not currently been blocked as their websites are technically located in foreign countries. In this connection, the NBTC sent a letter to the relevant foreign Embassy in Bangkok, seeking for cooperation to block those URLs located outside Thailand's territory.

- In addition, the cooperation under the MOU dated 17 January 2019 between the COPTICS and the REACT, an international anti-counterfeiting network having around 260 business members around the world, has remained in effect with an aim on fighting against any kinds of IPR infringement and piracy activities particularly in the online environment.

- On 23 April 2019, the DIP invited representatives from the Lazada Group to discuss on measures against online piracy including "the IP Portal (IPP)" system which is a user-friendly online gateway for IPR owners to file complaints about the IPR-infringing items found on Alibaba's e-commerce platforms including Lazada Thailand. This system provides a quick action to quit online sale of IPR-infringing items as well as to take down those IPR-infringing items from the e-commerce platforms. To further strengthen the IPR-friendly environment on its platforms, Lazada Group has expressed its interest to work closely with all relevant enforcement agencies.

- Likewise, on 3 July 2019, the DIP held a consultation meeting with the Shopee, a well-known e-commerce platform in Thailand, on measures to prevent IPR infringement on the Internet. The Shopee has currently provided a link and a call center to receive complaints on online IPR infringement on its platform to ensure IPR-clean

environment. At this stage, the Shopee has shown its interest to more cooperate with the DIP and other government agencies to resolve the online infringement in an effective manner.

- The latest activity on the DIP's cooperation with e-commerce platforms is the "Workshop on Anti-Counterfeiting Measures in the Digital Era" which was organized on 19 July 2019. In this workshop, representatives from the Internet platforms including Lazada, Shopee, Facebook, and Google, IPR owners, foreign government agencies and Thai enforcement agencies were invited to exchange information and views on online-piracy situations, problems, and possible solutions. During the workshop, the participants actively discussed on several measures and mechanisms to suppress IP infringement on the Internet and roles of the internet platforms on IPR enforcement.

- In addition, the DIP in cooperation with Coalition Against Piracy (CAP), Asia Video Industry Association (AVIA), and True Visions Group will jointly organize the "Bangkok Digital Content Anti-Piracy Summit" on 22 August 2019 at the Ministry of Commerce. The summit aims to open a forum for relevant stakeholders to discuss on legal, administrative and cooperative measures to suppress online IPR infringement, including the site blocking.

- Realizing the IPR enforcement in the digital environment, the DIP has recently established a new unit called "IPR-Violation Suppression on the Internet" under the Office of Prevention and Suppression of IPR Violation of the DIP. The new unit substantially focuses on works related to suppression of IPR-violation in the digital environment including cooperation among all stakeholders such as internet platforms, IPR owners, online sellers & buyers, and enforcement agencies to fight against online piracy and counterfeit products on e-commerce platforms.

- The Electronic Transactions Development Agency (ETDA) has consistently developed the system called "i-Mangmoom" (or the "i-Spider Net") to help detecting online pirated contents. iMangmoom has assisted copyright owners in searching for illegal copies of their works such as movies, songs and TV shows on the Internet. After illegal copies are detected, the system will promptly notify copyright owners and seek confirmation of whether the detected contents are pirated. After receiving copyright owners' confirmation, the system will notify alleged infringers to stop their infringing activities. In addition, the DIP is developing the copyright database which is planned to be connected to the i-Spider Net to make the prevention of online piracy even more effective.

- The Ministry of Digital Economy and Society has recently planned to establish the Fake News Center to serve a center to communicate to the public about the fake news and information affecting their life, safety, and property and to warn the public of any other dangerousness including the danger caused by IPR infringing products and activities.

- Border Enforcement

- Under the Customs Act B.E. 2549 (2006) and the Export and Import of Goods Act B.E. 2522 (1979), custom officers have ex officio authority to intercept pirated copyright and counterfeit trademark goods destined for import or export and such goods in transit.

- To enhance efficiency of IPR enforcement at the borders, the Customs Department has continually developed and utilized a database on its website (www.thaiipr.com). The said website enables trademark owners or their representatives to provide information on their brands, types of products and primary techniques to identify counterfeit products. The database is accessible by customs officers working at more than 50 customs checkpoints nationwide.

- The Customs Act was revised in 2017. The revised Customs Act B.E. 2560 (2017) sets a higher penalties for importation, transit and transshipment of counterfeit goods to a maximum of 10 years imprisonment and/or a fine of up to 500,000 Baht. Such penalties are also extended to those who attempt to conduct the said actions.

- Destruction of IPR Infringing Goods

- To ensure that those IPR-infringing goods are removed from channels of commerce, all pirated or counterfeit goods are subject to destruction. The DIP in collaboration with the Royal Thai Army, the Internal Security Operations Command (ISOC), the Royal Thai Police, the Thai Customs Department, the Department of Special Investigation, and IPR owners organizes a ceremony on the destruction of IPR infringing goods on a yearly basis.

- On 3 September 2018, all relevant government agencies and IPR owners organized the ceremony to destroy more than 2,100,000 IPR infringing items, worth 1,374 million Baht. *The next destruction ceremony is scheduled in September 2019.*

- Apart from the said destruction ceremony, the Customs Department also destroys IPR infringing items on a regular basis.

Enhancement of Information Technology Systems

The DIP has continued to facilitate IP applications by making available an electronic filing (e-filing) system as an alternative channel for submitting applications. In addition, the DIP has consistently improved the effectiveness and efficiency of the e-filing system with an aim of making it a real paperless facility for the applicants and the examiners. In doing so, electronic authentication (e-authentication), electronic portal (e-portal) and electronic payment (e-payment) have been put in place.

Awareness and Educational Activities

- The DIP has carried out various IP awareness and educational activities. Among others, the DIP organizes seminars/workshops to educate the public on various IP topics. The DIP also produces a number of public relation (PR) items including spots, blogs, banners and press releases to convey IP knowledge. Various tools and communication channels such as free TV, radio and social media including Twitter and Facebook have been utilized in order to reach out targeted groups.

- On 26 April 2019 the DIP in cooperation with Sports Authority of Thailand, Badminton Association of Thailand, SCG Muangthong United, True Vision, JETRO, USPTO, and EUIPO organized an activity to celebrate the World IP Day in the theme “Reach for Gold: IP and Sports” at the Stadium One, Bangkok. The said activity, which aimed at raising awareness on IP related to sports and showcasing innovation and technology in the sport industry, ended with a great success.

- To encourage IPR owners to take advantages of the Madrid system, the DIP in cooperation with the World Intellectual Property Organization and the Japan Patent Office organized a series of “Roving Seminars on Effective Use of the Madrid System in Thailand” at Chonburi province on 19 July 2019, at Chiang Mai on 22 July 2019, and at Nakhon Ratchasima on 24 July 2019 respectively. In addition, the DIP in cooperation with the Department of Foreign Trade is planning to promote the Madrid system amongst entrepreneurs engaging in the border trade.

- Realizing the technological change, the DIP held a series of seminars on “Copyright Protection for the Online Medium of Expression” nationwide, including at the Queen Sirikit National Convention Center, Bangkok on 1 April, 2019 and at Pitsanulok province on 4 July 2019. The next seminar will be organized at Nakhon Panom province on 19 September 2019.

- The DIP along with other enforcement agencies and the MBK Mall plans to jointly organize an IP awareness campaign at the MBK Mall in October 2019 to build public awareness on avoidance of buying and selling IPR infringing goods.

IP Commercialization

- The Intellectual Property Innovation Driven Enterprise Center (IP IDE Center) of the DIP has remained in its full operation to promote and facilitate entrepreneurs and SMEs' uses of innovation, technology and findings from research and development in order to improve their competitiveness. Recently, the IP IDE Center, on July 9, 2019, had a video conference with the French Industrial Property Office (INPI) to discuss on measures to enhance the quality of consultation service on industrial property, including the "INPI Direct", a French IP consultation service system.

- In addition, the IP Mart has served as the online platform available for IP owners to showcase and sell their products to consumers. Since its establishment in January 2018, the IP Mart has gained popularity among IP creators and inventors. As of now, there are more than 1,143 innovative products being sold on this online platform.

- Furthermore, the IP Fair is annually organized by the DIP. In this year, the IP Fair was organized on 30-31 May 2019 at the Centara Grand at Central Plaza Ladprao, Bangkok. Various activities including a series of IP-related seminars and the kiosks for IP consultation service were provided during the said IP Fair.

Stakeholder Engagement

- The Thai Government has placed a high importance on transparency and engagement of IP rights holders.

- The DIP organizes consultation meetings with IP rights holders on a yearly basis to provide updates on IP situations in Thailand. Such meetings have served as fora among relevant government agencies and the IP rights holders to discuss on all IP-related issues to ensure that views and concerns expressed by IP-related industries are taken into consideration.

- The previous meeting on 25 April 2019 were well attended by representatives of various industries from the U.S., the EU, Japan and Korea. This meeting on 19 August 2019 is the second the meeting of this year.

Global Innovation Index (GII)

- According to the Global Innovation Index (GII) 2019 Report conducted by the World Intellectual Property Organization (WIPO), Cornell University, and European Institute of Business Administration (INSEAD), Thailand is ranked 43rd out of 129 surveyed countries, which is higher than the rank last year (44th) and even much higher than the rank in 2017 (51st). Notably, among 80 innovation indicators identified in the GII 2019 Report, Thailand's indicator on the "Creative Goods Exports" is ranked on no. 1 amongst the survey countries.

Department of Intellectual Property
Ministry of Commerce, Thailand
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