

NEW MOU TARGETS COUNTERFEIT DRUGS IN THAILAND

by Clemence Gautier

The prevalence of counterfeit drugs is on the rise in a large number of countries. World Health Organization statistics estimate that 10% of medicines on the worldwide market are fakes. The same organization pointed to the rapid escalation of the problem on the Internet, as 50% of the drugs supplied in certain countries are counterfeit. Thus, the fight against counterfeit drugs is becoming a high-priority issue all over the world.

Most of the counterfeit drugs that are present in Thailand are manufactured in other countries such as China, India, Pakistan, and Vietnam. Thailand acts as a transshipment hub for these products before they are further distributed into the world market. As a result of this role as a gateway for such goods, there is a certain amount of seepage of fake drugs into the Thai market. Although the authorities are empowered to deal with these problems, their success in this regard has thus far been limited. In 2007, there were only 8 cases involving 3 different counterfeit drugs, with the

total number of seized goods amounting to just 609 tablets. While this represents a mild increase from the 2005 and 2006 statistics, far more work needs to be done.

To help deal with these challenges, a Memorandum of Understanding (MoU) was signed on February 14, 2008, initiating "Operation to Prevent and Suppress Drugs Violating Intellectual Property." The signatories to the MoU include the Department of Intellectual Property, the Customs Department, the Royal Thai Police, the Department of Special Investigation, and the Pharmaceutical Research and Manufacturers Association (PReMA). The main aim of this MoU is to coordinate the prevention and suppression of these counterfeit drugs, as well as to protect customers.

This MoU covers:

- Drugs infringing the Trademark Act, such as a drug bearing a mark identical or confusingly similar to a mark already registered;
- Drugs infringing valid patents under the Patent Act; and
- Drugs violating any other laws.



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For example, Section 73 of the Thai Drug Act defines counterfeit drugs as follows: (1) a drug or substance which is wholly or partly an imitation of a genuine drug (original drug); (2) a drug which shows the name of another medicine, or an expiration date which is false; (3) a drug which shows the name or mark of a producer, or the location of the manufacturer which is false; (4) a product with active substances with quality or strength that is lower than the minimum or higher than the maximum standards prescribed in the registered formula by more than 20%.

The MoU should contribute to coordinating the work of these different agencies and slow down the access to counterfeit drugs in Thailand. The parties to this MoU hope to move forward on this issue and include the Food and Drug Administration as a signatory, which would help to ensure that the MoU's mission will be effectively fulfilled. ♦