

IP ENFORCEMENT SPANS SEVERAL GOVERNMENT AGENCIES

On April 30, 2007, the US Trade Representative Office (USTR) announced that Thailand had been placed on the "Priority Watch List", for the first time since 1992, where it has remained in 2008 and 2009.

Key concerns cited by the USTR include Thailand's difficulty in effectively protecting and enforcing Intellectual Property Rights (IPR), as evidenced by rampant entertainment and business software piracy, delays in granting patents, and cable and signal theft.

In order to respond to the USTR's designation keeping Thailand on the Priority Watch List, and in an attempt to remove Thailand from the List, the Thai government under Prime Minister Abhisit Vejjajiva's administration has raised an aggressive approach to the suppression of IPR infringement as one of its highest-priority national policies.

As a result, the National Committee on Prevention and Suppression of Intellectual Property Rights Violation was established in January 2009.

The main objective of the Committee is to formulate policies and strategies on IPR and implement them in a cohesive fashion.

The Committee comprises high-level representatives from nine government agencies: the Ministry of Commerce, the Ministry of Culture, the Ministry of Education, the Ministry of Finance, the Ministry of Information and Communication Technology, the Ministry of Public Health, the Royal Thai Police, the Office of the Attorney General, and the National Broadcasting and Telecommunication Commission.



Mr Abhisit chairs the Committee and Deputy Minister of Commerce Alongkorn Ponlaboot serves as Vice-Chair. The Committee further appointed a subcommittee, chaired by Mr Alongkorn, to focus on suppression activities. The subcommittee comprises senior representatives from law enforcement agencies.

Mr Alongkorn plays an important role in IPR suppression, assigned with the task of taking forceful action against counterfeit goods, especially pirated CDs and DVDs.

Mr Alongkorn has emphasised that inspections should be made around the clock, especially regarding the problem areas mentioned by the USTR, including Pantip Plaza, Patpong, Khlong Thom and Mahboonkrong.

Mr Alongkorn has assigned the Department of Intellectual Property (DIP) as the focal point for co-ordinating with other government agencies in preventing and suppressing infringing activities in all IP areas.

Department of Intellectual Property: The Committee has assigned the DIP to be responsible for drafting a comprehensive national strategy on prevention and suppression of IPR infringement. The DIP also works closely

with concerned agencies, the Royal Thai Police, the Department of Special Investigation, the Customs Department and IPR owners in tackling these problems, and carries out public relations campaigns to raise public awareness of IP issues.

On April 28, 2009, the DIP joined with the Federation of National Film Association of Thailand and the Motion Picture Association of America to celebrate World IP Day in support of the policy agenda to transform the country into a creative economy.

The event took place at Siam Paragon and was presided over by Mr Alongkorn, who underscored three main components of the government's stance on IP: (1) creation; (2) public education and awareness; and (3) suppression of rights violations.

The DIP also introduced the IP Spy programme, in which citizens may serve as informants and anonymously report IPR infringement through the website www.ipthailand.org without identifying themselves.

Royal Thai Police: The Royal Thai Police has instructed all police officers to crack down on IPR infringement, particularly in the commercial zones across the country. On Jan 22, 2009, Mr Alongkorn, accompanied by the Commander of the Royal Thai Police, the Commander of the Metropolitan Police Bureau, officers from the DIP and representatives of the private sector held an event to initiate serious police enforcement actions in the Bangkok area.

Customs Department: Customs authorities have played an important

role in stopping infringing goods from being imported to or exported from Thailand. Customs' efforts have been particularly strong since September 2004, when it and other important agencies signed the Memorandum of Understanding on the Co-operation of the Relevant Government Agencies and the Private Sector to Prevent and Suppress the Smuggling of Infringing Products.

Customs' policies of pursuing suppression of tax or duty evasion and enforcing IP infringement at the border run parallel, so when Customs proceeds with actions initially based on tax issues, officers will also contact the IPR owners or their representatives to inspect the seized products.

Department of Special Investigation: The DSI also handles enforcement related to any IP offence under the Trademark Act, Copyright Act, Patent Act and Integrated Circuit Protection Act that involves infringing goods with a value of 500,000 baht or more.

Efforts by the current administration and the appointed Committee show that the Thai government is committed to concrete actions to ensure effective protection and enforcement of intellectual property. Hopefully, the results of such efforts will remove Thailand from the USTR Priority Watch List in 2010.

By Hassana Chira-aphakul, Attorney-at-Law, Intellectual Property Department, Tilleke & Gibbins International Ltd. Please send comments to Andrew Stoutley at andrew.s@tillekeandgibbins.com