

THAILAND

Michelle Ray-Jones & Chanya Veawab
Tilleke & Gibbins

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Introduction

With a history of silk production and a start-to-finish supply chain, Thailand plays an important part in the global fashion industry.

Thailand has been working hard to ensure that the intellectual property (IP) rights of participants in the fashion industry are protected. Thailand's Trademark Act was amended most recently in 2016 with increased protection for non-traditional trademarks, among other modernizations. In 2017, Thailand joined the Madrid Protocol. In 2022, the Copyright Act was amended and modernized, and the Patent Act is expected to be amended in the near future. All of these changes demonstrate that the Thai government is dedicated to ensuring that IP owners have confidence in doing business in Thailand.

1. What are the main intellectual property rights available to protect fashion products?

1.1 Summary of IPRs

See the table on page 254 for a summary of IPR protection tools available to protect fashion products in Thailand.

1.2 Trademarks and non-traditional trademarks

The Trademark Act B.E. 2534 (1991), as amended in 2016, provides protection for various types of trademarks. Registration lasts 10 years from the application date.

When it comes to traditional trademarks, word and device marks are generally registrable if they meet Thailand's strict distinctiveness standards, with some important caveats.

Personal name and surname marks, which are common in the fashion industry, may be refused by Thai Trademark Registrars unless presented in a stylized form. While a 2023 Supreme Court ruling reversed the decisions of the Trademark Registrar and Intellectual Property & International Trade Court (IP & IT Court) and granted protection of a trademark consisting solely of a personal name and surname presented in non-stylized form, it is yet to be seen whether the Trademark Registrars and IP & IT Court will change their practice to follow this ruling.

In addition, the full name of a legal entity cannot be registered under current practice, nor can many geographical names. Further, if a trademark contains the representation of the applicant or another person, it is necessary to provide proof of the consent of the person or their descendants.

Trademarks that are filed in black and white (or grayscale) are conferred with broad protection. Under the Trademark Act, trademarks registered without a color limitation are deemed to be registered in all colors.

The rights of unregistered trademarks may be protected in limited circumstances. Under the Trademark Act, an owner of an unregistered trademark can initiate legal action against a third party that passes off its goods as those of the trademark owner. Trademarks not registered in Thailand but registered elsewhere may be protected under the Penal Code, and it may be possible to formulate a civil passing-off/unfair competition claim under the Civil and Commercial Code.

Certain non-traditional marks can also be protected under Thai law.

Color marks. While single-color marks are not registrable in Thailand, a group of colors is eligible for registration as a trademark so long as the mark is represented in a stylized form.

Sound marks. A sound is eligible for registration in Thailand if it is not directly descriptive of the characteristics of the goods/services, is not a natural sound associated with the goods/services and is not a sound produced by the operation of the goods/services.

Three-dimensional marks. 3-D marks are eligible for registration in Thailand if the mark is not the natural form of the applied goods/services, not necessary to obtain a technical result of the applied goods/services, and does not give value to the applied goods/services.

Given the intricacies of Thai trademark practice, it is strongly recommended that brand owners consult counsel before filing an application.

Aside from trademark protection, a product may obtain “Made in Thailand” certification from the Federation of Thai Industries. To qualify, a product must be made by a factory or business registered in Thailand, and the product must consist of at least 40% Thai raw materials. “Made in Thailand” certification can be beneficial, as government agencies must allocate at least 60% of their procurement budget to products produced in Thailand.

1.3 Design as an alternative or addition to TM registration

The Patent Act B.E. 2522 (1979), as amended in 1992 and 1999,

Summary of IPRs			
IPR	Duration	Time and modalities for grant	Pros and cons in the fashion sector
Trademarks	10 years (renewable without any limits).	Filing an application with the Department of Intellectual Property. Granted in about 2 years from the filing of the application, unless the application is filed under one of Thailand’s two fast-track trademark examination programs.	Pro: unlimited protection period, if renewed. Cons: registration and maintenance costs, requires legal expertise and the governmental authority can be inconsistent.
Design	10 years.	Filing an application with the Department of Intellectual Property. Granted in about 2.5 – 3 years from the filing of the application.	Pro: protects new designs for industry, including handicrafts. Con: limited duration of protection.
Trade secrets	Unlimited, unless disclosed.	No application requirement. Under the Trade Secret Act B.E. 2545 (2002), certain information can be protected as a trade secret if: <ul style="list-style-type: none"> • it is not publicly known; • it is economically valuable because of its secrecy; and • the controller took appropriate measures to maintain secrecy. 	Pro: no registration requirement. Con: owner must take precautions to keep the information secret.
Domain names	1 year (renewable without any limits).	To register a Thai country code top level domain (ccTLD) such as .th or .co.th, an application must be filed with the Thailand Network Information Center (THNIC). Domains are granted on a first-come, first-served basis. The process of registration typically takes 2 – 3 days.	Pro: key building block for online brand presence. Cons: registration of ccTLDs in Thailand can be challenging due to the strict requirements of THNIC and ccTLDs cannot be transferred under THNIC’s current rules.
Invention Patents	20 years (non-renewable).	Filing an application with the Department of Intellectual Property. Grant in about 3 – 5 years from the filing of the application.	Pro: long exclusivity period. Cons: public disclosure of invention is required, it is costly and there is a long wait between filing and registration.
Petty Patents	6 years (renewable for two 2-year periods).	Filing an application with the Department of Intellectual Property. Grant in about 1 – 2 years from the filing of the application.	Pros: can protect functional elements of a product and is easier and quicker to register than invention patents. Con: short period of protection.

Continued on the following page.

states that a patent may be granted “for a new design for industry, including handicraft”. In Thailand, design patents are granted based on the aesthetics of an article, so long as it meets the novelty requirement. This includes features such as the design’s shape, configuration, or pattern. Design patents may be granted for both three-dimensional designs and designs with a two-dimensional element. Applications for design patents require the claims, a description of the product design (in some cases), and a three-dimensional drawing of the product design patent. Black and white pictures or technical drawings that show the front, back, left, right, top, bottom, and perspective views of the product design are required.

If the product design is shown in a specific color in the application, protection will be granted for the design in that color only. However, if the product design is shown in black and white, protection will be granted for all colors.

Currently, multiple design applications are not available. Thus, if an IP owner would like to protect designs that are distinct or have different appearances, separate applications must be filed for each design in order to obtain the broadest range of protection. In addition, it is currently not possible to obtain protection for a partial design.

Protection is granted for ten years and is not renewable. It currently takes approximately two and a half to three years to obtain a design patent in Thailand. This makes it difficult to protect many fashion designs, due to their short lifespan.

1.4 Copyright as an alternative or addition to TM registration

The Thai Copyright Act B.E. 2537 (1994), as amended, provides protection for artistic works, including but not limited to drawings, sculptures, lithographs, and works of applied arts. Articles of fashion often fall into this last category, which consists of works formed by taking one or the combination of the types of artistic works for any other use apart from an appreciation in the value of the work. Prints on clothes can also be protected as artistic works.

Whether a particular article of fashion is entitled to copyright protection under Thai law is an inherently fact-specific determination. Therefore, in many cases, IP owners should rely on other forms of protection for fashion goods.

Summary of IPRs (continued)

IPR	Duration	Time and modalities for grant	Pros and cons in the fashion sector
Copyrights	Artistic work, created by an individual: life of the author and for 50 years after the author’s death. Artistic work, created by a juristic person: 50 years from the authorship or from the first publication. Work of applied arts: 25 years after the creation or from the first publication.	Automatic grant of protection for the created work. However, recordation helpful for court actions.	Pro: no recordation requirement. Con: protection is not unlimited.
Geographical indications	Unlimited, unless revoked.	Filing an application with the Department of Intellectual Property. Grant in about 2 - 3 years from the filing of the application.	Pro: particularly suitable to protection of types of textiles. Con: a registered GI cannot be registered as a trademark, as per the Trademark Act.

There is no requirement to register works for them to be eligible for copyright protection in Thailand. However, recording a work and relevant information with the Department of Intellectual Property (DIP) can provide convincing supporting evidence in court actions.

Thai copyright protection for most types of artistic works runs throughout the life of the author and for 50 years after the author’s death. If the author is a juristic person, copyright subsists for 50 years from the authorship. If the work is published during that period, the copyright continues to subsist for 50 years from the first publication.

However, copyright protection for a work of *applied art* lasts for 25 years after the creation of the work, and if the work is published during that period, the copyright continues to subsist for 25 years from the first publication.

The following documents are needed to file an application for copyright registration in Thailand:

- application form;
- notarized Power of Attorney;
- Letter of Proof of Copyright Ownership (in Thai) signed by the copyright owner;
- Certificate of Company Registration certified by the Commercial Registry, to be submitted no more than six months from the issuance date;
- certified copy of the national ID card/passport of the authorized director(s) of the company; and
- original or copy of the copyrighted work.

It takes approximately three to five months from filing an application until a Certificate of Copyright Recordation is issued.

1.5 Any other pertinent IP rights

The Geographical Indications Protection Act B.E. 2546 (2003) provides a mechanism for registration of a product as a geographical indication (GI) through the DIP.

Many textile and fashion accessories are registered as geographical indications in Thailand. These include Nong Sung's fermented mud cloth, which is silk or cotton that has been dyed through a natural process and fermented in mud by the Phu Tai Muang Nong Sung people (see www.ipthailand.go.th/images/gibook/GI_Book_111.pdf (page 178)) and Yokkamlabrinan, a bag made of vines by the Mlabri people in Thailand's Nan Province (see www.ipthailand.go.th/images/gibook/GI_Book_111.pdf (page 44)).

To obtain registration, the GI must meet the following criteria:

- It must not be a generic name for the products that are to use the GI.
- It must not be contrary to public order, good morals, or public policy.
- If the GI originates from a foreign country, there must be explicit evidence that the GI is protected under the laws of that country and that it has been used continuously until the date of filing the GI application in Thailand.

Applications for GI registration must include the following information:

- The applicant's details.
- The name, symbol, or anything used to refer to or represent the geographical location.
- The list of products used with the GI.
- Details of the quality, reputation, characteristics, or special features of the products using the GI.
- Information demonstrating the relationship between the goods and the geographical indication.
- Details of the location of the geographical origin being registered.
- Details of the use of the GI on product labels.

A registered GI in Thailand has an unlimited protection period, unless revoked.

The Trademark Act stipulates that a GI protected under the Geographical Indications Protection Act is not registrable as a trademark.

2. Beyond intellectual property: what contractual arrangements are useful in manufacturing, distributing and advertising fashion products?

2.1 Manufacturing fashion products

License agreements

A license agreement should be entered into any time an IP owner contracts with a third party to manufacture fashion goods in Thailand. IP owners should take note that license agreements cannot extend beyond the duration of the registered intellectual property rights. Further, license agreements for registered patents, designs and trademarks must be registered with the Thai DIP. An unregistered license agreement is considered to be invalid and unenforceable, and failure to record a trademark license renders a licensee's use inadmissible when defending a cancellation action for non-use.

Non-disclosure Agreements (NDAs)

NDAs are also vital to doing business in Thailand. IP owners should make sure that the language is clear and that the signing party understands the implications and reasons behind the need for an NDA. A bilingual English/Thai NDA can provide added certainty.

Subcontract agreements with suppliers/in-house manufacturing

Apparel retailers often utilize sub-contractors as part of their production cycle. Such agreements include a license for any IP the subcontractor may use or create. Absent such a license agreement, a general acknowledgement of the relevant IP and its validity and ownership would be useful. The requirement that all licenses for registered Thai patents and trademarks be registered with the Thai DIP applies to sublicense agreements as well as license agreements.

2.2 Distributing fashion products

Agency agreement

Agency agreements are governed by Thailand's Civil and Commercial Code (CCC). Such an agreement is defined by the CCC as "a contract whereby a person, called the agent, has authority to act for another person, called the principal, and agrees so to act". The principal is bound to third persons by the acts which the agent has done within the scope of their authority.

Businesses, particularly those without a Thai registered company, must be aware that commercial agreements with Thai parties can be subject to the provisions of the Unfair Contract Terms Act B.E. 2540 (1997). This is particularly significant when the agreement is a standard form contract. In addition, foreign businesses must determine whether or not their contractual arrangements with Thai business partners constitute a permanent establishment from a tax law perspective.

Agency agreements should clearly delineate the IP of the principal which the agent has a license to use, and any license for registered Thai patents, designs, and trademarks must be registered with the Thai DIP. The agreement should also specify that the principal will own any IP created by the agent during the completion of their duties under the agreement.

Selective distribution online in high-end fashion and trademark protection

A selective distribution system is one in which a supplier sells products to appointed distributors and the distributors undertake not to sell the products to unauthorized distributors. Such systems may be utilized by luxury brands to maintain the reputation of a brand and meet customer expectations.

Thailand's Trade Competition Act B.E. 2560 (2017) (TCA) came into force in October 2017 and enforcement of the TCA has been increasing. The TCA has also been active in promulgating notices and regulations.

The TCA does not explicitly address selective distribution systems, but it does preclude business operators from various types of conduct, such as unfairly fixing or maintaining the level of the purchasing or selling price of a product, unfairly utilizing superior market power or superior bargaining power, and unfairly setting trading conditions that restrict or prevent the business operation of others.

Co-branding and co-marketing

Co-branding, or the use of the trademarks of two different entities on a single product, is a popular way for fashion brands to appeal to a wider audience. Among many examples, Coca-Cola and the fashion designers Orla Kiely and Karl Lagerfeld have collaborated with the Thai fashion retailer Jaspal, and IKEA teamed up with the Thai clothing brand Greyhound Original on a line of furniture and home accessories.

Before entering a co-branding relationship in Thailand, the parties should become knowledgeable of their counterpart's Thai trademark portfolio, given the potential for counterfeit goods to appear on the market. Again, all licenses for registered trademarks must be recorded with the Thai DIP to be valid and enforceable. In addition, a determination on ownership or inurement of the resultant goodwill of the co-brand should be considered. This is usually by way of a "to each his own" clause.

Franchising and alternative sales model agreements

Franchising is a popular business model in Thailand, and while the country currently has no legislation specifically governing franchising, franchisors must comply with the Notification Regarding the Guidelines for the Consideration of Unfair Trade Practices in Franchise Businesses, which became effective on 4 February, 2020, and was issued by the Office of the Trade Competition Commission (which is empowered under the Trade Competition Act). The Notification obligates franchisors to disclose important information relating to the franchise and to notify and offer the right of first refusal to the nearest franchisee, among other obligations.

In addition to the requirement that license agreements for registered patents, designs and trademarks be registered with the DIP under Thai IP laws, some of the other laws that may affect franchise arrangements include the Civil and Commercial Code, the Unfair Contract Terms Act, the Trade Competition Act, the Act Relating to the Price of Merchandise and Services, the Revenue Code, the Direct Sales and Direct Marketing Act, and the Product Liability Act.

2.3 Advertising fashion products

Employing fashion models

When working with fashion models and social media influencers in Thailand, agreements should be entered into which reflect the nature of the relationship. Thai language is not required, but a bilingual agreement can help ensure that the fashion model or influencer understands their obligations and rights.

A fashion model should also be required to sign a model release form allowing use of the model's likeness for the intended purposes. Collection, use, and disclosure of photographs that enable personal identification, as well as any other personal data, must comply with the requirements of the Personal Data Protection Act B.E. 2562 (2019).

Social media, influencers and brand ambassadors/celebrities

YouTube, Facebook, Instagram, TikTok, and other platforms are popular in Thailand, and major Thai influencers have thousands, even millions of followers

(see www.starngage.com/app/global/influencer/ranking/thailand). Fashion retailers take advantage of this climate by partnering with influencers to boost brand awareness.

Typically, agreements with influencers set out the expectations (platform, number of posts, tags, time period, etc.), metrics by which compliance will be judged, payment terms, and other legal obligations. Such contracts also often have a "morality clause" which prohibits the influencer from acting in a manner that goes against public morals or decency. Given the strict defamation laws in Thailand, Thai influencer agreements may include a clause prohibiting the influencer from making defamatory remarks or actions.

Advertising standards, relevant authorities and advertising practice

The Consumer Protection Board of Thailand is a statutory office under the Consumer Protection Act B.E. 2522 (1979) (CPA) which is responsible for handling consumer complaints in relation to advertising practices. It can instigate legal proceedings against wrongdoers when consumer rights are infringed. The Board is also responsible for conducting investigations of advertising messages and media advertisements to ensure compliance with the CPA. Advertisements may not contain statements which are unfair to consumers or may cause adverse effects to the society as a whole. These include

- false or exaggerative statements; and
- statements causing fundamental misunderstandings as to the goods or services.

Thus, fashion retailers must refrain from creating advertisements which may be perceived as misleading or exaggerated by consumers, particularly in regard to the quality or origin of their goods.

Online fashion vendors must comply with the Computer-Related Crime Act 2017 (No. 2) and its subordinate regulations when sending advertisements through SMS text messages or emails, as such activity could be regarded as a spam e-message offense.

Lastly, if personal data is collected from consumers for online advertising purposes, such as online behavioral advertising, vendors must comply with the Personal Data Protection Act B.E. 2562 (2019) and obtain prior consent from the consumers.

3. What regulations govern online marketing and how are the rules enforced?

Laws regulating e-commerce in Thailand include:

- Civil and Commercial Code, which states basic principles for entering into transactions.
- Electronic Transactions Act B.E. 2562 (2020), stating requirements for transactions and contracts on digital platforms.
- Direct Sales and Direct Marketing Act B.E. 2560 (2017), providing that if the online trading of goods can be completed through an online channel, the operator is considered a direct marketing operator and must register with the Office of the Consumer Protection Board.
- Foreign Business Act B.E. 2542 (1999), limiting the ability of foreigners to conduct certain businesses and transactions, including via e-commerce, without a foreign business license.

- Business Registration Act B.E. 2499 (1956), detailing the requirements for business registration.
 - Revenue Code, establishing the taxes that are charged on e-commerce sales.
- There is also the Franchising Business Act, which is still in draft form.

3.1 Consumer protection regulations

The Thai consumer protection laws and regulations relevant to the fashion industry are:

- Civil and Commercial Code, stating the rights and obligations of the parties.
- Consumer Protection Act B.E. 2522 (1979), covering a wide range of protections for consumers in Thailand.
- Unfair Contract Terms Act B.E. 2540 (1997), prohibiting pre-formulated contracts made by professionals which have terms unfair to consumers.
- Trade Competition Act B.E. 2560 (2018), which restricts unfair trade practices, abuse of dominant positions, and market dumping.
- Notification Regarding the Guidelines for the Consideration of Unfair Trade Practices in Franchise Businesses, setting forth obligations of franchisors to franchisees.
- Personal Data Protection Act B.E. 2562 (2019), stating general requirements for collecting, using, and disclosing customers' personal data.

3.2 Physical store and online store layout

The Copyright Act provides protection for certain aspects of store layouts.

Under the Act, a work of architecture is defined as “a design of a building or a fixed structure, an interior or exterior design of a building or a fixed structure, as well as a design of an area of a building or a fixed structure, or a creation of a model of a building or a fixed structure”. As the layout of a physical store can be deemed an interior design of a building or a fixed structure, it is eligible for copyright protection as an architectural work. The layout of an online store, however, is not likely to be entitled to the same protection.

4. What are the most relevant unfair competition rules for fashion businesses and how do the courts interpret and enforce these rules?

Certain acts of unfair competition are prohibited under Thai laws.

Under the Trademark Act, owners of an unregistered trademark can initiate legal action against anyone that passes off goods to customers as being those of the trademark owner.

The Patent Act prescribes that in licensing others to use their patent, the patent owner cannot impose upon the licensee any condition, restriction or royalty term which is unjustifiably anti-competitive. Otherwise, it will be deemed invalid.

Similarly, the Copyright Act sets forth that in licensing a copyrighted work, the copyright owner is not entitled to impose any condition that unfairly restricts competition. Otherwise, it will also be deemed invalid.

Under the Trade Secrets Act B.E. 2545 (2002), as amended in 2015, disclosure, deprivation, or usage of such information without the owner's consent in a manner contrary to fair commercial practice (such as breach of contract, infringement

or inducement to infringe confidentiality, bribery, coercion, fraud, theft, etc.) constitutes infringement of trade secret rights, provided that the infringer knows or has reason to know that their action is contrary to fair commercial practice. In such a case of infringement, the controller of the trade secret is entitled to civil remedies, which include injunctions and damages. Disclosure of another person's trade secret to the public in a manner that causes the trade secret to cease to be a secret, with malicious intent to cause damage to the business of the controller of the trade secret is a criminal offence.

In several trade secret cases, the Supreme Court has not ruled in the plaintiffs' favor because it has found that their trade secrets were not eligible for protection. Therefore, IP owners should take proactive steps to ensure that their trade secrets are adequately secured.

In addition to the above IP laws, Thailand also has trade competition legislation. The Trade Competition Act (TCA) prohibits business operators from causing damage to other business operators by engaging in any of the following actions:

- restricting business operation of other business operators unfairly;
- using superior market power or bargaining power unfairly;
- setting trade conditions which restrict or impede the business operation of other operators unfairly; or
- other actions of the descriptions prescribed by the Commission.

5. Is there any regulation specifically addressing sustainability or ESG (Environmental, Social and Governance) in the fashion industry?

The environmental, social, and governance (ESG) movement has been gaining momentum in Thailand. Several laws and regulations touch on ESG issues.

Environmental concerns. Thailand has a complex web of laws and regulations protecting the natural environment. The key legislation for environmental protection is the Enhancement and Conservation of National Environmental Quality Act (No. 2) B.E. 2561 (2018), which has severe civil and criminal penalties for companies and their directors found to have violated the law. One major rule for industrial and property developers is the requirement to conduct an environmental impact assessment (EIA) for most new developments. Various government bodies have also incorporated environmental protection into their policies. Any company considering action that might affect the environment should seek outside advice on the relevant regulations, prohibitions, or incentives.

Labour issues. Thailand's labour laws (e.g., the Labour Protection Act 1998 and the Occupational Safety, Health and Environment Act 2011) are very strict, with the aim of guaranteeing fair wages and safe and healthy working conditions. The relevant laws and regulations require employers to prevent any inequality, harassment, human rights violations, discrimination, and other unfair treatment against employees in the workplace. The Department of Labour Protection and Welfare under the Ministry of Labour also oversees the rights and benefits of both employers and employees. Moreover, Thailand's overall labour policy is designed to protect workers. This policy extends from the Ministry of Labour

to the Labour Courts. Thailand's Labour Relations Act 2000 allows employees in the fashion industry to form representative groups – including employee committees, labour unions, labour federations, and employee organization councils – to negotiate for more favorable working conditions or other benefits and to discuss workplace issues, such as wages, schedules, training, health and safety, and treatment.

Corporate governance. Corporate governance is regulated (depending on the type of company) by the Thai Civil and Commercial Code, the Public Limited Companies Act B.E. 2535 (1992), and, for listed companies, the Securities and Exchange Act B.E. 2535 (1992) and notifications of the Stock Exchange of Thailand and the Securities and Exchange Commission. These regulations encourage transparent working environments and company rules and procedures that protect the rights of shareholders.

Sustainability. There are no Thai regulations specifically addressing sustainability in the fashion industry. However, certifications and labels may be obtained by manufacturers. In addition to common international certifications, there is the Thai Green Label, which may be given to products that have comparatively minimal detrimental impact on the environment.

ISO certification. No ISO certifications are mandatory in Thailand, but incentives encourage some businesses to obtain ISO certification. For example, some ISO-certified factories may be eligible for a waiver of the annual factory license fee.

Frequently Asked Questions (FAQs)

When filing a new trademark application in Thailand for a mark that will cover more than one class, should a multiple-class application be filed, or should separate single-class applications be filed?

Separate single-class applications are the best approach in some circumstances.

A multiple-class application may be administratively more efficient, because it will be allotted one application number, registration number, and registration date, which will lead to less administrative work when maintaining the trademark. Similarly, if the trademark owner needs to change its name or address, or assign the application/registration to another party, only one filing will be necessary, rather than separate filings for each class.

However, there are also significant drawbacks to filing a multiple-class application in Thailand. Under the current practice, the Trademark Registrar does not indicate any specific classes when they issue a refusal or impose a limitation, such as a disclaimer. Therefore, in the case of a refusal where the trademark owner needs to file an appeal, the trademark owner will need to appeal the refusal of all the classes. If a disclaimer is imposed, it would similarly apply to all classes. Finally, divisional applications are not available under the current system.

Are there any ways to speed up the trademark registration process in Thailand?

Trademark owners have two options if a trademark registration is needed quickly.

Six-month fast track. To take advantage of the fast-track option in which a Thai trademark application will be examined within six months of its filing date, the following criteria must be met:

- The trademark must be a letter, word, device, or combination thereof, and cannot be a combination of colors, a three-dimensional mark, sound mark, certification mark or collective mark.

- The application can contain a maximum of 50 items of goods or services.
- Each item of goods/services must be listed in the Thai DIP's approved list of goods and services (available at <https://tmsearch.ipthailand.go.th>).
- No amendment, recordal of assignment or inheritance, or request to prove acquired distinctiveness through use may be made upon or after filing.

Four-month fast track. To take advantage of the fast-track option in which a Thai trademark application will be examined within four months of its filing date, the following criteria must be met:

- The trademark must be a letter, word, device, or combination thereof, and cannot be a combination of colors, a three-dimensional mark, sound mark, certification mark or collective mark.
- The application may cover only one class.
- The application can contain a maximum of ten items of goods or services.
- Each item of goods/services must be listed in the Thai DIP's approved list of goods and services (available at <https://tmsearch.ipthailand.go.th>).
- No amendment, recordal of assignment or inheritance, or request to prove acquired distinctiveness through use may be made upon or after filing.
- The applicant must submit proof of the necessity for urgent use of the mark, e.g. a marketing plan.
- The applicant must submit a search result conducted from certain trademark databases e.g., the DIP's online database, TMView, or the WIPO Global Brand Database.

- The application, together with all required documents, must be submitted simultaneously online.
- A Power of Attorney must be submitted with the application, i.e., there is no grace period for submission of the Power of Attorney.

We believe counterfeit goods that infringe our IP rights may be available in Thailand but we are not sure. What steps should we take?

Generally, an IP owner in this situation should consider taking the following steps:

- Arrange for an onsite investigation of the appropriate venue(s) (markets, malls, etc.) to search for infringing goods. At least one sample of the infringing goods should be purchased to verify that it is counterfeit and to serve as evidence in a legal action.
- Arrange for an online investigation including searches of popular online platforms used by the Thai public for buying and selling goods. At least one sample of the infringing goods should be purchased to attempt to obtain information about the seller, to verify that it is counterfeit, and to serve as evidence in a legal action.
- Search the relevant IP databases in Thailand to see whether any applications for IP rights have been filed by the infringer.
- Audit the IP owner's Thai IP protection to ascertain whether it is sufficient or whether additional applications should be filed to provide adequate protection in Thailand.

Once these steps are performed, the IP owner should be in a position to determine the appropriate next action.

6. Customs monitoring: do any special import and export rules apply to fashion products?

Thailand's Customs Department has implemented a recordation system for tackling counterfeit goods, replacing the system which was operated by the DIP. The Notification of Customs Re: The Export, Import, and Transit of Trademark and Copyright Infringing Goods B.E. 2565 (2022) and the Notification of Customs No. 106/2656 allow brand owners to collaborate directly with the Customs Department to safeguard their trademarks and copyrights in cross-border trade involving counterfeit goods.

To facilitate these changes, the Thai Customs IPR Recordation System (TCIRs) was launched in September 2022. Trademark and copyright owners, or their representatives, can use TCIRs to submit new customs recordation applications and update or modify information. The TCIRs platform enables right owners to submit details on the authentic goods and inspection methods.

Any records made under the previous recordation system are now considered invalid.

Once an application for customs recordal is accepted, customs officers are able to impound suspicious goods and notify the exporter, importer, or transit person. If the goods are impounded and no opposition to the impoundment is made within three days from the date of receiving notification thereof, the impounded goods will be deemed infringing goods, after which the officer will prepare an inspection and seizure memorandum and forward the case to the litigation unit. However, if the impoundment is objected to within three days, the officer will inform the rights holder, who may pursue the case by filing a confirmation letter and a petition to prosecute within three days of the notification; otherwise, the impounded goods will be released. The rights holder may request an extension of up to ten days, which may also require a bond against any related damages.

AUTHOR BIOGRAPHIES



Michelle Ray-Jones

Michelle Ray-Jones is a partner in Tilleke & Gibbins' regional IP practice and director of the firm's Vietnam offices. As an expert in international IP protection, commercialization, and enforcement, Michelle advises companies in the fashion, consumer products, hospitality, and entertainment industries. Michelle is an active member of the International Trademark Association and a frequent speaker on intellectual property rights in Thailand and Southeast Asia.



Chanya Veawab

Chanya Veawab is an associate in Tilleke & Gibbins' intellectual property and regulatory affairs department in Bangkok, where she works with domestic and international clients to ensure they receive maximum protection for their trademarks under Thai law. As an active contributor to Tilleke & Gibbins' regional regulatory affairs team, Chanya advises clients regarding cosmetics, marketing and advertising regulations, pharmaceuticals, medical devices, food, and other matters.