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Government Policy Update: MoC Calls a Meeting on IP

The new government, under the leadership of Prime Minister Yingluck Shinawatra, delivered the Cabinet's policy to the Parliament on August 23, 2011, including its objectives on policies concerning intellectual property protection.

The government announced its intention to promote free and fair competition to prevent monopolies, and also stated that it would seek to promote and develop organizational roles in relation to consumer protection for both the government and private sectors and to amend and improve laws and measures to ensure fair dealing for consumers.

Furthermore, the government, under Section 3.3.4 of the new policy relating to Marketing, Trade, and Investment, stressed that the focus would be placed on bolstering confidence in entrepreneurs to assure them that intellectual property rights would be protected. Measures to prevent IP infringements of goods and Thai products in other countries would also be implemented.

On October 5, 2011, the Office of the Permanent Secretary, Ministry of Commerce (MoC), invited the Department

of Intellectual Property (DIP), IP owners, and their representatives to attend a meeting to discuss a framework to improve IP issues. The meeting was chaired by Mr. Siriwat Kajornprasart, the Deputy Minister of Commerce.

The DIP, on behalf of the MoC, shared information on the pending consideration of the revision of IP-related laws with the attendees. Undoubtedly, the most prominent legislative development proposed by the DIP was the revision of the Copyright Act. This revision would include provisions covering technology prevention measures, information management rights, and limitation of liability for Internet service providers. The draft bill has already been reviewed and passed by the Council of State and will subsequently be presented to the Cabinet for consideration.

The DIP also hopes that a provision that would impose liabilities on shopping mall operators could also be included in the proposed revision to the Trademark Act and the Copyright Act. This plan had previously been rejected by the former government.

The DIP initially proposed the draft to the Secretariat of the Cabinet in March 2010. The previous Prime Minister assigned the DIP to discuss this issue closely with the Office of the Attorney General and the Thailand Trade Representative. In June 2010, all related authorities

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issued an opinion that such a provision should not be enacted because an alternative legal measure—the provision relating to Principals and Supporters under the Penal Code—should be applied.

The DIP is attempting to establish a practical framework with the police, public prosecutors, and IP owners, to enforce landlord liability under the Penal Code.

In summary, the private sector was informed that the new government's IP policy will remain largely unchanged from the previous government. ⚖️