



Thailand: IP Developments

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DATA PROTECTION UNDER TRADE SECRETS LAW

by Siraprapha Rungpry and Edward J. Kelly

In 2002, Thailand adopted the Trade Secrets Act which contains a provision intended to safeguard the confidentiality of marketing approval data submitted to the Food and Drug Administration (FDA). Nevertheless, the scope of the protection afforded by the Act would remain uncertain until ministerial regulations were adopted which would enable its implementation. This means in spite of the express legal protection for such data, drug originators cannot wholly rely on the government authority to protect confidential data and information submitted against unauthorized disclosure and/or unfair commercial use.

Generally speaking, the Trade Secrets Act 2002 (B.E. 2545) creates a legal framework for the protection of trade secrets and other confidential information, rendering the unauthorized use and disclosure of such information an actionable and even criminal offense. With respect to data or information submitted to the FDA by a drug originator in order to obtain an approval to market a new drug, the Act recognizes that such data or information, either in whole or in part, may amount to a trade secret in the form of testing result or other information regarding its preparation, discovery, or creation. In this case,



Left: Siraprapha Rungpry, Legal Consultant
Right: Edward J. Kelly, Partner
Intellectual Property Department

the owner would have the right to request the FDA to maintain the confidentiality of the data submitted. Upon such request, the FDA would have "the duties to maintain the trade secrets from being disclosed, deprived of or used in unfair trading activities, in accordance with the regulations prescribed by the Minister."

Since the Patent Act clearly confers generic drug manufacturers with the ability to engage in

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POLITICAL UNCERTAINTY AFFECTS IP OWNERS

by Areeya Ratanayu and Clemence Gautier

Ever since the military coup of 2006, Thailand has been subject to many disruptions. The Council for National Security dissolved the constitution and appointed an interim civilian government in which retired civil servants were responsible for the management of each ministry. The main aim of the council was to oust former Prime Minister Thaksin Shinawatra from power.

Compulsory Licensing

On November 29, 2006, Thailand's Ministry of Public Health (MoPH) announced its decision to force Merck & Co. to relinquish its patent and

intellectual property rights on efavirenz, an effective HIV/AIDS treatment known by its brand name Stocrin®, and to produce the drug itself through the Government Pharmaceutical Organization. This was in spite of the fact that Merck offers Stocrin® at no-profit pricing in Thailand, which has been one of the world's few middle-income countries receiving the drug at this price.

On January 29, 2007, the MoPH extended its policy to break the patent of another anti-HIV medication, Abbott's Kaletra®, and a cardiovascular drug, Sanofi-Aventis' Plavix®.



Left: Areeya Ratanayu, Legal Consultant
Right: Clemence Gautier, Consultant
Intellectual Property Department

The military regime relied upon a section of the Thai Patent Act (Section 51) which had never before been invoked. It argued that in a period of emergency, the government can produce patented drugs or drugs for "non-commercial use", under terms and conditions which the government itself unilaterally sets. Supporters of the recent compulsory licensing actions have argued that such licenses are often used internationally, even in

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IMPLEMENTATION OF "CONCURRENT USE" CONCEPT BY THE THAI IP&IT COURT



Nuttaphol Arammuang, Enforcement Attorney
Intellectual Property Department

by Nuttaphol Arammuang

A concurrent use registration is the registration of a mark already registered by another party based on the assertion that the new registration can coexist with the existing one. The concept of "concurrent use" has been installed in Thai law since 1931 (Section 18, Trademark Act 2474 [A.D. 1931]). Under the current Trademark Act B.E. 2534 (A.D. 1991), this concept is stated in Section 27, paragraph 1:

"When there is an application for registration of a trademark that is identical or similar to one already registered by a different owner in accordance with Section 13, or when there are applications for registration of trademarks that are identical or similar to each other under Section 20 in respect of goods of the same or different classes but in the Registrar's opinion are of the same character, and the Registrar deems that the trademark has been honestly and concurrently used by each proprietor, or there are other special circumstances which are deemed proper by the Registrar to allow registration, the Registrar may permit the registration of the same trademark or of nearly identical ones for more than one proprietor, subject to such conditions and limitations as to method and place of use or other conditions and limitations as the Registrar may deem proper to impose . . ."

Unlike other concepts (e.g., inherent distinctiveness, well-known trademark), there is no specific rule or regulation regarding concurrent use registration procedures in Thailand. Even in cases where there is a Coexistence Agreement or a Letter of Consent between the applicant and the owner of the existing registration (senior registrant), the Registrar and the Board of Trademarks (Board) have always been reluctant to apply this concept. The usual reason for refusing the new application is that the agreement between the trademark owners does not bind the Registrar and the Board to allow the registration. In addition, other evidence presented by the applicant is always considered insufficient to prove that the marks have been honestly concurrently used. In addition, when cases have been initiated or appealed to the Court, the Court has been unwilling to touch upon this concept. For this reason, rather than putting forward arguments based on honest concurrent use, applicants usually argue that their marks are not confusingly similar to the marks of senior registrants.

In a notable exception, *Red Case No. IP139/2547 (A.D. 2004)*, the Plaintiff, a U.K. company, filed a civil suit with the Central Intellectual Property and International Trade Court (IP&IT Court) against the Board for its decision to refuse the Plaintiff's trademark application for the services

in Class 42 relating to tourism and travel, including computer software design relating to holidays and travel. The Registrar and the Board stated that the Plaintiff's trademark is confusingly similar to the registered trademark of a senior registrant, a Korean company, which was registered for the goods in Class 9 covering electronic equipment and computer software programs. The Plaintiff requested the Court to allow the registration of the Plaintiff's trademark under the concept of "concurrent use" in Section 27 of the Trademark Act. During the trial, the Plaintiff submitted evidence demonstrating the actual use of the Plaintiff's and the senior registrant's mark. The history and certificates of worldwide registration of the Plaintiff's mark were also presented along with the facts about the different origins of both marks and the type of business in which both companies are engaged. However, the IP&IT Court ruled that the Plaintiff's trademark was confusingly similar to the registered trademark of the senior registrant and dismissed the case. Unfortunately, the Court did not provide any clear decision regarding the honest concurrent use registration as initiated and alleged by the Plaintiff.

In *GROTTO S.p.A. v the Department of Intellectual Property (DIP), Red Case No. IP 105/2550, September 25, 2007*, the IP&IT Court provided an extremely rare judgment by applying the concept of "concurrent use" under the Trademark Act in order to allow the registration of the trademark "GAS & Device".

In 2003, GROTTO S.p.A., an Italian company, filed an application for registration of the mark "GAS & Device" for goods in Class 25 covering clothing, shoes, jackets, trousers, jeans, shirts, etc. The Registrar rejected the application on the grounds that the applicant's trademark is identical or similar to the trademark "GAS & Triangle Device" of a Thai individual, Mr. Samphan Sae-kae, which had been registered for the goods in Class 25 covering jean pants, jean shirts, shirts, T-shirts, and canvas shoes since 1987 (Registration No. TM63920). The applicant filed an appeal petition with the Board, but the Board upheld the Registrar's decision, being of the opinion that the applicant's trademark consists of "GAS", which is an identical word to that of the registered mark. Even though the devices differ from each other, both parties' trademarks have identical pronunciation, /gas/. In addition, the application for the mark was filed for the same category of goods as that of the senior registrant. Hence, in the Board's opinion, both parties' trademarks are similar marks and, as such, the registration of the applicant's mark may create confusion among the public. For this reason, the applicant's trademark application is prohibited for registration.

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KOREAN PATENT BATTLE IN THAILAND

by Srila Thongklang and Suebsiri Taweepon



Left: Srila Thongklang, Partner & Chief Litigator
Right: Suebsiri Taweepon, Enforcement Attorney
Intellectual Property Department

The Supreme Court of Thailand recently pronounced its decision to uphold an appeal in a long-running patent battle between two Korean-owned companies in Thailand. The parties to this conflict compete with each other in manufacturing rubber products, such as rubber gloves and boots. The dispute arose because one company attempted to register a famous rubber boot product for use in agriculture to be exclusively owned as a design patent in Thailand. The other company had not filed for protection of the subject product because it had been used in Korea for a long time. The case discussed below will outline the circumstances of this contentious legal battle between two Korean companies in Thailand.

The conflict was ignited when a Korean-owned Thai company, Sinchok Siam Co., Ltd., proceeded with a police criminal raid action to seize a number of latex boot products and manufacturing moulds in early 2004, based on the design patent of a similar latex boot, at the premises of Top Union Co., Ltd., another Korean-owned company in Thailand.

Top Union's latex boot products for use in agriculture were quite famous, with a long queue of orders. After being accused in this criminal patent infringement case, the com-



pany without hesitation filed a civil suit to cancel Sinchok Siam's design patent for the disputed product at the Intellectual Property and International Trade (IP&IT) Court.

Following its plaint, Top Union immediately filed a request to the Court for interim relief to allow Top

Union to continue its business and to order Sinchok Siam not to proceed with any further criminal actions against Top Union while the Court was considering the validity of the design patent in the civil case. The Court granted Top Union's request and ordered Top Union to pay a large deposit to the Court as a guarantee. However, prosecution of the criminal patent case continued in parallel with the civil case.

In May 2005, the Court of First Instance in the civil case ruled the design patent of Sinchok Siam to be invalid because Top Union, the plaintiff, was able to prove to the court that the product in question had been used in Korea for more than 18 years. Although the defendant claimed that registration as a patent had also been filed in Korea for the disputed boot product, the court found that the Korean patent covering the boot product was a utility patent, not a design patent. The Korean patent as claimed provided only partial protection for the rubber loop at the top edge of the rubber boot product, and was hardly adequate to support a claim for a design patent. The utility patent in Korea cannot be claimed to protect the design patent in Thailand as the protection provided by the two patents are completely different, i.e. functional and design. Moreover, Top Union in Korea has been exporting the disputed product to Thailand since 2000. The defendant filed for design patent registration for its latex boot product in June 2001. Thus, the defendant's product was already known and used by the time the application was filed at the Department of Intellectual Property, making it ineligible for design patent protection.

Thereafter, Sinchok Siam lodged an appeal with the Supreme Court

requesting the court to reverse the IP&IT Court decision. The appeal revolved around the claim that their product is innovative and not obvious to other ordinary businesses with the same skill, particularly the part of the rubber loop at the top edge of the boot product.

Meanwhile, witness presentation had just been completed in the parallel criminal case and both parties were awaiting the pronouncement of the court's judgment. After receiving the judgment in the civil case, Top Union, through its counsel, immediately requested the Court of First Instance in the criminal case to hold off on rendering its judgment and to wait for the final decision of the Supreme Court in the civil case concerning the validity of the subject patent.

In May 2007, the Supreme Court affirmed the IP&IT Court's decision for cancellation of Sinchok Siam's design patent. as the design of the latex boot product had already been disclosed in Thailand and a foreign country. The claim for the innovative aspect of the loop part was considered to be irrelevant to the disputed boot design.

Finally, Top Union was successful in its fight to invalidate Sinchok Siam's Thai patent. The court in the criminal patent case therefore has to respect the facts concluded about the invalidity of Sinchok Siam's patent. The design of the latex boot product in dispute ultimately belongs in the public domain. Top Union continues to be one of the most successful manufacturers of quality rubber boot products for use in agriculture in Thailand, and Sinchok Siam cannot claim exclusive rights over similar product designs in Thailand. ♦

THE BENEFITS OF A PROACTIVE APPROACH TO TRAINING

by Clemence Gautier



*Clemence Gautier, Consultant
Intellectual Property Department*

In the article "Law Enforcement Training Helps to Suppress Counterfeit Products in the Thai Market" published in our July 2007 issue, we explained that in order to enforce the rights of our clients, Tilleke & Gibbins (T&G) has always adopted a proactive approach towards the continuous education and training of government officers.

In the firm's latest efforts, intellectual property lawyers have conducted more training sessions for police and customs officials in different cities, at ports of entry, and at border crossings. The training focused on methods of identifying and differentiating between genuine and counterfeit goods and also reiterated the importance of cooperation between government authorities and brand owners in the suppression of counterfeiting in Thailand.

The Department of Intellectual Property has also organized a number of training sessions for police authorities in different provinces in Thailand on product identification. Our lawyers participated in these seminars on behalf of our clients and trained the police officers how to distinguish between counterfeit goods and genuine products. Our lawyers represented companies from the electronics, telecommunications, luxury goods, fashion, and automotive industries.

In August, T&G organized training at four Customs ports: Bangkok Port (Klongtoey District), Suvarnabhumi International Airport (Samutprakarn Province), Ladkrabang Port, and Laemchabang Port (Chonburi Province). Our lawyers gave presentations on behalf of manufacturers of luxury goods, electronics products, and fashion apparel.

The Thai-Italian Chamber of Commerce also organized a seminar called "IPR Protection in the European Union and in Thailand" for enforcement officers in September. T&G lawyers represented a number of our European, American, and Asian clients.

Training programs yield tangible results for IP rights owners. For example, after engaging in an extensive training program, Casio Computer Company Limited saw a major increase in customs seizures. In August 2007, customs officials seized two shipments involving more than 100,000 counterfeit Casio and Citizen products. This demonstrates that a well-planned training program can be an effective tool in helping brand owners to protect their intellectual property rights. ♦

REGISTRATION OF GEOGRAPHICAL INDICATIONS: AN UPDATE

by Siripong Siriworanark



*Siripong Siriworanark, Trademark Lawyer
Intellectual Property Department*

Since the Protection of Geographical Indications Act came into effect in 2003, 14 applications have been successfully registered from a total of 38 applications. These are: PISCO, Champagne, Nakornchaisri Pomelo, Phetchabun Sweet Tamarind, Trang Roast Pork, Doi Tung Coffee, Phurua Plateau Wine, Chainat Khaotangkwa Pomelo, Sriracha Pineapple, Surat Thani Oyster, Sangyod Muang Phathalung Rice,

Chiangrai Phulae Pineapple, Nang Lae Pineapple, and Sakon Dhavapi Haang Golden Aromatic Rice. Out of the 14 successful applications, 12 were submitted by Thai applicants and two by foreign applicants.

In general, the examination procedure for geographical indication applications is quite similar to the process of trademark examination. However, a notable difference is that in the geographical indication examination

process, the Registrar may request an opinion from an expert in the relevant field in order to examine the linkage between the goods and the geographical area. Currently, the Thai government has undertaken a project to file Thai Silk, Phulae Pineapple, and Thai Jasmine Rice in the European Union as the main market, and then spread to other markets in the future. ♦

DATA PROTECTION (from page 1)

various preparatory activities with a view to seeking regulatory approval before a patent for a particular protected drug has expired (i.e. Bolar provision), generic manufacturers could submit applications for regulatory approval before the expiration of the patent. As a result, the extent to which the drug originator's data submitted to the FDA is protected, or in other words, the extent to which a generic drug manufacturer may rely on previously filed data which underpins the efficacy and safety of the drug to support the application for marketing approval for a generic becomes a critical issue.

Thus far, the FDA has treated an originator's data on file as forming part of known scientific knowledge and does not require a generic applicant to prove safety and efficacy of a drug compound. Follow-on applicants are usually required to conduct the less onerous bioequivalence and/or stability testing to demonstrate that the follow-on genetic drug compound is either bioequivalent or has the same bioavailability. Similarly, the generic manufacturer does not need to conduct research on ingredients and dosage forms that have already been approved for safety and effectiveness. Questions arise about whether the foregoing practice violates the mandate of the Trade Secrets Act and/or TRIPS obligations with regard to data protection. While the FDA acknowledges it must refrain from disclosing the data submitted by drug originators to third parties, generic manufacturers which are direct competitors of the drug originators clearly obtain a commercial benefit from the originator's confidential data on file.

Although TRIPS mandates that member countries must provide

protection against unfair commercial use of marketing approval data, countries do reserve considerable discretion to define "unfair" in the context of their national laws. Since the Trade Secrets Act does not specifically address this, the ministerial regulations adopted under the Act should have provided guidance as to whether the FDA's reliance on the data submitted by the drug originator in order to assess a subsequent application constitutes "unfair commercial use" although the originator's data is not actually disclosed to the generic applicant.

The ministerial regulation regarding data protection has been passed and was published in the official gazette on September 6, 2007. Before the regulation was adopted, it had widely been anticipated that the regulation would clearly establish the breadth of data protection and/or data exclusivity under the Trade Secrets Act. When the ministerial regulation was announced, it was viewed by the pharmaceutical industry and interested parties as somewhat of a disappointment. The regulation fails to provide a clear solution to this highly controversial issue, and to the disappointment of drug originators, it hardly protects data owners against unfair commercial use, as prescribed by the Trade Secrets Act in compliance with TRIPS obligations.

While the real issue with regard to data protection is the extent to which the originator's sensitive and confidential data on file at the FDA could be referred to or relied on by generic manufacturers to support their applications, the ministerial regulation evidently sidesteps this issue and does not define the limits or boundaries of data protection in a meaningful way. Whereas the regulation purportedly establishes a standard for protection of data submitted to the FDA, the

relevant sections (e.g., Sections 16-18), merely address physical security of the documents submitted and simply prevent unauthorized (actual) disclosure. For instance, Section 16 of the regulation provides that in case of application for drug registration, the data submitted must be stored in a securely locked cabinet, etc.; Section 18(2) merely states that government officials have the responsibility to protect/keep the trade secret information in a safe place.

Thus, the ministerial regulation adopted does not really provide additional guidance for the implementation and enforcement of the Trade Secrets Act in respect of data protection. Presumably, in light of the current view of the FDA which favors the narrow interpretation of its obligation under the Act, the regulation would allow generics producers to continue to exploit drug originators' confidential data on file, even though this practice may be regarded as an unfair commercial use under the Trade Secrets Act because it unfairly confers commercial benefits on generic manufacturers. Nevertheless, while it could be argued that the (indirect) use of data by the FDA to approve a subsequent generic application would essentially confer commercial benefit on a third party and therefore constitutes "unfair commercial use," many simply believe that the use by a state agency in granting marketing approval to a follow-on applicant based on the second product's similarity to the originator's previously approved product cannot constitute an unfair commercial use of data because the FDA itself is not a commercial entity. Unfortunately, the ministerial regulation recently adopted does not provide much guidance on this particularly controversial issue. ♦

POLITICAL UNCERTAINTY (from page 1)

the US and EU. In reality, although this is the case for some forms of compulsory license, it is not true of government usage. Internationally, compulsory licenses are a judicial remedy in court cases involving breaches of laws or disputes between trading competitors. They are also

common among inventors of new technologies who may require the license of an existing technology to develop the new invention. Government use of compulsory licenses is seen as a more draconian action because it results in far greater losses for the patent owner. According to the government, negotiations with the pharmaceutical companies were

inconclusive and the only solution was to sign these three compulsory licenses. Its decision is linked to the fact that HIV and heart disease are the second and third biggest most common diseases in Thailand.

The major dispute between the MoPH and the pharmaceutical

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POLITICAL UNCERTAINTY (from page 4)

companies is that the government intends to import cheaper generic forms of the drugs from Indian companies. The MoPH recently refused to consider Abbott Laboratories' proposal to reduce the price of Kaletra®, a proposal which the Brazilian government has accepted. The Thai government has set up a subcommittee on compulsory licensing to consider a group of around 30 drugs which may become subject to compulsory licenses.

The situation between the MoPH and the pharmaceutical companies remains unsettled.

Thai Relations with the US

The issue of the licenses may have had an impact on Thailand's relationship with the US government, despite US denial that this is the case. For many years, Thailand has been on the Watch List according to the 301 Report; this year it was reclassified to the Priority Watch List. On April 30, 2007, the Office of the United States Trade Representative (USTR) again included Thailand in its list of countries that do not do enough to respect

IP rights. In justifying this decision, the USTR criticized Thailand's lack of control over the sale of visual media, pointed to the piracy of books, DVDs, footwear, software, and clothing, and drew attention to the inadequate sentences of criminals. This action, however, has been viewed in many circles as a reaction to Thailand's announcement of compulsory licenses.

In reaction to this reclassification, the Thai government declared that it would do more to suppress violations of IP law. It is consulting government agencies, NGOs, and representatives of the private sector. The DIP is analyzing the relationship between anti-competition law and IP rights.

Computer-Related Crime

After many years of negotiations, the government finally introduced the Computer-Related Crime Act in July 2007 to counter cyber crimes. The adoption of this law touches on many controversies both in Thailand and internationally.

Supporters argue that the Act will have a positive impact on internet users, protecting online privacy and ensuring internet security. Because it creates a cyber-environment that is

more favorable to business, the Act also protects e-commerce and national security. The offenses covered by the Act include hacking, unlawfully accessing computers or network resources, and the unauthorized interception of e-mails or data with the intention of committing theft or harming others. Additionally, the Act permits law enforcement agencies to pursue international criminals. It authorizes police officers and government inspectors to seize computers on private property if they suspect that the computers contain pornography or evidence of criminal activity or cyber crime. The Act's opponents say that excessive control by the authorities will put the freedom and privacy of the individual at risk.

The Future

Beyond these events, foreigners who want to invest in Thailand await the end of the uncertain political situation. If the government maintains such incoherent and disjointed IP policies, Thailand may experience a decrease in investments from foreign companies. ♦

CONCURRENT USE (from page 2)

The applicant filed a civil suit against the DIP with the IP&IT Court in an attempt to overturn the Board's decision. The applicant (Plaintiff) claimed and proved that the Plaintiff's trademark "GAS & Device" is clearly different from the mark "GAS & Triangle Device" in appearance. Furthermore, the trademarks of both parties have been concurrently used in Thailand, and during the entire period of use, there has never been any confusion between their products or trademarks. In addition, the Plaintiff has been using the mark "GAS & Device" in good faith, which should be taken into consideration as a special circumstance in allowing the Plaintiff's application to be passed into registration under Section 27 of the Trademark Act.

The following information and evidence were submitted to the Court during the trial:

1. Samples, pictures, and packaging of the Plaintiff's products

bearing trademark "GAS & Device";

2. Advertising materials and pictures of the Plaintiff's shops and boutiques in Thailand;

3. Invoices and other sales documents demonstrating the sales figures and prices of the Plaintiff's products;

4. Certificates of trademark registration of the Plaintiff's trademark in other countries;

5. Affidavit or written statement of the authorized person of the Plaintiff providing the history of the company and trademark;

6. Market survey results on the senior registrant's products and trademark along with the samples of senior registrant's products.

In 2007, the IP&IT Court rendered judgment in the Plaintiff's favor providing the following reasons:

- The origins of both marks are different.
- The Plaintiff's trademark has been used and registered worldwide;
- The Plaintiff's products have been sold in Thailand through its exclusive distributor only;

- The quality and the prices of the Plaintiff's products and those of the senior registrant are different;

- The senior registrant's trademark is not widely used and recognized by Thai customers.

The Court, therefore, believed that the Plaintiff's trademark would not cause confusion among the public in Thailand and should be registered under the concept of "concurrent use". As a consequence, the Court cancelled the Board's decision and ordered the Trademark Office to proceed with registration of the Plaintiff's trademark application.

To the best of our knowledge, this is the first case in which the IP&IT Court has clearly implemented the concept of "concurrent use" for allowing the registration of trademark. This may lead to a reconsideration of this issue by the Registrar and the Board of Trademarks in the future. ♦

RAIDS/SEIZURES

by Sukontip Jitmongkolthong, Enforcement Attorney
Intellectual Property Department



A New Trend in the Importation of Counterfeit Products into the Kingdom of Thailand

In August 2007, the Customs Department made its largest ever seizure of counterfeit Casio and Citizen calculators, detaining a total of more than 100,000 items from two separate shipments. T&G was contacted by Customs to verify the seized goods on behalf of Casio Computer Co., Ltd. and Citizen Holdings Co., Ltd., all of which proved to be counterfeit. In addition to the size of the seizure, these two shipments had something important in common: the importers attempted to evade Customs authorities by relying on what may be a new technique. To avoid detection, the infringers filed false shipping documents, listing the importer as a company obtaining special benefits under the Board of Investment called "Gold Card". The "Gold Card" status grants to certain importers and exporters a number of privileges designed to allow them to clear Customs procedures in a more efficient manner.

This plan was foiled, however, when the listed importers were contacted by the shipping company and asked to obtain the goods.



Realizing that they had not actually imported these goods, the "Gold Card" company informed Customs of the error, which eventually led to the detention and inspection of the shipments. Customs officials are now aware of this method of avoiding inspections, and they will be active and more vigilant in trying to ensure that no other infringers employ this technique. ♦

SKF Declares War against Harmful Fake Bearings

This year marks the first year that SKF commenced aggressive campaign actions against infringers distributing counterfeit bearings to unsuspecting consumers. SKF joined forces with the Economic and Technological Crime Suppression Division (ECOTEC) and Tilleke & Gibbins International Ltd. in three rounds of raid actions against fake bearings in the On-nut and Lam

Luk Ka areas, both located in Bangkok, and in the Sampran district of Nakornpathom province. The net result was the seizure of fake bearings worth over Baht 1 million.

Representatives of SKF stated that the company is running a campaign against counterfeit bearings and will not tolerate fake goods and trademark infringements. Fake bearings not only directly affect the company's business, but also pose a threat to personal safety and

property, particularly when the fakes are highly substandard, which will lower the quality of the consumers' machines or engines and might lead to accidents. The company has been encouraging consumers to buy SKF products from authorized distributors only and also remember the identity of the genuine products. However, counterfeit bearings today are widely traded and manufactured to look very much like the genuine ones.

An SKF representative stated that according to a foreign source, the use of counterfeit machine/engine components or parts causes as many as 3,500 accidents per year worldwide. It also leads to an economic loss worth hundreds of billions of baht. The European and Japanese businesses of machine and automotive parts in Thailand are both facing this problem. Damage to the industry has yet to be estimated. Nevertheless, the utmost concern is still consumer safety. ♦





COURTESY VISIT

On October 30, Tilleke & Gibbins' enforcement team led by Edward J. Kelly, IP Partner and Chief Client Relationship Officer, paid a courtesy call on Pol. Col. Naras Savestanan to congratulate him on his promotion to Director of the Bureau of IP Crime, Department of Special Investigation (DSI), in October 2007. Mr. Kelly (second from left) is seen in the picture presenting a basket of fruit to Pol. Col. Naras. On the far left is Suebsiri Taweepoon, an enforcement attorney, while first and second from right respectively are Clemence Gautier and Carlos Natera, IP consultants.

T&G WINS CLIENT CHOICE AWARD

Tilleke & Gibbins is the winner of the International Law Office (ILO) Client Choice 2007 Award for Thailand. The winning firms in 46 jurisdictions worldwide were announced on the Client Choice awards website (www.clientchoiceawards.com) launched on October 9 by ILO, which then informed its 33,000-plus subscribers that the 2007 results had been posted online. Established in 2005, the International Law Office Client Choice Awards recognize those law firms around the world that stand apart for the excellent client care they provide and the quality of their service. The winning firms are identified based on an ILO subscriber survey of corporate counsel only. Firms are assessed on the following criteria: quality of legal advice; value for money; commercial awareness; effective communication; billing transparency; tailored fee structures; depth of team; response time; sharing of expertise; and use of technology.



In addition, T&G is once again among the finalists for the Asialaw IP Award for Thailand. Now in its fourth year, the Asialaw IP Awards ranking is based on independent research conducted by the magazine's editorial board and nominations from IP practitioners around the region. T&G has been the Thailand winner of this award since its inception. Asialaw will host a banquet and awards ceremony in Hong Kong on November 27, 2007, at which time the winner for each jurisdiction will be announced.

This year T&G has already won the MIP's Thailand IP Firm of the Year award and Asian-Counsel's Firm of the Year for Intellectual Property in Thailand.

NEW MEMBERS OF OUR TEAM

Carlos Natera



Carlos joined Tilleke & Gibbins as a member of its IP Enforcement Group because of his interest in IP enforcement and issues in the pharmaceutical industry. He holds an LL.M. in International Legal

Studies from American University Washington College of Law and a J.D. from Santa Maria University, Caracas, Venezuela. The Asia Pacific has a special appeal to him so he joined the American Bar Association Asia Initiative to work on projects in this region. His special interests are in the transnational operations of fake goods and in the general areas of anti-money laundering and anti-corruption.

Clemence Gautier



Clemence joined Tilleke & Gibbins as a consultant with the IP Department. After completing her LL.B. and Maitrise of Business Law with honors at the Institut Universitaire Professionnalise in

France, she attended the University of Rennes where she completed her LL.M. with concentration on International Business Law. She has a keen interest in IP law and previously worked as an intern at Juridica – AXA Group and Societe Nationale de Distribution - M6 Group, a film and video distributor in Paris. She also worked in Bangkok with Vidon & Partners (Asia), an IP law firm.

Inthupim Chokwaranun



Inthupim is the newest addition to Tilleke & Gibbins' team of intellectual property lawyers. After obtaining a law degree from Thammasat University, she decided to join Korean Airlines

as a flight attendant. However, the call of the law profession was too strong and so she decided to switch careers. She joined first Professional Advisory & Law Limited and then Dej-Udom & Associates, where she gained valuable experience in IP, commercial, and criminal litigation. Her special interests are IP law, infringement, validity, and commercial disputes involving intellectual property assets.

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