



Thailand: *IP Developments*

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HARSH MEDICINE: ANTI-COUNTERFEITING STRATEGIES TO SUPPRESS FAKE OR UNAUTHORIZED PARALLEL DRUG PRODUCTS IN THAILAND

by Edward J. Kelly



Edward J. Kelly is Director, IP Division, Enforcement, Licensing & Transactions.

Thailand has recently made strong progress in stepping up enforcement efforts against pirate and counterfeit goods, particularly with respect to the copyright industry where we have seen a reduction in the number of factories manufacturing pirate CDs and DVDs. Other industries have noted these successes with cautious optimism, hoping that law enforcement will undertake similarly aggressive programs to suppress fake goods that continue to pose problems for consumers and IPR owners in Thailand.

The Emergence of Drug Counterfeiting

The commercial successes of blockbuster consumer drugs such as Viagra®, Cialis®, Propecia®, Vioxx® and others in Thailand have, of course, created incentives for organized criminal syndicates to try to capitalize on the success of the pharmaceutical industry here by manufacturing and trading in fake drugs in the black market. The supply of fake drugs in Thailand is not simply for the Thai market—counterfeits made here have been found to have been

exported or smuggled into Hong Kong, Australia, the U.S. and South Africa, among other countries.

In studies conducted by the WHO, a counterfeit drug is defined as "one which is deliberately and fraudulently mislabeled with respect to identity and/or source. Counterfeiting can apply to both branded and generic products and counterfeit products may include products with the correct ingredients or with the wrong ingredients, without active ingredients, with insufficient active ingredients or with fake packaging".

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GEOGRAPHICAL INDICATIONS ACT COMES INTO FORCE

by Vipa Chuenjaipanich



Vipa Chuenjaipanich is Managing Director, Trademark and Patent Registration Operations, IP Division.

The Thai Geographical Indications Act came into force on April 28, 2004 simultaneous with the introduction of implementing Ministerial Regulations under the Act. A newly constituted Geographical Indications Board has been established under the Department of Intellectual Property (DIP). The DIP began accepting applications for registration from the effective date of April 28, 2004.

The Act is introduced as part of Thailand's obligation under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Foreigners wishing to apply for registration of a foreign geographical indication in Thailand must either be a national of, or originate from, a TRIPS member state. It is not possible to register a foreign geographical indication in Thailand unless it is

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Thai IP Work: Tilleke & Gibbins In #1 Spot

"Tilleke & Gibbins has taken the top Thai position in this year's MIP trade mark survey. The firm also took top ranking in MIP's patent survey this year."

Managing Intellectual Property
March 2004

CUSTOMS TRAINING ON IP ENFORCEMENT

We have reported in previous issues of our bulletin Royal Thai Customs' increasing involvement in border controls of IP. Along with other firms and private sector representatives, Customs and Tilleke & Gibbins jointly sponsored and hosted a three-day seminar beginning June 7, 2004. The training took place at Customs' headquarters in Klongtoey, Bangkok. Approximately 80 Customs officers from all regions of Thailand attended. Although officers had previously received training, this program was the most comprehensive to date for intellectual property enforcement. The seminar covered IP and Customs legislative rules, as well as practical matters such as product differentiation between original and counterfeit goods. Numerous brand owners had expressed interest in conducting such training and Tilleke & Gibbins International Ltd. was able to give presentations on behalf of



some of our most active clients such as Oakley, Casio, Philip Morris, Hewlett Packard (HP), Canon, Epson, and Timberland.

In his opening address, Customs' chief Chavalit Sethameteekul remarked that Customs' inability to detain infringing goods in transit requires redress in the regulations. This problem had contributed to Thailand's image as being a piracy haven. In the first quarter of 2004,

42 Customs' seizures were made with an approximate value of Baht 114 million (US\$2.8 million). Another officer added that while Customs had previously inspected only suspect imports, they were now preparing to enlarge their enforcement efforts to also inspect and detain infringing exports.

Opportunities for further Customs training seminars are expected throughout the year and Tilleke & Gibbins is prepared to be a key sponsor of the initiative going forward. ❖

LEGISLATIVE/POLICY

Copyright Bill

The Copyright Bill, containing provisions implementing the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, is now currently being reviewed by the Council of State. The next step is for the Bill to be introduced into Thai Parliament. The time frame for passage of this Bill is as yet unclear.

Optical Disc Bill

There has been no further reported progress on the Thai Optical Disc Bill, which was passed by the Thai House of Representatives in September 2004. The Bill is reportedly under consideration by a Working Committee prior to introduction in the Senate.

PCT accession delayed

The DIP has indicated that Thailand's accession to the PCT is now unlikely to occur in 2004. Debate on the pros and cons of PCT accession is still ongoing and it now appears that accession may be pushed back a further two years. Numerous patent owners had held off their filings in Thailand in anticipation of PCT accession. However, it is now likely that patent owners will have to take a decision whether to proceed with their Thai national filings.

Thai-US Free Trade Agreement

The DIP has held several public consultations in May 2004 regarding various IP issues for Thailand's imminent FTA negotiations with the U.S. The consultations covered a range of IP issues including patent, geographical indications, domain names, copyright, trademark, plant varieties, and enforcement.

German TV Network Films Museum

A TV crew from RTL, a German television network, recently filmed T&G's famed Museum of Counterfeit Goods and interviewed consultant, Liza Leung, concerning anti-piracy activities in Thailand.



Japanese Chamber of Commerce Meeting

T&G Partner Vipa Chuenjaipanich shows a representative of the Japanese Chamber of Commerce around the Museum of Counterfeit Goods following an IP lecture-presentation at the firm.



THAILAND'S SME SECTOR: THE NEED TO EMBRACE INTELLECTUAL PROPERTY

by Edward A. Madden and Edward J. Kelly

The role played by small and medium-sized enterprise (SME) in Thailand's continued economic recovery is regarded by many as centrally important. On average, SMEs represent ninety-five percent of the total number of industrial entities in Thailand and are directly responsible for employing over twenty percent of the total industrial workforce. While these figures are impressive, for Thailand's economic recovery to remain strong, the SME sector must remain competitive. In today's economy where business enterprise places large reliance on intellectual property (IP), such continued competitiveness will only arise if Thailand's SME sector effectively embraces IP. There are a number of obstacles facing Thai SMEs in this regard -- IP in Thailand is still gaining momentum, and the Thai Government has just started to promote IP to SMEs.

Thailand's Awakening IP Awareness

SMEs in Thailand cannot be expected to fully embrace IP unless there is universal consensus that such protection must exist and that such protection is beneficial. To this end, the Thai Government has taken a more proactive and positive approach to highlighting the benefits of Thailand's IP system for individuals and businesses alike. In recent times, the Thai Government has embarked upon numerous educational programs and promotional activities, and most of these efforts have concentrated on counteracting counterfeiting and piracy problems, with new initiatives aimed at educating local enterprise of the benefits of the IP system.

Among the organizations promoting the development of the

SME sector are the Office of the Board of Investment, Department of Industrial Promotion, and the Office of Small and Medium Enterprise Promotion. The forthcoming "OTOP-SME-BOI: Made in Thailand" fair is just one example of the hard efforts being made by these entities. Such efforts are also beginning to raise awareness of the role that can be played by IP law for SMEs, a development that is much welcomed and warmly supported.

Difficulties with SMEs and Intellectual Property

Even where senior management of SMEs are aware of IP laws, many question the relevance of IP to their business. This is a difficulty which exists worldwide and is not a problem which manifests itself only in Thailand. Many SMEs feel that IP is only relevant for larger enterprise, with many more feeling that they have little assets to protect as their business is still "in its infancy".

In a recent survey by the World Intellectual Property Organization (WIPO), it was concluded that SMEs worldwide under-utilize the IP system, with many enterprises opting for "informal" methods of protection. These "informal" methods of protection usually offer very little protection. At times, "informal" methods of protection can even act against the business. Just some of the reasons typically given for such limited use of the IP system include:

- A general lack of awareness of the IP system and how it can benefit a business.
- Perceived high costs of the IP system.
- Lack of assistance which can be easily accessed by SMEs.



Edward A. Madden (top) is an intellectual property consultant to the firm's IP Division. Edward J. Kelly is Director of Enforcement, Licensing & Transactions.

Relevance of IP to SMEs

Almost every business, no matter what size, will have some form of asset that can enjoy valuable protection from IP law. As SMEs represent such a large percentage of industrial enterprise in Thailand, it is clear that many new products, brands and innovations appearing on the market are the direct result of creativity and investment by those SMEs. Many of the new products and innovations are protectable by the numerous different types of IP right afforded by law. If SMEs fail to embrace IP, they expose themselves to competitors who will otherwise be free to exploit the new developments. WIPO has emphasized the dedication of both time and resources to protect IP positions in order to increase the competitiveness of SMEs in numerous ways. For example, an SME can utilize IP laws to:

- Prevent or restrain competitors from imitating protected products and services.
- Benefit from investments made in R&D activities.
- Prevent or restrain competitors from using an enterprise's brand or reputation.
- Enter into IP exploitation agreements with enterprises that wish to license-in or license-out technology.
- Increase the market value of that enterprise.
- Raise finance on the back of the IP of the organization.

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HARSH MEDICINE (from page 1)

The counterfeiting operations are not “mom and pop” operations stirring up small batches of products in their bathtubs. Counterfeit pharmaceuticals are manufactured and distributed by criminals, companies or syndicates who have the desire to make quick profits, without any concern for the health or safety of consumers.

The fakes usually contain too much, too little or no active ingredient, the wrong ingredients or high levels of impurities, contaminants and even toxic substances. They could be reject or out-of-date formulations withdrawn from the market which are obtained by counterfeiters, repackaged as bona fide products and introduced back into the market. Death and injury often are the result. Worse, the therapeutic benefit a patient and physician expect to realize from the treatment fails to materialize in the case of a product with no active ingredient.

It is difficult to measure the extent of the scale of the problem of pharmaceutical counterfeiting with any great precision for two reasons. First, in many instances, the results of counterfeit drugs go undetected because if there are no active ingredients, they are not causing an adverse reaction sufficient to be noted beyond the symptoms of the sickness itself. Second, to date no comprehensive global study on the subject exists and one is left with mostly anecdotal evidence from which to draw conclusions.

An example of regional studies here in Thailand suggests the problem is truly one with a disturbing scope. An oft-cited study carried out several years ago by Dr. Paul Newton of Mahidol University, Bangkok, concluded that around a third of anti-malarial treatments (including Artesunate®) on sale in Cambodia, Thailand and Vietnam contained no active ingredient. Public reports of seizures of fake drug products are hard to come by because many companies and government officials justifiably keep such cases confidential so as to not create a panic or loss of confidence in the health care system.

Here in Thailand we have seen a dramatic growth of “Internet pharmacies”, many with undisclosed locations and uncertain prescription, dispensing and quality precautions. Likewise, the volume of express mail medical shipment is too large for customs officials to begin to check and control. This represents a substantial opportunity for counterfeiters.

Remedies against the Counterfeiters

In Thailand, when a case is presented and a manufacturer or retailer of fakes is identified, there are a number of legal bases for a rights-owner to pursue to take action against the offender.

Typically, a manufacturer may have recourse to remedies under various intellectual property statutes such as the Trademark Act B.E. 2534 (A.D. 1991), and often in the case of pharmaceutical products, to the Patent Act B.E. 2522 (A.D. 1979) (as amended). Remedies may be available under the Trademark Act where the manufacturer has registered a trademark in Thailand and the counterfeiting activities include the use of imitation or forged trademarks on the counterfeit drugs or their packaging. The remedies available under the Patent Act apply where the drug that is being counterfeited contains a patented compound, or is the result of a patented production process. Various unauthorized activities (including manufacture, importation and sale) of the patented drug would amount to patent infringement.

An infringement of a registered Thai trademark or Thai patent is a criminal offense and also amounts to an actionable civil wrong. Punishment for trademark and patent infringement is often accompanied by terms of imprisonment. The Patent Act explicitly provides for granting of preventive injunctions to patent holders in the face of infringing or threatened infringing activities.

In addition to the above causes of action which are based on specific intellectual property rights registered in Thailand, separate actions may also be brought against counterfeiters under the Penal Code, the Consumer Protection Act B.E. 2522 (A.D. 1997), and the Drug Act.

Remedies under the Consumer Protection Act are specifically relevant in the context of counterfeit pharmaceuticals as Section 47 of that Act makes it illegal to “intentionally cause the public to be misled about the origin, condition, or quality of another’s goods.” Various other advertising activities are outlawed under this legislation in addition to similar offenses under the Drug Act.

The creation of the specialized Thai Intellectual Property and International Trade Court (IP&IT Court) in 1997 has also provided manufacturers with greater access to judicial assistance in the enforcement of their rights. The IP&IT Court has exclusive jurisdiction over cases involving intellectual property issues. Preventive injunctions are also available for breaches of all intellectual property rights (not just patents) under the rules of this court.

Relevant Agencies

In confronting counterfeiters of consumer products that might pose a safety hazard, including food products, alcoholic beverages, tobacco products, medicines and cosmetics, generally speaking Thai law enforcement authorities cooperate with officials from regulatory agencies such as the Thai Food and Drug Administration (FDA), Excise Department, or the Consumer Protection Board, and lawyers/prosecutors will try to bring as much pressure to bear on the counterfeiting operation, sometimes relying on supplemental strategies based on Thai regulatory, tax, customs and even immigration laws in appropriate cases, all in addition to whatever intellectual property law that may have been violated.

A Need for Public Awareness

The legal bases outlined above, on their own, cannot eradicate the problem of counterfeit goods in Thailand. The public needs to be educated on general awareness of the adverse impact of counterfeiting – more often than not considered a “victimless crime”. It is also important to educate consumers to give them specific awareness of the telltale features on products to identify them as authentic. In Thailand, we have seen many cases where physicians and patients brought the problems to the attention of the authorities.

Strength in Numbers

Finally, no one company can have a meaningful impact on the problem alone. Anti-counterfeiting activities carried out in isolation by individual companies can sometimes displace rather than eradicate the problem, and are only partially successful as a result.

We advocate joining forces within the industry to form specific alliances and associations to lobby for increased protection, pool knowledge and resources, undertake joint investigations and set common standards for securing products through the supply chain. In this way, we can deliver “harsh medicine” to the counterfeiters and mirror the success Thailand has experienced in taking on other industries hurt by piracy and counterfeiting. ❖

GEOGRAPHICAL INDICATIONS

(from page 1)

similarly protected in the country of origin and continuously used until the time the application is made in Thailand.

“Geographical indication” is defined in the Act to mean a name, symbol, or any other thing used to call or used in lieu of a geographical origin, which indicates that the goods originating in the said geographical origin are of the quality, reputation, or specific characteristic of the said geographical origin.

To receive protection under the Act, a geographical indication must be registered with the DIP. It cannot be a generic name for goods used with such geographical indication or contrary to peace and order, good public morals, or national policy.

Persons entitled to apply for registration of a geographical indication include a government agency or other state organization with juristic status in the geographic origin of goods used with the geographical indication; an ordinary person, a group of persons; a juristic person whose business is in goods used with the geographical indication and domiciled in the geographic origin of such goods; and a consumer group or consumer organization for goods used with the geographical indication.

The procedure for filing a GI application is not unlike that for trademarks. Applications filed with the DIP must contain details relating to the quality, reputation, or any characteristic of the goods, geographical origin and other

details prescribed in the Regulations. Applications not in accordance with the rules will be rejected, but applicants are entitled to appeal to the Board of Geographical Indications (Board) at the first instance and, if need be, to the Intellectual Property and International Trade Court (IP&IT Court) thereafter. If an application is in order and the geographical indication is registrable, the Registrar will order the publication of acceptance for registration for opposition purposes. Any interested party may lodge an objection against registration, and the applicant may file a counter-statement, within the prescribed periods. The Registrar will issue a ruling, which can be appealed by either party within the prescribed periods to the Board or the IP&IT Court.

Protection of a geographical indication becomes effective from the filing date of the application for registration. Once protection is obtained, the geographical indication is perpetual. It is possible that the registration may be cancelled if it has been obtained by deceptive means. Any interested person or competent official may request the Registrar to seek an order from the Board to change or cancel the registration of a geographical indication under certain circumstances, such as wrongful or covert registration of, or false information regarding the geographical indication. The decision of the Board may be appealed by any interested party, except in the case of a registration being cancelled on the grounds that the geographical indication was contrary to

peace and order, good public morals, or national policy.

Persons entitled to use a registered geographical indication are the manufacturers of the registered goods who are domiciled in the geographic origin of the said goods, or entrepreneurs who engage in the trade of such goods.

The Registrar is empowered to suspend use of a GI if the manufacturer of the goods is using the GI contrary to prescribed regulations. In such circumstances, the Registrar would first give notification to the manufacturer. If such person continues to fail to comply within the prescribed period and without any valid grounds, the Registrar may issue an order in writing suspending the use of geographical indication of the said person. The suspension period will not exceed two years counting from the date of receipt of the order. The same channels of appeal to the Court, as mentioned above, are available to persons whose use of the geographical indication has been suspended.

Remedies available include civil and criminal action. Provisions for civil relief are not set out in the GI Act; however, Section 27 sets out definitions of “wrongful acts” which are essentially based on the tort of deception. Action would then be taken pursuant to the tort provisions of the Civil and Commercial Code. Criminal penalties for misuse of a geographical indication include a maximum fine of Baht 200,000 (Section 27). Unlike trademark and other intellectual property laws, there are no imprisonment terms for offenses under the GI law. ❖

SME SECTOR (from page 3)

By embracing the IP system, SMEs can learn to benefit from the wealth of information that is available through published patents while at the same time become aware of the risks associated with IP infringement. As IP plays a greater role in Thailand’s future economic prosperity, the need to be informed of the laws will gain even greater importance. With every year that passes, Thailand’s IP system develops further. For example, a Free Trade Agreement currently being negotiated with the U.S. is sure to involve the adoption of even further IP rights for creative individuals and enterprise in Thailand. By ignoring or not taking

heed of such new rights and mechanisms for enterprise to obtain reward for creative endeavor, Thailand’s SMEs will certainly lose out in terms of competitiveness to SMEs from other regional countries, such as Singapore and Malaysia.

Need to Specifically Educate SMEs

Despite the ongoing efforts of the Thai Government, there is still a lack of easily accessible information available to SMEs on IP rights and the IP system in Thailand. This is due, to a large extent, to the nascent nature of IP law in Thailand. To address this concern, one year ago, the National Economic and

Social Development Board, as part of its “seven dreams” for the Kingdom over the next ten years, emphasized the need to further embrace entrepreneurial skills through SME development. With this in mind, numerous government programs and agencies have been established with specific policy objectives to help promote SME development within the Kingdom. The Thai Government is serious in its efforts to bolster the SME sector’s role in the recovering and growing Thai economy, and more is being done by way of education and promotion of the obvious benefits of the IP system, in particular, the benefits of this system to emerging, small and medium-sized enterprises. ❖

Litigation Successes

Litigation Successes

First Anton Pillar Order for 2004: In April 2004, Tilleke & Gibbins was able to secure the first Anton Pillar Order for 2004 from the IP&IT Court on behalf of a European client, who had a registered Thai patent. In this case, the client realized on the first day of a four-day trade exhibition in Bangkok that a mainland Chinese competitor had set up machinery infringing their Thai patent at the exhibition booth. The plaintiff would only have one limited window of opportunity to take action before the exhibition closed and the defendant and its infringing equipment moved on to the next country. The IP&IT Court was satisfied that the circumstances of the case warranted grant of the Anton Pillar Order sought. Once the Order had been granted, T&G attorneys went along with the Court Execution Office to execute the warrant. Numerous logistical hurdles in executing the Order had to be overcome within a very short time frame. These ranged from the distance between the Court, the Execution Office and the exhibition center; avoiding disruptions to the exhibition; as well as technical concerns in dismantling and securely storing the machinery. ❖



Patent Infringement Finding: Following successful execution of an Anton Pillar order in 2002, a US-based owner of a Thai patent immediately filed a civil patent infringement action against three Thai defendants with the IP&IT Court. The Court recently rendered judgment in favor of the plaintiff. In upholding the Thai patent, the IP&IT Court judgment affirmed the exclusive right of the patent holder to produce, use, sell, possess for sale, offer for sale or import into the Kingdom the invention. The Court reasoned that the defendants' products infringed the plaintiff's Thai patent and ordered the three defendants to cease manufacturing and importing any infringing products. Two of the defendants were also ordered to pay damages, court and legal fees to the plaintiff. ❖

Competing Trademarks: Upon discovering that a Thai registered trademark was confusingly similar to their mark, a Taiwanese electric switch manufacturer filed a cancellation action in the IP&IT Court against the Thai trademark owner's registered mark. The dispute escalated when the Thai party, relying on its Thai trademark, instigated the police to arrest the Taiwanese manufacturer's local distributor on charges of criminal trademark infringement. The prosecutor later declined to formally prosecute the local distributor (of the Taiwanese manufacturer), as the disputed mark was registered in Taiwan, which is where the goods were imported from, and that the distributor acted in good faith. The civil cancellation action was strongly contested by the Thai trademark owner, who challenged documentary evidence and live testimony of witnesses every step of the hearing. After a long and arduous trial, the Court earlier this year found in favor of the Taiwanese manufacturer. The Court held that the Taiwanese manufacturer used the mark on a worldwide basis prior to the registration date of the Thai trademark owner. The Court ordered cancellation of the Thai trademark owner's mark and that he pay court costs and attorney fees. The civil counter-claim of the Thai trademark owner for trademark infringement by the Taiwanese manufacturer was dismissed. ❖

More Competing Trademarks: Upon entering the Thai market, our client, distributor of a U.S. branded outdoor shoe manufacturer, found itself blocked by a Thai party from distributing its licensed goods. The Thai party, who owned a Thai registered trademark, had brought a criminal trademark infringement action against our client. Our client was able to successfully defend the criminal action by demonstrating to the Court that its use of the disputed mark was in good faith and that the goods bearing the mark were imported without any criminal intent to mislead the public into believing that the goods originated from the Thai party. ❖

Settlements

Settlements

In recent months, our IPE team has successfully negotiated several settlements with copyright infringers of computer software programs. The settlements to date have resulted in compensation payments and product purchases to the value of over US\$200,000.

Enforcement Actions & Prosecutions

eBay counterfeiters raided

In March and May 2004, T&G along with investigators raided separately the homes of two unrelated Thai individuals suspected of offering for sale counterfeit soccer jerseys over eBay. Both individuals were aged 25, and one was a university student. Although the individuals had set up <hotmail> accounts for correspondence, extensive investigations were able to reveal the identity and location of the two individuals within the Bangkok metropolitan area. Seized from the sellers' homes were over 500 jerseys bearing counterfeit sports branded trademarks, personal computers, customer lists, postal receipts and other equipment used to ship the counterfeit jerseys. The ECID are now carrying out investigations with a view to prosecuting the two suspects.

Successful prosecution and fine

Following a raid that took place in 2002 for manufacture of counterfeit cigarettes, the tenant of a makeshift factory was successfully prosecuted and fined approximately US\$2.4 million and sentenced to imprisonment of one year and five months. The offender had been on the run for a year until he was arrested by police and criminally prosecuted on several counts of operating an unlicensed factory, counterfeiting official excise stamps, trademark violations and manufacturing counterfeit cigarettes. This case follows the successful prosecution of the owner of the makeshift factory, who had also been fined a similar amount by the Court.

Upcountry raids

A sweep of warehouses in Mukdahan Province near the Thai–Laotian border in March 2004 resulted in the seizure of almost 20,000 items of “Super Fakes” bearing well-known sports brands. The T&G team, along with investigators and thirty provincial police officers, raided five commercial buildings. The market value of the seized goods, found to be of very high quality counterfeits, was estimated to be US\$200,000. Based on the packaging found along with the counterfeit goods, they were believed to be imported from China via Laos and then into Northeastern Thailand for later distribution in Bangkok’s Pratunam District. The raids generated media interest and were featured in both the print and electronic media.

Clothing district raids

Leads from the upcountry Mukdahan raid led investigators to three additional warehouses in the Bangkok clothing district of Pratunam. The follow-up raids, carried out in April 2004, yielded seizures of over 7,000 counterfeit sports branded goods and arrests of three suspects.

Counterfeit motorcycle parts seized upcountry

In March 2004, the T&G team carried out retail raids in the northeastern province of Nongkhae. The retailers were selling motorcycle parts, and almost 1,000 counterfeit spark plugs bearing a well-known Japanese spark plug manufacturer’s trademark were seized.



Counterfeit auto parts

In March 2004, the Royal Thai police raids along with T&G’s team raided three sellers of counterfeit car horns bearing the trademark of a well-known European auto accessories manufacturer. The action had to be brought swiftly to avert anonymous tip-off to the infringers, who had been under investigation for some months. Three of the infringers located in multi-story buildings in different areas of Bangkok were in the process of moving the counterfeit horns when the raid team and police arrived simultaneously at all three locations. The raid resulted in seizure of over 2,500 boxes of counterfeit horns as well as other counterfeit branded car accessories. One of the infringers was found to be a major dealer in fake auto parts.

‘Fake merchandise and the Internet’

(excerpts from the Bangkok Post, March 15, 2004)

“Recently, the law firm of Tilleke & Gibbins, in association with investigators and police, took legal action against the owners of web sites offering counterfeits for sale after an eight-month investigation.

It was the first case in Thailand involving the seizure of fake goods sold on the Internet.

According to an attorney from Tilleke & Gibbins, some of the sites were earning in excess of US\$1,000 per day.

The suspects were clever enough to not register their domain names in Thailand or use ‘.co.th’ web addresses, in order to stay under the radar of Thai law enforcement agencies.

The suspects are well-educated and technology-savvy, the lawyer said. For instance, in the Ukrainian suspect’s residence, police found a wireless local area network, iPSTAR satellite Internet access, brand-new digital cameras and studio-quality photography lamps.” ❖

TILLEKE & GIBBINS HOSTS RECEPTION

On May 18, 2004, Tilleke & Gibbins hosted a cocktail reception at the Arnoma Hotel Bangkok to welcome participants and guests of the ASEAN/USPTO IPR Enforcement Workshop. The honored guests of the evening were Mr. Joseph Yun, Economic Affairs Counselor of the US Embassy, Bangkok, and Dr. Kajit Sukhum, Director of the Department of Promotion of the Department of Intellectual Property, Thailand. The workshop was attended by judges and senior prosecutors from ASEAN, Japan, Australia and the U.S. Speakers and panelists included public sector and private sector IPR representatives, as well as Mr. Edward Kelly and Ms. Isabella Ho from T&G. Speakers and participants from the workshop, as well as Thai Government and AMCHAM Thailand representatives, attended the reception.



Our Thanks

"On behalf of the USPTO Office of Enforcement, I would like to extend our most sincere thanks for the gracious and invaluable support that Tilleke & Gibbins provided to the recent ASEAN-USPTO-IP Australia IPR Enforcement Workshop in Bangkok, both in terms of speakers and underwriting the wonderful opening reception event."

Please convey my thanks and appreciation to your attorneys and to Khun Satnam, who did a superb job in arranging the reception on Tuesday, May 18th, for the participants at the Arnoma Hotel Bangkok. It was a most enjoyable event and certainly set the tone for the rest of the entire program, and I am sorry that you were not able to attend. I know that all of the participants and speakers enjoyed it immensely, and it would not have been as excellent event without your personal commitment to supporting U.S. Government IPR enforcement training efforts and activities in the region.

Thanks again to you, and to Tilleke & Gibbins, for the exceptional support."

(E-mail to Chairman of Tilleke & Gibbins, David Lyman, from Peter N. Fowler, Senior Counsel, Office of Enforcement, External Affairs, U.S. Patent and Trademark Office)

Leading Lawyers



Ms. Vipa



Mr. Kelly

Ms. Vipa Chuenjaipanich and Mr. Edward Kelly have been identified by the 2004 AsiaLaw Leading Lawyers Survey as two of Asia's leading business lawyers in the area of Intellectual Property. In addition, Ms. Vipa has been nominated to appear in the *Guide to the World's Leading Trade Mark Law Practitioners 2004* as a leading practitioner by in-house counsel and professional peers following 18 months of research, the first person at T&G to be bestowed with such honor. The Guide will be published in June 2004 by Euromoney Legal Media Group.

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