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SPECIAL 301 REPORT: DESPITE IMPROVEMENTS, THAILAND REMAINS ON THE PRIORITY WATCH LIST

On April 30, 2010, the Office of the United States Trade Representative (USTR) published its 2010 Special 301 Report examining the application and effectiveness of intellectual property rights (IPR) enforcement by countries around the world. The USTR bases its opinion on submissions received from different groups, including lobbies such as the Pharmaceutical Researchers and Manufacturers of America and the International Intellectual Property Alliance, as well as NGOs like Doctors without Borders.

China and Russia remain at the top of the list of the countries not respecting IPR among the 12 countries listed on the Priority Watch List (PWL). Thailand, for the fourth year in a row, has been maintained on the PWL. The USTR has highlighted its concerns regarding the increase of manufacturing and distribution of illegal optical discs and the significant amount of Internet, cable, and signal piracy. In the Report's estimation, the lack of communication

among the various stakeholders (public health entities, NGOs, pharmaceutical companies, etc.) leads to discrepancies between governmental policies and the objective of the patent system, which is to promote investment and innovation.

However, the Report clearly recognizes that the Thai government has made strides in this area since 2009 by enhancing its IPR regime in a number of ways. Among the improvements noted is the country's accession to the Patent Cooperation Treaty (PCT) effective on December 24, 2009. The PCT should permit the expediting of patent registrations and its full effect should become clearer sometime between 2011 and 2012. The government is also reviewing the Trademark, Patent, Copyright, and Computer Crime Acts in order to further protect and enforce IPR. Points to be discussed are the possible liability of landlords in case of infringement, the illegality of recording movies in a cinema, and the authority of Thai Customs to take ex officio actions. The government has also put in place awareness and enforcement efforts since last year's Report. A notable example is the posters visible at Thai airports indicating fines for transporting counterfeit goods into France or Italy.

The Thai government seemed surprised to be maintained on the PWL. During the year ahead, the USTR will conduct an out-of-cycle review for Thailand, consisting of observation of actions taken by the government. During the course of the review, we should expect increased IPR enforcement actions from the government.

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Once all of the Thai government's IPR enforcement efforts are taken into account during this review, perhaps Thailand's status on the PWL will be reevaluated. 