

# PATENT INFRINGEMENT CASES IN THAILAND 2000-2008

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Each year, many civil and criminal cases involving IP infringement are tried before the Central Intellectual Property and International Trade Court (IP&IT Court). From 2000 through July 2008, a total of 40,823 actions involving infringement of trademarks, copyright, patent, and petty patent were filed. Surprisingly, only 155 of these cases centered on issues of patent and petty patent infringement.

The table below presents details of the civil and criminal suits regarding patent and petty patent infringement in the IP&IT Court during this period.

According to these statistics, no petty patent infringement civil cases were filed from 2000 to 2003, while 4 cases were filed

with the Court in 2004. This number slightly decreased in 2005 and 2006 before rising again in 2007 to return to the peak 2004 level. Thus far this year, however, only 1 case has been filed.

In terms of patent infringement civil cases, there was a continual increase from 2 cases in 2000, through 7 cases in 2003, until reaching a high of 10 civil cases in 2004. Since then, the number declined to 6 and 3 in 2005 and 2006 respectively, before rising to 4 in 2007. To date, no patent infringement cases have been filed in 2008.

With respect to patent criminal cases, a high of 19 cases was reached in 2003, which represents a remarkable increase from 3 cases in 2000, 11 in 2001, and 16 and 2002. The number of patent criminal cases

then dropped to 13 into 2004 and remained fairly steady at 14 in 2005 and 12 in 2006. Since then, the number dropped in consecutive years to 7 in 2007 and 5 in 2008.

All of the foregoing statistics seem to share a similar trend. In each category, the number of cases filed at the IP&IT Court rose steadily from 2000 through 2003 or 2004, after which the filings began to continually decrease from 2005 through July 2008. This decrease can be explained primarily by the level of complexity involved in pursuing patent infringement cases and the difficulty in obtaining successful outcomes. With regard specifically to the number of criminal cases filed, one explanation for the dramatic reduction in cases could be related to the fact that the IP&IT Court has become increasingly stringent in issuing the search warrants that are necessary to proceed with criminal actions. The Court has repeatedly expressed the view that patent infringement matters are best dealt with through civil, rather than criminal, litigation. Patent owners are sometimes hesitant to proceed in this manner, however, due to the high costs involved in civil cases and the limited remedies that they can expect to receive. As Thai patent law continues to evolve based on expected future accession to the Patent Cooperation Treaty, these trends warrant close observation. ♦

