

# Continual Evolution of Thai IP Law

*Thailand's intellectual property (IP) system offers a variety of robust forms of protection for IP owners. But this was not always the case. Just 15 years ago, IP owners in Thailand had many fewer options available to them in defending their rights. In order to understand Thailand's IP system today, it is worthwhile to reflect on how these new forms of protection came into being.*



## The Author

Suebsiri Taweepon  
Attorney-at-Law

Suebsiri Taweepon is an attorney-at-law in the intellectual property group at Tilleke & Gibbins, Thailand's largest independent multiservice law firm. He can be contacted at [suebsiri.t@tillekeandgibbins.com](mailto:suebsiri.t@tillekeandgibbins.com).

## Tilleke & Gibbins

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### Legislative Changes

A major driving force for many changes in Thai IP laws was Thailand's entry into the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) in 1995, which mandates that each member country comply with certain global standards of IP protection. To that end, the majority of Thailand's IP laws have either been enacted or amended in the last 15 years.

In response to joining TRIPs, the following key laws were amended:

- Trademark Act. In 2000, the Trademark Act was amended to more sufficiently respond to economic circumstances and to facilitate economic expansion, including increasing trade and rapidly developing domestic industry. An important new form of protection for configurative design as three-dimensional mark was included in the amended Act.
- Patent Act. Due to amendments to the Patent Act in 1999, patents now enjoy protection for 20 years, instead of 15 years under previous legislation. Additionally, Thailand now recognizes "petty patents" (called "utility patents" in some jurisdictions) for inventions that, while novel, do not meet the requirement of an inventive step.
- Copyright Act. Rather than being amended, Thailand's Copyright Act was originally drafted in 1994 with the intention of complying with TRIPs requirements. Therefore, it met international standards from the outset.

In addition to these amended laws, Thailand enacted several laws for the first time, following entry into TRIPs:

- Plant Varieties Act (enacted in 1999)
- Protection of Layout-Designs of Integrated Circuits Act (enacted in 2000)
- Trade Secrets Act (enacted in 2002)
- Geographical Indications Act (enacted in 2003)

### Specialized IP Court

Another major evolution in the protection of IP rights in Thailand was the establishment of the Intellectual Property and International Trade (IP&IT) Court in 1997. The IP&IT Court is a court of first instance for IP cases, after which cases may be appealed directly to the Supreme Court. The establishment of a specialized court to handle IP matters inevitably leads to the result that the judges who hear IP cases have an increased level of expertise in IP matters, which ensures more equitable resolutions to IP cases and a

more robust system of protection of IP rights in Thailand.

### Patent Cooperation Treaty

In August 2008, Thailand officially became a member of the Paris Convention for the Protection of Industrial Property—a mandatory step for joining the Patent Cooperation Treaty (PCT). The PCT came into force in Thailand on December 24, 2009 and has led to many changes in foreign patent application practice. Thailand is a receiving country, meaning that most of the patent applicants are from abroad. Thus there have been dramatic changes in the number of foreign patent applications in Thailand since the PCT has come into force.

### Looking Ahead

According to the sources at the Department of Intellectual Property, Thailand's core IP laws—the Trademark Act, the Patent Act, and the Copyright Act—are in the process of being redrafted. However, the content of the most current proposed amendments to the three statutes has not yet been disclosed to the public.

Clearly, IP laws significantly depend on international trade and changes in technology. Thai IP practitioners in both the private and the public sector expect to see even more dramatic changes once all the new drafts came into force in the near future, such as limitations on liability of internet service providers, expanding the protection of non-traditional trademarks, and many others.

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- 1994: Copyright Act
- 1995: TRIPs Agreement
- 1997: IP&IT Court
- 1999: Patent Act
- 1999: Plant Varieties Act
- 2000: Trademark Act
- 2000: Protection of Layout-Designs of Integrated Circuits Act
- 2002: Trade Secrets Act
- 2003: Geographical Indications Act
- 2005: Recordation of Well-Known Trademark
- 2008: Paris Convention
- 2009: Patent Cooperation Treaty