

SUPREME COURT RULING: EXTENSION OF SCOPE OF PROTECTION FOR A PATENTED INVENTION

by Srila Thongklang and Suebsiri Taweepon

In March 2008, the Supreme Court rendered its judgment to affirm the Intellectual Property & International Trade (IP&IT) Court's decision regarding the infringement of the patented poultry feeding machine of a US company, GSI Group, Inc.

This is a particularly important case because when it was initiated in 2003, the court granted an extremely rare request. The Plaintiff was successful in its unique strategy of seeking both an Anton-Pillar Order and a Preliminary Injunction at the

same time, prior to filing the complaint with the court.

The Supreme Court ruled in favor of GSI Group by applying Section 36 bis of the Patent Act to confirm that the Defendants infringed the Plaintiff's rights in the patented feeder. Section 36 bis provides that not only is the scope of the patentee's rights determined by the claims specifically stated, but the scope of the claimed invention also covers the characteristics of the invented product, for instance, functions of the invention.

Based



*Left: Srila Thongklang, Chief Litigator
Right: Suebsiri Taweepon, Enforcement Attorney
Intellectual Property Department*

on the interpretation of this Section, the Supreme Court compared the Defendants' product with the Plaintiff's patented invention and found that the main structure, process of use, and functions of the Defendants' feeder are the same as those of the Plaintiff.

The Court therefore affirmed the IP&IT Court decision ordering that the Defendants cease infringing upon the Plaintiff's patented poultry feeding machine. ♦