

**Thailand's Implementation on Intellectual Property Rights**  
**(May – October 2007)**

**Department of Intellectual Property,**  
**Ministry of Commerce**  
**Thailand**

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## **Executive Summary**

As Thailand is undergoing a transition into the knowledge-based economy, the ability to obtain knowledge and utilize such knowledge to the greatest extent possible, especially through creating innovations, is considered an eminent challenge for the country.

To foster innovations, promote research and development, stimulate value creation, and expedite the full utilization of knowledge, it is necessary and inescapable to develop the basic infrastructure in intellectual property to facilitate these activities.

The Royal Thai Government has thus developed a clear policy to promote effective protection of intellectual property rights. This intention can be inferred from both in the new Constitution of the Kingdom of Thailand B.E. 2550, which gives special emphasis on providing protection on intellectual property in line with international accepted standard, as well as the National Policy of the current Royal Thai Government under the premiership of General Surayud Chulanont, which was declared to the National Legislative Assembly, that places high priority on the development of intellectual property. Accordingly, the Department of Intellectual Property, as the principle agency in the development of intellectual property system in Thailand, with a cooperation from related agencies, has developed measures so as to ensure a sustainable development in the intellectual property protection system of the country. These measures range from the promotion of intellectual property creation to the establishment of an effective information database system to a reliable intellectual property examination process and the promotion of the utilization of intellectual property for commercial purposes.

At the same time, due to the present rapid technological advancement, the Royal Thai Government has placed special effort to enhance the existing legal framework on the protection of intellectual property. Moreover, there has been significant advancement in the amendments of various laws and regulations, both under the responsibility of the Department

of Intellectual Property and related agencies, such as the Copyright Act, the Trademark Act, the Patent Act, the Customs Act, and the Broadcasting Bill.

More importantly, the Department of Intellectual Property and related agencies have closely coordinated with one another to suppress intellectual property violations in an integrated manner with clear target and expected results. Essentially, this report presents the progress on each of the cooperative efforts so as to prevent and suppress all intellectual property violations in Thailand:

All agencies relating to suppressing pirated goods and counterfeit activities have focused on the suppression of large scale violations, including retailers, especially those within the red zone with high levels of violations, such as Pantip Plaza. So far, the effort has led to the seizure of numerous factories and warehouses of pirated goods.

Royal Thai Government has also expedited the prosecution of license cable television operators which violate cable television copyright by empowering the National Broadcasting and Telecommunication Commission to consider to temporary or permanently suspend or revoke the license of the operator with the final judicial decision that it has conducted the infringement of copyright by unauthorized broadcasting.

As for the optical disc piracy, the Department of Intellectual Property and other concerned agencies which are the Royal Thai Police and Department of Special Investigation have jointly conducted numerous numbers of raids. The statistic shows that the average items seized per case have been increasing significantly. Three pirated CD production plants have been located, and further investigations are being performed to identify the real owners. At the moment, two of the plants have been taken legal action against.

Guidelines which provide information on how to gain legally access to copyrighted works (Books and Software) have been distributed to specific targeted groups. Seminars and training courses have also been organized to provide accurate information on the matter to all stakeholders, including academic personals and government agencies.

Since it has been generally accepted that, one of the best ways to prevent the counterfeiting goods seized in the intellectual property infringement cases from re-entering the market is to destroy them, government agencies concerned have continuously scheduled the destruction of pirated goods seized. In this respect, the Customs Department has scheduled the destruction of two CD production machines worth approximately 20 million Baht in the first week of December 2007.

In addition, in order to ensure effective prosecution of intellectual property violation cases, the Thai Government has coordinated closely with all law enforcement agencies, including the Office of Attorney General and the Central Intellectual Property and International Trade Court, to facilitate legal proceedings, such as the issuance of search warrants and appropriate legal penalties. In this connection, the Central Intellectual Property and International Trade Court has reported, by not waiting for a deferral or time to determine the penalty, a significant number of cases of intellectual property violations in Thailand have evidently been expedited and successfully prosecuted.

Finally, the Royal Thai Government has perceived that cooperation among all agencies and sectors on raising the capability of officials relating to the suppression of intellectual property violations is an important step towards effective suppression activities. To this end, the Royal Thai Government has thus sought cooperation from various experienced organizations such as USPTO, EPO, and JPO, on human resource development and capacity building on all issues regarding intellectual property.

With regard to future work plan, the Royal Thai Government will focus on consistent implementation to ensure concrete and significant outcome, both in terms of expediting legal reforms and increasing coordination among related agencies to effectively suppress intellectual property violations in all dimensions. Indeed, the Royal Thai Government is fully confident that all of the efforts will help to resolve the intellectual property issues in the

country and, more importantly, assure a continual and sustainable development of the intellectual property system in Thailand.

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### **I. Introduction**

As Thailand is undergoing a transition into the knowledge-based economy, the ability to obtain knowledge and utilize such knowledge to the greatest extent possible, especially through creating innovations, is considered an eminent challenge for the country.

To foster innovations, promote research and development, stimulate value creation, and expedite the full utilization of knowledge, it is necessary and inescapable to develop the basic infrastructure in intellectual property to facilitate these activities.

As a consequence, the Royal Thai Government has attached special priority in its policy to provide effective protection of intellectual property, as well as to support innovations and the utilization of intellectual property in a sustainable manner.

The Department of Intellectual Property, as a lead agency responsible for the intellectual property system in Thailand, is fully aware of the importance in the development of the country's intellectual property system in promoting the creation of Thai innovations, protecting intellectual property, preventing intellectual property violations, commercializing intellectual property, as well as formulating the intellectual property database to serve as the basis for Thailand's future research and development.

From May to October 2007, the Department of Intellectual Property had initiated many multi-facets measures and hosted various activities to accelerate the concrete advancement of intellectual property system in Thailand, including successfully improving the of patent examination system which has reduced the processing time and workload of the Department of Intellectual Property. In addition, the Department has attached high priority in developing proactive measures to effectively prevent intellectual property violation in all dimensions and has closely coordinated with the various related agencies, such as the Royal

Thai Police, the Department of Special Investigation, the Customs Department, the Office of the Attorney General, the Central Intellectual Property and International Trade Court, the Government Public Relations Department, and the Office of the Council of State, in order to establish an integrative and effective solution to the intellectual property violation, in particular for large commercial scale violation and to promote better understanding and awareness of the public about the need to respect intellectual property rights of the others.

Accordingly, this document is a compilation of intellectual property policies of Thailand; the Department of Intellectual Property's initiatives to improve national intellectual property system; current measures and plan to suppress the violation of intellectual property rights; as well as statistics and the results of the implementation during May to October 2007.

The Department of Intellectual Property sincerely hopes that this document would reflect the strong intent of Thailand to develop an effective and sustainable national intellectual property system.

## **II. IP Strengthening Policy (May – October 2007)**

In the era of the knowledge-based economy where technology is constantly changing and foreign competition is becoming more intense, it is clear that the role of intellectual property as the basic factor to create value for goods and services and improve the nation's competitiveness as well as export capability has become increasingly important.

Recognizing the significance of intellectual property, the Royal Thai Government has thus inscribed the issue into the national policy. More importantly, the recently enacted Constitution of the Kingdom of Thailand, B.E. 2550 (2007) also contains the issue of intellectual property as one of the fundamental grounds for the country's development. Furthermore, the Tenth National Economic and Social Development Plan (2007-2011) has likewise placed high priority on the issue of intellectual property.

### **A. The Constitution of the Kingdom of Thailand, B.E. 2550 (2007)**

The Constitution of the Kingdom of Thailand, B.E. 2550 was officially entered into force on 24 August 2007. This Constitution is considered to be Thailand's first constitution which explicitly stipulates the importance of innovation, utilization, and protection of intellectual property. As stated in Section 5 of the Basic Policy Directive, Part 9: Policy on Sciences, Intellectual Property, and Energy, Article 86, as follows (unofficial translation):

*“Article 86 The State shall implement the following policy directives on sciences, intellectual property, and energy:*

- (1) To promote scientific and technological development and innovation in various fields through the enactment of specific legislations; the disbursement of budgets to support education, research, analysis, and educational and development institutions so as to apply the results of research and development; the transfer of technology; the creation of efficient and appropriate human resources; the dissemination of new scientific and technological know-how; and the use of scientific principles in daily life;*
- (2) To promote inventions and innovations to stimulate new knowledge, preserve and develop Thai local wisdom and intellectuals, and protect intellectual property rights;*
- (3) To promote and support research and development of alternative energy from natural sources and in an environmental friendly, sustainable, and systematic manner.”*

From the aforementioned provision under the Constitution of the Kingdom of Thailand, B.E. 2550, it is clear that Thailand has continued attaching great importance in protecting all the intellectual property of both Thais and foreigners. The fact that the Thai government has placed special emphasis on providing support on innovation and invention, the utilization of creative works, research, and intellectual property, as well as the importance of technology transfer as the basis for the future innovations of Thailand had reaffirmed that the intellectual property objective is well taken by both the Constitution and the government.

## **B. The Royal Thai Government's policy on Intellectual Property**

In accordance with the national policy of the Royal Thai Government under the premiership of General Surayud Chulanont, which was declared to the National Legislative Assembly on 3 November B.E. 2549, intellectual property is among the issues that is inscribed in the National Economic Policy and is placed as high priority for the government, as follows:

### ***“2.2 The Market Economy***

- ***Industry Development:***

*Encourage both domestic and foreign investment with potential high competitiveness according to the 10th National Economic and Social Development Plan, as well as place importance on investment to promote capacity building in developing technology and create the intellectual property of the country as a whole.*

- ***Small and Medium Enterprises (SMEs):***

*Make use of the public-private sector alliance to continuously increase the effectiveness of all SMEs through science, technology and operational management, as well as give special emphasis on the SMEs which utilize or make use of intellectual property.*

- ***Intellectual Infrastructure:***

*Although Thailand has made significant investment in the country's basic economic infrastructure, it is evident that the country's intellectual infrastructure still lags behind many competitors. As such, the Government will develop a master plan on intellectual infrastructure so as to accelerate knowledge-creation in the Thai society, support the "Sufficiency Economy" philosophy, promote national capabilities in a sustainable manner, and encourage public and private sectors' cooperation on innovation development”.*

### **C. The Tenth National Economic and Social Development Plan, B.E. 2550-2554 (2007-2011)**

The Tenth National Economic and Social Development Plan (B.E. 2550-2554) has given emphasis on the important role of intellectual property in laying the fundamental structure for knowledge and as a crucial mechanism in raising the country's competitiveness in international trade, and thus has inscribed intellectual property in the country's development strategy, as follows:

#### **1. Strategy for Enhancing the Quality of Life and of the Thai society to be a Knowledge-based Society.**

##### The Management of National Knowledge;

- Develop innovation that leads to self-dependent, which will help reducing the importation of foreign technology, and restructuring the financial incentive system, together with managing the intellectual property efficiently as well as placing importance on protection, benefit sharing, and commercialization of knowledge, where there will be a mechanism or organization taking direct responsibility.

#### **2. Strategy for creating a balanced and sustainable economic structure**

Plan on the restructuring of the production structure in order to increase productivity and value of goods and services on the basis of knowledge and Thainess.

##### Develop supporting factors for the restructuring of the production structure

- Manage the knowledge efficiently: including the gathering, creating, disseminating, and applying the knowledge and technology and the commercialization of knowledge, as well as appropriately protect intellectual property. This includes the realignment of economic and social structure towards becoming a knowledge-based economy, through the followings:

a) Support research and development activities, innovation creation, and intellectual property commercialization, as well as improve existing Thai traditional knowledge in order to create economic value and develop an effective management of intellectual property;

b) Develop the basic infrastructure in science, technology, research, and innovation creation so as to support the restructuring of the society and the production structure through the development of intellectual property management system to support the commercialization of the research and development results, the establishment of an authorizing agency to manage the intellectual property, bearing in mind the importance of intellectual property protection for universities and research institutes, benefit sharing, and the collaboration between such organizations and industry in developing or adding value to knowledge and technology for industrial purposes.

From all the aforementioned national policies, it can be perceived that the Royal Thai Government has continuously paid great attention to the development and improvement of Thailand's intellectual property system in a clear and comprehensive manner. The Royal Thai Government is confident that the aforementioned policies will illustrate the seriousness and intention of Thailand in solving various problems with respect to intellectual property and in raising the level of intellectual property protection to international accepted standards.

### **III. Activities and the Implementation (May – October 2007)**

#### **A. Measures to Enhance the National Intellectual Property System**

##### **1. Education and Public Awareness Activities**

###### **a) Seminar on the Dissemination of Knowledge on Intellectual Property**

- To raise the understanding and awareness on intellectual property to individuals involve with intellectual property, such as college professors, researchers, business operators, OTOP producers (local producers of traditional products), SMEs, as well as community enterprises in the central and regional provinces, 9 seminars were held from May to October

2007 with the total participant of 1,180 persons. These seminars had focused on enhancing knowledge and understanding and the recognition on the importance of intellectual property protection with particular emphasis on the utilization of intellectual property to improve and add value to existing innovation, and enhance country's competitiveness as a whole.

- To increase the knowledge and understanding of business operators and the individuals within the provincial areas on the status of Thailand's free trade negotiations with trading partners with regards to intellectual property, including providing advices on how to adjust and gain maximum benefit from the result of the negotiations. In this respect, the Department of Intellectual Property had convened four seminars in Chonburi, Phuket, Khon Khan, and Chaing Mai respectively, with the total participants of 450 people.

In addition to promoting the knowledge and understanding on the issue of intellectual property, the seminars also helped raising the awareness on the importance of intellectual property protection and the need to respect intellectual property rights of the others.

#### **b) Initiative on Distance Learning on Intellectual Property**

In order to instill knowledge and understand intellectual property related issues accurately as well as raise the awareness on the importance of not infringing on other people's intellectual property, the Department of Intellectual Property has established a Distance Learning on Intellectual Property via the internet program, which is a cooperative effort between the Department and the WIPO Worldwide Academy. The curriculum is based on the course DL-101 in Thai, which has the same standard as the course DL-101 offers by the World Intellectual Property Organization. The Department of Intellectual Property has received the support from the WIPO in formulating the first e-Learning System on intellectual property in Thailand. The first class was held on 3 May 2007 with 387 enrollments, of which 169 persons took an examination and 142 passed. Currently, the second class is open for enrollment.

The Department of Intellectual Property believes that the course DL-101 in Thai language will serve as another channel to disseminate the basic knowledge on the protection of intellectual property to the general public, particularly to students and university personnel which are the target participants of this course. In this connection, the Department of Intellectual Property is in the process of drafting the MOU with the Commission on Higher Education in order to include course DL-101 in Thai language as part of the national curriculum on basic knowledge on intellectual property.

**c) Enhancing Knowledge and Arranging Training Course for the Intellectual Property Special Representatives**

The Department of Intellectual Property has convened a training course for the intellectual property special representatives on 18-20 September 2007 in order to enhance the knowledge and the capability of the intellectual property special representative. Essentially, the purpose of the course is to increase the understanding of these special representatives so that they could represent and help the Department of Intellectual Property to disseminate knowledge on intellectual property in both the central and provincial areas. Currently, 155 people from all over the country have passed the training.

**d) Initiatives on Building the Intellectual Property Conscience**

During 2007, the Department of Intellectual Property has developed many initiatives in order to build conscience in not violating intellectual property rights. These initiatives emphasize on public involvement and access in all sectors of the society, including university personnel, students, and the general public. These initiatives can be summarized as follows;

- The Initiative on Building Copyrights Conscience 2007, which is intended for raising the awareness of high-school students in the institutions under the patronage of the Commission for Basic Education on the importance of intellectual property, especially for copyrights. The aim of this initiative is also to induce students to think about creating



intellectual works, refrain from intellectual property rights violation, as well as campaign to build conscience in not purchasing, selling, or using intellectual property infringing products. The activities under this initiative include song contest, mini concerts, question and answer games, and exhibitions on non-violation of intellectual property rights and on the knowledge on intellectual property. In this respect, the Department of Intellectual Property has announced the final result of the competition for schools within the central region during the IP Fair 2007 on 20 July 2007 and for schools within the eastern and southern regions on 24 and 31 August 2007, respectively. Over 2,000 students have participated in this initiative, with over 230 works submitted to the contest.

- The Activities to Build Conscience not to infringe Copyrights during the 3 Economic Stimulating Fairs, organized in cooperation with the Ministry of Commerce, in the northeastern (Nakorn Rajasrima province), northern (Chaing Mai province) and southern regions (Nakorn Srithammaraj province), in which the Department of Intellectual Property had focused on promoting knowledge and creating accurate understanding and awareness on the importance of respecting intellectual property rights. The activity had also aimed at promoting businesses that use intellectual property and providing counseling service and dissemination of knowledge on intellectual property. Moreover, mini concerts were organized and copyrighted goods were sold at lower price during the activities.

## **2. IP Creation**

The Department of Intellectual Property is fully aware of the importance of improving the national capability in the creation of innovation. In this regard, the Department has supported the use of information on patents at home and abroad as a foundation for creating the Thai innovation which in turn would help to enhance the competitiveness of Thailand as a whole.

In order to fulfill such objectives, the Department of Intellectual Property has initiated the following activities;

**a) Training Course on the Search for Technology Information from the Patent Documents**

The aim of this training course is to enable the participants to recognize the technology information and its source from patent documents and to appreciate its importance, as well as to utilize such technology as a foundation to add value and create invention on more advanced technology. This training is offered in 3 fields of technology, namely, Chemistry, Engineering, and Biotechnology and Pharmaceutical. To date, there have been 139 participants, most of whom are personnel from universities and public and private research institutes. In this respect, the Department has intended for the training to be conducted in the form of ‘Training for Trainers’ so that the participants would be able to effectively transfer their knowledge to people within their organizations or sectors.

**b) Initiative on the Improvement of the Search System for Information on Thai Patents and the Patent Database worldwide**

- The Department of Intellectual Property has developed and provided a search system for information on Thai Patents and Patent Database worldwide in order to facilitate the interested individuals, business operators, researchers, and SMEs. The outcome is to show the link to the source of information found in individual country. In addition, the system can also analyze the statistics of patent registrations within any industrial sector of Thailand so as to reveal the potential of the industry and the trend of the Thai economy.

Furthermore, the Department of Intellectual Property is in the process of developing a search system for information on patent/petty patent in the registration process in Thailand so that interested individuals could search information on the applications, as well as review the applications that have been published on the internet.

**3. IP Protection**

The Department of Intellectual Property, as a principal agency responsible for providing effective, reliable intellectual property protection in line with international standard, has endeavored to consistently improve the quality of intellectual property protection, including the streamlining and improving of examination process so as to raise the integrity of the process, expedite and facilitate public use. In addition to the reforms and updating of the various related intellectual property laws and regulations, as will be presented in the next section, the Department of Intellectual Property has also undertaken the following initiatives:

**a) Improvement of Examination Quality**

**1) EPOQUE Net Project**

The Department of Intellectual Property has cooperated with the European Patent Office (EPO) to undertake EPOQUE Net project that allows Thai patent examiners to obtain information on patents directly from the patent database of the EPO located in Hague, Netherlands. Considered as the largest and the most complete database in the world, the EPO database contains patent information belonging to the European Union (EU), the U.S., and Japan, together amounting to more than 50 million patents. It is expected that the access to and the utilization of the database will help the Patent Examiners at the Department of Intellectual Property to expedite the patent examination process as well as significantly decrease backlog.

In addition, the Department of Intellectual Property assigned officials from the Patent Office to attend training courses on EPOQUE Net Introduction at the European Patent Office in Germany from 21-25 May 2007 in order to effectively prepare for the implementation of the EPOQUE Net program. The agreement between EPO and DIP on the use of EPOQUE net is expected to be signed by this year.

**2) Capacity Building for Examiners**

Given the present rapid advancement in technologies, the Department of Intellectual Property has recognized the importance of continuously building capacity for

patent examiners and therefore has set up various programs to train patent officials with domestic and international organizations that have expertise in different fields of technologies, such as in electricity and biotechnology. Having completed the trainings, the officials will be encouraged to share their knowledge with their colleagues so as to disseminate the knowledge and experience throughout the organization.

### **3) Sustain Quality Assurance**

The Department of Intellectual Property has continuously placed emphasis on maintaining high standards in the accuracy, transparency, and reliability of patent examinations by establishing internal procedure for quality control which assigns the head of each unit to closely supervise patent examinations and review the examination if any query arises. In addition, the Director of the Patent Office, at the Department of Intellectual Property will also reexamine the patent application in case the examiner views that the application should not be approved. Moreover, the applicant and other stakeholders have rights to appeal the decision of the Department to the Board on Patent and the Central Intellectual Property and the International Trade Court, as provided by the law.

#### **b) Improvement of the Patent Examination Process**

To expedite the process of patent examination, the Department of Intellectual Property has undertaken the following activities.

1) Provide training for patent representatives so as to increase their understanding on the correct format of patent application. In the past, the Department of Intellectual Property has found that incorrect applications and unclear information are primary causes of delays in patent examination and have impeded the examination process. On many occasions, the Department has had to request the applicants to amend the applications.

2) Increase the use of modern technology to examine patents and trademarks. Accordingly, applicants for trademark can now submit their applications via electronic means.

And, since the system was launched in 2005, more than 11,000 work items have been serviced through this channel, especially in the submission of the applications and the request for an examination of trademark resemblance.

3) The Department of Intellectual Property has provided mobile units to receive applications and facilitate all intellectual property registrations in order to ensure that applications are undertaken correctly and completely and can be further processed without delay. Intellectual property officials are assigned to accompany the unit to advise on the registration, to receive the applications, and to provide information related to intellectual property. It is clear that the people in the rural area have gained more understanding on intellectual property from the mobile units, as well as greater convenience in the registration process, similar to the services that they may receive from the Department in Bangkok. Accordingly, from May-October 2007, the mobile units have received 464 applications and provided 596 consultations.

4) The Department of Intellectual Property has streamlined the patent publication process from 30 days to 15 days, increased overtime service by 40%, and also provided services on government holidays. As a result of these undertakings, the Department of Intellectual Property has been able to decrease backlog by 11%, from 18,388 applications to 16,980 applications.

5) The Department of Intellectual Property has established a bureau to receive patent applications under the Patent Cooperation Treaty (PCT) system at the Department in order to prepare for Thailand's accession to the PCT in the future.

6) Patent Database budget of 16 Million Baht is allocated to digitize patent database and e-filing system.

#### **4. IP Commercialization**

The Department of Intellectual Property fully realizes the importance of commercial utilization of intellectual property as a channel to help intellectual property owners to obtain income from their innovations, which can be undertaken by the intellectual property owner or by obtaining licensing agreement authorizing the use of intellectual property rights to the others. In this connection, the Department of Intellectual Property has supported the establishment of a license system so as to maximize the use of intellectual property.

**a) Organize Seminars and Trainings to Disseminate Knowledge on the Utilization of Intellectual Property**

In order to enhance the understanding on intellectual property of individuals within the intellectual property circle, such as personnel in educational institutions, researchers, entrepreneurs of OTOP and SMEs, and enterprise communities in the central and provincial areas, the Department of Intellectual Property has organized trainings on basic intellectual property, business matching, and the search for patent information so that participants would realize the importance of intellectual property as well as understand the various channels to efficiently manage and commercialize intellectual property.

**b) Organize IP Fair 2007**

The IP Fair 2007 was organized in order to enhance competitiveness on trade and exports, to create opportunities and channels for business negotiations, to encourage intellectual property owners to enter into the protection system, and to build conscience and campaign against the use of pirated products. More than 16,000 persons visited the fair. Activities during the fair included exhibitions on patent and copyright products and business negotiations on the use of intellectual property for commercial purposes. The fair generated an income of more than 114 million Bath from both product purchases and business negotiations and 3 intellectual properties were successfully negotiated at the fair, namely, fruity soft-serve ice-cream powder, Innogas which was economic gas for a stove, and an oven with fuel gas/fuel container attached. Furthermore, the fair also provided a clinic for consultations and

mobile units to receive applications. At the fair, intellectual property advices were given to 833 people, and 84 applications on trademark and 192 notifications were received. Moreover, the fair also included a song contest among schools in the central region to promote conscience of non- violation of intellectual property, mini concert, the selling of intellectual property products, and meetings on intellectual property.

#### **c) Capacity Building for SMEs on Intellectual Property**

The Department of Intellectual Property has undertaken various projects under the program to increase the capacity of SMEs on intellectual property so as to enhance the competency of SMEs to use intellectual property for business development and increase their competitiveness. The Department has organized 8 seminars with a total of 623 participants. Moreover, the Department has arranged fieldtrips and site-visits to companies that have successfully utilized intellectual property for commercial purposes. So far, the fieldtrips have been arranging with three major companies and one scientific agency. Accordingly, from these activities, participating SMEs have filed a total of 118 applications and notifications with the Department, of which 41 applications were on patent, 24 on petty patent, 46 on trademark, and 7 on copyright. It is the intention of the Department of Intellectual Property to continue to set up activities to support the utilization of intellectual property.

#### **d) Utilization of IP in Education and Research Institutes**

The Department of Intellectual Property has recognized the important role played by universities and academic and research institutes in developing Thai intellectual property. Nevertheless, during the past, it was evident that intellectual property created by these institutions have not been further developed nor seriously promoted for commercial utilization. This failure does not only prevent these institutions from reaping the full benefits of their creations but also has deprived the society and the country from technology transfer and access to beneficial innovations. Therefore, in order to solve the problem, the Department

of Intellectual Property has undertaken a project to encourage universities and academic and research institutes to establish the Technology Licensing Office (TLO) so as to search for markets opportunities and set up clear guidelines for the utilizations of intellectual property. At present, major universities in Thailand have begun to set up TLO with the support of the Intellectual Property Management Office, Chulalongkorn University, which is an institution that has expertise in the area. In addition, the Department of Intellectual Property has established MOUs with universities in order to jointly establish and operate TLO which is suitable to the undertakings of each university in the near future.

### **B. Progress in IP and Related Legal Reform**

With the present rapid advancement in technology, it is necessary for the DIP to propose for the amendment of laws and regulations in order to keep pace with the global trends of IP protection as follows:

(1) Copyright law amendment To enable Thai Copyright Law to be more effective, in line with international standard, and to support the establishment of collective management. The Department of Intellectual Property has thus deemed it necessary to propose for amendment of the Copyright Act B.E. 2537. In this respect, the Cabinet has made a resolution to consider the two issues namely, collective management organization and penalty as a first priority as they would affect the relevant stakeholders most. The Council of State has completed its consideration and forwarded the draft law to the Cabinet. The Bill is now approved by the Cabinet and is sent to the National Legislative Assembly for consideration.

The Council of the State will soon convene the meeting to consider the remaining issues of the draft law.

(2) Trademark law amendment. The amendment to the Act is proposed in order to provide flexibility and better serve the rapid changes of technology and environment, such as expanding the scope of the coverage of trademark protection and shortening the registration



process. The draft Trademark Law Amendment is under the fast-track consideration of the Council of State, which has convened a meeting twice a week. The current government wishes to complete the amendment by the end of its tenure.

(3) Patent law amendment. One of the objectives of the amendment of the Act is to insert the flexibilities of the Doha Declaration on TRIPS and Public Health that permits the Members to use compulsory licensing to export pharmaceutical products to a third country. In addition, the amendment will improve the registration process and shortening the duration to decrease the volume of backlogs. The draft legislation had been proposed for consideration of the Cabinet. However, many stakeholders raised concern on certain provisions of the proposed amendment. The Cabinet had therefore suspended the consideration and instructed the Ministry of Commerce to reconsider the draft legislation with other relevant government agencies and stakeholders in order to find a resolution before reintroducing the draft legislation to the Cabinet.

The Department of Intellectual Property is in the process of consultations with other stakeholders and concerned government agencies in order to effectively improve the draft legislation. It is expected that the draft law will be resubmitted to the Cabinet again after the general election in December 2007.

(4) The Customs law amendment. Due to the fact that the suppression of intellectual property violations in Thailand has clearly been strengthened, it is evident that most of the violators have been forced to move their productions to neighboring countries and used Thailand territory to transit pirated products to other countries, thus inevitably destroying the country's image and the integrity of the Thai economic system. This being the case, the Customs Department, which is the lead agency on import and export control of Thailand, is in the process of amending the Customs Act so as to empower customs officers with the authority to inspect and confiscate goods entering the country for transit and transshipment. In this respect, the Customs Department is confident that after the amendment, the Department

would be able to effectively crack down on pirated goods that have used Thailand as an export base to third country. At present, the draft legislation is awaiting an approval from the Cabinet prior to being sent to the Council of State for consideration.

(5) The Television and Broadcasting Draft law was proposed so as to provide framework for radio and television broadcasting business operations with or without the use of frequencies, as well as the qualifications of licensed operators and the duties and functions of the National Broadcasting and Telecommunication Commission

The Department of Intellectual Property and other agencies involving in the suppression of copyright violation on cable television perceive that this draft law will enable the authorities to effectively control illegal broadcasting of copyrighted works and prevent copyright violations on cable TV, and thus has proposed that the commission should be empowered with the authority to temporary or permanently suspend or revoke the licenses of the operators had the Court found the operators involved in unauthorized broadcasting.

The draft law is awaited for the approval of the Cabinet. It will then be forwarded to the Council of State for consideration.

## **C. Sustained Enforcement**

### **1. Enforcement Measures and Activities**

The Department of Intellectual Property, as a central coordinating agency to prevent and suppress violations of intellectual property, has closely coordinated with other related agencies in both public and private sectors to effectively develop and implement measures to suppress intellectual property violations. The measures can be categorized into groups according to the different types of violations as follows:

#### **a) Measures against Infringement Activities**

Since the suppression of intellectual property violation is related to the jurisdiction and responsibility of many public agencies, the Thai government has thus created an

integrated policy that requires joint efforts to solve the problem. As such, since December 2002, a total of 8 MOUs on the suppression of intellectual property violations have been established among the related public and private agencies. The objective of the MOUs is to foster substantive and continuous cooperation among the related private and public agencies in the suppression of intellectual property violations through the effective enforcement of existing intellectual property laws as well as close collaboration on the creation of various preventive measures. Ultimately, it is envisioned that the MOU will help to promote and enhance the suppression of intellectual property violations in a systematic manner.

Examples of legal enforcement relating to the suppression of intellectual property violations through close cooperation among the various agencies include: detaining the seller of pirated goods by the Police and at the same time the Department of Intellectual Property will send information about the seller to the Revenue Department and to the Department of Business Development so that the relevant agencies could investigate his tax payments under Revenue Code and examine the company's account as permitted under the Accounting Act B.E. 2543 respectively. This is the effort of the Royal Thai Government to incorporate all applicable laws to suppress the intellectual property right infringement and to ensure the deterrent effect to the violators.

Accordingly, the most recent MOU is the MOU on the Cooperation on the Suppression in the Selling of Intellectual Property Infringing Products, signed on 16 August 2006. The MOU was signed by a total of 39 agencies from 3 major sectors, which are: 4 government agencies, namely, the Royal Thai Police, the Department of Intellectual Property, the Department of Special Investigation, and the Bangkok Metropolitan Administration; 25 intellectual property owners/representatives, such as the Motion Picture Association (MPA), Business Software Alliance (BSA), Tilleke and Gibbins International Limited, and Baker and McKency Co.Ltd.; and 10 owners of major department stores, such as Pantip Plaza, Tawana

Department Store, and Fortune Department Store. In addition, Maboonkrong Center has indicated its interest to join the MOU.

Apart from the fact that the above MOU has helped to define the target areas for more effective suppression of violations, it is the first of such agreement that have been jointly participated with the owners of department stores and the Bangkok Metropolitan Administration, i.e. by preventing merchants who rent retail spaces from the department stores from selling intellectual property infringing goods. As is stipulated under the MOU that if a merchant is convicted twice for violating intellectual property, then the leaser shall immediately terminate the leasing contract. So far, such measure has produced satisfactory results.

In addition, the Department of Intellectual Property has cooperated with the owners of intellectual property and the Royal Thai Police to establish 4 mobile task forces to work seven days a week providing daily enforcement to seize and abolish violation of intellectual property as identified by the owners of the intellectual property in areas of Bangkok and adjoining suburbs. In 2006, the task forces conducted 879 raids and seized 56,733 units of goods (or an average of 1.66 raids and 210 seized products per day). In this respect, the number of raids and seized goods will vary according to the objective set out in the operation, the consistency of joint operation, and the number of actions initiated by owners of intellectual property.

However, the success of the operation depends largely on the cooperation from the owners of intellectual property to file the case with the police and to identify the infringing products.

### **The raid and seizure of production and sales of intellectual property infringing products in Thailand**

- In 2005, there were a total of 7,689 raids and seizure of 2,264,567 items (the average number of confiscation per case is 294.13 items/case)

- In 2006, there were a total of 9,575 raids cases and seizure of 2,823,588 items (the average number of confiscation per case is 294.89 items/case)

- In 2007 (January to August), there were a total of 4,825 raids and seizure of 2,876,852 items (the average number of seizure per case is 596.24 items/case)

From the above statistics, it is evident that the average seizure of goods in 2005 and 2006 are comparable, or 294.13 items/case and 294.89 items/case, respectively. As for the statistics from January to August 2007, the average confiscation of goods was 596.24 items/case, which is 102.72% higher than that of 2005 and 2006. The increase of figures in 2007 could be attributed to the fact that the Royal Thai Police and the Department of Special Investigation have given greater emphasis on suppressing major violators, such as producers, wholesalers, and warehouses. More precisely, commencing from the beginning of 2007, 247 illegal warehouses and manufacturing facilities have been shut down with 1,878,715 infringing items seized.

#### **The Seizure of Imports and Exports of Intellectual Property violated products**

- In 2005, there were a total of 193 cases and seizure of 765,438 items (the average seizure per case is 3,966 items/case)

- In 2006, there were a total of 222 cases and seizure of 862,607 items (the average number of seizure per case is 3,885.6 items/case)

- In 2007 (January-September), there were a total of 292 cases and seizure of 910,818 items (the average number of seizure per case is 3,119.2 items/case)

Again, from the above statistics, which consist mostly of imports from abroad, it is clear that during the past 3 years, the number of cases and the amount of seized items have dramatically increased (in some cases the amount of goods confiscated is equal to 4 containers). Accordingly, the seizure of these infringing products is an ex-officio of the Customs Department and the figures clearly demonstrate the serious intent of Customs officials to crack down on the violations of intellectual property. In this regard, it must be

emphasized that most of the infringing goods that had been seized were imported into Thailand rather than exported out of the country. Moreover, some of the infringing goods that were found were either transit or transshipment goods to third country, of which the current Customs Act does not empower the customs official to confiscate and have had to coordinate with the destined country to carry out suppression. However, Thailand is in the process of amending the Customs Act so as to empower customs officers with the authority to inspect and confiscate goods entering the country for transit and transshipment, which will further increase the effectiveness of customs officials in the suppression of intellectual property rights infringement.

Likewise, in order to identify the source of the infringing goods, the Thai government requests the destined country which uncovers infringing goods in cargo ships from Thailand to notify the Customs Department of the identification number of the respective container so as to investigate the source of the goods. This is due to the discovery that a significant number of containers are originated from Thailand's neighboring countries and are in Thailand just on transit or for transshipment.

Although most of the interceptions were initial, *ex-officio*, by the customs officer, it must be noted that the success of the suppression will depend also on the cooperation from the owners of intellectual property. As the owner of the intellectual property possesses the best information about the property, their participation is crucial in the protection of their intellectual property. To enhance the cooperation between the right holders and the Custom Department, the later has provided opportunity for the right holder's representatives to work with the customs officers at the borders with high risk of infringing goods smuggling. The Department of Intellectual Property would like to encourage all right holders to consider this program as one of the ways to increase the effectiveness of the border control.

#### **b) Cable Piracy**

With the present rapid advancement in technology, subscription television has become increasingly important and has gained wide access to people in the various areas of the country and, as a result, the problems of unauthorized broadcasting have also magnified. Furthermore, it is evident that the problems have also become more complex with violators continuing to develop new ways to evade suppression. For instance, the Economic and Cyber-Crime Division, or ECOTEC, has recently discovered a new kind of violation in which the violator will apply for membership of the services provider and uses an internet transmitter to connect with its own subscribers to provide the services and collect a monthly fee from them. Currently, ECOTEC has already arrested and filed a violation case against 1 such violator and is in the process of expanding the investigation so as to monitor the usage of related devices.

All agencies relating to the suppression of cable piracy in Thailand is fully aware of the seriousness to resolve such problems and therefore has convened a meeting to jointly develop both short-term guidelines to suppress copyright infringement by unauthorized broadcasting in the absence of a clear regulatory body on radio and television broadcasts, and long-term guidelines in order to establish effective regulatory measures in the long run.

Accordingly, the approaches to solve the problems of infringement of copyright by unauthorized broadcasting as developed by the Department of Intellectual Property and the related agencies are divided into two phases, as follows:

(1) Short-term Approach. In order to resolve immediate problems during the absence of a direct regulatory body on radio and television broadcasts, the measures are as follows;

- Instruct relevant agencies, especially the Office of Suppression of Intellectual Property Violation at the Department of Intellectual Property, to closely coordinate with the Government Public Relations Department

- For the 77 licensed operators, the Government Public Relations Department will adopt the Ministerial Regulation Number 14 (B.E. 2537) under the Radio and Television

Broadcast Act B.E. 2498 that empowered the Government Public Relation Department to control broadcast programs and to terminate programs which are inappropriate.

- The Government Public Relations Department has provided the information on the names of cable TV operators to the Department of Intellectual Property and the DIP has forwarded such information to the Royal Thai Police and the Department of Special Investigation.

- Public and private agencies have worked closely on the suppression of unauthorized broadcasting. Under the cooperation, from January – October, 2007, the Royal Thai Police conducted 81 raids on the infringement of copyright by unauthorized broadcasting. Six of the cases were brought to the court where they were fined 50,000 Baht each. The other cases have been settled out of the court since the broadcasting operators agreed to execute broadcasting agreements with the copyright owners.

(2) Long Term Approach. The Department of Intellectual Property and related agencies have agreed that the present Draft Broadcasting Act, B.E...., which contains important provisions relating to the authorization and the regulation on radio and television broadcast can be adapted so as to increase the efficiency in combating intellectual property violation on radio and television broadcast.

In addition, the Ministry of Commerce by the Department of Intellectual Property also proposed to the Council of State that radio and television broadcast operators, with or without the use of frequencies, must not operate in such a way that violates intellectual property right of other people. As a result, the Council of State has amended the draft legislation proposed by the Government Public Relation Department by specifying in Article 78(3) that the National Broadcasting and Telecommunication Commission may consider to temporarily or permanently suspend or revoke the license of the operator with the final judicial decision that it has conducted the infringement of copyright by unauthorized broadcasting as stipulated under the Copyright Act. The fact that the final judicial decision of the court is needed before



a license can be suspended or revoked is to prevent wrongful incrimination and trivial complaints with the intent to reach a compromise between the two parties. The requirement also assures the National Broadcasting and Telecommunication Commission that the licensed operator has genuinely committed a violation. In this regard, once the license has been revoked, the operator will not be able to apply for a new license for a period of 3 years thereafter.

However, as a way to resolve the problem in a comprehensive manner, the Department of Intellectual Property has requested cooperation from the copyright owners of copyrighted television programs to consider permitting the use of broadcasting rights in a non-exclusive manner so that other operators can obtain the authorization to also broadcast the programs. Accordingly, the DIP perceives that a majority of cable television operators will be willing to negotiate and pay royalties in order to legally broadcast the program. Moreover, such undertaking by the right owner will not only provide the opportunity for other operators to obtain a license to broadcast but also will generate more income to the right owner than at present.

Indeed, the Department of Intellectual Property is confident that the cooperation between the agencies which are related to the supervision of radio and television broadcasts coupled with the aforementioned legal reforms and enforcement as well as through close collaboration with the private right owners and licensed operators, will result in a significantly reduction in copyrights violations in cable television and radio and television broadcast networks.

### **c) Optical Disc Piracy**

Violation of CD copyright is a problem that the government has given high importance and a number of measures have been devised to control the CD production process, right from the importation stage of the production machines. Under the authority of the Export and Import of Goods Act B.E. 2522, an importation of CD production machine

must obtain a license and pass through appropriate customs channel as well as pay the appropriate tax. It should be noted that an approximately ten-Million-Baht-worth CD production machine which had been smuggled into the country has been seized in Chiang-Rai Province. In addition, the implementation of the Optical Disc Production Act B.E. 2548 has helped to effectively and comprehensively solve the problem.

Accordingly, the Optical Disc Production Act B.E. 2548, which has been in force since 29 August 2005, stipulates that factories that produce CDs must notify the DIP about the possession of machinery and plastic pellets, as well as the intention to produce the CDs, before their actual production. In turn, these requirements have allowed the Department of Intellectual Property to gather and gain complete information on all areas of CD production, i.e. the number of factories and the number and usage of machineries and the raw materials.

Once the factory has notified the intent to produce CDs, the Department of Intellectual Property will issue a Mould Code to the CD/DVD factory and a Mastering Code to the stamper factory in order to demonstrate the origin of the CDs, DVDs and the stampers. Indeed, in cases of arrest and prosecution of copyright violations, these respective codes can help to track the origin of the production.

Likewise, in cases that the right owners want to hire factories to produce CDs, they are required to notify the Department of Intellectual Property of their intention to produce or to hire to produce prior to each production. Once the notification is made, the Department will issue a Copyright code which will be used to represent the copyright works. Prior to issuing the Copyright code, the Department will first examine whether the notification was made by the right owner or the transferee of the rights or an authorized person to produce the work so as to protect the real right owner of copyright and prevent unauthorized persons from producing the copyrighted works in the form of CDs.

Furthermore, to effectively control the production of pirated CDs, the Department of Intellectual Property has carried out inspections of CD production factories on a daily basis

without prior notification. The Department has also coordinated with the Royal Thai Police, the Department of Special Investigation, as well as the right owners, to collect CD samples from all the factories in the country for forensic test and store in the information database. Therefore, if a pirated CD is seized in the market, it can be examined whether it has the same marking as the collected samples, thereby leading to the prosecution of factory that produces the pirated product. Since Thailand has been provided with a forensic testing machine, 41 and 57 lots of pirated optical disc have been sent for testing by the Royal Thai Police and Department of Special Investigation consecutively. The result showed that there were 3 production plants involve in such pirated activities. At the moment, two have been taken legal action against. Nevertheless, further investigations on all of them are being undertaken.

Apart from the stringent control and inspection of CD production, the competent authorities have been requested to strictly enforce the law and take decisive actions in cases of violations. For instance, on 20 June 2007, officials from the Economic and Technological Crime Suppression Division, and representatives of the right owners decisively raided a factory that was suspected to be a major producer of pirated CDs and were able to seize a high quality CD production machine as well as a large volume of pirated goods. At present, the prosecutor has already filed a lawsuit against the factory. Another decisive raid was conducted on 19 October, 2007 in which the official from the Crime Suppression Division was able to seized 2 CD production machines.

Due to stringent control and inspection process of the government together with strong intent of the officers, certain CD production factories have ceased business operation or relocated their production abroad, while some producers have altered the form of violation from producing pirated goods in factories to writing/burning CDs. Nonetheless, enforcement officers have continued their investigation and have been able to arrest numerous violators.

As a result of the unwavering determination of the Thai government to crack down on copyright violations, the Motion Picture Association (MPA) in Thailand has sent a letter of

gratification on the efforts spent by the Department of Intellectual Property and the related agencies to suppress copyright violations during the period of January-October 2007. During this period, there was a total of 1,392 arrest cases of violation, the confiscation of 1,597,776 illegal CDs and numerous CD production machines, as well as the subdue of 3 major CD production factories, 10 CD burning sites, and a number of wholesaling and retailing businesses. In addition, the Association also expressed its appreciation to the related Thai agencies on their coordination efforts in legal enforcement as well as in devising measures to tackle the root cause of intellectual property violations by enhancing the understanding and awareness of the Thai people on the importance of intellectual property rights, which is perceived as an approach towards the establishment of an effective intellectual property system in Thailand.

In this connection, it must be noted that one serious impediment towards the prosecution of copyright violations is selling of violated products by simply displaying just the cover pictures that are also produced without the authorization from the right owner. For instance, the seller would display just the cover picture of a CD to the buyer and only fetch the CD once the purchase is made, thus there is a lack of material evidence for prosecution. Accordingly, the Royal Thai Police deemed that such practice is an invitation for sale of pirated goods, which is illegal, and has placed every effort on bringing the violators to justice. Nonetheless, to effectively suppress copyright violations, the copyright owner should also empower their representatives, such as the MPA and the Thai Entertainment Content Trade Association (TECA), with the ability to also file legal proceedings against individuals who sell pirated CD just by displaying the cover pictures. Consequently, since each of the cover picture cost as much as 2-3 Baht to produce, the prosecution and confiscation of cover pictures is another way that will inflict serious economic damage on the copyright violators and hinder their activities.

Finally, in order to enhance the effectiveness in suppressing the violation in CD copyright, which is a private offense and need the close cooperation of the private right owner, the Thai government has requested the private sector to increase the financial support given to their case representatives in Thailand, as well as empower their sale representatives with the authority to file charges with the court once the sale license is acquired. In addition, motion pictures operators have been encouraged to reduce the time gap between premiering the movie and distributing the movie CDs/DVDs for sale so as to limit the time that the violators can produced and/or sale pirated products.

#### **d) Software Piracy**

In order to suppress software piracy, the Department of Intellectual Property has published a manual on the fair use of copyrighted software for computer programs in the Department's website so as to enhance the knowledge and understanding on the method and scope to use computer program without violating software copyright. The manual has also been disseminated to students, academic institutions, and related private agencies in order to gain greater access to target groups.

Similarly, in terms of the use of software among public agencies, the Thai government has requested the cooperation of all government sectors to abide by the decision of the Cabinet in 1999, which stipulates that all government sectors are to strictly use legitimate software.

As for the measures to suppress software piracy, ECOTEC has been determined to prosecute the wrongdoers by employing both the Copyright Act and the Computer Crime Act, which just came into effect in 2007. The use of these two legislations together has clearly enable ECOTEC to suppress the violations on software copyright in a more comprehensive manner, including the downloads of software illegally from the internet. As such, since February 2007, ECOTEC has arrested and filed cases against eight pirated business software producers and 88 business end-users of pirated software products. The total numbers of 3,737

computer programs, 1,568 computers, with a value of more than 187 million Baht have been seized in this effort which is an increase of 50 per cent from last year.

**e) Book Piracy**

The Department of Intellectual Property has produced a publication on the scope of the fair use of copyrights that covers both copyrighted books and software. The publication was distributed to students, professors, and the general public in early November 2007 as the Department was informed by the Association of American Publishers that most of violations take place during the beginning of an academic year.

Likewise, on the issue of photocopy services, the Department of Intellectual Property has developed a training program in order to raise the levels of understanding and responsibility of photocopy services providers on copyright infringement. In this connection, the Supreme Court has also made decision in 2001 which specifies that the copying of text books by photocopy services for sale without authorization is a copyright infringement. The Department of Intellectual Property also produced posters and stickers to campaign against book piracy. The stickers will be put on the photocopying machines in and around the campus.

Indeed, the Thai government realizes the importance of public access to books, especially among academic institutions, as it has direct bearing on the quality development of Thailand's national education. Nevertheless, any activity should be done on the basis of respecting other people's intellectual property rights. To this end, after having consulted with the owners of copyrighted textbooks in Thailand and abroad, the Department perceives that one method that could expand the access to textbooks without copyright violations is for universities and academic institutions to directly contact the copyright owners or their representatives to collectively purchase textbooks in large quantity so as to increase their bargaining power, as well as receive a fair price. Therefore, the Department of Intellectual Property has rendered support to various universities in the setting up of agents to serve as

focal point on such undertakings, such as Chulalongkorn Bookstore as well as encouraged the use of second hand books in academic institutions in order to increase the channels to gain access to cheap textbooks. At the same time, the Department has worked closely with the Commission on Higher Education to organize seminars at 11 universities under the network of the Commission of Higher Education so as to disseminate the knowledge on the fair use of copyrights.

On November 2, 2007, the DIP has launched a seminar on “Stop Book Piracy” in which the DIP has been honored by various expert speakers from public and private agencies including leading university, writer’s association and related business entities. The seminar was specialized for audiences from academic sectors with the aims to provide accurate information and raise awareness on copyright in educational aspect. Approximately 200 participants, mostly university professors, lecturers and librarians were attending the seminar.

#### **f) Counterfeiting Pharmaceuticals**

At present, the problem of counterfeit pharmaceuticals has become a concern within the Thai society. The problem has not only adversely affected the economy and international trade but also, and more importantly, could have serious repercussion on life, health, and sanitary of the general consumers. Since there are various forms of illegal drugs, such as drugs whose formula has not been registered with the Food and Drug Administration (FDA), poor quality drugs, and drugs that violate trademarks and patents, this issue inevitably falls under the jurisdiction of many agencies. Furthermore, as a result of consultations with other related agencies, namely, the Ministry of Public Health, the FDA, and representatives of drug producers in Thailand, the Department of Intellectual Property has discovered that counterfeit drugs in Thailand have their production bases in foreign countries and there are no evidence to suggest that the drugs are produced in Thailand. Therefore, with the realization that the effective eradication of counterfeit drugs must be carried out in an integrative manner between all agencies relating to public health and the suppression and control of exports and imports,

the Department of Intellectual Property is therefore in the process of signing an MOU with 5 agencies from both in the public and private sectors on the suppression of counterfeit drugs. These agencies are the Royal Thai Police, the Customs Department, the Department of Special Investigation, Pharmaceutical Research and Manufacturers Association (PReMA), and the Thai Pharmaceutical Manufacturers Association (TPMA).

Objectives of the Draft MOU:

(1) To encourage public and private agencies to continuously cooperate with one another in order to prevent and suppress the production, sale, importation, and exportation of counterfeit and illegal drugs with a stringent use of every related legislations;

(2) To enable the full enforcement of the laws relating to the protection of intellectual property and consumers so as to obtain genuine efficiency and effectiveness;

(3) To promote morality, trade discipline, and protect life, health, and sanitary of the public.

(4) To jointly consider and establish various measures that would help to promote a systemic and effective framework to prevent and suppress intellectual property violations as well as to protect consumers.

As for a guideline to implement the MOU, the signatories will coordinate and exchange information, and support all operations that are related to the prevention and suppression of the production, sale, importation, and exportation of counterfeit and illegal drugs. The agencies will also provide training courses for related officers and jointly work on campaigns and public relations via the media and on various locations in order to raise the understanding and awareness of the public on the dangers of illegal and counterfeit drugs. At the same time, the agencies which are responsible for the suppression of counterfeit drugs will provide officers to readily accept complaints and make arrests. The guideline also includes appropriate border measures to be used by the Customs Department and stipulates that the



investigation and arrest of wrongdoer will also place emphasis on tracing the source and/or the network of the violation.

Currently, the draft MOU is being considered by relevant agencies. Indeed, the Department of Intellectual Property is confident that this MOU will help to significantly raise the effectiveness of the measures and policy to suppress counterfeit pharmaceuticals in Thailand.

#### **g) Data Protection**

In conformity with Article 39 of the TRIPS Agreement which requires the member countries to provide protection to pharmaceutical test data used in conjunction with registration of pharmaceutical in order to prevent unfair commercial uses, the Ministry of Public Health, as the lead agency on healthcare service in Thailand, has issued a Ministry of Public Health Regulation on Protection of Trade Secret on Pharmaceutical Application Data B.E. 2550 in accordance with the content of the Article 4 and 15 of the Trade Secret Act B.E. 2545. The core objective of this Ministerial Regulation is to provide a protection to test data or other data that are used in conjunction with pharmaceutical registration and has the characteristics of a trade secret for a period of 5 years. This is also in compliance with Thailand's obligation as a member of the WTO. Accordingly, the Thai government is confident that this data protective measure will create confidence to the stakeholders, including pharmaceutical producers and distributors both in Thailand and abroad, of Thailand's determination to protect pharmaceutical data as well as the transparency of the country's pharmaceutical registration process. In this connection, it is also envisioned that this protection will also serve as another way to attract new foreign investments on research and development on drugs and pharmaceuticals into Thailand.

#### **h) Destruction of Infringing Goods**

The Department of Intellectual Property realizes that destruction of confiscated products as a result of intellectual property violation is one of the most important means to

ensure that the violated products would not reenter the market. Accordingly, Article 75 of Copyright Act B.E. 2537, Article 115 of the Trademark Act B.E. 2534, and Articles 32-35 of the Criminal law of Thailand empower judges to confiscate and destroy products that violate intellectual property, as well as other goods that are used to commit the violation. Meanwhile, the prosecutor possesses a guideline to prosecute intellectual property violations and request the judges to order the destruction of the seized products in every case, a request which has been approved by the judges in most of the cases. On the other hand, in cases of the imports and exports of pirated products which are seized by the Customs Department, the Customs Department is empowered to destroy the products immediately after the completion of customs procedures, an action which has been carried out on a regular basis by the Customs Department. For example, in 2007, the Customs Department has already destroyed products that violated intellectual property on 4 occasions, consisting of 483,287 items and accounting for 72,387,811 Baht (The latest destruction of violated products was carried out on 18 September 2007 when 64 items of infringing products were destroyed, accounting for 36.8 million Baht.)

**Table 1: Destruction of Confiscated Intellectual Property Rights Infringing Products, 2005-2007**

Year	Royal Thai Police		Customs Department		Remark
	Number of Items	Value (Baht)	Number of Items	Value (Baht)	
2005	180,300 (Phuket)	37,596,715	447,916	50,000,000	Police and Customs jointly destroyed infringing products at Bang Poo
	1,500,000	110,000,000	n.a. 100,000	30,000,000 4,000,000	
2006	1,023,113	101,389,162	1,069,841	19,815,298	Police and Customs jointly destroyed infringing product at Bang Poo

Year	Royal Thai Police		Customs Department		Remark
	Number of Items	Value (Baht)	Number of Items	Value (Baht)	
2007			38,000	10,000,000	(1) Destroyed at Bang Pa-In
			64,593	6,538,618	(2) Destroyed at Siam City Cement Co. Ltd.
					(3) Destroyed at Phuket
2007 (con't)	68,809	34,404,500	1 six-wheel-truck 380,694	19,000,000	(4) Destroyed at Bang Pa-In
				36,849,193	(5) Destroyed at Bang Poo Industrial Estate
<b>TOTAL</b>	<b>2,772,222</b>	<b>283,390,377</b>	<b>More than 2,101,044</b>	<b>176,203,109</b>	

On 9 October 2007, the Department of Intellectual Property has convened a meeting with the related agencies, including the Royal Thai Police, the Customs Department, the Department of Special Investigation, the Industrial Estate Authority of Thailand, and the representatives of intellectual property owners, to discuss about the organization of the next occasion to destroy intellectual property violated goods, as there are currently more than 70 trucks of goods, weighing about 350-400 tons, waiting to be destroyed. Accordingly, the meeting has decided that next occasion will occur on 28 November 2007 in which the Minister of Commerce will be invited to preside at the ceremony and Ambassadors from various countries, such as the U.S. and the E.U., will be invited to witness the destruction.

## **2. Cooperation with other Concerned Government Agencies**

In order to ensure the suppression on intellectual property violation are carried out on a consistent basis with maximum outcome, the Department of Intellectual Property has continuously placed emphasis on the legal proceedings and adjudication process of intellectual property infringement cases. In Thailand, apart from the Royal Thai Police and the

Department of Special Investigation, the agencies that are directly involved with legal processes are the Office of Attorney General and the Central Intellectual Property and International Trade Court. As such, the Department of Intellectual Property has also closely coordinated with the latter two agencies with the aim of strengthening the legal system and the ability to prosecute the violators and have received their full cooperation.

**a) The Issuance of Search Warrant on Suspected Premises of Intellectual Property Violations**

The speed of issuing a search warrant depends on the completeness of the documents and the reliability of the evidence submitted with the application requesting for a warrant. Most of the problems that had hindered the issuance of search warrant include an incomplete power of attorney from the right owner or the requested search was deemed as too excessive, especially those involving a search of the whole office buildings for pirated software. In this connection, the Central Intellectual Property and International Trade Court has assigned standing judges to facilitate the issuance of search warrants at night time in the case of emergency.

**b) Prosecution of Defendants in Intellectual Property Infringement Cases**

On numerous occasions, the Central Intellectual Property and International Trade Court has immediately passed a verdict to punish and imprison the defendant in cases of intellectual property infringements without waiting for a deferral or time to determine the penalty. Most of such cases either pertained to repetitive violations or major violations as the legal procedures for the first time offense will put the defendant on the record and the punishment and penalty for the repetitive violations on the following offense will be accumulated. Accordingly, the Department of Intellectual Property has consistently provided support to the agencies responsible for the suppression on intellectual property violation so as to expand the investigation and arrest the culprit of the violations.

Since copyright violation is considered as a private violation which is allowed to be settled by the parties themselves, there have been numerous lawsuits which have been filed simply with the intent to threaten the violators and to receive compensation in exchange for a compromise. This action is not only a misuse of the law but also nullify the integrity of the legal system to penalize the violators. Therefore, to solve this malpractice, the government has requested the cooperation from all private rights owners to supervise their authorized agents, and to empower a number of agents so that cross-checks can be carried out between them, as well as to ensure transparency in all undertakings. In addition, the right owners have been requested not to allow their representatives to auction the power of attorney on legal proceedings as those who obtained the power of attorney through such method are likely to seek profit from their power of attorney rather than to file lawsuits for the benefit of the right owner. In this connection, it must also be noted that one of the reason that has hampered legal proceedings is the short time span of the power of attorney provided by the right owner to their representative, such as one or three months, and the constant changes of representative, which had disrupted the continuity of the lawsuit, especially in copyright cases that require close coordination with the representatives of the injured party.

### **3. Capacity Building for Enforcement Agencies**

The Department of Intellectual Property, together with the Royal Thai Police, has organized training seminars on the prevention and suppression of intellectual property violations to police officers at the level of inspector and deputy inspector, who are responsible for the suppression of intellectual property violations nation-wide, on an annual basis. In this respect, 5 training seminars were held last year: for officers of Provincial Police Region 1, in Bangkok; for officers of Provincial Police Region 2, in Pattaya, Chonburi; for those of Provincial Police Region 5, in Chiang Mai; for those of Provincial Police Region 7, Nakornprathom; and for officers of Provincial Police Region 8, in Suratthani. Thus, in total,

there were around 1,000 police officers who participated in the seminars last year. Essentially, the purpose of the training seminar is not only to enhance the knowledge and understanding of police officers on the laws and regulations relating to intellectual property but also to increase their capacity to investigate cases of intellectual property violations as well as their ability to identify authentic goods from counterfeit ones, which will no doubt help to increase the efficiency of their operations to prevent and suppress intellectual property violations in the future.

As for the cooperation with the owners of intellectual property, the Department of Intellectual Property and other related agencies and the private sector, such as Thai-Italian Chamber of Commerce, Pfizer Co. Ltd. (Thailand), and Ferrari Co. Ltd (Thailand), have jointly organized seminars and trainings on the separation of authentic and counterfeit goods for officers who are involved in law enforcement. In this respect, each of the seminars has gained wide interest and participation, especially from officers from the Royal Thai Police, the Customs Department, and the Department of Special Investigation.

In addition, law enforcement agencies, such as the Central Intellectual Property and International Trade Court, the Office of the Attorney General, the Royal Thai Police, the Department of Special Investigation, the Customs Department, as well as the Department of Intellectual Property, have sent officers relating the suppression of intellectual property violation as speakers and resource persons and to receive trainings both in Thailand and abroad so as to enhance their knowledge on effective operations. In this regard, a great deal of cooperation was received from various intellectual property agencies, such as the U.S. Patent and Trademark Office (USPTO), ESCAP II Project, Japanese Patent Office (JPO), the World Intellectual Property Organization (WIPO), APEC, and the ASEAN Secretariat.

#### **4. Statistics on Intellectual Property Infringement**

As the result of the strong determination, consistency and integrative approach, and close coordination between all related agencies, there has been a continuous development in the suppression of intellectual property violations in Thailand as can be evinced from the significant improvement in the statistics on intellectual property infringement of Thailand. For example, due to the clear policy to target large scale violations, there has been a successive increase in the value of intellectual property violated goods seized in each prosecuted case. In turn, this has helped to effectively disrupt the network of violations. Likewise, the full support of the Office of Attorney General in the filing and adjudication of intellectual property violated cases has also facilitated and expedited the suppression processes. Moreover, the fact that the Central Intellectual Property and International Trade Court had strictly enforced the related laws and regulations on intellectual property without waiting for a deferral or time to determine the penalty on large scale violators has been an crucial deterrent against intellectual property violations in Thailand. (The statistics on intellectual property infringement in Thailand during May-October 2007 appear in the Annex).

#### **IV. Conclusion and Ways Forward**

The Department of Intellectual Property fully realizes that the upgrading of the intellectual property system in Thailand and the effective suppression of intellectual property infringement require policy consistency and a long-term action plan. As a consequence, the Department of Intellectual Property and other concerned agencies have developed several initiatives in various areas and will continue to strengthen their enforcement activities in the coming years, as follows:

##### **1. Promoting Innovation;**

Since the Department of Intellectual Property has successfully established the Intellectual Property Center (IPC) in fiscal year 2007 so as to serve as a center to promote innovation and the commercialization of intellectual property, the Department will focus on

improving the functions of the center in order to promote innovation and the utilization of Thai intellectual property in fiscal year 2008 by;

1) Developing an Intellectual Property Database to serve as the information center on intellectual property with links to worldwide information on patent and to provide services via electronic means by acquiring an information technology system for database integration in order to allow effective and timely searches of such information on the internet.

2) Developing human resources on intellectual property through training to enhance human resources on intellectual property and to increase the capabilities of researchers, inventors, as well as entrepreneurs in the creation of new intellectual properties that can be commercialized. Since seminars and training will also provide knowledge on intellectual property to target groups in various provinces.

3) Supporting Intellectual Property Management through the creation of an intellectual property central market and a market place for intellectual property on the internet as a channel for business negotiations so as to turn intellectual property into commercial property, as well as to promote the establishment of intellectual property management offices at academic institutions. Accordingly, the initiatives are as follows;

- To develop an intellectual property management system as well as services units to provide advice and recommendation on intellectual property management to corporations and academic institutions.

- To upgrade the capacities of SMEs through intellectual property by developing trainings to enhance the knowledge and understanding of SMEs on the creation of intellectual property in goods and services and to submit applications for their protection, as well as commercialize the intellectual property.

- To enhance the initiative on Intellectual Property Capitalization by providing trainings to entrepreneurs who own intellectual property, dispatching service units to accept loan applications in the provincial areas, and providing incubations to entrepreneurs who are



ready and able to set up business plans and obtain approval on loan from the financial institutions.

## **2. Intellectual Property Right Protection System;**

1) Improvement of services for the registration and protection of intellectual property by developing and improving the efficiency and speed of registration services as follows;

- To develop a paperless system for trademark registration by developing a trademark registration system and storing the information by an electronic means.

- To promote communities to utilize geographical indications for trade and competition and to increase the geographical indications registration of local products.

### 2) Improvement of Intellectual Property Law

- Expedite the amendment of the Copyright Act in the sections that have yet to be completed.

- Expedite the amendment of the Patent Act by expediting the public hearing process.

- Consider the approach to amend Optical Disc Production Act B.E. 2548 by opening for comments from all sectors in the society so as to enhance the effectiveness in the suppression of copyrights violations in CDs.

- Expedite all draft legislations to promote and develop intellectual property in order to steer the intellectual property system of the country into the right direction and support the utilization of intellectual property in the sustainable development of the country.

3) Promote the protection of Thai intellectual property in foreign countries so as to promote the registration of Thai intellectual property abroad. In this respect, the accession of Thailand to international treaties will not only facilitate the attempts of the Thai people to register and receive protection on their intellectual property abroad and in a timely and cost

effective fashion but also help to resolve problems of violations in other countries.

Accordingly, the initiatives in this area are as follow;

- Become a party to the Patent Cooperation Treaty (PCT)
- Hire a consultant to study and prepare for Thailand's accession to the Madrid Protocol by commissioning a study in intellectual property law to ensure compliances with the provisions under the system of the Madrid Protocol.
- Promote registrations in foreign countries and organize trainings and seminars to provide knowledge to entrepreneurs and exporters on the registration process to receive intellectual property protection in countries that are major trading partners of Thailand.
- Protect and resolve the problems of infringement of Thai intellectual property rights in foreign countries by accepting complaints and solving the problems of violation so as to protect Thai intellectual property abroad.
- Create cooperation with foreign countries to protect intellectual property and to increase the channels of protection of Thai intellectual property in countries which are Thailand's trading partners by organizing meetings between high-level officials relating to intellectual property of Thailand and the trading partners.

### **3. Enforcement of Intellectual Property Rights;**

The Thai Government realizes the importance to suppress intellectual property violations so as to create a fair and disciplined trading environment, as well as to campaign for the non-violation of intellectual property belonging to others, and the key initiatives are as follows;

#### **a) Initiatives to Suppress Intellectual Property Violations**

- Set clear and concrete targets to suppress intellectual property infringement, especially at key locations or those that infringement occurs in large scale (red zone) must be

terminated, as well as to place emphasis on suppressing large scale infringement activities for commercial purpose.

- Fully enforce the 8 MOUs that have been established between the Department of Intellectual Property and the related public and private agencies so as to ensure the full effectiveness in the suppression of intellectual property infringement and, if need be, improve and update the MOUs for their effective application.

- Cooperate with all concerned agencies in Thailand and abroad to develop training courses to enhance the knowledge of related officials so that they can effectively prosecute intellectual property rights infringement with maximum results. In this respect, the Office of the Public Prosecutor has scheduled to hold a seminar to raise the knowledge of their officials on the best practices in dealing with intellectual property infringement cases in 2007.

- Request cooperation from all concerned agencies on the suppression of intellectual property infringement to empower their subdivisions and officials with clear and consistent operation instructions and targets, as well as to place emphasis on suppressing large scale violations for commercial purpose.

- Request cooperation from all concerned agencies to hold the destruction of confiscated pirated goods on a regular and continuous basis by inviting witnesses from the public sector and the private right owners in Thailand and abroad. In this regard, the Department will soon convene a meeting with ECOTECH on the destruction of confiscated pirated goods in November 2007. In addition, the Customs Department has already scheduled to destroy 6 containers of confiscated pirated goods, as well as 1 CD production machine with the value of more than 10 million Baht at Amphur Maesai, Chiang Rai Province, and another machine in Bangkok, in December 2007.

- ECOTECH has set a target to raid at least another 40 companies which are suspected of software piracy in 2007, with the total damaged value of at least 250 million Baht.

b) Initiatives to Prevent the Imports and Exports of Pirated Goods

- The Customs Department is in the process of restructuring and will establish a unit which will be directly responsible for the suppression of intellectual property infringement under its new organizational structure. Accordingly, the Customs Department believes that this unit will greatly enhance the effectiveness in the suppression of pirated imports.

- Expedite the amendment of the Customs Act so that it could be finalized and applied to prosecute infringers who use Thailand as a channel to export pirated goods to the third country.

c) Initiatives to Suppress CD piracy

- Improve the services for the notification of information on CD production via electronic means so that the notification and issuance of certification marks can be done online, thereby resulting in the development of CD database.

- During 2007 – 2008, the Department of Intellectual Property and concerned agencies will once again collect CD samples from all the factories nation-wide in order to update the database on the origin of CDs.

d) Initiatives to Suppress Book and Software Piracy

- Continue with the hosting of seminars and trainings for various educational and business agencies in order to increase their awareness on the importance of respecting other's intellectual property right. In this respect, the Department of Intellectual Property is in the process of establishing an MOU with the Commission on Higher Education which will serve as a vital basis to carry out suppression violation activities within academic institutions in the near future.

- Create and disseminate a manual on fair use of copyrighted work (software and books), with a special focus on personnel in the field of academic.

- Implement projects together with the renter copying machines and photocopy services providers to prevent unintentional copyright infringement.

e) Initiatives to Suppress Counterfeit Pharmaceuticals

- Expedite the signing and implementation of the MOU on the suppression of counterfeit pharmaceuticals, as well as provide trainings and seminars to enhance the knowledge of related officials so that they can identify between counterfeit and legitimate drugs.

f) Initiatives to raise the effectiveness of the examination process of the Department of Intellectual Property

- Improve the patent database so that examiners of the Department of Intellectual Property can access to even broader information and thus help to raise the effectiveness and efficiency of the Department's patent examination process, especially with respect to Trilateral Patent Information database (database of Europe, the U.S., and Japan).

g) Initiatives to Enhance Knowledge and Understanding on Intellectual Property

- Disseminate information on campaign to build conscience on intellectual property in order to encourage the Thai people to respect intellectual property rights and prevent infringement on intellectual property by creating electronic media to disseminate the information on intellectual property, as well as translate academic documents on intellectual property into Thai language.

- Establish programs on distance learning of intellectual property with the support of capable and experienced agencies, such as the Korean Intellectual Property Office (courses IP Xpedia and IP Panorama) and WIPO, by improving existing curriculum on basic intellectual property under the course DL-101 of WIPO, as well as expand cooperation with other international agencies and organizations, including US-APEC, Australia, and France.

- Coordinate with various academic institutes and the Commission on Higher Education to expedite the inclusion of intellectual property issues onto university courses and curricula.

- Establish joint projects with the right owners, such as the Motion Picture Association (MPA) and the Business Software Alliance (BSA) in the suppression on the selling of intellectual property violated products

h) Initiatives to Enhance Capacity Building of the Intellectual Property Officials.

In order to improve the country's IP system and provide more effective IP protection, it is important to enhance the capacity building of the intellectual property officials. As a result, technical assistance and capacity supports from the experienced and advanced countries could play a significant contribution.

Thailand is very well aware that as the technology has been rapidly developed during the past decade; various forms of new inventions have been invented. This requires significant improvement from the Department of Intellectual Property in the term of technological capacity to be able to provide effective and accurate examination to patent and trademark applications especially those in the fields of advance technology. Increasing the capacity of patent and trademark examiners is thus important.

The rapid changes do not only effects the innovation and intellectual property creation, but also provide more efficient and economic ways to violate intellectual property rights. The trouble-free and excellent quality of copyright infringement content in the digital environment is one of the best examples on how Thailand needs to develop itself to keep up with such changes.

To this end, it is essential for Thailand's enforcement officials to gain more knowledge to combat with the intellectual property infringers in the technology-borderless era. The DIP, as the lead government agency providing intellectual property protection of the country, is seeking for cooperation from various experienced intellectual property offices world-wide to leverage the capability of officials in all agencies concerned, namely public prosecutors, police, judges, the DIP officials and officers in the Department of Special Investigation. The meetings, roundtable discussions, and on-site visits between Thailand's enforcement agencies and those of the other countries with more advanced experiences could be one of the most effective ways for

enhancing betting understanding among the enforcement agencies as well as improving the capacity building of the Thai officials. The cooperation may also include training programs, seminars and workshops as well as exchanges of specialists and experts in various fields.

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## Annex 1 Statistics on Suppression of Intellectual Property Right Violation

### STATISTICS OF SUPPRESSION OF INTELLECTUAL PROPERTY RIGHTS VIOLATION

( Copyright , Trademark , Patent , The Act Controlling the Cassette Business and Television Devices )

OFFENCES Under	2005		2006		January-July 2007		Total	
	Arrests	Materials Seized	Arrests	Materials Seized	Arrests	Materials Seized	Arrests	Materials Seized
Copyright Act B.E. 2537	5,647	1,388,274	6,459	1,704,970	2,565	1,491,250	14,671	4,584,494
Trademark Act B.E. 2534	1,995	850,106	3,100	1,105,629	1,533	875,598	6,628	2,831,333
Patent Act B.E. 2535	3	6	4	5,208	2	3	9	5,217
The Act Controlling the Cassette Business and Television Devices B.E. 2530	44	23,181	12	7,781	29	32,804	85	63,766
<b>Total</b>	<b>7,689</b>	<b>2,261,567</b>	<b>9,575</b>	<b>2,823,588</b>	<b>4,129</b>	<b>2,399,655</b>	<b>21,393</b>	<b>7,484,810</b>

Sources : The Royal Thai Police

- The Metropolitan Police Bureau
- The Economic and Technological Crime Suppression Division
- The Registration Division
- The Provincial Police Region

By: The Office of Prevention and Suppression of Intellectual Property Rights Violation

The Department of Intellectual Property

July 31, 2007



**Annex 2 Statistics on Border Enforcement of Intellectual Property Rights**
**STATISTICS ON BORDER ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS**

OFFENCES Under	2005		2006		Jan-Jul 2007		Total	
	Cases	Goods seized	Cases	Goods seized	Cases	Goods seized	Cases	Goods seized
Customs Act B.E. 2469	193	765,438	222	862,607	292	910,818	707	2,538,863
<b>Total</b>	<b>193</b>	<b>765,438</b>	<b>222</b>	<b>862,607</b>	<b>292</b>	<b>910,818</b>	<b>707</b>	<b>2,538,863</b>

Source: Customs Department

By Office of Prevention and Suppression of Intellectual Property Rights Violation  
 Department of Intellectual Property  
 July 31, 2007

**Annex 3 Raids by the Mobile Task Forces in 2007: As of October 31, 2007**

Month	Trademark			Copyright			Trademark/Copyright		
	Cases	Suspects	Items Seized	Cases	Suspects	Items Seized	Cases	Suspects	Items Seized
Jan	37	34	1,709	16	8	480	53	42	2,189
Feb	38	35	976	3	3	360	41	38	1,336
Mar	57	44	3,799	1	1	120	58	45	3,919
Apr	45	36	1,478	0	0	0	45	36	1,478
May	33	28	3,835	1	1	7	34	29	3,842
Jun	49	45	6,250	6	4	250	55	49	6,500
Jul	27	25	2,620	33	31	7,125	60	56	9,745
Aug	19	18	1,117	44	45	17,268	63	63	18,385
Sep	28	21	1,633	12	13	7,706	40	34	9,339
Oct	35	31	1,215	16	15	3464	51	46	4,679
Nov									
Dec									
Total	368	317	24,632	132	121	36,780	500	438	61,412

### Annex 4 Intellectual Property Right Owners Joining the Mobile Task Forces in 2007

Agencies	Jan			Feb			Mar			Apr			May			Jun			Jul			Aug			Sep			Oct			Nov			Dec			Total		
	Days	Raids	Joint actions	Days	Raids	Joint Actions	Days	Raids	Joint Actions	Days	Raids	Joint Actions	Days	Raids	Joint Actions	Days	Raids	Joint Actions	Days	Raids	Joint Actions	Days	Raids	Joint Actions	Days	Raids	Joint Actions	Days	Raids	Joint Actions	Days	Raids	Joint Actions	Days	Raids	Joint Actions			
MFA	31	16		22	1		13	0		7	0		6	1		17	3		23	1	32	21	1	43	19	0	12	22	0	12						181	23	99	
TECA	6	0		22	2		18	1		2	0		2	0		6	3		6	0	5	6	0	4	4	0	0	11	4	0						83	10	9	
RS																			0	1	10	0	1	28	2	0	9	3	0	1						5	2	48	
STU	22	27		18	30		21	29		20	39		18	27		23	24		19	19	0	17	19	0	15	23	0	14	28	0						187	265	0	
Satyagon	19	12		11	11		10	16		14	18		20	9		14	5		4	0	0	5	0	10	11	13	0	13	12	0						121	96	10	
CVD																																				0	0	0	
GMDM																			0	0	7	0	0	13	0	0	1	0	0	3						0	0	24	
Rouse & Co.	19	4		13	2		11	7		5	3		8	1		10	1		1	0	0	5	0	2	3	2	1	7	2	1						82	22	4	
Tilleke																																				0	0	0	
Baker																																				0	0	0	
QUANTICO							1	14					6	20		4	8	0	3	0	0	3	0	0	0	0	0	1	1	0						15	43	0	
United Catalyst																			4	15	15	19	41	1	7	10	2	4	12	0						34	78	18	
Orian																																				0	0	0	
AFS																																				0	0	0	

Note: Since July 2007 representatives of both Thai and foreign copyright owners have cooperated in taking legal actions against the infringer.

"Joint Actions" means the case where a representative of copyright owner conducts raid on the infringer and other representatives follow up on identifying goods and filing complaint against the infringer.

**Annex 5 Statistics on Cases of the Central Intellectual Property and International Trade Court (January - August, 2007)**

Intellectual Property Cases

<b>Civil Cases</b>	<b>Ongoing cases from 2006</b>	<b>New cases</b>	<b>Capital of the case (Baht)</b>	<b>Total (cases)</b>	<b>Total cases reaching judicial decision</b>	<b>Ongoing cases</b>
1. trademark infringement	54	16	77,852,155.21	70	15	55
2. seeking revocation of the committee's decision	98	55	-	153	24	129
3. seeking revocation of trademark registration	17	23	57,000,000	40	12	28
4. copyright infringement	53	13	201,552,454.62	66	16	50
5. seeking revocation of patent	12	2	-	14	1	13
6. patent and petty patent counterfeiting	9	6	254,572,747.66	15	2	13
7. breaching of licensing agreement	13	14	346,854,370.08	27	14	13

<b>Civil Cases</b>	<b>Ongoing cases from 2006</b>	<b>New cases</b>	<b>Capital of the case (Baht)</b>	<b>Total (cases)</b>	<b>Total cases reaching judicial decision</b>	<b>Ongoing cases</b>
8. violation of trade secrets	0	3	46,153,771.00	3	2	1
9. others	3	9	654,764	12	3	9
<b>total</b>	<u>259</u>	<u>141</u>	<u>927,697,262357</u>	<u>400</u>	<u>89</u>	<u>259</u>

<b>Criminal Cases</b>	<b>Ongoing cases from 2006</b>	<b>New cases</b>	<b>Total (cases)</b>	<b>Total cases reaching judicial decision</b>	<b>Ongoing cases</b>
1. Cases concerning criminal code sections 271 - 275	57	54	111	57	54
<b>total</b>	<u>57</u>	<u>54</u>	<u>111</u>	<u>57</u>	<u>54</u>

<b>Criminal Cases</b>	<b>Ongoing cases from 2006</b>	<b>New cases</b>	<b>Total (cases)</b>	<b>Total cases reaching judicial decision</b>	<b>Ongoing cases</b>
2. Cases on Trademark Law					
- counterfeiting of a Trademark (Section 108)	3	0	3	0	3
- Imitating of a Trademark (Section 109)	0	0	0	0	0
- Import, sale, possess for sale of goods prescribed in section 108 and 109	72	2,711	2,783	2,713	70
- Providing service as prescribed in section 108 and 109	0	0	0	0	0
<b>total</b>	<u>75</u>	<u>2,711</u>	<u>2,786</u>	<u>2,713</u>	<u>73</u>

<b>Criminal Cases</b>	<b>Ongoing cases from 2006</b>	<b>New cases</b>	<b>Total (cases)</b>	<b>Total cases reaching judicial decision</b>	<b>Ongoing cases</b>
3. Copyright Law					
- Copyright Infringement (Section 27)	0	0	0	0	0
- Infringement of audiovisual, cinematographic and sound recording works (Section 28 and 29)	0	0	0	0	0
- Computer program infringement (Section 30)	0	0	0	0	0
- Sale, possess for sale of the products prescribed in Section 27 - 30 (Section 31)	209	1,859	2,068	1,901	167
- Computer program	89				
- Literary work	109				

<b>Criminal Cases</b>		<b>Ongoing cases from 2006</b>	<b>New cases</b>	<b>Total (cases)</b>	<b>Total cases reaching judicial decision</b>	<b>Ongoing cases</b>
- Cinematographic work	756					
- Sound recording work	40					
- Artistic work	256					
- Musical work	597					
- Audiovisual work	12					
- Performer's rights as prescribed in Section 27 - 31 (Section 69)		2	0	2	0	2
<b>total</b>		<u>211</u>	<u>1,859</u>	<u>2,070</u>	<u>1,901</u>	<u>169</u>



<b>Criminal Cases</b>	<b>Ongoing cases from 2006</b>	<b>New cases</b>	<b>Total (cases)</b>	<b>Total cases reaching judicial decision</b>	<b>Ongoing cases</b>
4. Trade Secret Law	2	3	5	1	4
<b>total</b>	<u>2</u>	<u>3</u>	<u>5</u>	<u>1</u>	<u>4</u>

<b>Criminal Cases</b>	<b>Ongoing cases from 2006</b>	<b>New cases</b>	<b>Total (cases)</b>	<b>Total cases reaching judicial decision</b>	<b>Ongoing cases</b>
5. Patent Law	21	6	27	10	17
<b>total</b>	<u>21</u>	<u>6</u>	<u>27</u>	<u>10</u>	<u>17</u>

	<b>Ongoing cases from 2006</b>	<b>New cases</b>	<b>Total (cases)</b>	<b>Total cases reaching judicial decision</b>	<b>Ongoing cases</b>
<b>Total criminal cases</b>	<u>366</u>	<u>4,633</u>	<u>4,999</u>	<u>4,682</u>	<u>317</u>
<b>Total intellectual property cases</b>	<u>625</u>	<u>4,774</u>	<u>5,399</u>	<u>4,774</u>	<u>628</u>

**Annex 6      Photographs of Measures and Actions against Intellectual Property  
Counterfeiting Activities**

(1) Pirated optical discs seized from TS Mansion, a big distribution center in Bangkok area.



(2) Pirated optical discs seized from Phatana Chat Place Condominium, Bangkok area.



(3) Pirated CD/DVD seized from a site in Nonthaburi Area



(4) Fourteen high quality CD burners were seized from a site in Nonthaburi Area.





(5) Destruction of intellectual property infringing products initiated by Customs

Department on July 17, 2007



**Annex 7 A poster and Sticker for Promoting against Book Piracy**

(1) Poster: Respecting the Rights Owner, Photocopying without Copyright Infringement

Size 16.5" x 23.5"

**DIP** กรมทรัพย์สินทางปัญญา  
กระทรวงพาณิชย์

# ถ่ายเอกสารอย่างไร ไม่ละเมิดลิขสิทธิ์?

**เคารพสิทธิเจ้าของความคิด  
ถ่ายเอกสารโดยไม่ละเมิดลิขสิทธิ์  
สร้างแรงใจให้คนสร้างผลงาน**

**สำเนา ...**

- ✓ จำนวนที่พอควร
- ✓ เฉพาะบางส่วน  
ไม่ใช่ทั้งเล่ม (1 ใน 10)
- ✓ เพื่อการศึกษาวิจัยที่ไม่มี  
ผลประโยชน์เชิงพาณิชย์
- ✓ เพื่อใช้ในท้องสมุด

www.ipthailand.org

(2) Sticker “STOP! Book Piracy”

