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THAILAND MOVES CLOSER TO MADRID

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Peter Oller and Erica Poon, Hong Kong

Thailand is amending its trade mark system to try and meet its goal of joining the Madrid Protocol next year

Changes to the country's Trade Mark Act, which have reached the Council of State and should be passed later this year, include allowing sound and smell trade marks and multiple class examinations.

"I am cautiously optimistic accession will happen in 2012," said Dan Greif, co-head of intellectual property at Siam Premier International.

The Madrid System facilitates the registration of trade marks throughout the **85 member countries**.

The Thai Department of Intellectual Property first issued a plan for accession in 2004 and then conducted a five-year study that compared Thailand's registration procedures to the Madrid system and looked at potential effects of the accession on all parties.

The IP office found that Thailand's Trade Mark Act would have to be amended in order for accession to take place and on February 15 2010, a new working group was established to come up with further amendments to the Trade Mark Act.

Pajchima Tanasanti, director-general of the Commerce Ministry's Intellectual Property Department, **said last month** that the country will join in 2012, but, while that remains a possibility, IP practitioners expect that this may be delayed until 2013 or even later.

James Evans, a consultant for Tilleke & Gibbins in Bangkok, said the delays could be caused by political instability in the country, which is holding general elections later this year, and the time it will take to put all the correct procedures in place.

But he added that the Department of Intellectual Property is unlikely to have a problem with meeting the 18-month examination deadline.

Thailand's accession is expected to bring greater business opportunities to Thai companies hoping to expand into foreign markets and for foreign businesses looking to move into one of the region's fastest developing economies.

Accession can lead to a drop in law firm revenues, noted Greif. There are also concerns that allowing multiple class applications will lower the volume of filings.

However, significant revenue reduction has not always occurred in other countries that use the Madrid system, and some have seen an overall rise in business activity.

Evans said that Thailand might not experience a bad dip because the two biggest foreign investors in Thailand are the US and Japan, and many companies in those two countries do not use the Madrid System at the moment and so would probably keep making national filings.

According to **WIPO figures** released today, the US was the third largest user of the system with 4,147 filings while Japan was in ninth place with 1,577 filings.

The Ministry of Commerce's IP department plans to request a budget of about \$165,000 from the government to provide 50% financial assistance to small and medium enterprises that register their IP outside of Thailand.

In 2008 all 10 members of the Association of Southeast Asian Nations (Brunei, Cambodia, Indonesia, Laos, Malaysia, Burma, The Philippines, Singapore, Thailand and Vietnam) agreed to join the Madrid Protocol by 2015.

So far, only Singapore and Vietnam have joined.

Thailand **became a member** of the Patent Cooperation Treaty in December 2009.

"This will further demonstrate that Thailand has become a responsible and sophisticated IP country," said Greif.