

HISTORICAL BACKGROUND OF THE IP&IT COURT

by Inthupim Chokwaranun



*Inthupim Chokwaranun, Attorney-at-Law
Intellectual Property*

On May 1, 2009, the Central Intellectual Property and International Trade Court (IP&IT Court) reopened in a new location with state-of-the-art facilities. After spending its first decade at its original location, the Court has now moved to a recently constructed government property on Chaengwatana Road, namely The Government Complex Commemorating His Majesty the King's 80th Birthday Anniversary, 5th December, B.E. 2550 (2007). The Treasury Department made the decision to proceed with construction of the complex in order to create a new venue where various government departments can coexist effectively through joint use of the area. The common space is intended to allow greater cooperation among government departments, while providing citizens with a one-stop service center where they can access various public services within a single area. Thus far, a total of 29 departments and agencies have

edge and full understanding in intellectual property and international trade. The establishment of the Court represented an important development in Thailand's compliance with TRIPS requirements to ensure that these cases are heard by judges with specialized knowledge in the field, rather than by judges in general courts.

When the IP&IT Court was established, its territorial jurisdiction was envisioned to cover the whole Bangkok Metropolis and its neighboring provinces: Samut Prakarn, Samut Sakhon, Nakhon Pathorn, Nonthaburi, and Pathum Thani. This Central IP&IT Court was expected to be supported by Regional IP&IT Courts throughout the country. At present, however, these regional courts have not yet been established through the necessary legislative procedures. As a result, the territorial jurisdiction of the Central IP&IT Court currently extends throughout the Kingdom.

In addition to these intellectual property issues, the IP&IT Court has jurisdiction over a wide variety of civil actions in the area of international trade. This includes international sale, exchange of goods or financial instruments, international services, international carriage, and insurance and other related transactions, arrest of ships, and dumping and subsidization of goods or services from abroad. In terms of dispute resolution, the Court frequently encourages the parties to make use of its arbitration procedures before proceeding to trial. Any cases falling under the jurisdiction of juvenile and family courts will not be heard by the IP&IT Court.

Certain unique features differentiate the procedures of the IP&IT Court

Case Statistics of the IP&IT Court — January 1, 1998 to May 15, 2009

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
International Trade Cases	481	548	771	520	370	339	352	366	265	558	589	408
Intellectual Property Cases (Civil Cases)	90	70	102	138	157	173	212	191	167	201	192	46
Intellectual Property Cases (Criminal Cases)	1643	1721	2141	3252	3582	4001	5354	5565	4924	6965	6682	2938
Total	2214	2339	3014	3910	4109	4513	5918	6122	5356	7724	7463	3392

expressed their intention to make use of the more than 900,000 sq.m. of office space provided in the new complex, including the IP&IT Court, the Central Bankruptcy Court, the Central Administrative Court, the Department of Special Investigation, and the Ministry of Justice.

In its new location, the IP&IT Court will continue with its mandate to adjudicate intellectual property and international trade cases, as it has been doing since its establishment on December 1, 1997. The specialized court, which was established by the Act for the Establishment of and Procedure for Intellectual Property and International Trade Court (1996), provides a forum where cases can be heard by judges who possess competent knowl-

The IP&IT Court has the power to adjudicate both civil and criminal cases regarding intellectual property and civil cases regarding international trade. Civil cases regarding intellectual property may involve trademark, copyright, and patent issues, including cases arising from technology transfer or licensing agreement. Criminal cases tried before the Court may similarly pertain to infringement under the Trademark Act, the Copyright Act, and the Patent Act, as well as offenses relating to trade provided in the Criminal Code. Disputes over layout designs of integrated circuits, scientific discoveries, trade names, geographical indications, trade secrets, and plant varieties protection may also be heard by the IP&IT Court.

from those of other courts. Unlike most courts, the proceedings in the IP&IT Court must be continuous without adjournment until the hearing is completed, which ensures that trials will proceed efficiently. The Court's rules contain special procedures, such as interim injunction, Anton Piller order, pretrial conference, submission of depositions in lieu of oral testimony for the hearing of witnesses, hearing by means of video conference, and admission of computer records. These special procedures are important because they facilitate the proceedings in the Court in a fair and efficient manner. ❖