

DRAFT FOR DISCUSSION

COMPILATION OF MANUALS, GUIDELINES,
AND DIRECTORIES IN THE AREA OF INTELLECTUAL
PROPERTY (IP) PORTFOLIO MANAGEMENT

CUSTOMIZED FOR THE ASSOCIATION
OF SOUTHEAST ASIAN NATIONS (ASEAN)
MEMBER COUNTRIES

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PREFACE

In November 2004, the ASEAN Member Countries requested WIPO's assistance in compiling customized manuals, guidelines and directories in the areas of IP asset audit, valuation, business planning, and securitization of patents, trademarks and designs. It was an important exercise for ASEAN, which has been proactive in promoting IP creation and awareness, and the commercialization of its IP assets.

As the ten members of ASEAN are at varying levels of development, it was proposed to customize the manuals for each ASEAN Member. The Manuals included for this reason "tailor made" recommendations specific to each of the ASEAN country.

A regional consultant, as well as a local consultant from each of the ten countries was identified and engaged for this exercise.

The regional consultant was Mr. Lee Yuke Chin, Senior Principal Consultant, Research & Technology Division, Standard and Industrial Research Institute of Malaysia (SIRIM). The ten local consultants, who were recommended by the ASEAN Secretariat, in consultation with the ten IP Offices of the ASEAN, were as follows:

1. Ms. Chu Wee Ken, Brunei
2. Mr. Ngeth Vibol, Cambodia
3. Mr. Arry Ardanta Sigit, Indonesia
4. Mr. Chanthara Sayamoungkhoun, Lao PDR
5. Mr. Manisekaran Amasi, Malaysia
6. Dr. Moe Moe Thwe, Myanmar
7. Ms. Emma C. Francisco, Philippines
8. Mr. Gunalan s/o Veloo Vartharajan, Singapore
9. Mr. Weerawit Weeraworawit, Thailand
10. Dr. Le Xuan Thao, Vietnam

The implementation phase of the project started with a mission undertaken by Mr. Bajoe Wibowo, Program Officer, Intellectual Property and Economic Development Division (IPEDD), WIPO, to the ASEAN Secretariat in Jakarta in February 2005. The project outline was discussed with the regional consultant and the ASEAN Secretariat. Thereafter, the regional consultant liaised with the local consultants to determine the subjects and guided them through the process of national compilation. The regional consultant prepared the study on the basis of the material provided by the national consultants.

An ASEAN Regional Seminar was organized in Jogjakarta, Indonesia, in November 2005 to discuss the outcome of the study with all stakeholders involved.

It is expected that this compilation will serve as a guide for the use of IP in a corporate business strategy in the ASEAN countries. In addition, the compilation could be used as a marketing tool for reinforcing the brand image of ASEAN countries as being modern, innovative and entrepreneurial.

MISSION REPORT PREPARED
BY MR. LEE YUKE CHIN, REGIONAL CONSULTANT

PURPOSE OF THE MISSION

1. The mission concerns a study on the compilation of manuals, guidelines and directories in the area of intellectual property (IP) portfolio management customized for ASEAN member countries, namely Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam. The mission also has the objective of preparing two success stories for each member country concerning the utilization of IP assets by local business enterprises.
2. Mr. Lee Yuke Chin is the Regional Consultant for the mission. He will be working closely with ten national consultants from the ASEAN member countries.

TERMS OF REFERENCE

3. Annex I shows the terms of reference for the mission. Under these terms, the Regional Consultant is required to attend a meeting and have discussions with officials from the ASEAN Secretariat and WIPO to finalize the methodology for conducting the study. He will work closely with the ten National Consultants and guide them during the study. A list of the National Consultants is shown in Annex II.

SCHEDULE OF THE MISSION

4. *Note**: Re-scheduling of the mission date as mentioned on the cover page of this mission report. The mission was originally scheduled from February 16, 2005 to June 16, 2005. However, due to the delay in engaging National Consultants, the start date of the mission was held back until early July 2005.
5. The project coordination meeting as mentioned in Paragraph 3 between the Regional Consultant and officials of WIPO and the ASEAN Secretariat was held on February 16, 2005 in Jakarta to finalize the following methodology for conducting the study.

THE METHODOLOGY OF THE STUDY

6. In connection with the kind of manuals, guidelines and directories to be collected under the study, it was agreed between WIPO, the ASEAN Secretariat and the Regional Consultant that the mission would not attempt to define the type or types of publications to be collected by the National Consultants. On the contrary, the National Consultants would be given a free hand to collect any publication that they deem relevant. The ultimate objective of the mission should be to collect as much information as possible about IP-related publications available in the ASEAN region.
7. As a requirement under the terms of reference, the manuals, guidelines, directories and any other publications thus collected would be listed and categorized into the following six (6) areas identified under the terms of reference;
 - (a) how to commercialize inventions;

- (b) how to profit from original industrial designs;
 - (c) contribution of trademarks to business development;
 - (d) contribution of copyright;
 - (e) valuation and assessment of IP rights in business enterprises;
 - (f) access to capital based on IP assets – financial schemes (loans, grants) by government and institutions and with private capital.
8. It was envisaged that a substantial number of publications would be collected and possibly printed in the individual national languages of member countries. Therefore, the National Consultants should provide at least an abstract in English for each publication collected by them.
9. The meeting also took note that WIPO and the ASEAN Secretariat may publish in part or in full all the information collected by the mission at a later stage, including the list of manuals, guidelines and directories. Therefore, the National Consultants should keep a record of the details of each publication such that the data so collected could easily be converted into some kind of publishable form later on either in hard copy or electronically, whichever is applicable.
10. The meeting also decided that each National Consultant should provide a country report concerning the implementation status for each of the items mentioned in Paragraph 7 above. The country report should mention the administration of government policies as well as the implementation of relevant programs in the country. Such information would be useful for others who wish to use the information about the manuals, guidelines and directories of a particular country, to have a better understanding of the actual environment in that country.
11. The project coordination meeting also recommended that the success stories to be prepared for the mission should be published. The publication of these success stories would help spur further interest in the utilization of IP assets in the public and private sectors of the ASEAN community. As such, National Consultants would be guided in presenting their stories in a specific format which would require minimum editorial work before publication.
12. As the National Consultants would prepare the success stories in a qualitative manner or in text form, it would be quite impossible for the Regional Consultant to extract any information and data from the text in order to make an analysis. Therefore, the above coordination meeting agreed that a survey concerning IP and innovation management be conducted on the companies identified so as to gather information on how they have successfully managed IP and related issues within their organizations. A sample of such mission-related survey questionnaire is given in Annex III.
13. The proposed survey has the benefit of retrieving information and data from the companies identified in terms of organizational set-up, IP management strategies and innovation practices within their organizations.

REPORTS FOR THE MISSION

PART IA: LISTING OF MANUALS, GUIDELINES AND DIRECTORIES BY COUNTRY

14. The National Consultants were guided and given standard formats to record information relating to the various types of manuals, guidelines and directories published in the six defined areas under items (a) to (f) as mentioned above. As explained earlier, the mission took a very general approach in compiling the list of manuals, guidelines and directories or any publications which the National Consultants deemed relevant. They were not expected to collect any hard copies of the publications concerned but were to record the following information;
 - The English title of the publication
 - An Abstract in less than 50 words
 - The Year of publication
 - The Agency responsible
 - Addresses and contact numbers
15. The above data about the publications should be sufficient to develop a database on the recorded documents whenever necessary. With such data, end users of the database should be able to get access to manuals, guidelines and directories of another country irrespective of whether the documents concerned are published in English or in the original national language. It is envisaged that in this way, the information that has been collected would be readily shared between ASEAN member countries.
16. A listing by country of manuals, guidelines and directories as collected by the National Consultants in the six designated areas is shown in Part IA of this mission report. It can be seen that there are various and varied kinds of publications, essentially due to the different requirements and conditions in each ASEAN member country.

PART IB: GENERAL OVERVIEWS OF ITEMS (A) TO (F) BY COUNTRY

17. The mission closely collaborated with the National Consultants in preparing the country reports for items (a) to (f). As mentioned earlier, the country report is a summary on the implementation status for each area. The report includes the overall national administration for the issue concerned such as government policies, promotional programs, status of achievements and so on. The main objective for having such country reports is to gather basic information about the status of development of these areas in one country so that end users of manuals, guidelines and directories of another country would know more about the business environment in the country featured.
18. A compilation of the ten country reports on items (a) to (f) is included in Part IB of this mission report in accordance with the alphabetical order of the ASEAN member countries.

PART IIA: OVERVIEW OF ASEAN COMPANIES

19. As mentioned earlier, a mission-related survey was conducted on the companies identified by the National Consultants for preparation of the success stories. The main objective of the survey was to gather information and data from the said companies in relation to IP management, innovation practices and so on within their organizations. The survey aimed to collect the following information;
- Company ownership structure, e.g. sole proprietor or partnership
 - The type of IPR involved, e.g. patent, trademark, design
 - Any foreign IPR applications or registrations
 - Availability of financial grants, loans etc.
 - How important IPR is to business success
 - Any incentive system to reward creative employees
20. The companies concerned gave full cooperation for the above-mentioned survey. The information and data thus collected were analyzed and compiled under various headings as shown in Part IIB: Overview of ASEAN Companies, of this mission report. However, it must be pointed out that due to the small sample size and other constraints, the survey results could hardly be extrapolated to the general trend of ASEAN industries but could only be used to make simple interpretations regarding profiles of the companies identified.

PART IIB: SUCCESS STORIES OF ASEAN COMPANIES

21. With the view that the final report on the success stories would be published, the National Consultants were provided with standard guidelines and formats with which to submit their reports. They were encouraged to provide photographs and other illustrations of products, trademarks etc. of the businesses concerned to make the stories more interesting. As agreed, the National Consultants were given the possibility to select their companies.
22. The general guidelines for preparing the success stories were as follows;
- Section A: General information - Country; Company Name; Contact addresses including e-mail and home pages
 - Section B: Description of Success Story -
 - * Title
 - * Type of IP concerned

- * Background including historical conceptualization of the relevant technology, product and business
 - * Development and use of IP in business strategy with elaboration on the technology etc. used and its development, and how the IP concerned is being applied in a business strategy
 - * Impact on productivity including how IP has contributed towards market dominance, company image, sales, quality, productivity and profits.
23. The success stories were edited slightly without changing their original contents to ensure consistency in presentation upon publication. A compilation of the 20 success stories by country is included in Part IIA of the mission report.

RECOMMENDATIONS

24. The mission has managed to collect a substantive amount of information concerning IP-related manuals, guidelines and directories in the ASEAN region. Essentially, these publications reflect the knowledge possessed by member countries in developing their own IP systems. In the spirit of ASEAN, it is recommended that this knowledge should be shared between member countries as a first step towards promoting intra-regional learning in IP management and utilization. By gaining access to the said publications, one country can learn from another, and if necessary customize the information according to its own requirements and needs.
25. With regard to information-sharing, the first step shall be to place this collection of publications into the hands of potential users. It is recommended that the information be disseminated by any of the following methods. As the information has already been codified into six areas via items (a) to (f), it should be fairly inexpensive to store the data into some kind of database and then post it on the websites of the WIPO or ASEAN Secretariats or even by a stand-alone system e.g. CD-Rom. Alternatively, the information can also be distributed in hard copy, either through a tailor-made publication or by one of the existing media of the ASEAN Secretariat.
26. The ownership of the said databases shall be the next issue to examine. Technically, it is possible to maintain these databases from anywhere within the region or even outside. But, it appears that some kind of consensus is required for individual countries to maintain and update their own information or data on regular basis. If member countries can cooperate on such a project and build on it, then the information-sharing process will continue and should lead to more knowledge-sharing even in other sectors.
27. As an immediate follow-up to the present project, WIPO may consider making the list of manuals, guidelines and directories available to participants in the forthcoming ASEAN Seminar on the Strategic Use of IP for Development in Jogjakarta scheduled for November 16 to 18, 2005. One should take advantage of the presence of the business and industrial sectors in this seminar to deliberate further on issues concerning information-sharing and cooperation programs between member countries in the six designated areas.

28. The success stories prepared for the twenty companies by the present mission represent the experiences and achievements of ASEAN industrial enterprises in using IP assets. Such success stories should obviously be promoted and publicized to gain political mileage. They should therefore be published.
29. With regard to the publication of the success stories, it is recommended that it be done either in hard copy or electronically and then posted on a relevant website. Both methods of publication have pros and cons. In term of cost, the electronic version would cost much less if the infrastructure is already available. On the other hand, the hard copy version is likely to cost more, but it may be able to achieve a better promotional effect due to the tangible form of its publication.

TERMS OF REFERENCE

for

Mr. Lee Yuke Chin

Mission Dates: from February 16, 2005 to June 16, 2005

Manuals, Guidelines and Directories in the Area of Intellectual Property (IP) Portfolio
Management for

[Brunei Darussalam/Cambodia/Indonesia/Laos/Malaysia/

Myanmar/Philippines/Singapore/Thailand/Vietnam]

Under the Guidance of the Association of Southeast Asian Nations (ASEAN) Secretariat and the World Intellectual Property Organization (WIPO), in particular the Office of Strategic Use of Intellectual Property for Development (OSUIPD), the Regional Consultant shall undertake a study, with the assistance of the National Consultants in the ten ASEAN countries, on the Compilation of Manuals, Guidelines and Directories in the Area of IP Portfolio Management Customized for ASEAN Member Countries which will address in particular the following issues:

- (a) how to commercialize inventions;
- (b) how to profit from original industrial designs;
- (c) contribution of trademarks to business development;
- (d) contribution of copyright;
- (e) valuation and assessment of IP rights in business enterprises;
- (f) access to capital based on IP assets - financial schemes (loans, grants) by government institutions and with private capital.

Further, the Consultant shall:

- (a) attend a one-day briefing session with the focal person from the ASEAN Secretariat and an official from WIPO to review the methodology and discuss the action plan of the above study;
- (b) liaise with the ten National Consultants as to the choice of subjects and guide them in their preparation;

- (c) prepare a draft of the study on the basis of the material provided by the National Consultants. See the attached terms of reference for the ten National Consultants;
- (d) provide WIPO with a brief monthly progress report;
- (e) submit the draft study to WIPO, within two months of receiving the local studies, for consideration and comments;
- (f) submit a final report of the study incorporating comments received at the conclusion of the study; and
- (g) undertake any other task as may be required by WIPO for the effective implementation and completion of the study.

LIST OF NATIONAL CONSULTANTS

11. Ms. Chu Wee Ken
Brunei
12. Mr. Ngeth Vibol
Cambodia
13. Mr. Arry Ardanta Sigit
Indonesia
14. Mr. Chanthara Sayamoungkhoun
Lao PDR
15. Mr. Manisekaran Amasi
Malaysia
16. Dr. Moe Moe Thwe
Myanmar
17. Ms. Emma C. Francisco
Philippines
18. Mr. Gunalan s/o Veloo Vartharajan
Singapore
9. Mr. Weerawit Weeraworawit
Thailand
10. Dr. Le Xuan Thao
Vietnam

TERMS OF REFERENCE
for

National Consultants

Manuals, Guidelines and Directories in the Area of Intellectual Property (IP)
Portfolio Management for
[Brunei Darussalam/Cambodia/Indonesia/Laos/Malaysia/
Myanmar/Philippines/Singapore/Thailand/Vietnam]

Under the Guidance of the Association of Southeast Asian Nations (ASEAN) Secretariat and the World Intellectual Property Organization (WIPO), in particular the Office of Strategic Use of Intellectual Property for Development (OSUIPD), and in collaboration with the focal persons from the respective Intellectual Property (IP) office, the Chambers of Commerce and the Regional Consultant, the Consultant shall assist the Regional Consultant in undertaking a study on the Compilation of Manuals, Guidelines and Directories in the Area of IP Portfolio Management which will address in particular the following issues:

- (a) how to commercialize inventions;
- (b) how to profit from original industrial designs;
- (c) contribution of trademarks to business development;
- (d) contribution of copyright;
- (e) valuation and assessment of IP rights in business enterprises;
- (f) access to capital based on IP assets-financial schemes (loans, grants) by government institutions and private capital.

Further, the Consultant shall:

- (a) prepare up to two IP success stories in his/her country (around 10 pages per success story), in one of the fields as indicated in the above points (a) to (e):
 - (i) For this purpose, the Consultant shall:
 - identify/select companies;
 - carry out physical interviews with the selected companies;
 - collect and analyze data.

- (ii) The success story should:
 - describe the background (historical conceptualization) of the success story/stories;
 - define the type of IP protection sought (industrial property related subject or copyright);
 - elaborate on the development (explain the technology used) and use of IP in the business strategy; and
 - demonstrate the impact on productivity from the use of IP;
- (b) liaise with the Regional Consultant as to the choice of the subjects in preparing the above success story/stories;
- (c) provide a draft of the success story/stories (national study) to the Regional Consultant with a copy to WIPO, within two months of signing the contract with WIPO; and
- (d) undertake any other task as may be required by WIPO for the effective implementation and completion of the study.

MISSION RELATED SURVEY QUESTIONNAIRES

WIPO SURVEY ON INTELLECTUAL PROPERTY AND INNOVATION MANAGEMENT

Survey Questionnaire

Name of Respondent : _____

Company Address : _____

Designation : _____

Tel. No. : _____

Fax No. : _____

Email : _____

1. Main activity of Company :

2. Company ownership structure

- Sole proprietorship
- Partnership

- Local partner(s) _____ %
- Foreign partner(s) _____ %

3. First sales of product / process

- Year of Sale : _____
- Local market
- Export market

4. No. of Employees

- Year 2005 : _____
- Year 2004 : _____
- Year 2003 : _____

5. Type of IPR registered

- Patent
- Trademark
- Design
- Copyright
- Others : _____

6. COUNTRIES OF IPR REGISTRATION

- Local
 - Year of application : _____
 - Year of grant : _____
- Foreign
 - Year of application : _____
 - Year of grant : _____

- Please list countries :

7. Modes of commercialization for product / process

- Own manufacturing
- Licensing from others
- Joint venture
- Others : _____

8. Please rate the importance level of IP in enhancing business competitiveness

1. Very important; 2. Important; 3. Not important; 4. Not relevant

	1	2	3	4
• Owning a patent or other IPR makes it easier to attract a financier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Improved products and new designs rate higher than price competition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• IPR has the function to exclude potential competitors as well as preventing imitation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Company can capitalize on investment by selling or licensing IPR to others	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Strategic patenting can prevent company from prosecutions for patent infringement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Patent, new design and technology enhance corporate image of Company	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9. How do you manage IP matters in your Company?

- Designated IP department or personnel

- Engage external service
- Face difficulty in getting advice on IP matters

10. Have your company staff received training on IP?

- Yes
- No

11. Main source of funding commercialization

- Personal investment
- Commercial bank loans
- Venture capital
- Others : _____

12. Any Government support / incentives / grants received?

Yes No

- Grants for commercialization of R&D
- Grants for developing prototype or pilot plant
- Tax exemption
- Grant for patent application

13. Who are your R&D partners, if any

Yes No

- Universities or higher-education institutions
- Government research institutes
- Private consultants
- Collaboration with other companies

14. Do you utilize patent information in your technical R&D?

- Yes
- No
- Not relevant

If Yes, how do you rate patent information

- High
- Medium
- Low

15. Do you consider the following as obstacles in obtaining IPR

Yes No

- Costs of patent application etc. are too high
- Length of application procedures is too long

16. Any incentive system in your company to motivate and reward creative employees

- Yes
- No

If yes, please indicate how

- Cash rewards
- Job promotion
- Special awards / recognition

Others : _____

OVERVIEW OF ASEAN COMPANIES INTERVIEWED IN THE STUDY

1. INTRODUCTION

In recent years, ASEAN has achieved significant levels of economic and industrial development. One of the reasons for such achievement is due to the modernization of the intellectual property system in the region. Today, ASEAN enterprises are not only well-organized in looking after their intellectual property assets, but many have in fact integrated intellectual property rights (IPR) into the daily operation of their business with commercial success.

In the above connection, WIPO and the ASEAN Secretariat have jointly implemented a study to compile success stories of business enterprises in the region pertaining to intellectual property portfolio management. With the support of national intellectual property offices, the study has managed to identify 20 companies as successful case studies, with two from each member country.

In the process of preparing the success stories for these companies, the study has taken into consideration the following areas;

- Background for the historical conceptualization of the business
- Types of IPR concerned such as patents, trademarks, designs and copyright
- Development and use of IP assets as a business strategy
- Impact of IP on productivity and overall performance of the company

2. LIST OF COMPANIES IDENTIFIED

The following are ASEAN companies that have been identified as successful case studies:

Name of Company	Address/Contact	Main Activity	Type of IPR
<u>Brunei</u>			
1. Heatwave Shoes Pte Ltd	<p>Tan Nguan Khoon Director</p> <p>29, Ground Floor The Mall, Gadong Bandar Seri Begawan Brunei Darussalam</p> <p>Tel: 673 2786689, 65-67329429 Fax: 673 2786278, 65-67349839 Email: sales@heatwvshoes.com</p>	Retailing, wholesale, export of ladies fashion shoes	Trademark
2. DataStream Technology Group Sdn Bhd	<p>Radin Sufri bin Radin Basiuni Head Group Regulatory Policy & Legal</p> <p>Tungku Link Road BE 3619 Brunei Darussalam</p> <p>Tel: 673 2410888 Fax: 673 2411371 Email: radin@simpur.net.bn</p>	Mobile service provider, pay TV, pay phone, internet service provider etc.	Trademark

<u>Cambodia</u>			
1. LyLy Food Industry Co., Ltd.	<p>Keo Mom Director</p> <p>168A, 555 Signboard Str. Sanfkat Toek Thiar Khan Russey Keo Phnom Penh Cambodia</p> <p>Tel: 855-23 995-388, 855-16 835-388 Fax: 855-23 995-388 Email: keo_mom@hellogsm.com.kh</p>	Production of rice cracker snacks	Trademark
2. Hagar Soya Co., Ltd.	<p>Heng Rithyuth Sales & Marketing Manager</p> <p>Str. 271, Lot 13 1B Sangat Boung Salang Khan Tuoi Kork Phnom Penh Cambodia</p> <p>Tel: 855-23 995-063, 855-12 902-283 Fax: 855-23 213-375 Email: rithyuth@hagarsoya.com</p>	Production of food and beverages (soya milk)	Trademark

<p><u>Indonesia</u></p> <p>1. Indonesian Planter's Association for R&D, Department of Agriculture</p>	<p>Didiek Hadjar Goenadi Technical Consultant</p> <p>Bogor Baru BVI/18A Bogor 16152 West Java, Indonesia</p> <p>Tel: 62-251-321813 Fax: 62-251-357354 Email: dgoenadi@indo.net.id</p>	<p>Manufacturing and marketing of biofertilizer products</p>	<p>Patent Trademark</p>
<p>2. PT. Instrument Metal Electro Indonesia (IMEI Co, Ltd.)</p>	<p>Tohari Chairman</p> <p>Gedung BPPT I Lantai Dasar Jl MH. Thamrin 8 Jakarta, Indonesia Tel: 62-21-7314934 Fax: 62-21-7314934</p>	<p>Production of apparatus for gas and oil stations</p>	<p>Patent Trademark</p>
<p><u>Laos</u></p> <p>1. Vientiane Steel Industry Co., Ltd. Group</p>	<p>Souksavanh Soukdala Deputy Director General</p> <p>087/12B, Salakham Km 11, Thadeua Rd. Hat Xai Fong District Vientiane, LAO PDR</p> <p>Tel: 856-21 812 166 Fax: 856-21 812-098 Email: vstco@laotel.com, www.vsi-group.com</p>	<p>Manufacturing of deformed and round bars; forming steel for roofing and roofing tiles</p>	<p>Trademark</p>

<p>2. Lao Brewery Company, Ltd.</p>	<p>Bounkanh Kounlabouth Marketing Director</p> <p>Salakham, Km 12 Thadeua Rd. Hat Xai Fong District Vientiane, LAO PDR</p> <p>Tel: 856-21 812 000 Fax: 856-21 812 049 Email: koulabouth@beer-lao.com, www.beer-lao.com</p>	<p>Production and distribution of beer and drinking water</p>	<p>Trademark</p>
<p><u>Malaysia</u></p> <p>1. Petronas Berhad</p>	<p>Aizan Azrina Rosli Manager</p> <p>Level 68, Tower 1 Petronas Twin Tower 50088 Kuala Lumpur Malaysia</p> <p>Tel: 60-3-20511644 Fax: 60-3-20511583 Email: aizanr@petronas.com.my</p>	<p>A petroleum corporation from upstream exploration and production of oil and gas to downstream oil refining; petrochemical manufacturing; automotive engineering; shipping etc.</p>	<p>Trademark Patent Design</p>
<p>2. Universal Music Sdn Bhd</p>	<p>Sandy Monteiro</p> <p>G01, Ground Floor Wisma Academy 4A, Jalan 19/1 46300 Petaling Jaya Selangor, Malaysia</p> <p>Tel: 60-3-79587433 Fax: 60-3-79546198 Email: --</p>	<p>Import, reproduction and distribution of music products – CDs, VCDs, DVDs, video, cassettes</p>	<p>Copyright</p>

<p><u>Myanmar</u></p> <p>1. Fame Pharmaceutical</p>	<p>Khin Maung Lwin Managing Director</p> <p>No. 20, Industrial Zone 3 Hlaing Tharyar City of Industry, Yangon, Myanmar</p> <p>Tel: 95-1-682199 Fax: 95-1-680122 Email: drkml@franespirulina.com.mm</p>	<p>Manufacturing of natural (herbal) medicinal products</p>	<p>Trademark</p>
<p>2. Nibban Electric and Electronics</p>	<p>Aung Thein General Manager</p> <p>No. 8, Yan Naing Swe Lane (2) Tarketa Industrial Zone Yangon, Myanmar</p> <p>Tel: 95-1-547471 Fax: 95-1-547370 Email: nibban@mptmail.net.mm</p>	<p>Manufacturing of transmission antenna, inverters, voltage regulators, battery characters and protect regulators, local and overseas markers</p>	<p>Trademark</p>

<u>Philippines</u>			
1. Natures Legacy Eximport, Inc.	<p>Pedro and Catherine Delantar Directors</p> <p>Upper Cogon Compostela Cebu 6003, Philippines</p> <p>Tel: 6332-425-8399 Fax: 6332-425-8815 Email: info@natureslegacy.com</p>	<p>Manufacturing and exporting of furnishings, home accessories, architectural components etc made from cast stones, natures cast</p>	<p>Patent Trademark Design Copyright</p>
2. Splash Corporation	<p>Rolando Hortaleza Rosalinda Ang Hortaleza Directors</p> <p>HBC Corporate Center 548, Mindanao Corner Quirino Avenues Novaliches, Philippines</p> <p>Tel: 632-984-5555 Fax: 632-453-1754 Email: gddelrosario@splashcorp.com</p>	<p>Manufacturer, distributor and exporter of personal care and nutraceutical products based on own R&D</p>	<p>Patent Trademark Design Copyright</p>

<p><u>Singapore</u></p> <p>1. Merlin MD</p>	<p>Howard Califano CEO</p> <p>29 Woodlands Industrial Park #04-13/14, Northtech (Lobby 3) Singapore 757716</p> <p>Tel: 65-68920020 Fax: 65-68920080 Email: howard@eastern-gate.com</p>	<p>Development of products to treat and prevent strokes</p>	<p>Patent Trademark Copyright</p>
<p>2. Ya Kun International Pte Ltd</p>	<p>Adrin Loi Executive Chairman</p> <p>100 Cecil Street 11th Floor, The Global Singapore 069532</p> <p>Tel: 65-62224567 Fax: 65-62229711 Email: adrin@yakun.com</p>	<p>Manufacture of food and beverage products, kaya spread</p>	<p>Trademark Copyright</p>
<p><u>Thailand</u></p> <p>1. The Siam Pulp and Paper Public Company Limited</p>	<p>Chaovalit Ekabut Executive Vice President</p> <p>1, Siam Cement Road, Bangsue Bangkok 10800 Thailand</p> <p>Tel: 662-5865983-4 Fax: 662-5865593 Email: chaovale@cementthai.co.th</p>	<p>Manufacturing of bagasse pulp, the main raw material for paper manufacture</p>	<p>Patent Trademark Design</p>

<p>2. Beauty Gems Group Beauty Gems Center</p>	<p>Sunee Srriorathaikul President</p> <p>31, Saladaeng Road, Silom Bangkok 10500 Thailand</p> <p>Tel: 662-2337630-4 Fax: 662-2366784 Email: surasit@beautygems.co.th</p>	<p>Manufacture of gems and jewelry mainly in gold, platinum and silver for export to international markets</p>	<p>Trademark Design Copyright</p>
<p><u>Vietnam</u></p> <p>1. Vandien Fused Magnesium Phosphate Fertilizer Company</p>	<p>Bui Quang Lanh General Director</p> <p>Vandien Town Thanhtri District Hanoi, Vietnam</p> <p>Tel: 84-4-6884489 Fax: 84-4-6884277 Email: vafco@vnn.vn</p>	<p>Production and trading in all kinds of fertilizers</p>	<p>Patent Trademark Copyright</p>
<p>2. Kymdan-Saigon Rubber Joint-Stock Company</p>	<p>Nguyen Huu Tri President</p> <p>28 Binh Thoi 14 Percinct 11 District Ho Chi Minh City, Vietnam</p> <p>Tel: 84-8-8657158 Fax: 84-8-8657419 Email: --</p>	<p>Production and trading in all kinds of foam cushions, pillows and chairs from natural rubber</p>	<p>Patent Trademark Design Copyright</p>

3. COMPANY PROFILES

During the study project, invaluable information and data have been gathered from the companies identified. Such information and data are accordingly compiled and analyzed under the following headings;

3.1 Type of Ownership

Seven of the 20 companies identified (or 35%) are sole-proprietorship companies. The remaining 13 are partnerships, of which nine (or around 70%) are fully owned by local partners with the rest involving partnership with foreign investors. It is interesting to note that nine of the 20 companies (or 45%) started operation within the last 10 years.

Figure 1: Ownership Structure of Company

Ownership Structure	No. of Company
Sole Proprietorship	7
Partnerships	
• All Local Partners	9
• Involving Foreign Partner(s)	4

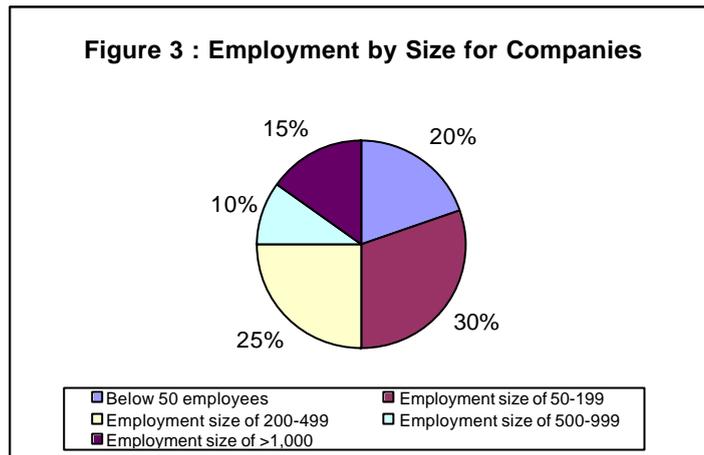
3.2 Sales of Products

Seven of the 20 companies identified (or 35%) commenced product sales after the year 2000. Ten companies (or 50%) are selling their products in the local market only. Nine companies (or 45%) are distributing their products in both local and export markets while the remaining company is interested only in the export market. Within the group involved in export trade, four companies (or about 45%) started exporting after 2000.



3.3 Companies by Employment Size

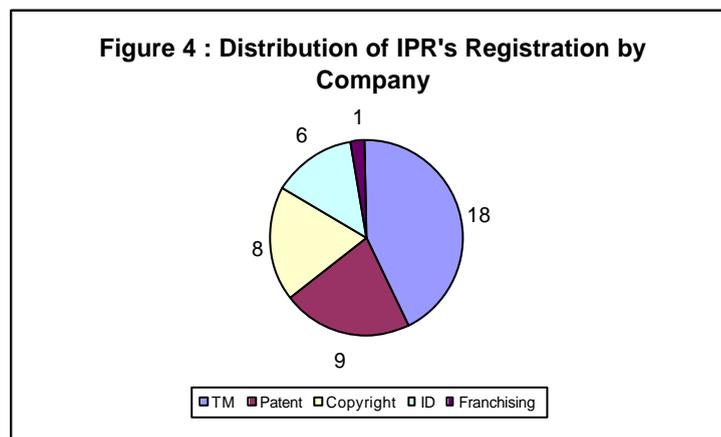
In terms of employment size, four companies (or 20%) have fewer than 50 employees, six companies (or 30%) 50 – 199 employees, 5 companies (or 25%) 200 – 499 employees, two companies (or 10%) 500 – 999 employees and three companies (or 15%) more than 1000 employees. On average, these companies showed an annual increase in employment rates of 15.2% in 2004 and 13.4% in 2005.

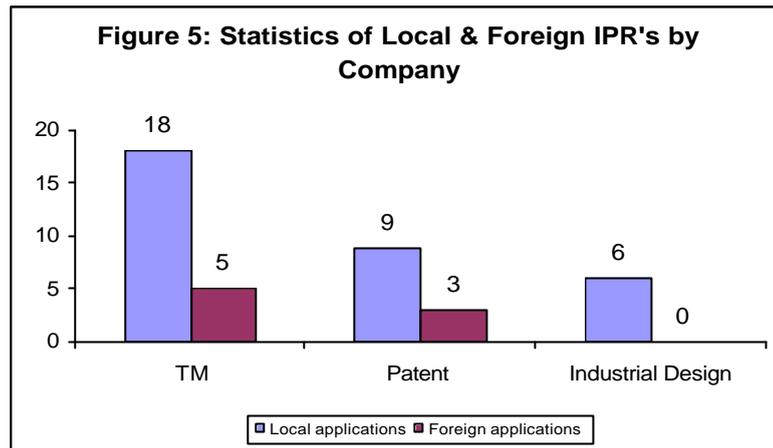


3.4 Type of IPR and Registration

All the companies reported that they have some kind of IPR protection for their products, processes or intellectual property assets. Trademark registration is by far the most popular choice of IPR with 18 companies (or 90%), followed by patents with nine companies (or 45%), copyright with eight companies (or 40%), industrial design with six companies (30%) and franchising with one company (or 5%).

On the other hand, eight companies (or 40%) have filed IPR including trademarks and patents in foreign countries, with ASEAN countries being the most popular choice for registration. Within this group, five companies have registered their marks abroad and three have filed for patent protection in foreign countries including one PCT application.





3.5 Importance of IP to Business

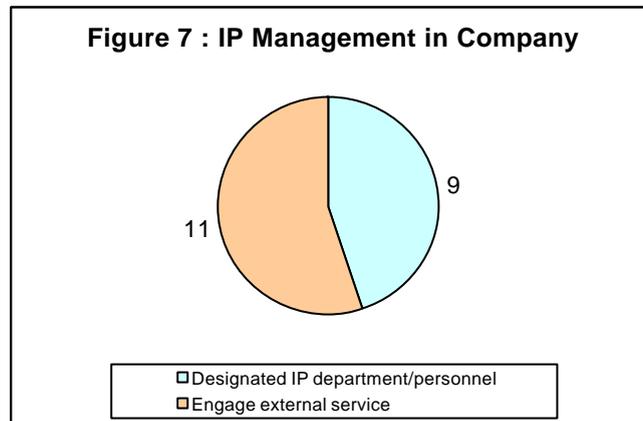
As shown below, almost all the companies considered IPR as either very important or important in enhancing the business performance of a company. The assumption that IPR has the function to exclude potential competitors as well as preventing imitation received the highest number of responses, followed by reasons that patents, new designs and technology can help enhance the corporate image of a company and that improved products and new designs were rated higher than price competition.

Figure 6: Table showing the Rating of IPR

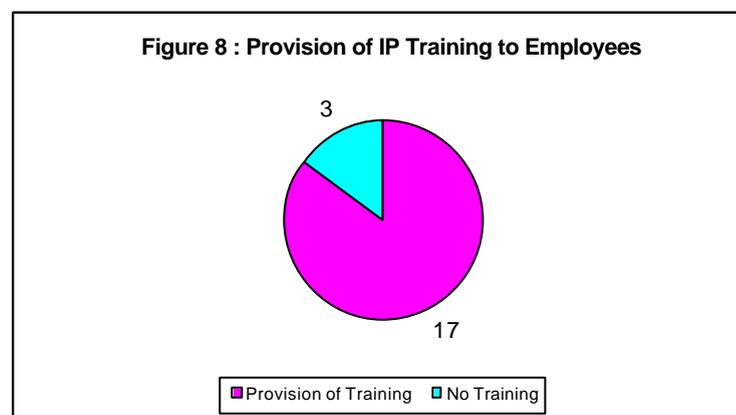
	Very Important	Important	Not Important	Not Relevant
a. Owing a patent or other IPR makes it easier to attract an investor	9	8	1	2
b. Improved products and new designs rate higher than price competition	11	9		
c. IPR has the function to exclude potential competitors as well as preventing imitation	12	7		1
d. Company can capitalize on investment by selling or licensing IPR to others	8	9	3	
e. Strategic patenting can prevent company from prosecution for patent infringement	9	8		3
f. Patents, new designs and technology enhance corporate image of company	12	6		2

3.6 IP Management in Company

About half of the companies, 11 out of 20 (or 55%) engage external services to manage their intellectual property matters. Nine companies (or 45%) have internal IP departments or designated personnel to look after IP issues. However, three companies (or 15%) reported that they had faced difficulties in getting competent IP services in their countries.

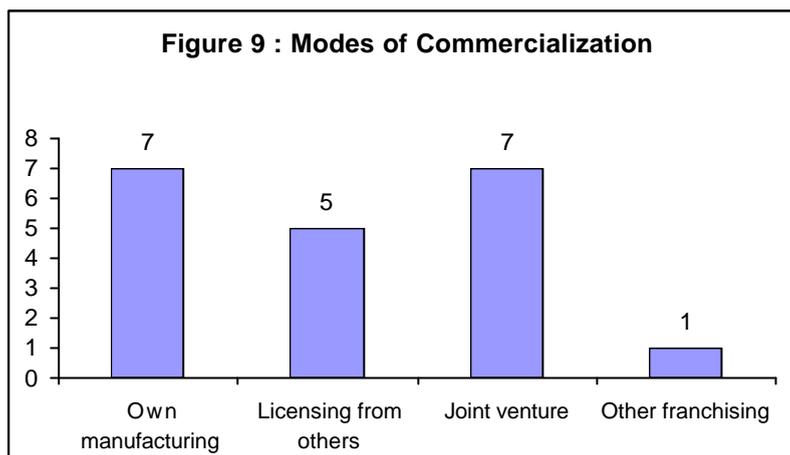


In the above connection, 17 companies (or 85%) provide IP training programs for their staff. Three companies (or 15%) do not have any training program, but one of them is considering it.



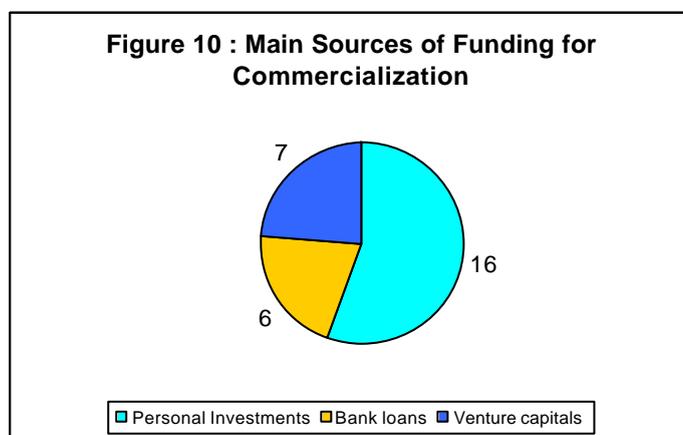
3.7 Mode of Commercialization

As shown below, seven companies (or 35%) are operating their business through manufacturing their own inventions or technology, another seven companies (or 35%) through license agreements with technology providers and one company (or 5%) through franchising. Another five companies have joint venture partnerships either with local or foreign partners.



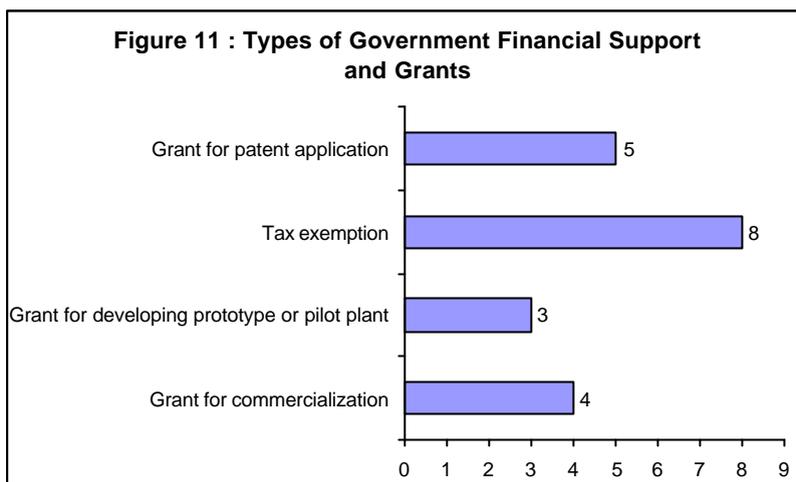
3.8 Sources of funding Commercialization

Almost all the companies operate with a mixture of funds including personal investment, bank loans and venture capital. Sixteen companies (or 80%) reported that their businesses are funded mainly through personal investment and bank loans. Seven companies (or 35%) reported that their businesses involved the participation of venture capital companies. Within this group, venture capital provides major investment funds in five companies (or 25%).



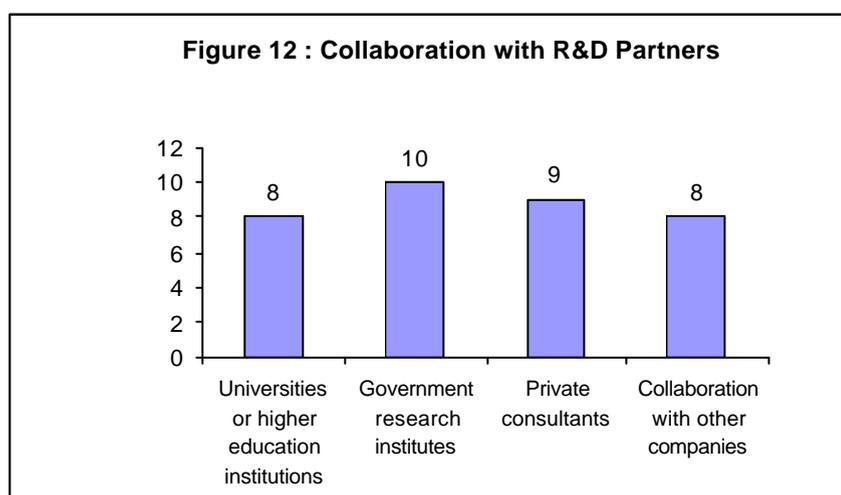
3.9 Government Financial Support

About half of the companies reported that they did not receive any financial support from the Government in terms of tax exemption, grants for commercialization, for developing prototypes or for IPR application. Within the group that receives financial support from the Government, tax exemption is the most common incentive with eight companies (or 40%), followed by A Grant for Patent Application with five companies (or 25%), A Grant for Commercialization with four companies (or 20%) and A Grant for Developing Prototype or Pilot Plant with three companies (or 15%).



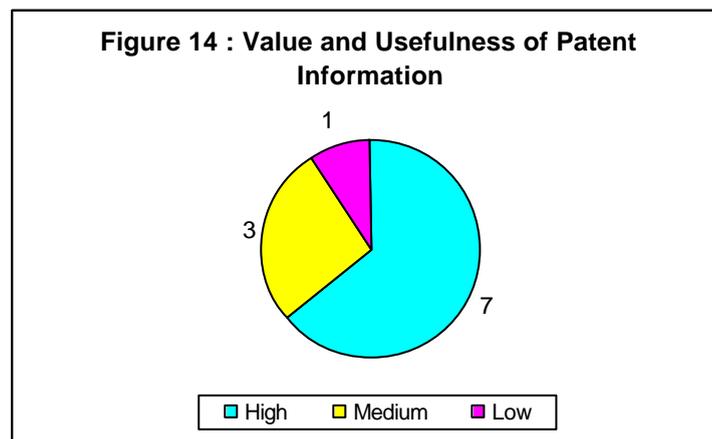
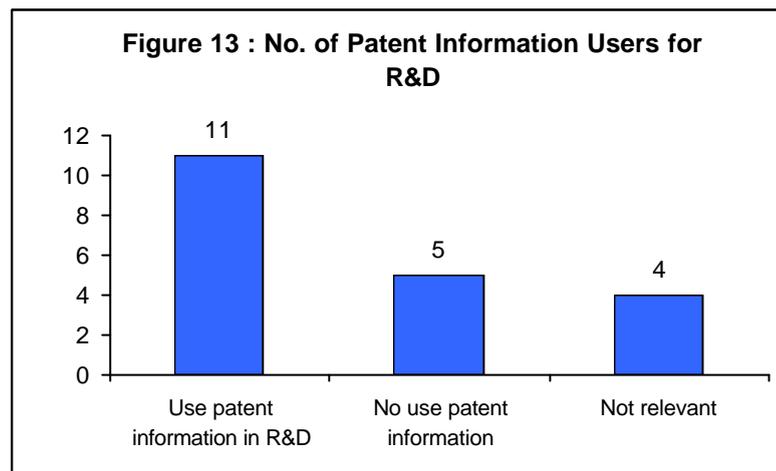
3.10 Research and development partners

The majority of the companies (16 companies or 80%) reported that they were involved in some kind of R&D project with the following partners i.e. universities, research institutes, private consultants and other companies. These choices of R&D partners are quite evenly distributed. Government research institutes are slightly more popular but closely followed by private consultants, universities and collaboration with other companies.



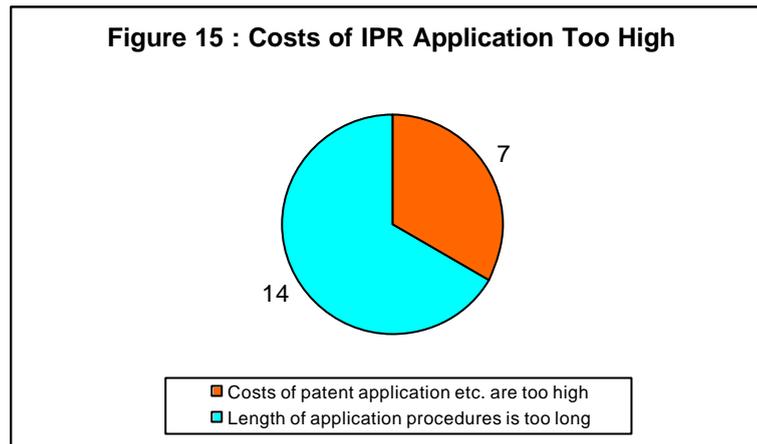
3.11 Use of patent information

More than half of the companies (11 companies or 55%) reported that they have the requisite experience in using patent information for R&D projects. Five companies (or 25%) reported that they have never used patent information while four companies (or 20%) said that patent information is irrelevant to their work. Within the group of companies that uses patent information, seven users (or 64%) consider patent information as highly useful, three users (or 15%) consider its value as average and one user considers its value as low.



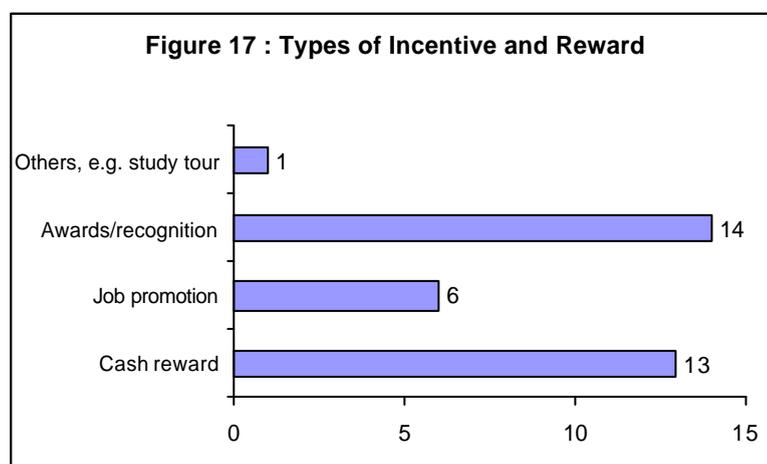
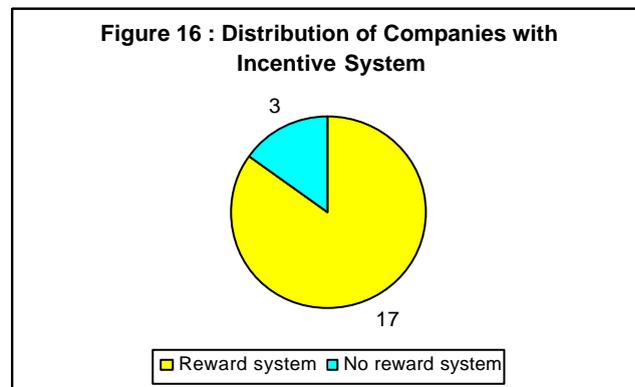
3.12 Obstacles in obtaining IPR

Seven companies (or 35%) are of the opinion that the costs of patent or other IPR applications are too high. Fourteen companies (or 70%) are of the opinion that the long period taken for processing IPR applications is a real obstacle. Within this latter group of companies, seven of them also agree that the costs for application are high.



3.13 Incentives for creative employees

It is interesting to discover that 17 companies (or 85%) have some kind of incentive system in place within their organization to motivate creative employees. Three companies (or 15%) do not have any reward system at the moment but are thinking of implementing one. Within the group of companies that has incentive systems, awards and recognition are the most commonly-used method, followed by cash rewards, job promotion and others.



PART I (A)

Listing of Manuals, Guidelines and Directories
in the Area of
Intellectual Property (IP) Portfolio Management

COUNTRY: BRUNEI DARUSSALAM

No.	English Title + Brief Description of its Contents in less than 50 words	Year of Publication	Agency Responsible and Address	Contacts (Tel/Fax/email)
A. PATENT AND INVENTION RELATED				
1.	<p><i>Inventions Act (Cap 72)</i></p> <p>Contents: - Any person who has obtained a grant of patent in the UK, Malaysia, or Singapore or a person deriving his right from such grantee by assignment transmission or operation of the law may apply within three years from the date of issue of the grant to be re-registered in Brunei Darussalam. Such privileges will remain in force so long as the Grant remains in force in the country it was originally issued.</p>	1925	The Registrar, Attorney General's Chambers, The Law Building, Bandar Seri Begawan BA1910, Brunei Darussalam	<p>Tel: +673 2244872</p> <p>Fax +673 2222720</p> <p>Email: info@agc.gov.bn</p>
B. INDUSTRIAL DESIGN RELATED				
1.	<p><i>Industrial Designs Order and Industrial Designs Rules</i></p> <p>Contents:- An industrial design explaining that that which is new is registerable subject to compliance with the Order. The total period of protection is 15 years. Industrial designs must be registered prior to commencement of infringement proceedings.</p>	1999	The Registrar, Attorney General's Chambers, The Law Building, Bandar Seri Begawan BA1910, Brunei Darussalam	<p>Tel: +673 2244872</p> <p>Fax +673 2222720</p> <p>Email: info@agc.gov.bn</p>

C. TRADEMARK RELATED				
1.	<i>Trade Marks Act (Cap 98) and Trade Marks Rules</i> Contents:- This Act allows registration of marks and services up to Class 42. The presumption of registerability applies. There are provisions for protection of well-known marks even though there is no registration. The infringement provisions are wider. Criminal sanctions are also provided for.	1999	The Registrar, Attorney General's Chambers, The Law Building, Bandar Seri Begawan BA1910, Brunei Darussalam	Tel: +673 2244872 Fax +673 2222720 Email: info@agc.gov.bn
2.	Merchandise Marks Act Contents:- This Act deals with the prosecution of offences for using false trademarks or false property marks, counterfeit trademarks or property marks, making or possession of any items which are used to counterfeit a trademark or property mark, importing or selling goods marked with a counterfeit trademark or property mark, tampering with or defacing a property mark.	1953	The Attorney General, Attorney General's Chambers, The Law Building, Bandar Seri Begawan BA1910, Brunei Darussalam	Tel: +673 2244872 Fax +673 2222720 Email: info@agc.gov.bn
D. COPYRIGHT RELATED				
1.	Copyright Order Contents:- This Order provides for rights of a copyright owner against primary and secondary infringement. There are also provisions for acts permitted in relation to copyright works, moral rights, rights in performances and border enforcement measures. Criminal sanctions are also provided for in the Order.	1999	The Attorney General, Attorney General's Chambers, The Law Building, Bandar Seri Begawan BA1910, Brunei Darussalam	Tel: +673 2244872 Fax +673 2222720 Email: info@agc.gov.bn
2.	Layout Designs Order Contents:- This Order provides for the protection of layout designs of integrated circuits. The Order also provides remedies for infringement.	1999	The Attorney General, Attorney General's Chambers, The Law Building, Bandar Seri Begawan BA1910, Brunei Darussalam	Tel: +673 2244872 Fax +673 2222720 Email: info@agc.gov.bn

E. BUSINESS RELATED				
	N/A			
F. FINANCIAL GRANTS				
	N/A			

PART I (B)

General Overviews of Items (A) – (F)

A. COPYRIGHT

i) Introduction

The Copyright Order of 1999 came into force on May 1, 2000. Prior to this Order, under existing Brunei Case laws, the UK Copyright Act 1911 provided the relevant remedies.

The Order provides that copyright is a property right in the following descriptions of work namely:

- original literary, dramatic, musical or artistic works;
- sound recordings, films, broadcasts or cable programs;
- typographical arrangement of published editions;

Copyright protection is automatic, thus there is no formal procedure for registration in Brunei Darussalam.

ii) Arrangement of Sections

Part I - deals with subsistence, ownership and duration of copyright which cover areas on rights of the copyright owner, acts permitted to copyright works, moral rights, dealing with rights in copyright works, remedies for infringement, copyright licensing, copyright tribunals and qualification for and extent of copyright protection.

Part II - deals with rights in performances.

Part III - deals with general provisions and offences.

iii) Duration for Protection

For literary, artistic, dramatic and musical works: 50 years from the end of the calendar year in which the author died.

For sound recordings and films: 50 years from the year in which they were made or released.

For broadcast and cable programs: 50 years from the end of the year in which they were first broadcast or transmitted.

For typographical arrangement: 25 years from the end of the calendar year in which the edition was published.

iv) Acts of Infringement

An action for infringement is actionable by the copyright owner. The key issue in deciding whether infringement has occurred is whether a restricted act was carried out in relation to the work or a substantial part of the work.

The court will compare the claimant's work with that of the defendant to ascertain whether it is the same or substantially similar.

In an attempt to inhibit the negative impact that illegal acts have upon copyright owners, the law recognizes that it is not enough merely to provide remedies against those who copy or perform but also to provide owners with protection against those who aid and abet the primary infringer.

The two important differences between primary and secondary acts are:

(a) Nature/extent of involvement

Primary infringement concerns those who are directly involved in the reproduction or performance of the copyrighted work. Secondary infringement concerns those who deal with infringing copies, facilitate such copying or facilitate a public performance.

(b) The mental element

The state of mind of the defendant is not formally taken into account when deciding whether an act of primary infringement has occurred. In the case of secondary infringement, the liability is dependent on the defendant knowing or having reason to believe that the activities in question are wrongful.

v) Remedies and Rights

In addition to moral and performers' rights, the remedies available to a copyright owner are as follows:-

(a) Civil remedies

- damages;
- an injunction;
- an account of profits;
- others available for infringement of other proprietary rights;
- delivery up - the court can subsequently order the forfeiture/destruction of the infringing goods;

- border enforcement measures – the Controller of Customs has the right to detain prohibited goods upon request from the copyright owner;

(b) Criminal sanctions

The Order provides criminal sanctions for offences such as:-

- ☛ making or dealing in infringing articles
- ☛ making illicit recordings
- ☛ false representation of authority to give consent

The penalty for such offences is a fine and/or imprisonment not exceeding two years or both depending on the nature of the offence committed.

vi) Exceptions

- (a) Fair dealing – for purposes of research, private study, criticism or review and reporting current events.
- (b) Education - anything done for the purpose of examination, instruction, performance before an audience of teachers and pupils at an educational establishment, libraries and archives.
- (c) Computer programs making back-up – back-up copying is to be done only by an authorized person. An authorized person is a person having a right of use of the program, for example under license. The Copyright Order affords protection in computer programs and preparatory design materials for computer programs as literary works.
- (d) As provided under any written law.
- (e) For the purposes of proceedings of the Legislative Council or of judicial proceedings, a Royal Commission or of a statutory inquiry.

B. INDUSTRIAL DESIGNS

i) Introduction

The Industrial Designs Order of 1999 and Industrial Designs Rules of 2000 came into force on May 1, 2000. The Order provides as follows:

Part I - Interpretation and Application Provision

- Part II** - Registration of Industrial Designs
- Part III** - Rights in Industrial Designs
- Part IV** - Use by the Government of Industrial Designs
- Part V** - Legal Proceedings
- Part VI** - Administrative and Miscellaneous Provisions
- Part VII** - Rules and Regulations
- Part VIII** - Offences

ii) Definition of Industrial Designs

The Order defines industrial designs as features of shape, configuration, pattern or ornament applied to an article by an industrial process, being features which in the finished article appeal to and are judged visually, but does not include:

- (a) a method or principle of construction;
- (b) features of shape or configuration of an article which are dictated solely by the function which the article has to perform; or
- (c) are dependent upon the appearance of another article of which the article is intended by the designer to form an integral part.

An industrial design is applied industrially if it has been applied –

- ☛ to more than fifty articles which do not together constitute a single set of articles; or
- ☛ to articles manufactured in lengths or pieces, not being hand-made articles.

iii) Requirement for Registration

To be registrable, an industrial design must be *new* at the date of filing of the application or the priority date (if applicable). An industrial design is new if it has not been registered, published, used or sold in Brunei Darussalam or elsewhere before the date on which the application for registration was lodged.

Any person who has filed an application for registration in a Paris Convention country or a WTO member country has a right of priority for a period of six months from the filing date of the first application.

iv) Industrial Designs Excluded from Registration

- Works of sculpture (other than casts or models used or intended to be used as models or patterns to be mass-produced by any industrial process);
- Wall plaques, medals and medallions;
- Printed matter primarily of literary or artistic character.

v) Infringement of Industrial Designs

Industrial designs **MUST** be registered before legal proceedings can be commenced.

Remedies available to the registered owner are:

- (a) damages;
- (b) an injunction;
- (c) an account of profit;
- (d) others which are usually available in proceedings in respect of infringement of other proprietary rights;
- (e) delivery up - the court can order destruction or forfeiture and has the discretion to consider other remedies to compensate the registered owner.

Exception: The Court cannot award BOTH damages and an order for account of profits.

vi) Local Case Law

Koninklijke Philips Electronics N. V. v Aifa Sdn (HCCS 117 of 2004)

The defendant applied to strike out the plaintiff's claim that the designs of the defendant's products were similar to those of the plaintiff.

The defendant's application was allowed for the following reasons:

- (a) That the plaintiff's designs could not be regarded as new because of prior disclosure.
- (b) The UK Registered Designs Act of 1949 did not assist the plaintiff as there is no implementing statute in Brunei Darussalam.

- (c) The designs of the plaintiff were inherently unregistrable as the articles bearing the designs were not made and sold separately.
- (d) The plaintiff had wrongly compared the defendant's articles with the plaintiff's articles when the comparison should have been between the defendant's articles and the registered designs of the plaintiff.
- (e) The plaintiff had not pleaded subsistence of copyright in the designs and title to sue.
- (f) The conditions in the UK 1911 Copyright Act had not been satisfied.
- (g) Under the UK 1911 Act, it was not possible to have dual or overlapping copyright and design protection.

The plaintiff has since filed an appeal and as of today no hearing date has been confirmed.

C. LAYOUT DESIGNS

i) The Emergency (Layout designs) Order 1999 came into force on May 1, 2000

This Act seeks to provide for the protection of layout designs of integrated circuits.

The Order provides for the definition of an integrated circuit which means a circuit in its final or an intermediate form in which at least one of the elements is an active element and some of the materials or all of the interconnections are integrally formed in or on a piece of material that is intended to perform an electronic function.

Layout designs means a 3-dimensional disposition, however expressed, of the elements, at least one of which is an active element, and of some or all of the interconnections, of an integrated circuit and includes such a 3-D disposition prepared for an integrated circuit intended for manufacture.

ii) Remedies for Infringement

- (a) payment of damages
- (b) an account of profits
- (c) delivery up

- (d) Any article delivered up be forfeited to the lawful owner, destroyed or disposed of

iii) No act of Infringement

- If it is copied solely for private use
- For research and teaching purposes
- Use by the Government for defense security provided that the Government has informed the owner and the owner is paid by the government

D. THE MERCHANDISE MARKS ACT OF 1953

The Act defines merchandise as any article which is the object of commerce which may be brought or sold in trade.

Both the Trade Marks Act (Cap 98) and Copyright Order make reference to this Act.

In general, this Act deals with the prosecution of an offence for using a false trademark or false property mark, counterfeit trademark or property mark, making or possession of any items which are used to counterfeit a trademark or property mark, importing or selling goods marked with a counterfeit trademark or property mark and tampering with or defacing a property mark.

The Act also deals with the prosecution of false trade descriptions of goods. Depending on the nature of the offence, the penalty imposed in this Act ranges from a fine and/or imprisonment of up to three years. The Court may direct the forfeiture of all goods in connection with the offence that has been committed.

E. TRADEMARKS

i) Introduction

The Trade Marks Act (Cap 98) and Trade Marks Rules came into force on June 1, 2000. Prior to this Act, the law applicable on trademarks was the Trade Marks Act of 1953.

The Act is arranged in five Parts:

Part I deals with the registration of trademarks which includes grounds for refusal of registration, the effects of registered marks, infringement proceedings, assignment, licensing, claims for priority, registration procedure, duration,

renewal and alteration of the marks, surrender, revocation and invalidity, collective marks and certification marks.

Part II deals with the protection of well-known marks, emblems, Article 6ter and acts of agents or representatives.

Part III deals with the registration, the powers and duties of the Registrar, legal proceedings and appeals, fees, business hours, publication, appointment of trademark agents.

Part IV deals with proceedings relating to importation of infringing goods, offences, and forfeiture of counterfeit goods.

Part V deals with miscellaneous and general provisions.

ii) Summary of the Trade Marks Act

- New kinds of signs are registerable, namely colors and shape.
- A less stringent test for registerability.
- The presumption of registerability applies and the Registrar has no discretion to refuse registration if the requirements are met.
- Conflict on earlier trademarks is overcome by consent of the proprietor.
- Provisions for protection of well-known marks even though not registered.
- Disclaimers and limitations are not required but may be entered at the request of the proprietor.
- Applicants may claim a right of priority for an application filed in a foreign Paris Convention country.
- Marks are registerable for both goods and services up to class 42 and multi-class applications are allowed.
- Applications may be divided or merged after filing.
- No extension of time is allowed for filing of a notice of opposition and counterstatement.
- Registration may be revoked for non-use and the onus is on the proprietor to show use. Use must be on the actual goods or services for which the mark is registered.

- Licenses and assignments are recorded without substantive examination.
- There are no provisions for defensive marks but collective marks may be registered.
- Geographical indications or GIs may be protected as certification marks.
- Registration is for a period of ten years and is renewable every ten years, thereafter subject to payment of a renewal fee.

iii) Infringement Proceedings (civil remedies)

Infringement actions are available to the owner of the trademark. The remedies available are as follows:-

- **Civil remedies**

- damages;
- an injunction;
- an account of profits;
- other remedies available in respect of infringement of any other proprietary rights;
- order for delivery up;
- filing a request to the Controller of Customs to detain infringing goods where the owner of a trademark can subsequently apply for an Order of Court for forfeiture, destruction or otherwise.

- **Criminal sanctions**

These are provided for under the Act which also refers to the provisions of the Merchandise Marks Act of 1953. The penalties include fines, imprisonment and forfeiture of counterfeit goods.

iv) Local Case Law

Canon Kabushiki Kaisha v Lee Unison Company (1993)

The plaintiff's action was for an injunction, an account of profits and passing off of Canon products. In this case, the court ordered the defendant to pay the sum of BND 750,000 to the plaintiff. There was also an order for destruction of the goods.

International Coffee & Tea LLC v the Coffee Bean & Tea Leaf Sdn Bhd
(HCCS No 179 of 2000)

The plaintiff's action was for relief in damages for infringement of his trademark, passing off and an injunction.

The plaintiff first used its mark in 1963, has now applied it in eight countries and owns 120 restaurants and cafés throughout the U.S.A and worldwide. Through advertisement and promotion, it has established goodwill and reputation.

One of the interesting issues that arose from this case was whether the words The Coffee Bean & Tea Leaf are devoid of any distinctive character. The question then becomes whether a trademark which is under attack was recognized by the public as being a trademark.

It was decided that the plaintiff had ample evidence that, based on its goodwill and reputation, it is testimony to the fact that it is looked upon by the public as a trademark.

The defendant's business registration under the name "The Coffee Bean & Tea Leaf" was registered in Brunei on June 9, 1999 and subsequently incorporated under the Companies Act on February 7, 2000. The defendant maintains that the plaintiff has not raised any objections to the registration

The plaintiff's trademark application to register two of his marks in Brunei was made on November 16, 1999 and publication for opposition was made on March 30 and April 29, 2000 when there was no opposition lodged.

The plaintiff intended to open up the first "Coffee Bean & Tea Leaf" café in Brunei in July 2001 and less than 500m down the road the defendant operated a restaurant and café in the name of the "Coffee Bean & Tea Leaf Sdn Bhd".

Even though there was no evidence of actual confusion having been caused, in view of the locality and the close proximity in which the two businesses are situated, the likelihood of confusion was real as both trade names give the impression that they are one and the same business which in fact they are not.

Thus the court granted the relief sought by the plaintiff.

F. THE INVENTIONS ACT (CAP 72) OF 1925

The Inventions Act is an Act providing for the grant of exclusive privileges in respect of inventions. This is a re-registration system whereby any person who has obtained a grant of patent in the United Kingdom, Malaysia or Singapore or any person deriving his right from such grantee by assignment, transmission or other operation of the law may apply to the Registrar within three years from the date of issue of such grant to have it registered in Brunei Darussalam. Under the present system, a local inventor will have to acquire patent rights in one of these countries before he can seek to have his invention protected in Brunei Darussalam.

The certificate of registration issued by the Registrar confers on the applicant privileges and rights similar in all respect to his rights under the United Kingdom, Singaporean or Malaysian patent laws. Such privileges and rights begin from the date of the grant in any of these countries and continue in force only as long as they remain in force in the respective countries.

Action for Infringement

An action may be brought in the High Court by an inventor against any person who, during the continuance of an exclusive privilege granted by this Act without the permission of the inventor, makes, uses, sells or puts into practice an invention or counterfeits or imitates the same. In these circumstances, common law remedies such as damages, an injunction and an account of profits are available to the inventor.

PART II (B): SUCCESS STORIES

Case Study 1

<i>General Information</i>	
COUNTRY : BRUNEI DARUSSALAM	
COMPANY NAME : DataStream Technology Group Sdn Bhd (DST)	
CONTACT ADDRESS	
Contact Person	: Radin Sufri bin Radin Basiuni
Designation	: Head Group Regulatory Policy & Legal
Business Address	: Datastream Technology Headquarters Tungku Link Road BE 3619 Brunei
Tel No.	: + 673 2410888
Fax No.	: + 673 2411371
E-mail	: radin@simpur.net.bn
Home Page (if any)	: www.dst-group.com

COUNTRY

Brunei Darussalam

TITLE

DataStream Technology Sdn Bhd

www.dst-group.com

DataStream Technology Sdn Bhd is the holding company and the backbone of the DST Group.

TYPE OF INTELLECTUAL PROPERTY CONCERNED

Trademark

Classification of goods and services in Classes 9, 14, 16, 18, 25 and 38.

The three initial letters ‘**DST**’, derived from DataStream Technology, gave rise to the DST Group product branding. As the Company expanded its businesses other brand names evolved.

To date the Companies have nine registered trademarks in Brunei.

 DST
Multimedia registered marks of the Companies.
Sdn Bhd



 **dstcom**
brings you closer

 **InComm**
At Your Service

 **Easi**

 **prima**

 **FasCom**
Keeping You In Touch

 **KRISTAL**
© 2004

 **zippi**
reaching out ...

There are another ten trademarks pending registration.

BACKGROUND

This is one of the national success stories following His Majesty's Government of Brunei's call for privatization programs. Since the inception of DataStream Technology Sdn Bhd in 1995 the Company has grown substantially and diversified into other types of business. There are now nine other subsidiary Companies.

The DST Group

- 1) DataStream Technology Sdn Bhd (DST Sdn Bhd), which is the main holding Company, was incorporated in April 1995.
It is the leading brand of Infocom Media Service Provider in Brunei.
- 2) DST Communication Sdn Bhd (DST Com) was also incorporated in April 1995.
It is the provider of Brunei's mobile phone service and has adopted the use of the GSM system for evolution of its mobile technology platform on the GPRS/EDGE system.
- 3) Integrated Communication Sdn Bhd (Incomm) was formed in July 1994.
A reseller and solution integrator which offers a wide range of telecommunication products for both consumer and business telecommunication needs. Incomm's core business is the retail arm of the DST Group and it represents brand names such as Nokia, Sony Ericsson, and Motorola etc.
- 4) DST Technical Services Sdn Bhd came into being in October 1995
This Company provides the facilities for trunked business communications or two-way radio communication systems for companies with intra-communication needs to enable them to manage field operations and mobile teams.

The trademark "**Fascom**" is the brand name of this Company.
- 5) DST Network Sdn Bhd was formed in September 1999
Originally a satellite television network, DST Network Sdn Bhd now plays a significant role with its new brand Kristal Entertainment Network, which provides 14 channels featuring music and cinema entertainment.
- 6) Kristal –Astro Sdn Bhd was incorporated in September 1999
A joint-venture broadcasting entity providing 33 digital satellite television channels for home satellite televisions, radio programs, and other interactive services. This joint-venture Company has resulted from the amalgamation of Kristal Sdn Bhd and Malaysia's MEASAT Broadcast Network Systems Sdn Bhd.
- 7) Kristal Media Sdn Bhd was formed in January 2000
Originally started as one of Kristal's joint ventures, this Company provides entertainment, promotions and event management.
- 8) DST Multimedia Sdn Bhd was formed in June 2000.
This is the first private licensed Internet Service Provider in Brunei, besides web operations such as Simpurr Net; DST Multimedia is also responsible for web-based customer service management of the DST Group. "**Simpurr**" is the brand name and their portal is www.simpurr.net.bn

9) DST Payphone Sdn Bhd came into being in June 2000.

“**Zippi**” is the brand name and this particular Company is Brunei’s first privately-operated public pay phone company. It takes advantage of the Group’s synergy and provides digital GSM technology to public payphones. Currently there are 500 units (indoor and outdoor or with solar power where commercial power is not available) installed in the country.

DEVELOPMENT AND USE OF INTELLECTUAL PROPERTY FOR BUSINESS STRATEGY.

The three initial letters

Initially the letters DST form the main focal point and are central to the development of the Company’s existing trademarks. With the advent of DSTCom introducing prepaid services; intellectual property rights in the Company evolved with further branding exercises.

Creation of other trademarks

When DSTCom introduced its post-paid services, the trademark “**Prima**” came into being and the trademark for prepaid services was “**Easi**”.

From these two trademarks the Company took on an extension of branding and value-added services for its customers. These added-value services gave customers the option to select such services and thus increase the business activities of the Company.

Set out below is a chart of such value-added services. With these services further impetus is added to the creation of more trademarks.

Evolution, the name for the DST’s Group transformation towards GPRS technology with the convergence of **Voice and Data** for wider applications such as **MMS** and introduction to its data family services know as the ‘**WoW**’ services.

With the introduction of Data, there was again the need to create more trademarks.

Within the DST Group there are three trademarks namely “**FASCOM**”, “**SIMPUR**” and “**ZIPPI**” which is better known to consumers and public alike than the name of the Company which trades under these brand names. In this instance the Company capitalizes on these trademarks and advertises its products using them to gain market leverage.

Learning experience in the protection of Intellectual Property Rights

When the DST Group applied to register one of its trademarks; it received an objection from the owner of a similar mark on the grounds that it was visually and conceptually identical and/or deceptively and/or otherwise confusingly similar. Subsequently the other party withdrew its opposition and that particular mark was eventually registered on behalf of the DST Group.

From this case, the DST Group learnt the importance of trademark protection and owners of a mark will go to great lengths to protect their intellectual property rights.

This experience reinforces the Company's concept of the protection of Intellectual Property Rights as part of its business strategy. Having protected one IPR it secures the Company's rights in marketing its Brand and also develops more intellectual property rights.

Creativity team

The marketing division of the DST Group houses a marketing and creativity value unit which constantly creates and develops brand names to meet the needs of the DST Group.

The importance of Intellectual Property in business

In brief, Intellectual Property Rights have allowed the DST Group to use its brand names instead of its Company names, thereby providing a brand image recognized by customers. It also allows product differentiation and secures brand value strategy.

IMPACT ON PRODUCTIVITY

Intellectual Property has enabled the Company to license its rights to the Company's licensed vendors. There are now 1000 licensed vendors for the brand name "Easi"; 250 licensed vendors for the brand name "Simpur" and 350 licensed vendors for the brand name "Zippi".

Kristal Astro secured the Company's rights to license from a third party. Kristal-Astro provides digital Direct-To-Home (DTH) satellite television, providing over 33 channels of digital quality satellite television, radio programs and other interactive services. This was made possible by a joint venture with Kristal-Astro Sdn Bhd. The Kristal-Astro service was launched on January 24, 2000, by KRISTAL Sdn Bhd and Malaysia's MEASAT Broadcast Network Systems Sdn Bhd.

With over 33 television and radio channels which ensure that all programs adhere to Brunei's religious, cultural and social values, subscribers will also have access to pay-per-view services, as well as a wide range of interactive services, such as home banking, home shopping and distance learning to be introduced at a later stage.

This had led to the DST Group's market dominance as a network operator, service and entertainment provider for communications.

Company image

The Company's head office in Brunei is a landmark and it is identified by the public as the "DST" tower. The design of the building reflects the image of the Company as being as dynamic and highly innovative as the products and services it offers.



Employees

In the past three years, the DST Group has maintained a staff of 500 employees throughout Brunei. By the nature of the services and products offered by the Group, the human resources management has focused on customer value with a multi-skilled, motivated and knowledgeable work force.

Retailing facilities of the “DST” group





Success story

An aspiration to excellence is the keynote of the DST Group and its ongoing commitment to bring affordable premium quality services with innovative and useful features to all its customers.

Further, being the country's premier multiple information medium in the area of communications, information technology and entertainment, the Company hopes to continue in its role and to use leading-edge technology to develop and continue to offer innovative, quality products and services.

Future

The Company aims to continue its commitment to giving customers the best communications products and services available.

Further, it aims to broaden the Company's market and acquire access to the latest technology, establishing mutually beneficial alliances with local and foreign partners.

Case Study 2

<i>General Information</i>	
COUNTRY : BRUNEI DARUSSALAM	
COMPANY NAME : Heatwave Shoes Pte Ltd	
CONTACT ADDRESS	
Contact Person	: Mr Tan Nguan Khoon
Designation	: Director
Business Address	: No 29, Ground Floor, The Mall, Gadong, Bandar Seri Begawan, Brunei Darussalam & BLK 65 A, #04 – 01, Jalan Tenteram , St Michael’s Industrial Estate, Singapore 328958
Tel No.	: +673 2786689 & +65 67329429
Fax No.	: +673 2786278 & + 65 67349839
E-mail	: sales@heatwaveshoes.com
Home Page (if any)	:

TITLE

Heatwave Shoes Pte Ltd

TYPE OF INTELLECTUAL PROPERTY CONCERNED

Trademark

Classification of Goods and Services in CLASS 25



From the beginning the Company realized the importance of protecting its brand name. It wanted customers to connect the brand with the quality of goods sold.

The Company’s trade-mark is registered in countries where its goods are being sold.

The mark is currently pending registration in countries in Asia, the Middle East, Europe, the United States of America and the Madrid Protocol countries.

BACKGROUND

The Company was originally formed as a partnership in 1999 and subsequently converted into a private limited company in 2000.

The Company's regional office is in Brunei and its head office is maintained in Singapore.

The concept behind the brand name

The name came about when one of the directors of the Company expressed a desire to produce ideas and designs that flowed endlessly like "WAVES" to motivate him in his shoe designs. He hoped his designs would sell like "hot cakes" and set future wave trends, hence the trademark "HEATWAVE".

Characteristics of the products

With the brand name in mind, the Company set about targeting retailers and wholesalers and the export of ladies' fashion shoes.

When the Company first started business it decided to incorporate a certain characteristic design in its products. The main emphasis was to produce designs for shoes for ladies between 20 and 35. The designs of the shoes were to be trendy office, evening and casual wear, and it was also hoped that the designs would appeal to ladies in their forties.

The Company also placed emphasis on the fact that the finished products, the shoes, must be comfortable.

DEVELOPMENT AND USE OF INTELLECTUAL PROPERTY IN BUSINESS STRATEGY

The Company is of the opinion that protecting its trademark is an important aspect in the development of its business strategy. From the outset, when it was conceiving its strategy, its main focus was to project an image for the brand name "HEATWAVE". Keeping that in mind, the Company started to build a customer relationship with its products whereby customers could associate them with the "HEATWAVE" trademark.

Image in relation to the brand name

Putting its main emphasis on building up the image of the Trademark; the Company also focused on developing the image of its shops so that customers would associate the trademark with the products. The Company's intention was to decorate all their retail shops in the same way so that customers could associate and identify the goods with the "Heatwave" trademark.

The retail shops are bright, modern and lively, resulting in a cheerful atmosphere.

The shoes are displayed under bright lights and in easy-to-reach display units for customers to pick up and try on.



Designs

The Company has an internal design department that consists of four employees. This design team takes into consideration customers' needs and ideas. Current trends and fashion play a crucial role in the design of the shoes.

Female Magazine, which is available in most ASEAN countries, has featured the “**Heatwave**” shoes. This is highly significant for the Company's design team as it implies a certain recognition of the designs of the shoes. This in turn provides publicity for the trademark and the products.

Set out below are photographs of the Company's products which are currently available in its shops and other outlets.



Manufacturing and Production

The company assigns the manufacturing of its shoes to a shoe factory that manufactures and produces the products in accordance with the Company's requirements and specifications.

Each pair of shoes carries with it the distinctive "Heatwave" trademark, as the Company wants customers to associate its products with its trademark. In so doing customers will soon be associating the trademark with the products they are buying, thus also creating public awareness of the trademark.

IMPACT ON PRODUCTIVITY

The Company opened its first retail outlet in 2000 and since then the number of retail shops and outlets has gradually increased in the ASEAN region. The Company's employee numbers have also increased with each passing year.

Retail shops and outlets

Having built up the Company's image in relation to its brand name, it has gradually increased the numbers of retail shops and outlets.

Currently the Company has set up retail businesses in Brunei, Singapore, Myanmar, Indonesia and Thailand.

The chart below shows the numbers of retail shops and outlets owned by the Company in some of the ASEAN countries.

Countries
Number of retail shops
Number of outlets in shopping malls/ department stores
The year the retail shops/ outlets were set up

Brunei

1

2002

Singapore

4

2000

Myanmar

1

3

2003

Indonesia

1

2005

Thailand

1

10

2002

Intellectual Property does have an overall effect on sales as the Company will be setting up more outlets and retail shops in existing markets and is also in the process of setting up retail businesses in India, Vietnam, Taiwan, Australia, Philippines and the Middle East.

Franchising

As the Company has grown it has assumed a different status in that the trademark has acquired public recognition. The Company is now in the process of franchising its trademark.

Quality

The Company also firmly believes that maintaining the quality of its products is an important criterion as the image of the brand name will be recognized by its customers.

Pricing

Since the day the Company opened its first retail shop, it has maintained a retail price range from SGD\$ 24.90 to SGD \$ 70.00 (USD 15.00 to USD 43.00) for a pair of shoes. With these prices the Company's intention has been to maintain both comfort and quality.

Future plan of the Company

There will be more retail shops or outlets within local department stores in the countries where the Company has since established and opened up retail shops and outlets.

The company's aim is to continue to build its image and establish world-wide recognition of the brand name, "HEATWAVE" so that it will be associated with ladies' shoes which are fashionable and of good quality.

Furthermore the Company will develop more products within the Class 25 specifications in addition to those that it is currently retailing.

PART I (A)

Listing of Manuals, Guidelines and Directories
in the Area of
Intellectual Property (IP) Portfolio Management

COUNTRY: CAMBODIA

No.	English Title + Brief Description of its Contents in less than 50 words	Year of Publication	Agency Responsible and Address	Contacts (Tel/Fax/email)
A. PATENT AND INVENTION RELATED				
1.	Draft Patent Manual This draft manual was prepared by WIPO for Cambodia, following the mission to Cambodia in 2004. The manual is drafted according to the Law on Patent, Utility Model certificate and Industrial Design and confirmed to the draft Sub-Decree on the Implementation of the Law on Patent, Utility Model certificate and Industrial Design of Cambodia. The Manual will be used by Government officials, lawyers and intellectual property practitioners, who are involved in the process of application for patents, utility models and industrial designs.	2004	Department of Industrial Property, Ministry of Industry, Mines and Energy. No.45 Preah Norodom Blvd., Phnom Penh, Cambodia.	Fax/Phone: (855-23)428263 H/p:(855-11) 878625 E-mail: dipmime@yahoo.com
B. INDUSTRIAL DESIGN RELATED				
1.	The Industrial Design Related Manual is not yet in existence. It will be prepared in the near future.	2004	Department of Industrial Property, Ministry of Industry, Mines and Energy. No.45 Preah Norodom Blvd., Phnom Penh, Cambodia.	Fax/Phone: (855-23) 428263 H/p:(855-11) 878625 E-mail: dipmime@yahoo.com

C. TRADEMARK RELATED				
1.	A Trademark Manual was prepared by WIPO for Cambodia, following the mission to Cambodia in 2004. The manual is drafted according to the Law concerning Marks, Trade Names and Acts of Unfair Competition and confirmed the draft Sub-Decree on the Implementation of the Law concerning Marks, Trade Names and Acts of Unfair Competition of Cambodia. The Manual will be used by Government officials, lawyers and intellectual property practitioners, who are involved in the process of trademark application. The manual is being translated and prepared.	2004	Intellectual Property Division, Ministry of Commerce. No.20 A-B Preah Norodom Blvd., Phnom Penh, Cambodia.	Fax:(855-23) 216671 H/p: (855-16) 830323 E-mail: ipdmoc@online.com.kh
D. COPYRIGHT RELATED				
1.	Cambodia has not yet produced a copyright-related manual. We have the Law on the Rights of Authors and Related Rights.			
E. BUSINESS RELATED				
1.	Introduction to Business This book provides general information concerning business in general including business environment, external factors influencing business environment, economics and business, small businesses and entrepreneurship, managing a business enterprise, managing for productivity and quality and also understanding the principle of corporate finance.	2002	by Kao Kosal, International Institute of Cambodia (IIC), No.441 Preah Monivong Blvd., Phnom Penh, Cambodia.	Tel: (855-23) 216331 Fax:(855-23) 216332 E-mail: info@iic.edu.kh
2.	Business Taxation This book focuses on the taxation regime that has been prescribed for understanding clearly the purposes, benefits, procedures, roles, duties, obligations and regulations in the economic field. It is divided into 12 parts including an explanation on the notions of taxation, direct and indirect taxation, import and export taxes, personal income tax, profit tax, registration tax, value added tax, special tax and tax on business.	2004	by Nam Sarith, International Institute of Cambodia (IIC), No.441 Preah Monivong Blvd., Phnom Penh, Cambodia.	Tel: (855-23) 216331 Fax:(855-23) 216332 E-mail: info@iic.edu.kh

3.	<p>Business Law</p> <p>The book deals with the laws concerning businesses and companies and provides some basic information on core concepts of constitution. It was divided into four parts mainly on the constitution and Government of Cambodia including the role of law in society, legislative bodies, executive bodies, judicial bodies; contract law, sale of goods and property.</p>	2002	by Sov Veng Ny International Institute of Cambodia (IIC), No.441 Preah Monivong Blvd., Phnom Penh, Cambodia.	<p>Tel: (855-23) 216331 Fax:(855-23) 216332</p> <p>E-mail: info@iic.edu.kh</p>
4.	<p>International Economics</p> <p>This book describes mainly the theory of international trade, international trade policies, the balance of payments, exchange rates and the experiences of selected countries.</p>	2002	by Po Bunna International Institute of Cambodia (IIC), No.441 Preah Monivong Blvd., Phnom Penh, Cambodia.	<p>Tel: (855-23) 216331 Fax:(855-23) 216332</p> <p>E-mail: info@iic.edu.kh</p>
5.	<p>Marketing Principles</p> <p>This book focuses on the basic knowledge of marketing, marketing in organizations, markets and consumer behavior, collection and using marketing information, product management, managing services, sales management and international marketing.</p>	2001	by Oul Van, Ly Chhay International Institute of Cambodia (IIC), No.441 Preah Monivong Blvd., Phnom Penh, Cambodia.	<p>Tel: (855-23) 216331 Fax:(855-23) 216332</p> <p>E-mail: info@iic.edu.kh</p>
6	<p>Company Law</p> <p>This book provides information on general legal aspects and practices especially for companies. The author outlines basic legal aspects relating to the company, the company in the Anglo-Saxon system of law, the company in the continental system of law, company registration and its effects and liquidation.</p>	2002	by In Van Vibol International Institute of Cambodia (IIC), No.441 Preah Monivong Blvd., Phnom Penh, Cambodia.	<p>Tel: (855-23) 216331 Fax:(855-23) 216332</p> <p>E-mail: info@iic.edu.kh</p>

F. FINANCIAL GRANTS				
1.	Cambodia does not yet have manuals related to the financial grants system. The system is not widely known by businessmen, especially in SMEs.			

Note:

Book publication, in general, in Cambodia is still not widespread. Because for many years we have not had a specific law to protect the works of writers as well as copyrights, when the law of copyright and related rights was introduced in 2003, no books or reading materials on specific subjects had been published, especially on business subjects. The Government has produced a plan to promote the contribution of knowledge through books which will disseminate information to the younger generation and the public. Therefore, the National Library of Cambodia has recently introduced the ISBN system. I hope that in the near future we will produce many publications in different fields such as IPR and finance.

PART I (B)

General Overview of Items (A) – (F)

A. Commercialization of Inventions

1. Commercialization of inventions is a strategic instrument for IP asset management. To make use of its knowledge and innovation, companies are now starting to think of using this asset as the basis of their business strategy. This concept is even more important for small and medium-sized enterprise for which the capital or physical assets are scarce and difficult to obtain. Unlike other assets, the value of IP assets will be substantially increased through proper use and legal protection. In this regard, many young emerging economies have counted on the importance of intellectual property rights protection as a key instrument for economic development and endeavor to use this instrument in the economic, social, scientific and technological strategic development of each country.
2. In Cambodia, Government policy concerning the commercialization of inventions is yet to be defined, but this concept has been acknowledged and confirmed by Government representative during the working party meetings for Cambodia's accession to the WTO. The final version of Cambodia's working party report has stated the Government's firm commitment concerning this issue. Paragraph 168 of the working party report has clearly underscored this commitment "...the Government considered the protection of intellectual property rights essential for the fostering of economic development, to stimulate foreign investment and the transfer of technology, and to facilitate Cambodia's integration into the world economy...". With this recognition of the importance of foreign direct investment as a means to develop the national economy and its relationship to the proper protection of intellectual property, this statement also acknowledges the importance of technology transfer which will be used as a source of innovation and further commercialization under the protection of a proper IP regime.
3. To secure the protection of IPR and having a proper IP regime for this purpose, Cambodia also committed itself during its WTO accession as stated in Paragraph 169 that "... Government had been drafting new legislation with the help of foreign experts and WIPO to bring Cambodia's legislation into line with the TRIPS Agreement including a Law on Marks, Trade Name, and Acts of Unfair Competition, promulgated on 7 February 2002; Law on Patents, Utility Models and Industrial Designs promulgated on 22 January 2003, and a Law on Copyright and Related Rights promulgated on 05 March 2003. Further laws on Geographical Indications, Layout Design of Integrated Circuits, Protection of Undisclosed Information and Trade Secret, and Plant Variety Protection were in preparation and expected to be promulgated in the near future. Cambodia was also working on a new Civil Code, scheduled for adoption in 2004, which would backstop the protection of intellectual property...". Further, Cambodia also confirmed this commitment by providing detailed information on the implementation of the TRIPS Agreement and submitted an Action Plan for the enactment of IP laws to the WTO secretariat. Moreover, an IP administrative and management regime has been established in the three responsible ministries as stated in paragraph 171 & 172 "...The Department of Intellectual Property of the Ministry of Commerce was responsible for the formulation and implementation of policy regarding

trademarks. The Ministry of Industry, Mines, and Energy was in charge of patents and industrial designs, the Ministry of Culture and Fine Arts of Copyrights and Related Rights and also recognized the collective management of these rights, and the Ministry of Information recognized the collective management organizations of broadcasting rights. Further, the Government of Cambodia also intends to rationalize its administrative arrangements by establishing a single agency in charge of the administration of rights subject to grant and registration such as patents, trademarks and industrial designs. For the time being, Cambodia has established a committee to govern the three areas of Intellectual Property Rights and it has a mandate to coordinate the technical and administrative procedures of the various agencies with IPR responsibilities.

4. Realizing that, at the present time, the value of IP is often not adequately appreciated and its potential for providing opportunities for further profit is widely underestimated by most of the business community in Cambodia, the Government has opted to promote the commercialization of IP assets through regular workshops or short training courses given to provincial entrepreneurs, businessmen and local administrators in order to help them understand the value of their assets, to prepare themselves to face challenges and to take proper measures to exploit their IP and also help to protect its value under the available laws and regulations. Each workshop or training course attempted to promote the understanding of IP rights which will be a substantial source for generating income for business through licensing, commercializing or use under the simple connotation as a sale of IPR from one party to another, and also the protection of these rights through a proper IP regime so that their value will significantly improve market share and raise profit margins for those business. Further, the workshops also attempted to highlight the strategic utilization of IP assets to enhance competitiveness of each company starting from product design and service delivery to marketing of its brand name. Through this activity, businessmen and local entrepreneurs and especially small and medium-sized enterprises will have a chance to learn more about IP protection and Intellectual Property Rights acquisition in order to avoid disputes and expensive litigation.

B. Profit from Original Industrial Designs

1. Industrial Design is protected under the Law on Patents, Utility Model Certificates and Industrial Designs. According to this Law, protection is provided for a period of five years and can be renewed for two consecutive periods of five years. Application has to be submitted to the Registrar of the Ministry of Industry, Mines and Energy and has to be published in order to provide an opportunity for a third party to oppose the registration. Since Cambodia is a member of the Paris Convention, a priority claim is affordable and the priority date is the date of first filing or first claim. The registration of an industrial design is then granted with fees payable. A period of six months is allowed as a grace period for the late payment of the renewal fee. For commercial purposes, the Law allows the transfer or licensing of industrial designs through private agreement and this transfer of licensing has to be recorded with the Registrar of the Ministry of Industry, Mines and Energy.

2. At the present time, profit from original industrial designs is rarely clearly defined in Cambodia even though we have the Law on Patents, Utility Model Certificates and Industrial Designs to protect this kind of invention and many businesses have used this form of IP asset to generate revenue either directly or indirectly. The reason why the importance of this asset has received less attention in this country is because the law enacted concerning this right is yet to be fully implemented pending the implementation of regulations to be adopted by the Council of Ministers. However, standing by its commitment, the Government has paid much attention to the protection of this right with a view to recognizing the asset as an important tool for business development. In Paragraphs 184 and 185 of the working party report for Cambodia's accession to the WTO, the Government agreed that "...industrial designs were protected according to the Law on Patents, Utility Models and Industrial Designs, promulgated on 22 January 2003. Only new industrial designs, i.e. designs not disclosed to the public through publication or use prior to the priority date, could be registered under the new Law. Protection did not extend to parts of a design dictated essentially by technical considerations. Industrial designs contrary to public order or morality could not be registered. Applications for registration were to be submitted to the Ministry of Industry, Mines, and Energy, and the priority date was the date of filing or first claim. Applications had to be published to afford an opportunity to oppose the registration. Protection was provided for 5 years and could be renewed twice. Industrial designs could be transferred or licensed. The owner had the exclusive right to request the competent authority to take action against infringements and could claim compensation ...". The Government also confirmed to the WTO that "...Cambodia's legislation complied with the provisions of Article 26.1 of the TRIPS Agreement concerning the right of an industrial design holder to prevent the importation of articles bearing or embodying a protected design and Cambodia's legislation guaranteed the right for the holder to prohibit third persons from "exploiting" a registered industrial design, i.e. by making, selling, or importing articles incorporating the industrial design...". This commitment implied the Government's recognition of a viable profit possibly being raised from an original industrial design which is protected by the present law.

☛ However, for the moderately competitive business environment in Cambodia while marks play a more important role than industrial designs, a visually-attractive design alone will not be sufficient to generate revenue. It has to be combined with the ability of entrepreneurs to find a possible way to market their design to other producers or to be able to put it into production themselves. They can then meet consumer demand. In the experience of Cambodia, design has been widely used to generate revenue in the fields of garments and textiles, furniture manufacturing, the plastics industry and the packaging business. The volume of income generated from this IP asset is yet to be separately defined by any statistical research/study.

C. Contribution of Trademarks to Business Development

1. A trademark is considered to be an image of a company. It allows customers to distinguish between a product of one establishment from another, thus giving a business the possibility to better market its product or service in comparison with its competitors. A trademark doesn't just help a client to identify goods or services but will attach itself to the quality and reputation of the merchandise or service using that trademark. Therefore, if customers are pleased with the quality of a product or service bearing a

trademark, they will continue to buy that product or use that service based on quality expectations. In this case reputation may help to maintain and improve the quality, because a business cannot afford to lose its customers' confidence in its marks due to a decline in quality.

2. In Cambodia, trademark protection is carried out under the Law on Marks, Trade Names and Acts of Unfair Competition which was promulgated on February 7, 2002. Under this Law, protection will be granted for a period of 10 years with a possibility of indefinite renewal. However, failure to use a trademark for more than five years without valid reason (the Registrar can be informed by submitting an affidavit of use or non-use) could lead to nullification of the protection. For obtaining legitimate protection, an application has to be submitted to the Intellectual Property Department of the Ministry of Commerce. Under Cambodian law, actual use of a mark was not a condition for filing an application for registration. Since Cambodia has been a member of the Paris Convention, priority is given to any person who first files or claims priority to the mark. This priority right to a mark filed earlier in any country which is a member of the Paris Convention could be claimed within a period of six months following the first filing by showing proper valid evidence of that filing to the Registrar in Cambodia. By law, trademark rights can be transferred or licensed to a third party and the rights owner has an exclusive right to request the competent authority to take measures against infringement of its legitimate rights and is also eligible for payment of compensation. As a member of the Paris Convention, Cambodia also acknowledges the protection of well-known marks without the requirement of registration. Trademark law in Cambodia is fully compliant with the requirements of the TRIPS Agreement since it provides a registration process and remedies for the protection of marks, ensuring effective enforcement of rights concerning marks and trade names and preventing acts of unfair competition. In this regard, the trademark laws of Cambodia allow for the implementation of provisional measures including administrative and border measures to tackle trademark infringement.
3. To promote awareness of the implementation of this Law, the Government has organized several awareness programs for the private and public sectors, especially small and medium-sized enterprises at national and provincial levels aiming at encouraging them to make full use of the benefits of trademark registration. The series of seminars/workshops showed both an increase in the number of attendees and the duration of the seminars to reflect the importance of trademark utilization as a tool for business development. During the second half of 2005, Cambodia has conducted and will conduct several activities to raise public awareness of IP and to improve the capacity of Cambodian IP officials in this particular field. The following activities have been and will be carried out with the cooperation of foreign and local partners such as NGOs, international organizations and universities. Recent activities are shown in the table set out below.

Level of activities	Date	Number of Attendance	Targets
Provincial level – Seminar on the Dissemination of the overall concepts of IPR and the existence of the new laws on IP	May, 2005	150	Provincial Officials and Business Community
Provincial level – Workshop on the Dissemination of Law on Marks, Trade name and Acts of Unfair Competition	May, 2005	60	Provincial Officials including the officials of Commercial Branch
Provincial level – Workshop on the Dissemination of the three IP laws – Trademarks, Patents, and Copyright	June, 2005	200	Enforcement Officers, Provincial officials, Private sector.
Ministerial level - Internal seminar on the registration of Figurative Marks	June, 2005	35	Officials of the Ministry of Commerce
Ministerial level – Internal seminar on the Patent and design examination	June, 2005	40	Officials of the Ministry of Industry, Mines and Energies
Provincial level – Seminar on the Dissemination of IP laws and Enforcement Procedure	July 2005	50-80	Provincial officials including enforcement officers, judges and prosecutors
University level – Internal seminar on the initiative to establish and include IP curriculum in the university teaching programs	September , 2005	50-80	Lecturers
Provincial level – Seminar on the Dissemination of Cambodia’s obligations under TRIPS and the identification and promotion of IP products’ potential for export.	October or November , 2005	150	Officials of all provincial institutions, Business community especially SMEs
Municipality level – IP laws dissemination and Cambodia’s obligations under TRIPS	November , 2005	120	District Officials and the business community
University level – IP laws and IP trade related aspects – its contribution to the development of the economy	December , 2005	200	Lecturers and students

4. For the acknowledgement of trademark contributions to business development in Cambodia, we have to observe a contribution based on the following characteristics: (1) either a company has successfully marketed its brand name though brand development on the same product or has used the brand name for diversified products or services in different classes. (2) has registered or licensed its brand name to other

companies, and (3) whether its brand name is known for the true quality of its products or through marketing techniques which are only acquired for a limited period of time. Even though Government policy doesn't offer guidelines or encouragement to manage IP as an asset for development or even consider it as a key strategy for economic development, the IP policy of Cambodia does recognize the need to have an effective IPR protection scheme in order to create confidence in the business environment among foreign investors and to encourage technology transfer through this foreign direct investment.

5. The recent increase in trademark registration and trademark renewal for goods and services, especially for garments/textiles, processed agricultural products, foodstuffs and pharmaceutical products; beauty salons, restaurants and hotels and professional services such as accounting firms, law firms, construction companies etc, shows the intention for continued use and also helps to confirm the contribution of these trademarks to the development of these businesses. A concrete example of this fact is the recognition of the "Made in Cambodia" concept in the field of textiles/garments for export, the acceptance of the well-known taste of Cambodian organic rice under the brand name "Sen Pidor", the high demand for Cambodian palm wine, "Cofirel", and the fabrics made from Cambodian silk under the names "Phnom Srok" or "Prek Changkran" in European or U.S. markets. In the domestic market we have the well-known Soya milk "So! Soya" from the Hagar-Soya company and rice crackers "Rabbit & Device" from LyLy Food Manufacturing. Given below is a table of registration and renewal of domestic marks for 2003-August 2005.

Table 1 – Registration of Domestic Marks

Year	Application	Registration
2001	225	231
2002	318	307
2003	279	269
2004	409	375
As of August 2005	290	271

Table 2 - Renewal of Domestic Marks

Year	Application for Renewal	Renewal Registration
2001	177	13
2002	1,523	748
2003	1,084	1,466
2004	824	1,014
As of August 2005	502	524

6. In Cambodia, businesses using trademarks as a tool for business development often conduct market research to find out why customers decide to buy products with a certain brand name by comparing the product with its competitors. Based on this research they are able to develop a name and a look for their products. Developing a package that reflects customer desire and market forces will convey the correct image of the company. Registering a trademark to protect and increase its value and then publicizing this trademark through a good marketing strategy as well as developing a business plan in order to structure the product development with the intention of enlarging its market share is vital. To simplify recognition and to inspire customer confidence, trademarks in Cambodian businesses always appear as a short and simple easy-to-read word or character easy to recognize and which normally refers to the aspiration of quality and service. Businesses here always reflected on how best to position their trademark or brand name in the media and how to repeat this placement in order to obtain fast recognition by making the product easy to identify. This placement must reflect the best features of a product because customers always rely on a brand name to ensure the quality of goods or services they are going to buy and to reduce costs associated with searching the market for the quality products they want. In summary, we have seen trademarks or brand names contribute to business development as an asset which can be sold, licensed or franchised. They help to promote a business image by emphasizing a particular quality standard for a products or service and also provide a means to identify strong business ownership through trademark registration. Finally, they will provide a strong marketing tool for building a company's position in its desired markets.
7. The impact of the above-mentioned awareness and promotion program has been shown by the increase of the number of marks assigned and the acquisition of trademark rights on products and services in the form of exclusive distribution and importation possibilities for the products or services into Cambodia through private agreements between trademark owners and local importers. Since under Cambodia trademark law, the term 'exhausted of right' is only applied in a national sense, the commercialization of IP rights is mostly implemented under this form of granting exclusive rights and assignment of use of a mark for a certain limited market. Given below is a table of exclusive distributorship of marks in Cambodia registered by the Intellectual Property Department of the Ministry of Commerce as of April 2005.

List of Exclusive Distributorship of Marks in Cambodia

No.	Marks	Marks Owner	Exclusive Distributors	Goods/ Services	Acknowledgement (Date)	Validity
1.	HERO	NV Sumatra Tobacco Trading Co.	HERO KING Co., Ltd.	Cigarettes	Mar. 7, 1996	N/A
2.	SCOTT	NV Sumatra Tobacco Trading Co.	HERO KING Co., Ltd.	Cigarettes	Mar. 7, 1996	N/A
3.	Johnnie Walker	United Distillers Plc	Attwood Import Export Co., Ltd.	Liquor	Oct. 25, 1996	N/A

4.	Hennessy	Moet Hennessy Asia Pte, Ltd.	Attwood Import Export Co., Ltd.	Liquor	Oct.. 25, 1996	N/A
5.	YEO'S	Yeo Hiap Seng Ltd.	SOON SOON IMPORT & EXPORT CO., LTD.	Fruit drinks and fruit juices	Dec. 29, 1997	Sep. 25, 1999
6.	SUPER CRYSTAL	Woo Yang (M.S.) Co., Ltd.	Chhay Huor Huot Imp. & Exp. Co., Ltd.	Class 11	Mar. 29, 2000	Mar. 29, 2005
7.	Mr. STOVE & Device	Woo Yang (M.S.) Co., Ltd.	Chhay Huor Huot Imp. & Exp. Co., Ltd.	Class 11	Mar. 29, 2000	Mar. 29, 2005
8.	ANCHOR & Device	Asia Pacific Breweries Ltd.	Cambodia Brewery Ltd.	Beer	Apr. 5, 2000	Apr. 5, 2003
9.	Tiger & Device	Asia Pacific Breweries Ltd.	Cambodia Brewery Ltd.	Beer	Apr. 5, 2000	Apr. 5, 2003
10.	ABC STOUT	Asia Pacific Breweries Ltd.	Cambodia Brewery Ltd.	Beer	Apr. 5, 2000	Apr. 5, 2003
11.	CASTROL	CASTROL INTERNATIONAL England	Goodhill Enterprise (Cambodia Ltd.	Lubricants	May 10, 2000	3 years
12.	SHARP	SHARP KABUSHIKI KAISHA	O.M.C	Sharps' products	Mar. 28, 2001	N/A
13.	CABBAGE BRAND	Ngo Chew Hong Edible Oil Pte, Ltd.	AN SAI IMPORT EXPORT Co., Ltd.	Edible oils and fats	Apr/ 2001	3 years
14.	EVIAN	Société anonyme des eaux minérales d'Evian	ANCO Brothers Co, Ltd.	Mineral water	Apr 24, 2001	N/A
15.	HONDA	Honda Motor Co., Ltd.	N.C.X. Co, Ltd.	Motorcycles	Aug. 3, 2001	N/A
16.	HEINEKEN	HEINEKEN BROUWERIJE N B.V.	Attwood Import Export Co., Ltd.	Beer	Oct. 25, 2001	N/A
17.	TRI-WELL Brand	Shenbao Industrial Co., Ltd.	Abundant Import Export Co., Ltd.	Edible oils	Jan. 25, 2002	Dec. 31, 2003
18.	TRI-WELL Brand	SHENBAO INDUSTRIAL CO., LTD.	ABUNDANT IMPORT EXPORT CO., LTD.	Oyster-flavored sauce	Jan. 28, 2002	Dec. 31, 2003
19.	SUZUE	Suzue Industrial Co., Ltd.	Camtrade Corporation Ltd.	Hubs of bicycles	Apr. 1, 2002	April. 1, 2004
20.	White Rabbit Brand & Chinese Characters & Device	Shanghai Aswell Enterprise Co., Ltd.	Epat Resources Trading Co., Ltd.	Vegetable soup preparation	Apr. 24, 2002	Feb. 20, 2003
21.	Aspen Gold	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004
22.	Camel	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004

23.	Camel Picture Package II	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004
24.	Caster	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004
25.	Gold Coast	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004
26.	Mild Seven	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004
27.	Mild Seven Box Device	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004
28.	Monte Carlo	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004
29.	More	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004
30.	Salem	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004
31.	Salem & Label Design VIII Color	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004
32.	Winston	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004
33.	Winston & Label Design VII Color	Japan Tobacco Inc.	Indobest Co., Ltd.	Cigarettes	Jul. 25, 2002	Jul. 25, 2004
34.	Gold Star	Ostar Watch & Clock Co., Ltd.	C.K.G. International Trading Co., Ltd.	Watches, clocks	Sep. 9, 2002	Sep. 9, 2004
35.	Gold Star & Device	Ostar Watch & Clock Co., Ltd.	C.K.G. International Trading Co., Ltd.	Watches, clocks	Sep. 9, 2002	Sep. 9, 2004
36.	Foster's	Carlton and United Breweries Ltd.	Foster's (Cambodia) Ltd.	Beer	Nov. 27, 2002	Nov. 27, 2004
37.	Victoria Bitter	Carlton and United Breweries Ltd.	Foster's (Cambodia) Ltd.	Beer	Nov. 27, 2002	Nov. 27, 2004
38.	BV	Carlton and United Breweries Ltd.	Foster's (Cambodia) Ltd.	Beer	Nov. 27, 2002	Nov. 27, 2004
39.	Sub Zero	Carlton and United Breweries Ltd.	Foster's (Cambodia) Ltd.	Beers	Nov. 27, 2002	Nov. 27, 2004
40.	FENG SHAN in Roman & Chinese Characters & Device	GUILIN YONGFU PHARMACEU TICAL FACTORY	ABUNDANT IMPORT EXPORT CO., LTD.	Luo Han Guo Chong Ji	May. 13, 2003 (Renewed)	May 13, 2005

41.	JOTUN	Jotun Thailand Ltd.	International Steel Industrial (ISI) Co., Ltd.	Paint	May 20, 2003	May 20, 2005
42.	Siang Pure Oil	Bertram Chemical (1982) Co., Ltd.	Tang Seng Trading Co., Ltd.	Medicated oil	May 27, 2003 (Renewed: June 09, 2005)	May 27, 200 June 9, 2007
43.	Siang Pur Balm	Bertram Chemical (1982) Co., Ltd.	Tang Seng Trading Co., Ltd.	Medicated oil	May 27, 2003	May 27, 2005
44.	JVC	Victor Company of Japan Ltd.	Boon Cambodia Import Export Co., Ltd.	Televisions, audio products, video cameras	Jun. 24, 2003	Jun 24, 2005
45.	Stylized X	Xerox Corporation	Te Aik Hong Office Machines Supplies Co., Ltd.	Photocopy machines, printers and consumables and spare parts	Aug. 1, 2003	Aug 1, 2005
46.	The Document Company	Xerox Corporation	Te Aik Hong Office Machines Supplies Co., Ltd.	Photocopy machines, printers and consumables and spare parts	Aug. 1, 2003	Aug.0 1, 2005
47.	Xerox	Xerox Corporation	Te Aik Hong Office Machines Supplies Co., Ltd.	Photocopy machines, printers and consumables and spare parts	Aug. 1, 2003	Aug. 1, 2005
48.	AID BOND 502 & Device	Thuan Phong Co., Ltd.	Sun Heng Co., Ltd.	Glue	Aug. 4, 2003	Aug. 4, 2005
49.	Le Club des Profession-nels	Promat's International	Samangkar Luxe Co., Ltd.	Cosmetics	Aug. 6, 2003	Aug. 6, 2005
50.	Oligodermie Ph6	Promat's International	Samangkar Luxe Co., Ltd.	Cosmetics	Aug. 6, 2003	Aug. 6, 2005
51.	OligoSpa (stylized)	Promat's International	Samangkar Luxe Co., Ltd.	Cosmetics	Aug. 6, 2003	Aug. 6, 2005
52.	Vine Essence Pill & logo	Capital United (Beijing) Medical Manufacturer Ltd.	Veng Sieng Co., Ltd.	Chinese medicine	Aug. 15, 2003	Aug. 15, 2005
53.	LIX & Device	Lix Detergenrt Co.	Anco Brothers Co., Ltd	Detergent powder	Aug.16, 2003	Aug. 16, 2005

54.	CASTRO L	Castrol Singapore Pte, Ltd.	Goodhill Enterprise (Cambodia) Ltd.	Lubricants	Sep. 30, 2003	Sept. 30, 2005
55.	Shiseido	Shiseido Co., Ltd	PCB International Co., Ltd.	Cosmetics	Oct. 28, 2003	Oct. 28, 2005
56.	Gourd Brand & Device	Choke Kasikorn Seed Co., Ltd.	Kasikor Chamroeun Phal Co., Ltd.	Seeds	Oct. 29, 2003	Aug. 30, 2005
57.	Eagle Brand & Device	Borden Co., Pte Ltd.	Duong Chhiv Import Export	Medicated oil	Dec. 29, 2003	Dec. 29, 2005
58.	Gestetner	NRG Manufacturing Limited	Goodhill Enterprise (Cambodia) Ltd.	Photocopy machines and parts, stationery, fax machines and parts	Jan. 9, 2004	Jan. 9, 2006
59.	SAGOKO	CHIA KHIM LEE FOOD INDUSTRIES PTE, LTD.	MAXIM COMPANY LIMITED	Fruit drinks and fruit juices	Feb. 24, 2004 (Renewed)	Feb. 24, 2006
60.	Fato & Device	Fato Machine Electrical Group	Zao Mu Trading Co., Ltd.	Water Gouge apparatus	Feb. 24, 2004	Feb. 24, 2006
61.	Iceberg	Chia Khim Lee Food Industries Pte, Ltd.	Attwood Import Export Co., Ltd.	Soft drinks	Mar. 2, 2004	Mar. 2, 2006
62.	555 Device	Guangzhou Battery Factory	Tontexim Co., Ltd.	Batteries	Apr. 28, 2004	Sep. 30, 2005
63.	Betagro & Device	Betagro-Agro-Group Public Company Ltd.	Phall Lyneang Trading Company Ltd.	Foodstuffs for animals	Aug. 27, 2004	Aug. 27, 2006
64.	AKIRA	Aki Habara Electric Corporation Pte Ltd.	Sunsimexco Co., Ltd.	Consumer electronic goods and home appliances	Aug. 27, 2004 (Renewed)	Aug. 27, 2006
65.	LUX	Unilever N.V	Unilever (Cambodia) Ltd.	Soaps, perfumes	Sept. 10, 2004	Sept. 10, 2006
66.	SUNSILK	Unilever N.V	Unilever (Cambodia) Ltd.	Soaps, perfumes	Sept. 10, 2004	Sept. 10, 2006
67.	VISO	Unilever N.V	Unilever (Cambodia) Ltd.	Soaps, perfumes	Sept. 10, 2004	Sept. 10, 2006
68.	CLOSE UP	Unilever N.V	Unilever (Cambodia) Ltd.	Toothpaste and mouthwashes	Sept. 10, 2004	Sept. 10, 2006
69.	IPTON	Unilever N.V	Unilever (Cambodia) Ltd.	Beverages, teas	Sept. 10, 2004	Sept. 10, 2006
70.	POND'S	Unilever N.V	Unilever (Cambodia) Ltd.	perfumes, cosmetics	Sept. 10, 2004	Sept. 10, 2006
71.	BREEZE	Unilever N.V	Unilever	Soaps,	Sept. 10,	Sept. 10,

			(Cambodia) Ltd.	perfumery	2004	2006
72.	JET & device	Thai Boon Roong Co., Ltd.	N.V.C. Corporation Co., Ltd.	Cigarettes	Oct. 1, 2004 (Revoked: 18.8.2005)	Oct. 1, 2006
73.	Anlene	New Zealand Milk Brands Limited	Goodhill (Cambodia) Ltd.	Foods, milk, milk products	Oct. 15, 2004	Oct. 15, 2006
74.	Annum	New Zealand Milk Brands Limited	Goodhill (Cambodia) Ltd.	Foods, milk, milk products	Oct. 15, 2004	Oct. 15, 2006
75.	Fernleaf & device	New Zealand Milk Brands Limited	Goodhill (Cambodia) Ltd.	Foods, milk, milk products	Oct. 15, 2004	Oct. 15, 2006
76.	Anchor & Device	New Zealand Milk Brands Limited	Goodhill (Cambodia) Ltd.	Foods, milk, milk products	Oct. 15, 2004	Oct. 15, 2006
77.	CANON	Canon Inc.	Royal Cambodia Co., Ltd.	Copiers and facsimile products	Dec. 2, 2004 (Renewed)	Dec. 2, 2004
78.	KNORR	Unilever N.V	Unilever (Cambodia) Ltd.	Soup, soup preparations	Dec. 28, 2004	Dec. 28, 2006
79.	Konica Minolta	Konica Minolta Holdings, Inc.	Apsara Selex Cambodia Co., Ltd.	Photocopy machines and parts	May 20, 2005 (Renewed)	April. 1, 2006
80.	Minolta	Konica Minolta Holdings, Inc.	Apsara Selex Cambodia Co., Ltd.	Photocopy machines and parts	May 20, 2005 (Renewed)	Apr. 1, 2006
81.	YY & Yaing Yang & Device	VANN CHHAY Co., Ltd.	VANN CHHAY Co., Ltd.	Machines	Feb. 25, 2005	Feb. 25, 2007
82.	Five Rams Brand & Device	Guangzhou Five Rams Bicycle Imp. & Exp. Co., Ltd	Veng Srun Import Export Co., Ltd	Bicycle parts and fittings	Feb. 25, 2005	Feb. 25, 2007
83.	Rear Hul (stylized) Five Rams Brand	Guangzhou Five Rams Bicycle Imp. & Exp. Co., Ltd	Veng Srun Import Export Co., Ltd	Bicycle parts and fittings	Feb. 25, 2005	Feb. 25, 2007
84.	Front Hul (stylized) Five Rams Brand & Device	Guangzhou Five Rams Bicycle Imp. & Exp. Co., Ltd	Veng Srun Import Export Co., Ltd	Bicycle parts and fittings	Feb. 25, 2005	Feb. 25, 2007
85.	Clinic Clear	Unilever N.V.	Unilever (Cambodia) Ltd.	Soups, soup preparations	Apr. 7, 2005	Apr. 27, 2007
86.	Fuji	Fuji Photo Film Co., Ltd	Long Term Development Co., Ltd.	Films, inks, papers	May 20, 2005	Oct. 31, 2005
87.	CHANGF A & Device	Changzhou Changfa Power Machinery Co., Ltd.	Uy Tong Enterprises Co., Ltd.	Machines	June 9, 2005	June 9, 2007

D. Contribution of Copyright and Related Rights

1. The exploitation of copyright and related rights such as sound recordings, movies/video productions, performances and broadcasting will form a central part of recording companies' businesses. We can add, printing houses, libraries, software companies etc. By law, copyright and related rights protection is available to the owner of original works including literature, drama, music, artistic and other intellectual works for a specified period of time in order to exclude someone from reproducing, publishing, distributing, copying, publicly performing or preparing derivative works from their copyrighted works. The creator of a work has the right to allow or to prohibit the use of his/her work. If he/she discovers anybody using his/her copyrighted works without authorization, they can enforce this right administratively and in the courts. The problem of piracy and infringement of copyrighted work has prompted Cambodia to encourage the registration or, in other words, the voluntary deposit of works with the Ministry of Culture and Fine Arts to obtain legal rights to such works. The Ministry normally doesn't automatically enforce these rights without cooperation from the rights owner. Since Intellectual Property Rights are private rights, this cooperation is much more helpful in assisting enforcement agencies and will be an important tool for effective implementation of the law.
2. In Cambodia, Government policy on copyright and related rights has been included in the overall policy on intellectual property which clearly mentions the importance of copyright and related rights protection as well as acknowledging the need to commercialize these rights for the benefit of the national economy. The policy states that "... Cambodia is also rich in natural and cultural resources with abundance of traditional knowledge, traditional medicines, traditional cultural expression which created by innovative ideas of Cambodian authors, innovators and creators, thus the government commits to strongly and effectively protect the rights of authors, performer, designers, publishers, and broadcasting organizations through the establishment of strong and effective copyright and related rights system for the governance and protection of these rights. The Government also vows to protect the name and reputation of national and ethnic products through the setting up of the system for the protection and management of Geographical Indications products which will be promoted regionally and internationally...in order to achieve these objectives, the Royal Government of Cambodia commits to the establishment of international compliance IP legal framework and promotion of public awareness on the protection and commercialization of IPR for wealth creation and economic development...".
3. To endorse this policy, the Government of Cambodia enacted a law on copyright and related rights on March 22, 2003. The contents of this law provide copyright protection for literary works; artistic and scientific documents; official legislative, judicial and administrative texts; spoken works (conferences, speeches, sermons, etc.); dramatic and dramatico-musical works; choreographic works and pantomimes; musical compositions with or without words; audiovisual works with or without sound and photographs extracted from these works; drawings, paintings, architecture, sculpture, engraving and lithographic works; graphic and typographic works; photographic works and works produced with techniques similar to photography; applied arts; illustrations, cards, plans, sketches and plastic works pertaining to geography, topography, architecture and science, computer programs; and derived works, such as translations,

adaptations, transformation of one or several pre-existing works. Protection is provided for the lifetime of the author and 50 years after his/her death. The rights subsist for 50 years, starting on January 1 of the calendar year following the date of fixation, first disclosure of the performance, or first broadcast. In response to a specific question, the representative of Cambodia added that the law included enforcement provisions providing for destruction of infringing goods (Articles 58-66). This law also provides for the protection of compilations of data (Articles 7 and 21), computer programs as literary works, rental rights for computer programs, and the exclusive rights of a broadcaster to authorize rebroadcasts by wireless means (Articles 47 and 48).

4. To ensure effective enforcement of these rights, the provisions on civil judicial procedures and remedies had been included in the draft Civil Code, Civil Procedure Code and specific intellectual property laws currently in preparation. Implementing regulations for these laws and codes are under consideration. The Civil Procedure Code would include procedures concerning civil judgment, execution and provisional measures, and intellectual property legislation would cover provisions for remedies and provisional measures. Enforcement authorities would comprise courts, customs authorities, as well as CAMCONTROL, an organization under the authority of the Ministry of Commerce, and the Economic Police, both in charge of fraud repression and inspections of exported and imported goods. Under the law, courts – including municipal and provincial courts – would have the authority to handle cases of abuse of Intellectual Property Rights, disputes over royalties and remuneration, violation of authors' and application rights, and disputes related to the transfer and licensing of rights. The injured party could seek injunctions to stop infringement and claim compensation for damages. The amount of damages would be calculated on a case-by-case basis. The factor used by the courts to determine damages in the absence of specific legislation on this issue will be based on the calculation of the value of the benefits lost because of the infringement and on the duration of the infringement. Although the elaboration of guidelines in assessing damages and imposing remedial measures is currently not available, this issue has been debated by judges and other legislators. The Civil Code and the Civil Procedure Code would provide the legal authority, though no detailed provisions, for the award of damages and other remedial measures. However, Cambodia's current IPR legislation and its future implementation were, and would remain, in full compliance with the requirements of Article 48 of the TRIPS Agreement with respect to the indemnification of the defendant.
5. The contribution of copyright and related rights to business development in Cambodia has focused on the contribution of the domestic recorded music industry which is clearly shown an increase in the number of record-companies from none in 2001 to 15 companies in 2005 and the increased number of song recordings from a few songs recorded in 2001 to 140 volumes and 29 video stories in 2005. In this regard, authors and performers have passed their economic rights to the recording companies through contracts of exploitation of economic rights as mentioned in Articles 34, 35 and 37 of the law on copyrights and related rights. Even though, Article 56 of the law requires the establishment of collective management societies to facilitate the collection of remuneration on behalf of the authors and performers, this practice has yet to be applied since the regulation on the governance of collective management societies is still in draft form and the situation of copyright and related rights implementation is not yet sufficiently advanced to set up this society.

E. Valuation and Assessment of IP rights in Business Enterprises

Presently, there is no concrete practice on the part of a company or Government guideline on the assessment and valuation of IP assets. In no enterprise have IP assets been audited or properly managed by the owner or any independent valuer. The marketing of trademarks/brand names or copyrighted works has always relied only on their market value without any forecast of future performance. However, the Government understands the need to have this evaluation process in order to estimate the true value of these assets and be ready to establish such guidelines in the future with the possible assistance of developed nations and international organizations.

F. Access to Capital Based on IP Assets-Finance Schemes by the Government and the Private Sector

This subject is a topic of crucial concern in the least developed countries like Cambodia where access to loans and financial capital relies much more on physical mortgages than intangible assets such as IP assets. In this regard, the issue has not been addressed or implemented by either Government or private institutions in Cambodia. However, the importance of this issue will gradually be accepted based on the growth of the economy and strong protection of IPR as well as effective schemes of financial management practice concerning the banking and financial policies of Cambodia in the future.

PART II (B): SUCCESS STORIES

Case Study 1

<i>General Information</i>	
COUNTRY:	Cambodia
COMPANY NAME:	Hagar Soya Co., Ltd
CONTACT ADDRESS	
Contact Person	: Mr. Heng Rithyuth
Designation	: Sales & Marketing Manager
Business Address	: Str.271, Lot13 1B, Sangkat Boun Salang, Khan Tuol Kork, Phnom Penh, Cambodia.
Tel No.	: (855-23)995-063, (855-12)902-283
Fax No.	: (855-23)213-375
E-mail	: rithyuth@hagarsoya.com
Home Page (if any)	:

Description of Success Stories:

So! Soya Milk Drink is a local brand popular among toddlers, school children and the elderly and has acquired a considerable domestic market share in competition with imported soya milk drinks. The company started to develop this brand as the result of the efforts of a charitable Non-Governmental Organization with a view to providing jobs for unemployed and disabled women and gradually grew into a large-scale producer. The brand and packaging of So! Soya Milk Drink represented an innovative idea providing a distinctive character for this product which captured the attention of young people and was easy to recognize among similar products in the markets.

Title:

So! Soya Milk - a "Mighty Milk of Success"

Type of IP concerned (e.g. *TM, ID, Patent, etc.*)

Trademark: So! Soya

Background (*historical conceptualization of the concerned technology, product, business etc.*)

Hagar Soya Co., Ltd. (HSL) is a small enterprise which was created by Hagar, a Swiss-based Non-Governmental Organization (NGO) operating in Cambodia since 1994.

Hagar has helped thousands of mothers, children and families through its services and programs.

Hagar grew out of the need to respond to the pressing problems of vulnerable street mothers and children in post-conflict Cambodia. Today, Hagar employs 115 Cambodian nationals and 12 volunteer expatriates. Hagar is funded by charitable organizations, foreign governments and private individuals and obtains its returns from its commercial ventures.

The Hagar Soya operations were established in 1998 as one of Hagar's small businesses. The objective of this operation was to provide meaningful employment opportunities for destitute mothers on Hagar's programs, while at the same time producing high-quality, nutritious soya products at an affordable price.

In 2001, Hagar Soya entered into discussions with MPDF (Mekong Private Sector Development Facility) to conduct market research and feasibility studies on expanding and commercializing this business.

Hagar Soya Co., Ltd. is a private limited company incorporated in Cambodia and registered with the Ministry of Commerce (MoC) under trading certificate No. Co/ 1461/02E dated July 16, 2002. A new trading certificate no. Inv 791/03E dated February 2003 was issued by the MoC on the approval of the Company's amended Articles of Association.

The Company amended its statute to include International Financial Finance Corporation (IFC) as a shareholder in May 2003. It obtained its new Trading Certificate from MoC for this latest amendment in its statute.

HSL received funds from various parties such as Hagar and International Fund Corporation, a member of the World Bank Group and other shareholder loans from Hagar.

From September 2002 - January 2003, recognizing and demonstrating HSL's commitment to the principles of good corporate governance, the Company's Board of Directors was appointed two months later, and the Audit Committee also established six months later.

Construction of production and office facilities was completed in September 2003, and HSL commenced the installation of its production line thereafter. Later on October 14, 2003, After completing this installation, HSL commenced the commissioning of the production line with the first test run of all production equipment.

At the beginning, HSL hired and trained 49 employees, 25 of whom are women. HSL provides paid time off for government holidays and personal leave and also medical benefits.

The production capacity is 6,000 packages per hour for supplying a market demand of about 30,000 packages per day.

HSL aimed to produce the first batch of So! Soya from its production technology for testing at the Cambodian National Holiday Festival. Therefore, on October 31, 2003, it completed the commissioning of its production line with the first So! Soya packages produced for taste-sampling and distributed them to the general public during the Water Festival.

The Water Festival ran from November 7 to 9 and was an important three-day holiday in Cambodia which typically attracts about a million people into Phnom Penh, during which SHL set up sampling and product exhibition booths as part of the celebrations.

SHL distributed a total of 8,304 packages during this event and built up significant awareness of the So! Soya brand among Cambodian consumers, both within and outside Phnom Penh.

In November 2003, the company commenced its commercial production of So! Soya product. So! Soya was accepted in the market and the people are very proud of this local product.

HSL is managed by a Board of Directors of four members including Mr. Harvey Collins who was appointed as the Chairman of the Hagar Soya Co., Ltd. and elected to the Board in 2002. He is a resident of Australia and Chairman of HBF Health Fund Inc. He has extensive experience as a director in a range of industries and private companies. Mr. Collins is also a chairman of the Audit Committee for this company.

Mr. Adam Sac was elected to the Board as Non-Executive Director and representative of International Finance Corporation (IFC) in 2003. He is currently the General Manager of the Mekong Private Sector Development Facility (MPDF), a multi-donor initiative managed by IFC which promotes the development of small and medium-sized enterprises in Cambodia, Vietnam and Laos PDR. Mr. Sac is also a member of the Audit Committee.

Mr. Pierre Tami was appointed to the Board in 2002 as Executive Director. As the founder and Executive Director of Hagar, he represents Hagar on the Board of HSL.

Mr. Gregg Burgess was appointed as General Manager to the Hagar Soya operation of Hagar and appointed Managing Director to the Board of HSL in 2002. He was formerly an engineering manager with 17 years of experiences in the manufacturing and pharmaceutical sectors, responsible for managing staff, departmental and capital budgets, and strategic planning in production and engineering departments.

Besides this, HSL is assisted by capable section managers in areas such as sales and marketing, finance and accounting and production. One of them is Mr. Heng Rithyuth who was appointed as Sales and Marketing Manager. He has wide experiences in the fast-moving consumer goods industry. He received an MBA from the University of Utara Malaysia and the National Institute of Management (Phnom Penh) and a Bachelor's in BBA from Faculty of Business (Phnom Penh).

The main activities of the Company are the manufacture and distribution of soya milk. HSL is aiming at marketing its product in the domestic market radiating from the capital city to the provincial towns and rural districts.

So! Soya has become well-known in these domestic competitive markets with its sales increasing annually. In 2005, HSL recruited additional employees bringing the total up to 67. This fact signifies that So! Soya has acquired the confidence and support of the local consumers.

Development and Use of IP in Business Strategy

For the development of faster and more efficient production capabilities, HSL looked at what kinds of processing technology should be used in the plant - it should be adequate and modern in order to manufacture good quality products. In this regard, the following relationships and cooperation have been achieved with the goal of modernizing production technology.



HSL entered into a contract with a Taiwanese company Yeou Shing Machinery Co., Ltd. to purchase production equipment to grind soy beans and to cook the fresh beans from which soya milk has been automatically or semi-automatically, extracted. The equipment is capable of operating to a capacity of 1,000 liters of soy milk per hour.

HSL has concluded a contract with the Danish company Rapido International ApS

To purchase UHT (Ultra-High Temperature) equipment to treat the soya milk, equipment for cleaning is in place as well as other pre-filling equipment.

HSL signed agreements with Tetra Pak Asia Emerging Markets (TPAEM) for packaging machines and materials. The packaging machine has been designed to produce up to 6,000 packages per hour and will use Tetra Wedge Aseptic packages.

Upgrading technology is essential for the Company to improve the standard of its products. By improving levels of technology and quality, HSL's products will become more competitive.

In operation and marketing, HSL has developed the following business plan:

- secured production of quality products
- gradually upgraded production technology
- consistently acquired larger market share to compete with imported milk drinks.

- created strong confidence among customers. Beside this, HSL has set up its own accounting policies for the effective preparation of financial statements. Conventions have been drawn up in accordance with the International Financial Reporting Standards which are simple and basic if compared with the General Accounting Plan of Cambodia.
- presented a financial statement in U.S. dollars, which are widely accepted and used as the currency for transactions in Cambodia.

Intellectual Property Protection for Business Strategy:

- in 2003 HSL applied to register the trademark So! Soya for soy drinks at the Intellectual Property Department of the Ministry of Commerce and subsequently continued to acquire this type of protection through further registration of other related So! Soya brands for its enlarged product range.
- SHL has invented So! Soya marks and packaging designs, even though the industrial design protection system is yet to be operational.
- SHL has started to audit its registered marks and has decided to evaluate each IPR for the future purpose of assignment and appointment of provincial sale distributors.
- SHL advertises its trademarks through television, leaflets, exhibitions and newspapers to promote recognition of its ownership and inform customers of the guaranteed quality of its products.
- HSL also cooperates with related institutions such as IPD, the Department of Industrial Property, the Industrial Standard of Cambodia and other enforcement agencies for the effective protection of its marks and to ensure the continuing quality of Hagar products in domestic market.

At present, HSL owns many other registered trademarks such as So! Soya Kids, So! Soya Gold, So! Jo-C, So! Yo, So! Yumme, So! Milk and So! Choco and vows to invent more marks while increasing its production.

Impact on Productivity

Through HSL's operation and management, IP has played an important role in increasing the competitiveness of its products. HSL considers the registration of trademarks as an effective means to obtain ownership of commercial rights on its marks under the protection of intellectual property such as preventing others from using its registered trademark So! Soya without its authorization as well as protecting itself from copying or counterfeiting of this mark. Owning the trademark and design registration is also helping to improve Hagar's position in financial markets.

Financial providers and shareholders are gradually building their trust in Hagar's operation and are thus willing to provide more funds for further expansion. More new packaging designs and more elaborate marks will help HSL to bring awareness of its famous brand names to the market place.

HSL has contacted and cooperated with local practitioners in order to service and market its intellectual property arrangements to interested parties.

Company image:

- Marketing strategy, advertising and point of sale materials are used purely based on the registered marks.
- Product management that aims to obtain an international standard (application pending for ISO 9001: 2000 & HCCP).
- Continual improvement of the quality of the product through laboratory quality control.
- Strengthening the effectiveness of employees, and promoting a safe environment.

Additionally, HSL has set up an incentive policy in the company by using rewards/recognition and promotion schemes.

Sales and Quality:

- Aiming at increasing the quantity of products sold to supermarkets mini-marts, star-marts, shopping centers, and other retail outlets including provincial and rural markets by a ratio of 1-20 products by 2006.
- Expecting to increase customer satisfaction from 50% to 95%.
- Committing to better serve commercial and non-commercial markets by improving nutritious and fortified food elements in each newly-produced and marketed product.
- Committing to improving customer complaint resolution from one week to three days.
- Committing to reducing in house-defects by 2% a month.

Productivity:

- To increase production capacity from 6,000 packs to 7,000 packs per hour.
- To increase utilization capacity from 30% to 70%.
- To provide appropriate training to employees based on performance appraisal.

Profits:

- Aiming at raising reasonable profits from the marketing of new marks/brand names and retaining this profit for increasing investment capital and providing capital for other Hagar projects.
- HSL will meet break-even point probably at the end of 2007. With this intention and a successful management program, HSL received the Cooperate Government Award from the Royal Government of Cambodia in early 2005.

Case Study 2

<i>General Information</i>	
COUNTRY: Cambodia	
COMPANY NAME: LyLy Food Industry Co.,Ltd.	
CONTACT ADDRESS	
Contact Person	: Mrs. Keo Mom
Designation	: Director
Business Address	: No. 168A, 555 Signboard Str., Sanfkat Toek Thlar Khan Russey Keo, Phnom Penh, Cambodia.
Tel No.	: (855-23)995-388, (855-16)835-388
Fax No.	: (855-23)995-388
E-mail	: keo_mom@hellogsm.com.kh
Home Page (if any)	:

Description of Success Stories:

LYLY Rice Crackers is the domestic brand name of a tasty and low-calorie Cambodian-type snack which is especially popular among school-age children.. This famous brand belongs to a young local entrepreneur who started the business with little capital but who has been able to obtain a strong market share with a future possibility to increase this market share in competition with similar products. Gradually, LyLy's trademark and its rabbit and cow devices are becoming associated with delicious taste and healthy food.

Title :

LYLY Rice Crackers – a “Lucrative trademark of vivid creation”

Type of IP concerned (e.g. TM, ID, Patent, etc.)

Trademarks

: Rabbit with a song and the LYLY Device,
Rabbit with LYLY in Roman, Khmer letters
Characters and double cow device.



Background (*historical conceptualization of the concerned technology, product, business etc.*)

LyLy Food Industry Co., Ltd. is a small company located in Phnom Penh, established in 2002. It is a family enterprise managed by Mrs. Keo Mom and her husband.



Mrs. Keo Mom decided to launch into the business of manufacturing food products, when she discovered that a foreign company would be prepared to supply a machine for processing rice crackers. Mrs. Keo Mom and her husband discussed the matter and decided to buy this processing machine to start their own business.

In 2002, the machine was delivered to her house and the installation prepared for testing. After the testing period, Keo Mom considered her future business and how to establish a company. As the testing was successful, Mrs. Koe Mom agreed with her husband to produce rice crackers in small quantities for sale in the local markets, especially in the capital city and the area around the city. The product sold in small quantities at first, but sales gradually increased day by day, which makes her very proud of having started her business.

In 2002, after trying for a considerable period of time, Keo Mom approached the Government for consultations on how to establish a company under Cambodian law for producing and selling rice crackers. She wondered whether she should make a request to establish a company, an enterprise or just a handicraft manufacturing outlet for her business activities.

Finally she decided to apply for registration as a handicraft manufacturing outlet with the relevant authority, the Department of Industry, Mines and Energy of Phnom Penh Municipality. The application was welcomed by the authority for which the certificate of registration was granted under the name of LyLy Food Industry Co., Ltd. (LyLyF). Keo Mom had fulfilled all the conditions required by the authorities for handicraft registration such as proper environment, sanitation and quality control as well.

In its capacity as a small enterprise dealing with food, LyLyF has contributed to the development of Small and Medium-Sized Enterprises by producing rice crackers packed in good packaging to be distributed in the domestic market. This investment has helped to provide a number of jobs for local workers especially women from rural areas. It is noticeable that this is the first locally-made product to be introduced in Cambodia in plastic-packaging.

LyLyF operates by using processing machinery made in China comprising a grading machine, mixers, extruders, ovens, packaging machines and other support equipment.

The production line used by LyLyF is a mechanical system and goes beyond the basic requirements. Although, LyLyF uses machine technology, it still provides good quality products acceptable in the domestic market. Keo Mom has also informed us that at this stage she still needs

this technology and machinery, because it is cheaper than modern equipment which would make it difficult to obtain capital investment to expand. However, she has also considered modernizing her manufacturing technology for future production and packaging if business continues to improve.

Under license granted by the Government, LyLyF can produce all kinds of rice crackers, but LyLyF only manufactures certain types, which are popular and target the youth market.

Keo Mon aims to supply all types of market in Cambodia, from small retail outlets in the provinces to the supermarkets in big shopping malls in the capital, in order to compete with imported products.

She has applied the principle for her business that the product must be of good quality, healthy, safe and attractively designed and packaged for customers.

Keo Mom has been invited to participate in a number of workshops and seminars concerning business management and management of Small and Medium-Sized Enterprises organized by the Ministry of Commerce, Ministry of Industry, Mines and Energy and other related organizations. Although such training courses have only been conducted for a short period, Koe Mom has still tried to accumulate important inputs for her business and has gathered sufficient knowledge of Intellectual Property Rights to implement them into her business practices.

She has successfully promoted her brand name, LyLy & Devices of LyLyF Food Manufacturing, by advertising through various means.

Development and Use of IP in Business Strategy)

She felt that the existing technology should be upgraded to something more modern that can guarantee higher quality products with a greater output capacity.

Keo Mom is actively participating in seminars and workshops on intellectual property, industrial property and other subjects related to the development of SMEs. She knows that intellectual property is very important for the development of her business. Therefore, she has set out a certain IP strategy for her business as follows:

1. To seek intellectual property protection by registering trademarks and industrial designs with the Intellectual Property offices.
2. To design more images, more vivid colors and attractive devices on the packaging.
3. To create consumer confidence in her trademarks by national standards and quality control through product registration with the Ministry of Industry, Mines and Energy.
4. To promote awareness of the Company name and brand names through active participation in various national exhibitions and other promotional events.

5. To gradually improve the quality of her products to give more taste, more crunch and to be more healthy.
6. To provide an effective service for wholesalers as well as retailers.
7. To regularly advertise her trademarks and brand names.

Khmer characters and the double cow and device were protected under Certificate of Trademark registration granted in 2003.

Now, LYLYF owns several trademarks and has been using them for its rice cracker products. Beside this, Keo Mom has considered how to make her packaging more attractive and appealing which would be an important factor in the development of her brand name as well as promoting her business image in the country.

Little by little, Keo Mom has led her company to become one of the most attractive local producers and has retained the good reputation her trademarks provide as well as being rewarded with reasonable profits through this sensible step.

Impact on Productivity (e.g. how IP has contributed towards market dominance, company image, sales, quality, productivity and profits)

IP has played an important role in increasing the competitiveness of LyLyF products. As for other successful companies, LyLyF has to pay attention to the registration and promotion of trademarks as an effective means of upgrading itself in this competitive market. Keo Mom understands that, stronger protection of IPR will help her Company to acquire more business opportunities and eventually will also serve as a basis for the future use of her IP assets as collateral for obtaining more capital to increase production. In this sense, LyLyF continues to invent more marks and designs for its packaging and products and also continues to promote these distinctive features which have been the reason for its outstanding achievements. With the steadily increasing volume of production, LyLy has opted to extend its production base by retaining a portion of its profits in order to purchase more machinery and a further portion for investing in setting up advertising mechanisms and promotional schemes.

PART I (A)

List of Manuals, Guidelines and Directories
in the Area of
Intellectual Property (IP) Portfolio Management

COUNTRY: INDONESIA

No .	English Title + Brief Description of its Contents in less than 50 words	Year of Publication	Agency Responsible and Address	Contacts (Tel/Fax/email)
A. PATENT AND INVENTION RELATED				
1.	New Patent Information This publication contains the latest information about patent	Monthly	Indonesia Institute of Science, Jl. Gatot Soebroto No. 10, Jakarta	www.pdii.lipi.go.id
2.	Patent Gazette	Monthly	DGIPR	www.dgip.go.id
3.	ANNALES BOGORIENSES A journal of Biotechnology and Related Fundamental Sciences	1999	Research and Development Centre for Biotechnology Indonesia Institute of Science (LIPI); Jl. Raya Bogor km 46 Cibinong 16911, PO. Box 422 Bogor. 16004 – Indonesia	
4.	Bulletin of the Directorate General of Drug and Food Control	1998	Directorate General of Food and Drugs Control (now the National Agency of Drug and Food Control)	www.pom-bat.go.id
5.	Bulletin Tarumanegara	1997	Universitas Tarumanagara Jl. Letjen S. Parman No. 1 Jakarta 11440	Phone. (62-21) 5673003, 5671747
6.	Bulletin of Marine Geology	2002	Marine Geological Institute, R&D Agencies for Energy and Mineral Resources, Ministry of Energy and Mineral Resources ; Jl. Dr. Junjuran 236 Bandung 40174	Tlp: (022)6032151 Fax: (022)6017887 Email: mgidesdm@melsa.net.id
7.	Patent Law and the rule in Indonesia	1992	Chairul Anwar; Djambatan Book Publisher	

8.	“Sigma” Journal of Science and Technology. This journal contains articles about research and inventions	Monthly, First released in 1998	Research Department of Sanata Dharma University	
9.	Patent System, Practice Guidance and Technology Transfer	1994	Amir Pamuntjak; Djambatan Book Publisher	
B. INDUSTRIAL DESIGN RELATED				
1.	Visual Communication Design Journal. This journal contains many articles related to visual and communication designs including industrial designs.	Monthly, First released in 1999	Faculty of Art and Design, Petra University of Christian, Surabaya, East Java	
2.	Design Scientific Journal “2D3D” This journal contains many articles related to product design or industrial designs.	Monthly, first released in 2004	Faculty Of Design And Technic, University Of Pelita Harapan	
3.	Design Gazette	Monthly	DGIPR	www.dgip.go.id
C. TRADEMARK RELATED				
1.	Compilation of Commerce Court’s Decision on Trademark Cases, Number 1-5	2002	Tata Nusa Book Publisher	
2.	Trademark Gazette	Monthly	DGIPR	www.dgip.go.id
3.	Commentary of New Trademark Law 1992 and the implementation rule, First Edition	1996	Prof. S. Gautama; Alumni Book Publisher	
4.	Trademark Role on Business Enterprises	1996	I Gusti Gede Getas; Upada Sastra Book Publisher	
5.	New Trademark Law	1992	Prof. S. Gautama; Alumni Book Publisher	
D. COPYRIGHT RELATED				
1.	Introduction of KCI (Karya Cipta Indonesia). This publication contains the definition of copyright, protection of copyright and steps to obtain licenses on works	2002	Karya Cipta Indonesia Plaza Golden Fatmawati C-12 Jl. RS Fatmawati 15, Jakarta 12420, Indonesia	Email: kci@lci.or.id Website: www.kci.or.id Phone (62-21) 75905884 Fax. (62-21) 7656051

2.	Indonesian Press Clippings prepared for the Business Software Alliances	1998	PT. Tiara Ragam Gempita	-
3.	Bulletin ASIRI	Monthly	ASIRI, Komp. Perkantoran Mitra Bahari blok E 15 - 16; Jl. Pakin No.1 Jakarta 14440	Phone. (62-21) 6625342, 6625346, 6625347 Fax:((021)6625343 Email:asiri@cbn.net.id Telp: (021) 75905884 Fax:(021)7656051
4.	Bulletin CAKRA	Monthly	Karya Cipta Indonesia Golden Plaza Fatmawati, jl. RS. Fatmawati No.15 Jakarta	Email:kci@kci.or.id
5.	Copyrights Law	2003	Prof. Eddy Damian; Alumni Book Publisher	
E. BUSINESS RELATED				
1.	Business Law Series: Trade Secret	2001	Gunawan Widjaja; Rajawali Pers Book Publisher	
2.	Business Law Magazine	Monthly		
F. FINANCIAL GRANTS				
1.	This publication contains guidance for obtaining financial grants from the Ministry of Research and Technology in the field of patents. The aim of this program is to protect any inventions by giving costs necessary as an incentive for inventors. The purpose is to increase the number of domestic registered patents.	Yearly (2002-2005)	Ministry of Research and Technology	www.ristek.go.id
2.	This publication contains guidance to obtain a grant from the Ministry of Research and Technology in the field of industrial design.	Yearly (2002-2005)	Ministry of Research and Technology	www.ristek.go.id

3.	A guide to obtaining financial grants in Geographical Indications (GI). This publication contains explanations of purposes and aims of the program on how to obtain incentives in GI mechanism and valuation methods.	2005	Ministry of Research and Technology	TELP. (021) 3169166 – 69 – 71 FACS : (021) 3101952 Website : http://www.ristek.go.id atau http://www.ristek.or.id atau http://ristek.tripot.com
4.	A guide to obtaining financial grants in the use and protection of Traditional Knowledge (TK). This publication contains general explanations, purpose, rule and mechanisms to obtain incentives.	2005	Ministry of Research and Technology	TELP. (021) 3169166 – 69 – 71 FACS : (021) 3101952 Website : http://www.ristek.go.id atau http://www.ristek.or.id atau http://ristek.tripot.com

G. IP in General

1.	Bulletin “Info HaKI” This bulletin contains many articles about IP.	Monthly	Pusat Dokumentasi dan Informasi Ilmiah-Lembaga Ilmu Pengetahuan Indonesia (Indonesia Institute of Science), Jl. Gatot Soebroto No. 10, Jakarta	www.pdii.lipi.go.id This bulletin also can be accessed at www.haki.lipi.go.id
2.	6 Law of IP: Trade Secrets, Industrial Designs, Integrated Circuit Lay Out Designs, Patents, Trademarks and Copyrights)	2002	Tata Nusa Book Publisher	
3.	Journal Online LIPI		Lembaga Ilmu Pengetahuan Indonesia (Indonesia Institute of Science), Jl. Gatot Soebroto No. 10, Jakarta	www.journal.lipi.go.id

PART I (B)

General Overviews of Items (A) – (F)

A. HOW TO COMMERCIALIZE INVENTIONS

In Indonesia, the first regulations concerning patents were introduced in 1953. In anticipating new legislation in the field of patents, the minister of justice passed two decrees regarding the provisional filing of patent applications. The decree of the minister of justice no. J.s. 5/41/4 provided for the provisional filing of domestic patent applications while the decree of the minister of justice no. J.g. 1/2/17 provided for the provisional filing of foreign patent applications.

On October 13, 1989, the People's Representative Council (the Parliament) approved a Bill on patents. Law No. 6 of 1989 regarding patents (Patent Law 1989) was ratified by the President on November 1, 1989, and took effect on August 1, 1991.

As provided for in the considerations of the Patent Law 1989, a legal framework on patent is needed to secure the process of creating a climate conducive to the development of research and development of technology as well as for the protection of the fruit of such activities. In the process of national development in general and especially the economic sector, technology plays a very important role in improving and enhancing the industries' performance. The Government of Indonesia also believes that the presence of a free and motivated climate that enables people to develop their ideas, talents and creativity will enhance their quality. The enactment of Patent Law 1989 was also intended to encourage foreign investors and the flowing of technology into the country. The Patent Law 1989 revoked all previous regulations regarding patents.

In 1997 in order to bring the national Patent Law into compliance with the TRIPS Agreement, the Government of Indonesia amended the Patent Law 1989 with Law number 13 of 1997 (Patent Amendment Law 1997). At the same time, the Government also ratified two international conventions related to patents i.e. the Paris Convention for the Protection of Intellectual Property based on Presidential Decree number No.15 of 1997, and the Patent Co-operation Treaty (PCT). The ratification was based on Presidential Decree Number 16 of 1997. The first Decree actually amended Presidential Decree number 24 of 1979 by lifting the reservation of Indonesia on Articles 1-12 of the Paris Convention.

In the preamble to the Patent Amendment Law 1997 it is said that in order to create a better climate for the growth and development of research activities which in turn will result in technological inventions, it is necessary to amend the Patent Law 1989. Such amendment is due to the rapid development of Indonesian society, particularly in the field of the economy both nationally and internationally. The amendments which were made include, among others, the extension of the period of patent protection from 14 to 20 years, and the insertion of a right to prohibit importation.

The latest amendment to the Patent Law was made in 2001. On August 1, 2001, the Government of Indonesia enacted Law number 14 of 2001. This new Patent Law came into force on the date of its enactment and thereby repealed the previous laws on patent.

Despite the availability of intellectual property on patent law and its regulation, it clearly understood that successful inventions involve commercialization. Besides, the process of commercialization of innovations and inventions includes the participation of various stakeholders, among others: universities and R&D institutions, researchers and inventors, sponsors, technology transfer units, national patent offices, Government, and the public. Each of these stakeholders contributes in one way or another to the process of generation and commercialization of innovations and inventions.

In Indonesia, along with the short period of implementation of the national Patent Law and the increasing level of awareness of the public, particularly researchers at universities and R&D institutions, the commercialization of domestic inventions is not yet very advanced.

It is noted that the growing number of domestic patent applications is not in line with the success achieved in commercializing the patented inventions. There may be good reasons for this, and the major ones could include the following.

The majority of patent applications were filed by universities and Government R&D institutions (only a small percentage was filed by local small and medium-sized enterprises or industries). Meanwhile, it has been indicated that many of the university and institution research results implemented by industry or which reach the market rely on the capacity of the researchers in building networks and trust towards the user industry, although only very few have such a capacity. In some cases, the inventors work in isolation from industry and the markets. Hence, it is not an easy task to convince industries/companies, which are potential users of the inventions when they are not interested in producing or marketing them. Besides, most of the universities and institutions are Government-owned and are non-profit organizations.

In addition to that, although hard work has resulted in the patented inventions, they are not ready to be commercialized as market studies were either not undertaken in advance, or they are still in the early stages where further investigation and work are still required. Moreover, universities or R&D institutions are also usually lacking in sufficient financial support for manufacturing the relevant inventions.

Up to the present, in line with the growing awareness towards intellectual property (IP), as a result of the intensive awareness programs carried out by the main IP stakeholders, the above challenges have led to the establishment of in-house IP service units/centers within some universities and R&D institutions, which also offer their services externally including to small and medium-sized enterprises. However, there is still an issue of the competence and capacity of the IP centers to provide a proper quality service, both for managing the proper IP protection and managing its commercialization.

Taking account of the facts, a more careful assessment and more extensive coordination are required in engaging all stakeholders in every stage of development so as to solve the existing difficulties and support the commercialization of inventions.

B. HOW TO PROFIT FROM ORIGINAL INDUSTRIAL DESIGNS

Three years after revising the laws on patents, trademarks, and copyrights in 1997 and as the consequence of being a signatory to the TRIPS Agreement, the Government of Indonesia promulgated four new laws on intellectual property i.e. Law number 29 of 2000 regarding the Protection of New Plant Varieties, Law number 30 of 2000 regarding Trade Secrets, Law number 31 regarding Industrial Designs, and Law number 31 of 2000 regarding Layout Designs of Integrated Circuits. By passing these new laws, Indonesia seems to have a complete set of laws on intellectual property.

With the enactment of the Industrial Design Law 2000, the provisions on industrial designs as laid down in Article 17 of Law number 5 of 1984 regarding Industry are no longer valid. Under Industrial Design Law 2000, an Industrial Design is defined as a creation on the shape, configuration, or the composition of lines or colors, or lines and colors, or the combination thereof in a three- or two-dimensional form which gives an aesthetic impression and can be realized in a three- or two-dimensional pattern and used to produce a product, goods or an industrial commodity or a handicraft. The right to an industrial design is granted on the basis of its application to a design which is new and protected for a period of ten years as of the filing date.

The procedure for application of industrial designs is regulated by Government Regulation number 1 of 2005.

Compared with other fields of intellectual property, industrial design seems to be special in terms of the scale of fees applied. In order to encourage the use of intellectual property rights by local industries, especially small and medium-sized enterprises (SMEs), the Government of Indonesia stipulates a special table of fees for SMEs, which is half of the normal cost.

With regard to membership of international conventions on industrial design, Indonesia has been recorded by WIPO as a signatory to The Hague Agreement on the International Deposit of Industrial Designs (London Act 1934). Indonesia is currently studying the possibilities of renewing its membership in the Agreement by ratifying the newer Act i.e. The Geneva Act 1999.

In order to maximize the benefits of the law and regulations in the field of industrial design, the following should be considered in order to profit from original industrial design:

- Evaluation of the feasibility of the original design
- Technical and economic analyses
- Study and fabrication of models and prototypes

- Market study
- Seeking and setting-up of partnerships
- Financial engineering
- Assignment of designs or acquisition of licenses
- Preparation of a strategy
- Keeping proper record

C. CONTRIBUTION OF TRADEMARKS TO BUSINESS DEVELOPMENT

On October 11, 1961 the Government of Indonesia enacted Law Number 21 regarding Company Marks and Trade Marks (Trademark Law 1961) to replace the colonial Trademark Law. The Trademark Law 1961 was the first intellectual property law created by the Indonesian Government. It came into force on November 11, 1961. The enactment of Trademark Law 1961 as stated in its preamble was necessary in order to protect the public against counterfeit goods by those using a trademark which is already known to it as a guarantee of high quality.

The Trademark Law 1961 adhered to the declarative system of trademark rights. Under the system, trademark rights were based on the principle of first-use according to which the right to a trademark belongs to the first user of the trademark in Indonesia. Article 2 paragraph (1) of Trademark Law 1961 provides that 'the special right to use a trademark to distinguish goods produced by a company or the trade goods of a person or an entity from goods of other person or other entities is granted to whomsoever uses such trademark for the first time for the above mentioned purpose in Indonesia'.

On August 28, 1992 the Government of Indonesia enacted law number 19 regarding trademarks (trademark law 1992). The trademark Law 1992 came into force on April 1, 1993, and replaced the trademark law 1961. The trademark law 1992 introduced the system of rights to trademarks. Under the system, the first registrant in good faith is to be regarded as being the rightful owner of the trademark.

In 1997 together with the two laws in the fields of copyright and patents, the government of Indonesia also amended the Trademark Law 1992 with the enactment of law number 14 of 1997 (trademark amendment law 1997). Similar to the copyright and patent laws, the amendment of trademark law 1992 was made due to the rapid development of society, particularly in the field of the economy both nationally and internationally. The amendment was further intended to create a better climate for the growth and development of trade and investment activities.

The amendments to the Trademark Amendment Law 1997 include, among others, provisions on the protection of well-known marks to conform to the TRIPS Agreement, and the provisions on geographical indications and sources of origin. At the time of the revision of the Trademark Law, the Government of Indonesia also ratified the Trademark Law Treaty (TLT) based on Presidential Decree number 17 of 1997.

The latest development in trademark law in Indonesia has been the enactment of Law number 15 of 2001 to replace the previous laws on trademarks. In this latest version, protection on geographical indications is also covered. A further regulation on geographical indications is however being finalized at the moment, taking account of the importance of the existence of signs which indicate the place of origin of goods, which due to their geographical environment factors (including the factor of the nature, the people, or a combination of the two) give a specific characteristic and quality to the goods produced. Further, Indonesia is currently studying the possibility of joining the Madrid Protocol on the International Registration of Trademarks.

Compared with other intellectual property applications, trademark applications are the most numerous. While the daily average application rate for patents is 10, industrial designs five, copyright four, the daily average application rate for trademarks is 150. Not only does this result from the simplicity in obtaining such a right, but it also shows the public trust towards the existence of such a protection system. Although five hundred years ago, Shakespeare stated: "What's in a name? That which we call a rose, by any other word would smell as sweet." in this rapidly changing world where competition plays an important role, it is acknowledged that it is no longer possible for a product or service to have a long life or even survive without a means to indicate or introduce its existence, typified by a trademark or brand name.

From a study undertaken in 2004 by LPEM¹ - University of Indonesia, which has remarked on the high cost of infringement, it is clear that the contribution of a trademark to such an illegal business is not an exaggeration. The study found out that counterfeiting across 12 sectors² of the economy reduced the 2002 GDP by 2.1 trillion IDR (\$ 224 million USD), Government value added tax (VAT) and corporate tax receipts by 313.1 billion IDR (\$ 33.6 million USD) and employment by the loss of over 124,000 jobs. It is true that there are several reasons for a person using counterfeit products, namely. function, brand, effectiveness, suitability, and price; and that in general, the percentage of use of counterfeit products because of loyalty to a certain brand is less significant. However, as a brand name (trademark) is always used in introducing any kind of product, its role in such infringement cannot be considered insignificant. As the study was limited to 12 sectors representing 1.4% of the Indonesian economy, it can be imagined that the true loss to Indonesia, based on the figures given above is likely to be very high.

Further, in this era of globalization, where technology and telecommunications play an important role, a successful trademark no longer denotes only the success of an individual owner or company. It goes far beyond that as it may reflect the image and achievements of its country of origin.

Once a trademark is accepted by consumers (and later on becomes well-known), experience has shown that it facilitates further business development. A trademark which in the past only dealt with a certain product in a specific class may extend its

¹ Lembaga Pengkajian Ekonomi Masyarakat (Institute for Economics and Social Research)

² The 12 sectors are: Non-Alcoholic, Beverages, Cigarettes, Leather, Footwear, Pesticides, Pharmaceuticals, Cosmetics, Automotive and Machinery Lubricants, Water Pumps, Office and Electronic Equipment, Lighting Equipment and Automotive Parts.

scope (if considered suitable and marketable) not only to cover the whole (or some) products in that class but also to cover other products in other classes. At the same time, such a success will further support the increase in licensing or franchising such products or services covered by the trademark that ensures its remarkable achievement.

It is clear that to keep it alive and to help it grow, a trademark should be maintained in a proper manner. Besides skillful advertising, good quality control and supervision to ensure the very best quality for products and/or services offered should be designed and undertaken very carefully. A regular survey is advisable so as to detect market acceptance and possible competition or even infringement as early as possible.

D. CONTRIBUTION OF COPYRIGHT

On April 12, 1982 the Government of Indonesia enacted Law Number 6 on copyright (Copyright Law 1982) to replace the colonial Copyright Law. As stated in its preamble, the passage of the Copyright Law 1982 was intended to encourage and to protect the process of creation and dissemination of works in the field of science, the arts and literature as well as to accelerate the growth of the educational and intellectual life of the nation.

On September 19, 1987 the Government of Indonesia enacted Law Number 7 (Copyright Amendment Law 1987) to amend the Copyright Law 1982. In the preamble to the Copyright Amendment Law 1987, it is explicitly stated that the amendment of the Copyright Law 1982 was due to the increase in copyright infringements that could endanger the structure of social life and diminish creativity.

Following the enactment of the Copyright Amendment Law 1987, as the implementation of amended Article 48 of the Law, the Government of Indonesia established a number of bilateral agreements on copyright protection with, among others, the European Economic Community, the United States of America, Australia, the United Kingdom.

A decade later, in 1997, Indonesia revised the Copyright Amendment Law 1987 with law number 12 (Copyright Amendment Law 1997). In addition to fulfilling its obligations under the TRIPS Agreement, the objective of the amendment of the Copyright Law is to establish more effective legal protection on intellectual property rights, especially, in the field of copyright, due to the rapid development of society particularly in the field of the economy both nationally and internationally. Such establishment will create a better climate for the growth and development of a creative spirit in the fields of science, art and literature that is very important for national development. Moreover, the shortcomings in the implementation of the Copyright Law 1982 also contributed to the need for the amendment.

With regard to Indonesia's obligations under the TRIPS Agreement, there are two new elements introduced in the Copyright Law, i.e. provisions on neighboring rights and rental rights. In connection with neighboring rights, there are three new definitions on performers, producers of phonograms and broadcasting organizations that have been

added in Article 1 of the Copyright Law. A performer is defined as an actor/actress, singer, musician, dancer or person who performs, acts, shows, sings, communicates, recites, or plays a musical composition, drama, dance, literary work or any other kind of artistic work. A producer of phonograms is defined as a person or legal corporate body that in the first instance records or finances the activity of recording a performance as well as other kinds of voice or sound. A broadcasting organization is defined as an organization, which controls broadcasting, either a Government broadcasting agency or private broadcasting agency, being a legal body that broadcasts a work through wire or wireless transmission or other electronic systems.

Of the provisions on rental rights, the law provides that an author and/or a recipient of a copyright on a cinematographic work or computer program has the right to give permission or to prevent another person who without his prior approval uses the work concerned for commercial purposes.

At the same time as the enactment of the Copyright Amendment Law 1997, the Government of Indonesia also ratified five international conventions in the field of intellectual property rights. In the field of copyright, two conventions were ratified i.e. The Berne Convention for the Protection of Literary and Artistic Works, based on Presidential Decree no.18 of 1997, and the Wipo Copyright Treaty, based on Presidential Decree no.19 of 1997.

In an effort to improve the implementation of the Copyright Law and considering the development of a copyright regime at the international level, on July 29, 2002, the Government of Indonesia enacted a new law on copyright i.e. Law number 19 of 2002. This law came into force on July 29, 2003, and replaced the previous laws on copyright.

The new copyright law contains new elements, among others, regarding the protection of databases, and technological control measures.

In December 2004, the Government of Indonesia ratified another international convention in the field of copyright i.e. the WIPO Performances and Phonograms Treaty (WPPT), based on Presidential Decree number 74 of 2004.

Based upon the assessment undertaken by IIPA3 in 2004 a value of \$191.6 million USD was reported as the estimated trade loss due to copyright piracy (through motion pictures, records and music, business software, and books) in Indonesia. It is true that the owners of the pirated copyright are foreigners; however, the loss of Government tax from such copyrighted products, the creation of a climate that attracts foreign direct investment (FDI), and more importantly, the damage to national pride, is inestimable.

According to an International Data Corporation (IDC) Economy Impact Study released in 2003, it was estimated that a decrease in Indonesia's piracy rate by 10 points within four years could have added a value of \$1.9 billion USD to its economy. Further, it will also create more than 4,000 well-paid high-technology jobs, as well as generate \$100

³ International Intellectual Property Association

million USD in additional tax revenues to the Government (source: www.bsa.org/indonesia).

Although so far Indonesia does not have a name as famous as Walt Disney whose copyrighted works has been enjoyed by people in almost all countries round the world, resulting in prosperity for his family and certainly also for his country, contributions from several creators - such as the distinguished Gesang, GM Sudarta, Bagong Kusudiarjo, Raden Saleh, Rendra, Titiék Puspa, Bimbo, Kris Dayanti, and thousands more - on their copyrighted works are quite significant. It is noted that such magnificent creations have not only provided much enjoyment and resulted in tax revenues for the Government, but more importantly, they offer many job opportunities

While acknowledging the impressive results from the achievements of advanced development in the last few decades in the field of technology, and especially that which deals with telecommunications and audio systems, it is noted that such development has also been responsible for a catastrophic drawback as it enables very fast and not-easily detected mechanisms capable of producing instant illegal copies to flourish. Sometimes they even offer better quality than the originals.

For the last few years, Indonesia has been seen as a 'paradise' for IP pirates. One of the arguments has been weak law enforcement. In an effort to strengthen the enforcement of intellectual property laws, the Government of Indonesia has taken a number of important measures, which include among others:

- The improvement of coordination among institutions responsible for law enforcement such as the police, public prosecutors, the judiciary, the customs as well the Directorate General of IPR. On June 10, 2003 a Memorandum of Understanding between the Ministry of Justice and Human Rights and the Indonesian National Police regarding the Tackling of Criminal Actions in the Field of Intellectual Property was signed. This was followed by the establishment of a National Task Force on the tackling of IPR infringements with the Decree of Minister of Justice and Human Rights No M-72.PR.09.02 of 2003 dated September 2, 2003.
- Notification by the Directorate General of IPR to all shopping malls in the area of Jabotabek (Jakarta, Bogor, Tangerang and Bekasi) and other major cities in Indonesia NOT to provide or rent spaces to sell fake or counterfeit goods. The Directorate General of IPR has also sent warnings to thousands of companies particularly large and medium-sized companies NOT to use pirated computer software. Similar letters regarding the use of licensed software and free open-sourced software have also been sent to all government institutions.
- Joint operations between the police, the customs and the civil service investigators of IP of the Directorate General of IPR in conducting raids on counterfeit/pirated goods.
- Capacity building of law enforcers (police, public prosecutors, the judiciary, customs, and civil servant investigators) through various education and training

programs including seminars and workshops. A curriculum on IP law enforcement has also been developed by the Directorate General of IPR with assistance from the Japanese International Cooperation Agency.

- The stipulation of a number of regulations to anticipate and combat IP piracy, especially on optical products (CDs, VCDs, DVDs):
 - i. Government Regulation No 29 of 2004 (October 5, 2004) regarding High Technology Production Facilities for Optical Discs.
 - ii. Decree of the Minister of Trade and Industry No 645/MPP/Kep/10/2004 (October 18, 2004) regarding the Provisions on Importation of Machines, Machinery Equipments, Raw Material and Optical Discs.
 - iii. Decree of the Minister of Trade and Industry N^o 648/MPP/Kep/10/2004 (October 18, 2004) regarding the Report and Supervision of Companies of Optical Disc Industries.

E. VALUATION AND ASSESSMENT OF IP RIGHTS IN BUSINESS ENTERPRISES

It might be worthwhile to discuss how small and medium-sized enterprises survive, compete, and grow in this era of globalization as data from the Statistic Agency of Indonesia (Badan Pusat Statistik - BPS) show that the small and medium-sized enterprises' (SMEs') performance has slightly improved in the recent years. While in 2000, SMEs could only reach 54.5% of Gross National Product (GDP), in 2003 GDP from the SMEs reached a value of IDR 1,013.5 billion (56.7% of GDP). SMEs also play an important role in absorbing manpower (which involved 79.0 million workers in 2003 or 76.94% of the total labor force).

In the beginning, the prominent persons involved in the attached success stories could certainly be categorized as SMEs. Remarkably, they showed how a systematic and careful evaluation and assessment was undertaken by the inventors and trademark creators. It certainly was not by chance, but with patience and dedication that they succeeded and, as suggested by Okongwu⁴, that such evaluations and assessments need to involve: the innovator (inventor/researcher); the entrepreneur (venture capitalists, marketers, etc); plant designers; and most importantly, the user.

Though there are no rigid formulae on evaluation and assessment of an innovation, there are however some basic guidelines, details of which vary, depending on the innovation and the application(s). The user's (consumer's) social attitudes, affluence, etc. will, to a large extent, determine the mode and design of the evaluation criteria.

⁴ Dr. D.A. Okongwu, Director, National Office for Technology Acquisition and Promotion (NOTAP), Abuja; Evaluation and Assessment of R&D Results and Inventions for Their Marketing and Commercialization; WIPO Regional Seminar On Invention and Innovation in Africa, Abidjan, September 1 - 3, 1999

It is clearly understood that research and development results and inventions are important components of the innovation process and must be subjected to a systematic and careful evaluation and assessment before they can be transformed into marketable products. An invention or research result is only useful when it meets the needs of the market (demand), when it has been successfully commercialized. The ultimate destination of every innovation is the market place, where it has to serve a particular need. Unfortunately, it is widely recognized that a great majority of inventions and research and development results do not make it to the market.

The following components are usually considered in evaluation and assessment before introducing an invention (a creation) to the market:

- technical issues;
- intellectual property rights issues;
- socio-cultural issues;
- commercial, marketing, economic and business coordination, etc.;
- legal, regulatory issues;
- capital-cost, investment level, ownership structure;
- profitability;
- product utilization/application and definition.

Answers to the following questions⁵ were therefore carefully analyzed, examined, and judged:

- does the technology offer a cheaper and/or a better way of accomplishing something?
- are there competing technologies available and if so how much better is this invention?
- does the invention provide a technological answer to an existing problem?
- does it have the potential for creating a new market?
- how much investment, in both time and money, will be required to bring the invention to the marketplace?
- will the inventors continue to work on the invention?
- what will be the potential pay-off for a company that invests in the development of the invention?

⁵ Anonymous, Draft Guidelines on Developing Intellectual Property Policy for Universities and R&D Organizations, Document Prepared by the Secretariat of the World Intellectual Property Organization (WIPO)

Nowadays, for the sake of effectiveness and with support from the advancement of technology and telecommunications, novel products are usually made locally and no longer shipped round the world. However, the ability to make them may still depend on technology and techniques patented or laboriously acquired elsewhere. In this regard, business people must be prepared to pay for the licensing of skill and knowledge that they require, in the most cost-effective way in developing a new business.

It is acknowledged that protection of proprietary rights is often required so as to encourage a company in risking the investment of its human and financial resources in developing its creation or invention, while in some other cases an exclusive license may be required in order to give a company an incentive to undertake commercial development and production.

F. ACCESS TO CAPITAL BASED ON IP ASSETS-FINANCIAL SCHEMES (LOANS, GRANTS) BY GOVERNMENT INSTITUTIONS AND WITH PRIVATE CAPITAL.

In an effort to maximize the utilization of the intellectual property (IP) system, especially by universities, research and development institutions (R&D), and small and medium-sized industries (SMEs), the role of the Government is indeed very important. In Indonesia, a number of Government institutions, among others the State Ministry for Research and Technology (SMRT), and Directorate General of Higher Education (DGHE) - the Ministry of National Education, have formulated a scheme of short-term financial assistance for individual local inventors, members of universities, and R&D institutions, as well as SMEs who will submit patent applications for their inventions.

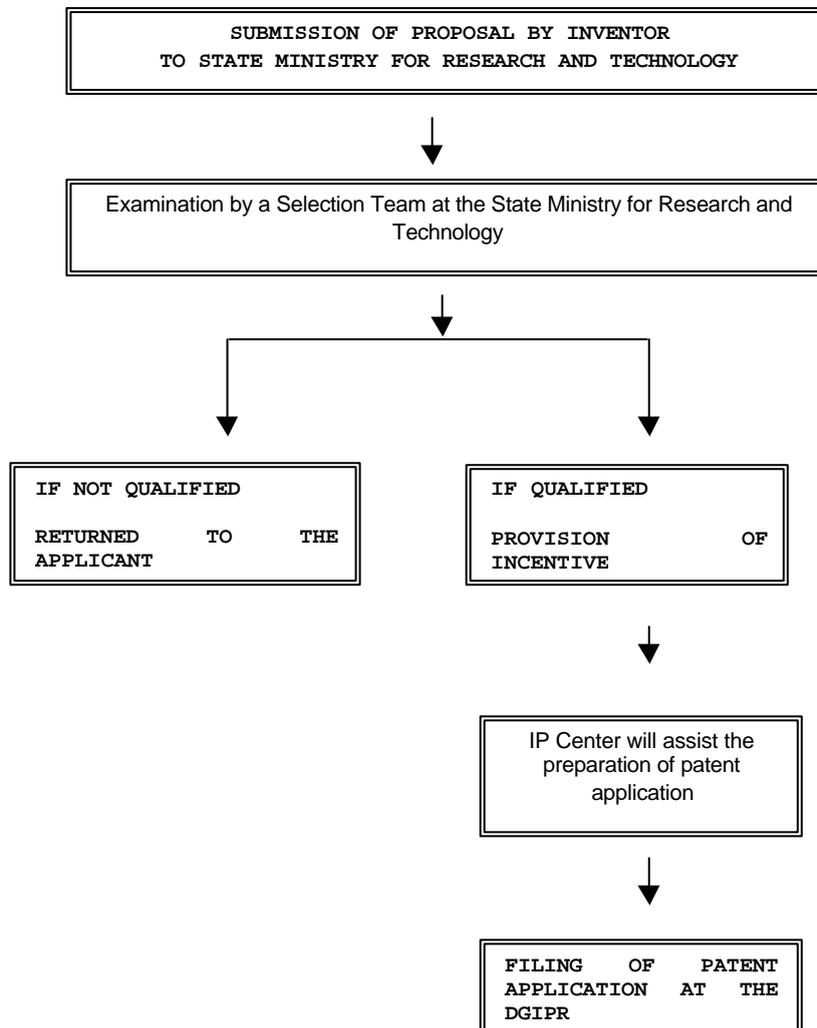
The objective of the short-term programs, which includes the so-called “Obtaining Patent Program” (*Program Oleh Paten*) is:

- to demystify implementation of IP systems;
- to stimulate universities and R&D institutes in utilizing IP systems, with special emphasis on obtaining patents for activities they undertake;
- to increase the number of domestic patents.

For the last five years, through such programs, the SMRT has provided selected inventors with an incentive by paying the fees for obtaining a patent, in order to cover the cost required from the application to the issuance of the patent certificate.

Almost five years of implementation, the program has been found to be very useful, especially for researchers and scientists from universities and R&D institutions who have extremely limited financial resources. Under the program, 212 patents have been granted by the Directorate General of Intellectual Property Rights (DGIPR). It is expected that through this kind of support program the number of domestic patents will increase significantly.

The procedure, which has to be followed under the scheme of Obtaining Patent Program, can be summarized as follows:



In addition to the Obtaining Patent Program, the SMRT has also launched the Obtaining Industrial Design Program, which follows similar lines.

Further, in the last four years, initiated and sponsored by the SMRT, a number of the so-called “IP Centers or IP Management Offices” at universities and R&D institutions have been established with the object of assisting inventors and researchers within their institutions in obtaining and managing their intellectual creations. Selected IP Centers or IP Management Offices have also received financial assistance from the State Ministry for Research and Technology to set up their offices.

Besides the SMRT and the DGHE, the Ministry of Industry through the Directorate General of Small and Medium Industry (DGSMI), also has a program for assisting SMEs in asserting their intellectual property rights.

The short-term program is mainly targeted at stimulating the awareness and growth of IP systems, although, budget constraints seem to present a significant factor in impeding the possibility of its being sustained further. As a short-term program, it is certainly not meant to be automatically extended. Further assessment is however needed to determine the proper period for executing such an important program, whether a five, 10, or 15 year program would be considered as sufficient.

Despite budget constraints (after implementation of the short-term programs in the last five years), it seems that efforts to maximize the utilization of the IP system for the country's benefit are still expected to be continued. In this regard, the Government is expected to prepare other incentive programs.

PART II (B) : SUCCESS STORIES

Case Study 1

GENERAL INFORMATION

COUNTRY : **Indonesia**

COMPANY NAME : Indonesian Planter's Association for Research and Development, Department of Agriculture.

CONTACT ADDRESS

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Designation : Indonesian Planter's Association for Research and Development

Business Address : Lembaga Riset Perkebunan Indonesia (LRPI)
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Tel No. : 62-251 - 333087

Fax No. : 62-251 - 315985

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Home Page :

Description of Success Story:

Title

Nutrient-solubilizing and aggregate-stabilizing biofertilizer.

Type of IP concerned

TM : **EMAS** (Enhancing Microbial Activities in the Soils)

Patent : ID 0 000 206S

Background

Large areas of poor-quality soils have been developed for plantation. Low nutrient availability, organic matter content, and low microbial activity in this soil type have resulted in low fertilizer use efficiency. Naturally, under humid-tropical conditions, fertilizer loss through leaching, volatilization, and/or fixation represents an economic loss as well as potential environmental contamination. The inefficient use of conventional fertilizers is still part of current agricultural practices. Studies have shown that crop productivity is closely related to the ability of plant roots to extract water and nutrients efficiently from the soil. Further, the function of the roots is governed by an integrated set of biological processes.

A biotechnological approach is then assumed to be able to enhance the emergence of biotechnology in soil management, and provide a new approach in tackling many problems which remain unsolved by current technology. Manipulation of soil microbes offers an efficient technique to stabilize soil aggregates, increase nutrient uptake, control soil-borne pathogens, and accelerate the decomposition of solid organic waste, without adding new pollutants to the environment. Biofertilizers are basically microorganisms which can improve the availability of nutrients to plants. They are believed to have been an important component of sustainable agriculture, as they can reduce the use of chemical fertilizers. In addition, microbial inoculant is believed to be potentially effective in inducing microbial activities in the rhizosphere. It is thought that by improving rhizospheric microbial activities by biofertilizer application, this may result in the enhancement of nutrient solubilization and consequently less conventional fertilizer will be needed.

Development and use of IP in business strategy

Pilot scale development of EMAS biofertilizer technology was constructed based on previous results in collaboration with Project Management of the Ministry of Research and Technology i.e. RUT⁶ II (1994-1996), and RUK⁷ II (1996-1999), in collaboration with PTP⁸ Nusantara I, IV, VII, VIII, and XIV. The goal of this project is to provide farmers with an efficient biofertilizer capable of reducing conventional fertilizers commonly applied on marginally-suitable soils. Research results in 1994-1995 provided a prototype for a biofertilizer product. Previous studies undertaken on this project indicate that multi-isolate inoculums were more effective in improving soil nutrient availability and stable aggregate formation the single-isolate. Based on this evidence a biofertilizer formulation was prepared in granular form consisting of non-symbiotic N-fixing bacteria *Azospirillum lipoferum* (BCC 2369), and *Azotobacter beijerinckii* (BCC 2368), phosphate-solubilizing *Aeromonas punctata* (BCC 2367) and *Aspergillus niger* (BCC F194). They also offer the possibility of solubilizing barely soluble phosphate, whereas the latter species can induce the formation of stable soil aggregate intended for increasing fertilizer use efficiency on marginally-suitable soils. Some of them have a capacity to improve other nutrient solubilization. All of these microbes are native to Indonesian Ultisols soil.

⁶ Riset Unggulan Terpadu (incentive research programs undertaken by universities or R&D institutes)

⁷ Riset Unggulan Kemitraan (incentive research programs undertaken by universities or R&D institutes in collaboration with private institutions)

Both incentive research programs are managed and coordinated by the Ministry of Research and Technology to boost research development in Indonesia

⁸ Perseroan Terbatas Perkebunan (state-owned plantation enterprise)

The pilot production technology of EMAS biofertilizer was an intermediate step before embarking on a commercial scale within a series of technology developments. Prior to that, laboratory and green house experiments were undertaken. These activities were carried out in 1996-1999 (RUK II). Development of pilot scale EMAS production technology was based on an efficient principle of bioprocess technology that offer a simple methody, cheap and abundant materials, and an effective product output.

EMAS was prepared in granular form, in sizes of 2-4 mm by using a mixture of minerals and inland peat as a carrier, and packed in 25 kg bags (Fig 1 and 2). Field experiments were conducted in plantation crops (tea, rubber, cocoa, palm oil, and sugar cane), food crops (rice and corn), horticulture (potatoes), and herbs. Application of EMAS has shown that it can reduce the use of conventional fertilizer by up to 50%. In addition, introduction to the soil provides a more stable soil aggregate and improves soil fertility. The other benefits of EMAS are (i) offering a 10-30% saving on cost of fertilizer, (ii) environmentally-friendly practice, and (iii) applicable to any type of crops. Finally, the combined effects of EMAS application could be generated from cost savings on storage, labor, transportation, etc. The process was patented in 1998 in Indonesia under Patent No. ID 0 000 206S.

For commercial purposes, a consortium of PTP Nusantara III, V, VII, and VIII set up a company called PT Bio Industri Nusantara (Bio Nusa) on November 10, 1999. The company's office is located in Bandung, whereas manufacturing of EMAS is done at Purwakarta. The technology for the production of EMAS by PT Bio Industri Nusantara is under license to the Biotechnology Research Institute for Estate Crops (BRIEC). This product has been registered for commercial production and marketing at the Department of Agriculture under registration number of G 798/BSP/X/2001.

Impact on Productivity

Since 1997 the EMAS biofertilizer has been produced semi-commercially at a capacity of 10 tons/day. An up-scaled plant has been constructed by PT Bio Industri Nusantara (Persero) with a production capacity of 10,000 tons/year. Unlike chemical fertilizer, EMAS biofertilizer will only be produced once orders are placed. This is because the microbes in EMAS biofertilizer have a viability of a maximum of 12 months.

EMAS biofertilizer has proven its high potential for increasing fertilizer use efficiency of hevea rubber through the reduction of conventional fertilizers on highly weathered tropical soils. These results indicated that the microbes played an important role in improving the effectiveness of fertilizer use. Similar phenomena were observed on other crop species i.e. tea, cocoa, and sugar cane. In addition, in various palm oil plantations, a combination of 250 g EMAS biofertilizer per tree per semester with a 75% reduction in conventional fertilizer per tree can give a similar fresh fruit bunch (FFB) yield to a 100% application of conventional fertilizers.

The justification of economic feasibility for EMAS biofertilizer application is based on cost reduction of fertilizer. EMAS biofertilizer could save national fertilizer costs at Rp. 1.5 T/year value. Results of financial analyses indicate that the development of EMAS manufacture with Rp. 9.625 billion investment funds could reach NPV⁹ at Rp. 14.23 billion, 72.21% IRR¹⁰, 1.30 B/C¹¹, leading to a positive cash flow cumulative in the fourth year or twenty months after production. This indicated that the manufacture of EMAS biofertilizer could lead to a positive value of NPV, with an IRR value higher than the rate of bank lending (commercial), and with a B/C > 1. It is not therefore an exaggeration to conclude that the project is a feasible one.

⁹ Net Present Value

¹⁰ Internal Rate of Return

¹¹ Benefit Cost Ratio



Figure 1.
EMAS biofertilizer packed in a 25 kg bag.



Figure 2.
EMAS biofertilizer - in granular appearance - with a one year stability guaranteed.

INVENTOR'S PROFILE

Dr. Didiek Hadjar Goenadi is a Research Professor in Soil Sciences at the Indonesian Biotechnology Research Institute for Estate Crops, Bogor, Indonesia. Born in Kediri, East Java, on April 4, 1958, he received his professorship of research in 1995. He is the author of hundreds of papers published in several national and international scientific journals. He has also translated English-language books into Indonesian, namely *Principles of Soil Chemistry* (1992), *Fertilizers Technology and Use* (1993), and *Interactions of Soil Minerals with Natural Organics and Microbes* (1997). He has also written an Indonesian-language book entitled *Key Success for Inventors* (2004). Dr. Goenadi is a member of the International Soil Science Union, Soil Science Society of America, Agronomy Society of America since 1985, the President of the Indonesian Soil Science Society (1999-2003), the President of the Indonesian Inventors' Association (1999-present), and the Advisor to the Research and Technology Minister for Economical, Industrial, and Trade Affairs (2000-2003). In 2002, he was appointed as Executive Director of the Indonesian Planter's Association for Research and Development, Department of Agriculture. He received the M.S. degree (1986) and a Ph.D degree (1989) in Soil Sciences from the University of Georgia, Athens, GA, USA. Additionally, Dr. Goenadi has received numerous awards, i.e. Phi Kappa Phi (1986), Outstanding Academic Achievement (1986), *Satya Lencana Wirakarya Pembangunan* (1998) from the President of the Republic of Indonesia, and IPR Awards (2001) for his first Patent of EMAS Bio-fertilizer (1998). His other inventions that have been patented are *RhizoPlus* (1999), *OrgaDec* (2000), *Bio-P* (2005), and *Bio-SP* (Patent Pending).

Case Study 2

GENERAL INFORMATION

COUNTRY : **Indonesia**

COMPANY NAME : PT Es Teler 77 (Co, Ltd)

CONTACT ADDRESS

Contact Person : Sukyatno Nugroho

Designation : Es Teler 77 Juara Indonesia

Business Address : Roxy Mas C3/21-22, Jl. K.H. Hasyim Ashari, Jakarta-Indonesia

Tel No. : +62 21 633 8085

Fax No. : +62 21 630 7857

E-mail : info@esteler77.com

Home Page : www.esteler77.com

Description of Success Story:

Title

Special drink called “Es Teler 77”

Type of IP concerned

TM : Several Trademarks on Goods and Services

Background

In the era of globalization where free trade and competition on the provision of product quality plays an important role, it is acknowledged that success in facing such challenges does not merely depend on formal education. In addition to hard work, dedication and intent, people who succeed usually have good motivation and high creativity. Sukyatno Nugroho, one of the founders and owners of ES TELER 77 Company could be considered as one among those who has succeeded.

He was born in Pekalongan, Central Java on August 3, 1946. Years ago, with his Junior High school certificate, he went to Jakarta, following his uncle who taught him how to become a good merchant. At the beginning of his career as a merchant, he sold various kinds of goods such as buttons, combs, and electronics. At that time, he had to work far from Pasar Pagi, West

Jakarta to Jatinegara, East Jakarta to sell his goods. A man whose Chinese name is Hoo Tjioe Kiat was indeed in despair but his fighting spirit was ignited and he was motivated by his uncle. His past experience in handling various jobs has - to a certain extent - helped in forming his attitude, personality, performance and success. Those experiences ranged from working in a service bureau, then in an advertising and printing company, after which he became a supplier, and later on a contractor for official houses where the builder was at that moment involved in an unexpected dispute.

1982 could be noted as an important milestone in his life. This started when his mother-in-law, Mrs. Murniati Widjaya, won a prestigious cooking competition and became the Indonesian Champion in preparing a traditional Indonesian drink called es teler which later became the well-known ES TELER 77 drink. Although it only consists of coconut, jack fruit, vanilla syrup, milk, and ice, its special recipe has been acknowledged to create a delicious taste. Based upon that award, his father-in-law, Trisno Budiyanto got an idea to open a small kiosk to sell the drink to the public using the slogan: “Juara Indonesia” (which means Indonesian Champion) in front of the kiosk.

Initially, ES TELER 77 was just a small street vendor in an ordinary kiosk outside a well-known Duta Merlin shopping center located in Jalan Hayam Wuruk in the center of Jakarta, with only five employees. Although things were looking good in its early stages for ES TELER 77, quite frequently, the little canteen had to be closed due to floods in the rainy season. It is true that being a small canteen, it was often treated unfavorably by the management of the shopping center. For example, one day the management raised the rent of the space by almost 150% without prior notice. Of course, ES TELER 77 had very little bargaining power at that time. The worst came when the management forced the business to move out with only a few days’ prior notice.

The name ES TELER 77 came up during a big family reunion, when all members of the family gathered. In the event, instead of only using the name ES TELLER, one of them proposed the inclusion of number 77 – which, in Chinese society is believed to be lucky - as part of the name of the kiosk. From then on, the brand name of ES TELER, with the additional number 77 was created. The “ES TELER 77 - Juara Indonesia” later became the company's trademark which has become well-known now.

In order to make the brand name ES TELER 77 better known, Sukyatno, sponsored many unique competitions such as “Becak (traditional tricycle vehicles) Race”, or national record-breaking (Indonesia Record Museum/MURI) such as the biggest Christmas tree. Through such activities, publicity for ES TELER 77 as well as proclaiming its existence in various mass media including television has attracted more and more customers.

Having moved several times, Sukyatno was finally able to rent a kiosk in Pondok Indah. At the same time, with the growth of the business it became a family company, namely CV. ES TELER 77. With the cooperation and great support from all members of the family, he opened a new, bigger and better ES TELER 77 restaurant in a small lane next to a shopping center called Gajah Mada Plaza. There, he used the slogan: “Drunk the world over ES TELER 77” (teler means drunk). In this new location his business continued to develop and grow.

Sukyatno realized the importance of trademark protection, so he registered:

- his service mark of “Juara Indonesia” and the logo of “Es Teler 77” under registration number 480526 in Class 42 to protect the use of his mark for restaurants, cafeterias, hotels and catering; and
- the service mark of “Es Teler 77” under registration number 533422 in Class 43 to protect the use of his mark for beverages and food services.
- As well as this, he protected the same trademark under registration number 374566 and 480525 in Class 30 to protect the use of his mark for meatballs, mixed fruit ices, es teler, ice creams, crackers, nut crackers (emping) and beverage packaging, and
- under registration number 374565 in Class 32 to protect the use of his mark for syrups.

Realizing the power and benefit of using trademarks in optimizing his business, he then also applied and used the service mark “Mie Tek Tek” for restaurants specializing in serving many kinds of noodle cooked in the traditional way. Nowadays, Sukyatno really enjoys his success and has reaped a lot of benefit from his registered trademarks.

The drink es teler is not the only thing served in the ES TELLER 77 restaurants nowadays. They also offer the following: Super Special Meatballs (Baso Super Special), Large Super Special Meatballs (Baso Super Special Jumbo), Fried Noodles (Mie Goreng), Fried Rice (Nasi Goreng), Fried Fishballs (Otak-otak Goreng) and Spicy Chicken Wings (Sayap Goreng). The number of regular customers grows steadily every day, and it is acknowledged that the brand ES TELLER 77 has become more and more popular.

Impact on Productivity

As a result of current development and need, it is clear that demand for the raw materials to prepare the drink have also increased. In order to solve the problem, the company decided to set up its first central kitchen and warehouse. In the central kitchen the company prepares most of the required raw materials, while the warehouse was set up to store and distribute the materials as well as the necessary ingredients to the restaurants all over indonesia. With these facilities the company can provide the best ingredients necessary to produce its products to the highest quality standards. The first central kitchen and warehouse was built in west jakarta in 1997. Recently, it has been moved to a new location in serpong, tangerang with bigger and better facilities.

Today, ES TELLER 77 can be found in major shopping centers in most cities in indonesia. It can also be found in some towns in Malaysia, Australia, and Singapore. There are about 250 ES TELLER 77 franchisees. The ‘younger’ generation, “Mie Tek-Tek“ has about 20 branches, and “Ikan Bakar Pasti Enak” also has about 20 branches scattered around the big cities in indonesia.

Despite strong competition from foreign fast-food brands and other local brands, ES TELER 77 continues to grow. Its commitment always to provide the best Indonesian food and beverages to its customers must be the best recipe for attracting customers.

The following are notes on requirements for opening an ES TELER 77 franchise.

Franchise Fee	Rp 75.000.000,-
Franchise Term	5 years
Estimated initial investment (excluding franchise fee) <ul style="list-style-type: none"> This amount varies according to the condition and the surface area of the shop. This investment will cover shop fitting and decoration, kitchen equipment, dining tables and chairs etc. 	Rp 350.000.000,-
Other Fees Royalty : Marketing :	4 % 2 %
Staff Training Program - at the Es Teler 77 Training Centre : - at an Es Teler 77 outlet :	1 week 3 weeks
Location	Preferably in a mall, shopping centre, or supermarket

In acknowledgement of its success, ES TELER 77 and its management team have received a number of awards. These are:

• November 10, 2000	Enterprise 50 Award from Andersen Consulting (now Accenture) and SWA business magazine.
• February 9, 1999	Sukyatno Nugroho was recorded as the person with the highest number of record-breaking events in Indonesia by the Record Museum of Indonesia.
• December 21, 1998	Sukyatno Nugroho was awarded a Doctorate (<i>honoris causa</i>) degree by the American World University, Iowa, U.S.A, with a thesis on "Look Globally but Think and Act Locally".
• October 13, 1998	Parama Boga Nugraha from the Indonesian Minister of Food and Horticulture.
• February 12, 1998	"Recession Marketing of the Month Markplus Strategic Forum" from MarkPlus.
• August 26, 1995	Asean Best Executive 95-96 was awarded to Sukyatno Nugroho and Yenny Setia Widjaja.
• July 12, 1995	Satya Lencana Pembangunan from the President of Indonesia, President Soeharto.

Trademark



Products



Branches and Franchisees of ES TELER 77 in Indonesia, Singapore and Australia Indonesia

Bali Super Nova	Pasar Swalayan & Toserba Supernova, Jl.Raya Kuta, Bali	(0361) - 751186 Ext. 38
Galeria Bali	Mal Bali Galeria, Lantai Dasar No. 1C - 65, Jl.Raya By Pass Ngurah Rai, Bali	(0361) - 767017
Balikpapan Centre	Jl. Jend. Sudirman, Pasitika Food Court, Balikpapan Plaza, Lt. dasar Balikpapan	
Bandung Indah Plaza	Bandung Indah Plaza, Ground Floor PA2A, Jl.Merdeka 56, Bandung	(022) - 42040710-11 Ext. 317
Bandung Supermal	Bandung Supermal, Lantai Lantai 2 / F20, Jl. Gatot Subroto 289, Bandung	(022) - 9101423
Borobudur Bandung	Borobudur Bandung, Lantai Dasar, Jl. Setia Budi No.148, Bandung	(022) - 235513

Istana Plaza Bandung	Istana Plaza Food Court, Lantai 3, Jl. Pasir Kaliki 121-123, Bandung	(022) - 6019422
Mal Batam Robinson	Robinson - Mal Batam, Lantai 3, Sei Jodoh, Batam	(0778) - 430945
Megamall Batam Centre	Megamall Batam Centre Lt. UG No. 227 Depan International Ferry Terminal, Batam	(0778) - 470207
Hero Bekasi Kalimalang	Hero Plaza Bekasi, Ground Floor, Bekasi	
Hero Kemang Pratama	Hero Food Court, Kemang Pratama, Bekasi	(021) - 82417283
Lippo Mall Cikarang	Mal Lippo Cikarang, Lantai 1 No.50-51 A, Jl.MH. Thamrin, Lippo Cikarang, Bekasi	(021) - 8972564
Metropolitan Mall	Mal Metropolitan Lt. 3 No.17 & 18, Jl. Cut Nya Dien, Kalimalang (Ujung Tol Bekasi Barat, Bekasi Selatan), Bekasi	(021) - 8848605
TT Metropolitan Mal	Mal Metropolitan Lt. 3 No.4, Jl. Cut Nya Dien, Kalimalang Ujung Tol Bekasi Barat, Bekasi Selatan, Bekasi	(021) - 8853954
Giant Hypermarket	Jl. Jend. A. Yani Kel. Margajaya, Bekasi Selatan	(021) - 88962319
Bekasi Trade Center	Gedung Bekasi Trade Center Lt. 1 Jl. Raya Bekasi Km. 20, Bekasi Timur, Bekasi	(021) - 88349977
Ekalokasari Plaza	Ekalokasari Plaza Lt. Basement No. 12-13, Bogor	(0251) - 326943
Hero - Pajajaran (Bogor Baru)	Hero Pajajaran, Lt.1, Jl. Raya Pajajaran, Bogor	
Depok Mall	Mal Depok, Lantai Dasar No.19, Jl. Margonda Raya, Depok	(021) - 7760219
Depok Plaza	Depok Plaza, Lantai 1, Jl. Margonda Raya, Depok	
Arion	Arion Plaza, Lantai 2 Blok B, Jl.Pemuda Kav.3-4, Rawamangun, Jakarta - 13220	(021) - 4701461
Atrium Plaza Senen	Plaza Atrium, Lantai 2 Counter 2 No. 17-19, Jl. Senen Raya 135, Jakarta - 10410	(021) - 3862917
Bintaro Plaza	Bintaro Jaya Plaza, Lantai 2 Blok P3B, Jl.Bintaro Utama III A, Bintaro Jaya, Jakarta	(021) - 7355353
Blok M Mall	Blok M Mal, Basement, Jl. Hasanudin, Kebayoran Baru,Jakarta – 12160	(021) - 7206708
Blok M Plaza	Blok M Plaza, Lower Ground No.17-18, Jl.Bulungan 76,Jakarta – 12130	(021) - 7209135
Chandra Pancoran	Chandra Shopping Center No. 123, Jl. Pancoran No. 33-35, Jakarta	(021) - 6397555
Cinere	Cinere Mal, Basement No.22, Jl.Cinere Raya No.1 Limo, Jakarta	
Ciputra Jakarta	Mal Ciputra Jakarta, Lantai V No.22, Jl. Arteri S.Parman, Grogol,Jakarta - 11470	(021) - 5669694
Golden Trully - Gn. Sahari	Golden Truly Gunung Sahari, Lantai 2, Jakarta	
Golden Trully - Tendea	Golden Truly Tendea Lantai Dasar, Jl.Tendea No.45, Jakarta	

Graha Cijantung	Mal Cijantung, Lantai 3 No. 2B, Jl.Pendidikan I, Jakarta	(021) - 87793438
Hero - Gajah Mada	Gajah Mada Plaza, Lantai 4, Jl. Gajah Mada, Jakarta	(021) - 6346529
Hero - Plaza Senayan	Hero Plaza Senayan, Lt. Basement, Jl. Asia Afrika No. 8, Jakarta	(021) - 5725077
ITC Cempaka Mas	Lantai Mezzanine No. 4, Jakarta	(021) - 42903677
ITC Roxy Mas	ITC Roxy Mas, Basement No.012, Jl.KH. Hasyim Ashari, Jakarta	(021) - 6305045
Kalibata Mall	Mal Kalibata, Lantai I / C6, Jakarta	(021) - 7973722
Klender	Jl. Raden Inten 2 blok U No. 211, Klender, Jakarta	
Mall Ambassador	Lantai Dasar, Jakarta	
Mall Artha Gading	Lantai 2 Blok B2 No. 21, 22, 23 Jl. Boulevard Artha Gading Kelapa Gading, Jakarta	(021) - 45864047
Mangga Dua Square	Ground Floor Blok C No. 108, Jakarta	(021) - 62312719
Mega Mall Pluit	Mega Mal, Lantai III Foodcourt, Jl.Pluit Indah Raya, Jakarta	(021) - 668 4059
Pasar Raya Manggarai	Pasar Raya Manggarai, Basement, Jl.Sultan Agung No.1, Manggarai, Jakarta	(021) - 8312674
Pasar Raya Seibu	Pasar Raya Grande, Basement, Jl.Iskandarsyah II No.2, Blok M, Kebayoran Baru, Jakarta	
Plaza Semanggi	Jl. Jend Sudirman Kav. 50, Jakarta - -	
Pondok Indah Mall	Lantai 2 No. 215, Jl. Pondok Indah Blok IIIB, Pondok Indah, Jakarta - 12310	(021) - 7506981
Pulogadung Center	Trade Cafe Area Lt. 1, Jakarta	(021) - 46800077
Puri Indah Mall	Puri Indah Mal, Lantai 2, Jl. Puri Agung, Puri Indah, Jakarta	(021) - 5822456
Sarinah ET+TT	Thamrin, Sarinah Basement, Jl. MH. Thamrin No. 11, Jakarta	
Slipi Jaya Plaza	Slipi Jaya Plaza, Basement A.6, Jl.S.Parman Kav.17-18, Jakarta - 11480	(021) - 5304039
Sunter Mall	Sunter Mal, Lantai III, Jl. Danau Sunter Utara Blok G-7 Kav II, Jakarta	(021) - 6407206
Grand ITC Hijau	Permata Grand ITC Permata Hijau, Pintu Timur Lantai 3 No. 15, Jakarta Selatan - 12210	(021) - 53664126
Angso Duo Mall, Jambi	Lantai Dasar, Jambi	(0741) - 22637
Grage Mall Kediri	Jl. Tentara Pelajar No. 1, Cirebon, Jawa Barat	
Madiun	Pasar Raya Sri Ratu, Jl. Hayam Wuruk 46, Kediri Jl. Pahlawan No.47, Madiun	(0351) - 494461-65

Far East Plaza	14 Scott Road #05-81/82 Far East Plaza, Singapore - 22821	(61) 67340656
Joo Chiat	#01-01 No.233 Joo Chiat Road,Singapore - 42749	(61) 63464262
Lucky Plaza	304 Orchard Road #01-106 Lucky Plaza Orchard,Singapore - 23886	(61) 67337263
Mid Point	220 Orchard Road #01-04 Midpoint Orchard,Singapore - 23885	(61) 67381308
Park Lane Mall	35 Selegie Road #02-04 Parklane Shopping Centre,Singapore – 18830	(61) 63381335

Australia

Sydney	273, Anzac Parade Kingsford, Sydney	(02) 96622220
Clayton	354, Clayton Road Clayton VIC 3168,Melbourne, Australia	(3) 95442466
Glenferrie Road	19, Glenferrie Road Malvern 3144 Australia,Melbourne, Australia	(3) 95099627
Swanston Street	319 Swanston Street (Opposite Library),Melbourne, Australia	(3) 96634243

PART I (A)

Listing of Manuals, Guidelines and Directories
in the Areas of
Intellectual Property (IP) Portfolio Management

COUNTRY: LAO PDR

AUTHORIZED LOCAL AGENTS

CONCETTI (LAOS)

33 Ban Phiawat, Sisattanak District, Vientiane
Tel (+856-21) 215532 Fax (+856-21) 214048, Mobile (+856-20) 5514720
Email: chansana@laotel.com

LAO INTERCONSULT CO., LTD.

Ban Saphanthong Tai, Sisattanak District, P. O. Box 7039, Vientiane
Tel (+856-21) 313082, Fax (+856-21) 350917
Email: mmsmk@laotel.com

LAO OV Trademark Agency

Unit 14, Mittaphab Lao-Thai Road, Saphanthong Tai Village
Sisattanak District, P. O. Box 1549, Vientiane
Tel (+856-21) 951190-91 / 352474-75, Fax (+856-21) 314230
Mobile (+856-20) 9902317
Email: ovsv@laopdr.com Website: www.ovgroup.net

LAO TRADEMARK AGENCY

1148 Ban Sisavath Kang, Unit 6, Chanthaboury District
P.O. Box 925, Vientiane,
Tel (+856-21) 222913 / 216718, Fax (+856-21) 214469,
Email: ksayavon@laonet.net

NNSCO

457, 24 Ban Phakhao, Saythany District, Vientiane
Tel (+856-20) 5662795
Email: nnsco@laotel.com

PRICEWATERHOUSE COOPERS (LAOS) LTD

Unit 1-3, 4th Floor, Vientiane Commercial Building, 33 Lane Xang Avenue
P.O. Box 7003, Vientiane
Tel (+856-21) 222718 / 222719 / 222721 / 218330, Fax (+856-21) 222723, Email:
pwcLaos@loxinfo.co.th

TRADEMARK PATENT & SERVICES (TPS)

090 Ban Naxay, Unit 4, Saysettha District
P.O. Box 4848, Vientiane 01004
Tel (+856-21) 451 070 / 412 685, Fax (+856-21) 215 628
Email: crstps@laotel.com

PART I (B)

General Overviews of Items (A) – (F)

A. PATENT

LEGISLATION

- Prime Minister Decree on Patent, Petty Patent and Industrial Design No. 011/PM promulgated on January 17, 2002.
- Regulation on the Implementation of Decree on Patent, Petty Patent and Industrial Design dated February 18, 2003.
- The purposes of this Decree are:
 - o To provide protection to patents, petty patents and industrial designs in Lao PDR;
 - o To encourage invention, technology transfer, scientific and technological research and development;
 - o To stimulate and promote internal and external commerce and investment; and;
 - o To combat the infringement of industrial property rights and illegal business practices.

DEFINITION

- “Patent” is defined as the title granted to protect an invention where “invention” means an idea of an inventor, which permits in practice the solution to a specific problem in the field of technology.
- “A petty patent (or utility model)” is defined as the title granted to protect a device whereas “device” means a technical creation utilizing rules of nature.

PATENTABILITY

Any invention shall be entitled to protection if:

- it is **new (novelty)**
- it involves an **inventive step**; and
- it is **industrially applicable**.

Any device shall be entitled to a petty patent if:

- it is **new**; and
- it is **industrially applicable**.

- **Novelty**

Any invention is new if it is not anticipated by prior art which has been disclosed to the public anywhere in the world by publication in tangible form or by oral disclosure, by use or in any other way, prior to the filing date or, where applicable, the priority date.

- **Inventive step**

Any invention shall be considered as involving an inventive step if, having regard to the prior art relevant to the invention, it would not have been obvious to a person having ordinary skills in the art.

- **Industrial applicability**

Any invention shall be considered industrially applicable if it can be used in any kind of industry, handicrafts, agriculture, fishery and service.

UNPATENTABLE INVENTIONS

The following inventions shall be excluded from protection by patent and petty patent:

- Discoveries;
- Scientific theories and mathematical methods;
- Schemes;
- Rules or methods for doing business;
- Performance of purely mental acts or games;
- Methods for treatment of human and animal diseases;
- Inventions contrary to the national cultural morality and public order.

PROTECTION SYSTEM

Patents and petty patents can be protected in Lao PDR if they are registered in Lao PDR or registered with international registry to which Lao PDR is bound.

TERM OF PROTECTION

- The term of protection of a patent is 20 years from the filing date of the application.
- The term of protection of a petty patent is seven years from the filing date of the application.

MAINTENANCE OF RIGHTS

In order to maintain the patent and petty patent, an annual fee shall be paid in advance.

RIGHTS CONFERRED BY REGISTRATION

A patent or petty patent owner shall have the right to exploit his patented invention by:

- making, importing, stocking, offering for sale, selling and using the product when a patent has been granted in respect of the product;
- using the process or doing any of the acts relating to the making, importing, stocking, offering for sale, selling and use of the product produced by the patented process when a patent has been granted in respect of the process.
- in addition to any other rights, remedies or any available actions, the owner of a patent or petty patent shall have the right to institute court proceedings against any person who infringes the patent or petty patent without authorization.
- the owner of a patent or petty patent shall have the right to transfer his invention to other persons for exploitation.
- the owner of the patent or petty patent shall have the right to institute court proceedings against any person or legal entity committing an infringement against the patent or petty patent.

EXEMPTION OF RIGHTS

A Government agency may exploit the invention even without prior consent from the owner of the patent for the sake of public interest of the Lao PDR in particular relating to reasons of national security, nutrition, health or if it is determined that the manner of exploitation by the owner of the patent is an anti-competitive practice.

However, it shall be subject to limited exploitation and to payment to the said owner of an adequate remuneration.

The rights of a patentee or petty patentee shall not extend to acts in respect of articles which have been put on the market by him or with his consent or to the use of articles on any vehicle which temporarily enters the airspace, territory or waters of the Lao PDR or to any act carried out for experimental purposes.

TERMINATION OF RIGHTS

Patents or petty patents shall be deemed to have been withdrawn or lapse if the owner of an invention or petty patent fails to pay the annual fee in advance during the term of 20 years for a patent and seven years for a petty patent.

CANCELLATION

A third party may apply to the Registry or institute court proceedings to cancel the registered patent or petty patent if the requisite requirements have not been fulfilled.

COMPULSORY LICENSE

A non-voluntary (compulsory) license may be issued if it can be proved that the patented invention has not been exploited or has not been sufficiently exploited in the Lao PDR, after a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last. The non-voluntary license shall fix the scope and function of license e.g. time limit, remuneration amount, and payment conditions.

However, a non-voluntary license shall not be issued if the owner can justify the circumstances for the non-exploitation or insufficient exploitation of the patented invention in the country.

The beneficiary of the non-voluntary license shall have the right to exploit the patented invention in the Lao PDR according to the terms set out in the decision and shall sufficiently exploit the patented invention.

To avoid any infringement of an earlier patent, a non-voluntary license may be issued, to the extent necessary, if the invention claimed in a later patent cannot be exploited in the country, and provided that the invention claimed in the later patent involves an important technical advance of considerable economic importance in relation to the invention claimed in the earlier patent upon the request of the owner of the later patent.

B. INDUSTRIAL DESIGN

LEGISLATION

- Prime Minister Decree on Patent, Petty Patent and Industrial Design No. 011/PM promulgated on January 17, 2002.
- Regulation on the Implementation of Decree on Patent, Petty Patent and Industrial Design dated February 18, 2003.

- The purposes of this Decree are:
 - o To provide protection to patents, petty patents and industrial designs in Lao PDR;
 - o To encourage invention, technology transfer, scientific and technological research and development;
 - o To stimulate and promote internal and external commerce and investment; and;
 - o To combat the infringement of industrial property rights and illegal business practices.

DEFINITION

An industrial design is defined as any composition of lines or colors, or any three-dimensional form, whether or not associated with lines or colors, which can serve as a pattern for an industrial product or handicraft or give a special appearance to such a product to increase its visual appeal.

REGISTRABILITY

An industrial design is registrable if it is new.

An industrial design is new if it has not been disclosed to the public anywhere in the world by publication in a tangible form or by use or in any other way, prior to the filing date or, where applicable, the priority date.

UNREGISTRABLE INDUSTRIAL DESIGN

The following Industrial Designs are not registrable:

- Discoveries;
- Industrial designs contrary to the national cultural morality and public order.

PROTECTION SYSTEM

Industrial designs can be protected in Lao PDR if they are registered in Lao PDR or registered with an international registry, to which Lao PDR is bound.

TERM OF PROTECTION

The term of protection of an Industrial Design is five years from the filing date of the application and can be renewed for two further periods of five years each.

MAINTENANCE OF RIGHTS

In order to maintain a registered industrial design, an annual fee shall be paid.

RIGHTS CONFERRED BY REGISTRATION

The owner of an industrial design shall have the right to exploit the registered industrial design. The exploitation of a registered industrial design is defined as follows:

- Making, selling or importation of articles incorporating the industrial design.
- In addition to any other rights, remedies or any available actions, the registered owner of the industrial design shall have the right to institute court proceedings against any person who infringes the industrial design without authorization.
- The owner of an industrial design shall have the right to transfer his registered industrial design to other persons for exploitation.
- The owner of an industrial design shall have the right to institute court proceedings against any person or legal entity committing an infringement against the industrial design.

TERMINATION OF RIGHTS

Failure to renew an industrial design prior to the expiry date.

CANCELLATION

A third party may apply to the Registry Unit or institute court proceedings to cancel the registered industrial design if the requisite requirements have not been fulfilled.

C. TRADEMARK

LEGISLATION

- Prime Minister Decree on Trademark Registration No. 06/ PM dated January 18, 1995.
- Prime Minister Regulation on Trademark Registration No. 466/STEA-PMO of March 7, 2002.
- The purposes of this Decree are:
 - o To unify trademark administration throughout the country,

- To encourage and promote foreign investment in the Lao PDR,
- To stimulate internal and external commerce, and quality control of goods,
- To protect consumers, and
- To suppress counterfeiting of goods and fraudulent commercial practices.

DEFINITION

- “Trademark” is defined as a sign used as a mark of goods to designate the goods belonging to the owner of the created trademark;
- “Service mark” is defined as a sign used to be a mark of services to designate the services belonging to the owner of the created service mark;
- “Collective mark” is defined as a trademark or service mark used for goods or services of different enterprises that are using the same mark under the control of the registered owner of the collective mark.

REGISTRABILITY OF TRADEMARK

- Any visible sign capable of distinguishing the goods of an enterprise can be registered as a trademark. The mark shall fully reflect the intended purpose, the significance or legend of each and every element of the mark.
- A mark may be in the form of letters, words, figurative elements or a combination thereof represented in one or more colors. In the case of a multicolored mark, each of the colors involved should be described in detail.

NON-REGISTRABILITY OF TRADEMARK

The following trademarks are not registrable:

- An unclear trademark incapable of distinguishing the goods of one enterprise from those of other enterprises.
- A mark contrary to the national cultural morality and public order.
- A trademark likely to mislead the public or trade circles, in particular as regards the geographical origin, nature, and characteristics of the goods.

- A trademark identical to, or an imitation of or containing as an element, an armorial bearing, a flag or emblem of typical national culture or a historical site, a name or abbreviation of any state, intergovernmental organization or organization created by an international convention, a trademark possessing an official sign or hallmark relating to the control and certification of any state or international organization, unless authorized by the state or organization concerned.
- A trademark identical with, or confusingly similar to another trademark or trade name of goods, which is already in use.

PROTECTION SYSTEM

The Lao PDR applies a “First to File” system. Consequently where two or more persons file applications for trademark registration of identical or similar trademarks, priority shall be considered and granted to the first person to file an application.

Only trademarks already registered shall obtain the rights of protection.

RIGHTS CONFERRED BY REGISTRATION

The owner of a registered trademark shall have the following rights:

- The exclusive rights of use of the trademark.
- The owner has the right to assign or license his/her right to any other person
- The owner shall have the right to institute court proceedings against any individual or legal entity committing an infringement or using a trademark without authorization.

The rights of the owner of a registered trademark, or his consent, shall not extend to the other acts related to goods and services existing in the Lao PDR.

RENEWAL OF TRADEMARK REGISTRATION

The registration of a trademark can be renewed every 10 years without limitation. The renewal application must be filed within six months prior to the expiration of the filing date.

Late renewal can be made within a period not exceeding six months after the expiration of the validity giving reasons.

If the owner doesn't file for renewal six months after the expiration of the protection, the registered trademark will be removed.

AMENDMENT

Any amendment made to the registered trademark including assignment shall be recorded with the Registry. An application shall be submitted to the Trademark Registry with supporting documents

LICENSING

A licensing agreement of the registered mark can be recorded and approved by the Trademark Registry. Quality control must be exercised by the licensor.

TERMINATION OF RIGHTS

The exclusive rights of the owner of a trademark shall terminate in the following cases:

- If the owner does not use a registered trademark for himself or with his consent for a continuous period of five years. The said trademark shall be challenged for cancellation, unless it is shown that special circumstances prevented the use of the trademark.
- The expiration of the certificate of registration of the trademark if the registration expires without renewal.

CANCELLATION

An individual or legal entity is entitled to apply for cancellation of a registered trademark. The cancellation can be based on the grounds of prior registration, prior application and non-use.

The registration may be cancelled if the mark is not used for a period of five consecutive years from its filing date. The mark must be used and/or advertised locally to be considered valid.

PROCEDURES ON TRADEMARK REGISTRATION

The Applicant

- A natural or legal person, Lao or foreign citizen being engaged in lawful, commercial or service activities;
- A non-resident applicant shall file the application through a local representative approved by the Department of Intellectual Property in Lao PDR.

Application for Registration

- One application for every trademark in each class.
- Trademarks, service marks and collective marks are registrable.
- The classification of goods must be in conformity with the Nice Agreement. The protection is for all goods in any such international class.
- The application should be made in Lao or in English and typewritten.

Documents Required

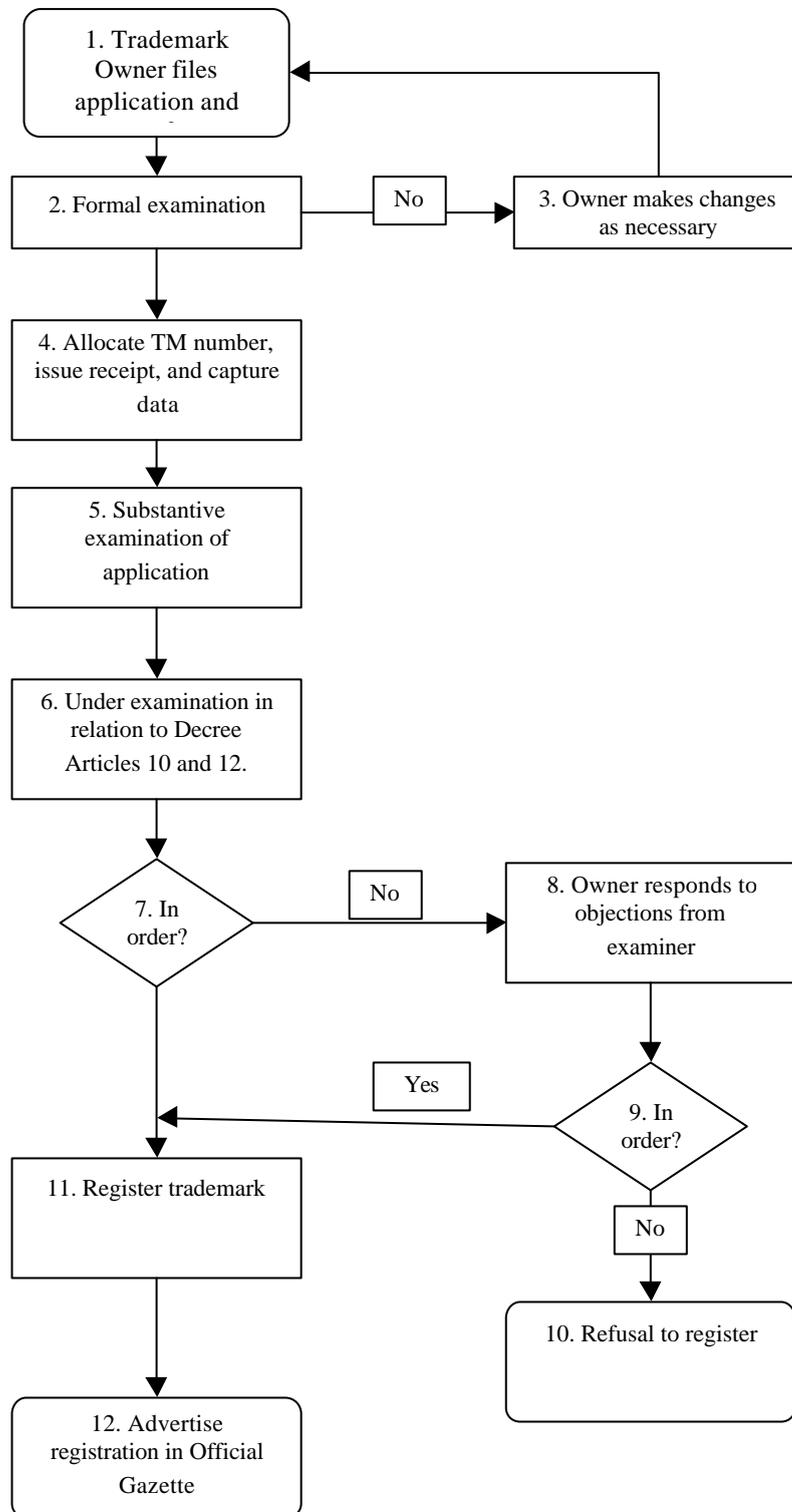
- An application form for trademark registration in compliance with the form of the Trademark Registry;
- Ten specimens of the mark presented on good quality paper by drawn or printed images, photos or photocopies. The size must be no less than 4 x 4 cm and not more than 8 x 8 cm. In case the mark consists of one color or several colors, such color shall be clearly identified;
- Original power of attorney in the prescribed form and notarized. A copy can be reused for additional applications by the same owner;
- Certified copy of home registration or registration where the mark is first filed; if any
- Priority documents, in the case that priority date is claimed in accordance with the Paris Convention for the Protection of Industrial Property, if any;
- In cases of collective marks, the rules governing the use of trademarks shall also be applied;
- A list of goods/services in conformity with the Nice Agreement on the International Classification of Goods and Services;
- The payment of the prescribed fees with receipts.

Examination

1. After receiving the application, the Department of Intellectual Property will issue a Filing Number with Filing Date. In case the application does not meet requirements, the Trademark Registry will inform the applicant for it to be amended.

2. If the formalities are satisfactory, the main examination commences and takes around six months from the filing date and the Trademark Registry will thereafter register the mark in the National Register of Trademarks, issue a Certificate of Registration and publish the mark in the Official Trademark Gazette.
3. Once the trademark has been registered and published, the owner of any conflicting mark has the right to file an opposition that will be officially reviewed and decided by the DIP. The parties have the right to appeal to the Department of Intellectual Property, Standardization and Metrology or the Organization for Settlement of Dispute or the courts. The opposition can be based on the grounds of prior registration, prior application or non-use.
4. If it is found that the application for trademark registration is not registrable, the Trademark Registry shall issue the rejection notice to the applicant after which he/she is entitled to file an opposition with supporting documents to the Trademark Registry within 90 days from the date of the rejection notice.

Registration of Marks in Lao PDR



Searches

The Department of Intellectual Property, Standardization and Metrology provides a service for trademark search with minimum charge even though the search is not compulsory. However, it is recommended that a search be conducted in order to avoid any possibility of rejection on the grounds of similarity and risk of opposition and infringement as well as to avoid paying in advance the non-refundable official registration fee.

DOCUMENTS REQUIRED

Registration

1. Application form
2. Notarized Power of Attorney
3. Certified copy of Home Registration, if any
4. Ten copies of the mark, min. 5 x 5 cm, max. 10 x 10 cm
5. Priority documents, if applicable.
6. Payment of appropriate fee
7. Others, as may later be required by the DIP.

Recordal of Change of Name/Address

1. Application form
2. Notarized Power of Attorney
3. Change of name/address document(s)
4. Copy of Certificate of Registration
5. Payment of Appropriate fee.

Recordal of Assignment

1. Application form
2. Notarized Deed of Assignment
3. Notarized Power of Attorney of the Assignor
4. Copy of Certificate of Registration
5. Payment of the appropriate fee

Recordal of Merger

1. Application form
2. Merger Document(s)
3. Notarized Power of Attorney

4. Copy of Certificate of Registration
5. Payment of the appropriate fee

Mark Amendment

1. Application form
2. Notarized Power of Attorney
3. Ten copies of the amended mark
4. Copy of Certificate of Registration
5. Payment of the appropriate fee

Duplicate

1. Application form
2. Notarized Power of Attorney
3. Declaration of Loss
4. Copy of Certificate of Registration
5. Payment of the appropriate fee

Certified Copy of Certificate of Registration

1. Application form
2. Notarized Power of Attorney
3. Copy of Certificate of Registration
4. Payment of the appropriate fee

Renewal

1. Application form
2. Notarized Power of Attorney
3. Ten copies of the mark, min. 5 x 5 cm, max. 10 x 10 cm
4. Copy of Certificate of Registration
5. Payment of the appropriate fee

Filing Argument after Rejection Notice

1. Arguments relating to the Rejection Notice

2. CERTIFIED COPY OF REGISTRATION IN OTHER COUNTRIES

3. List of countries in which the mark has been registered
4. Court Decision, if available
5. Payment of the appropriate fee

Cancellation/Opposition

1. Arguments for the cancellation
- 2. NOTARIZED POWER OF ATTORNEY**
3. Documents evidencing that the applicant is the legal owner
4. List of countries in which the mark has been registered
5. Court Decision in other countries, if available
6. Payment of the appropriate fee

Abandon

1. Application form
- 2. NOTARIZED POWER OF ATTORNEY**
3. Payment of the appropriate fee

Searches

1. Application form
2. Trademark search
3. Proprietor search
4. Company search
5. Payment of the appropriate fee

D. COPYRIGHT

LEGISLATION

At present there is neither a Law nor a Decree on Copyrights. In fact, the Department of Intellectual Property, Standardization and Metrology (DISM) is in charge of all aspects of IP including copyrights. However there is no activity related to copyright by the DISM. The DISM is now proposing an intellectual property (IP) law that is an integrated law covering the principle and administration of all types of intellectual property, e.g. patents, petty patents, industrial designs, trademarks, copyrights and related rights, integrated-circuit layout-designs, geographical indications, trade secrets and plant varieties. The proposed intellectual property law is now in the process of submission to the National Assembly for enactment by 2006.

While waiting for the IP law, copyright has to some extent been enforced through a number of regulations issued by the Ministry of Information and Culture. Moreover, the Lao Writers' Association (LWA), the Lao Journalists' Association (LJA), the Lao Fine Arts Association (LFA) and the Lao National Artists' Association (LAA) were recently created.

From time to time, the Ministry of Information and Culture as well as their Divisions based in Vientiane or in the provinces raid markets and CD outlets for pirated CDs, VCDs and cassettes as well as other media that are in contravention of public morality and culture. The shop owners are warned and fined for their acts accordingly.

PART II (B) : SUCCESS STORIES

Case Study 1

<i>General Information</i>	
COUNTRY : Lao PDR	
COMPANY NAME : Lao Brewery Co., Ltd. (LBC)	
	
CONTACT ADDRESS	
Contact Person	: Bounkanh Kounlabouth
Designation	: Marketing Manager
Business Address	: Km 12 Thadeua Road, B. Salakham, P.O. Box 1016, Hat Xaifong District Vientiane Capital, Lao PDR
Tel No.	: (856-21) 812 000, 812 254
Fax No.	: (856-21) 812 049
E-mail	: kounlabouth@beer-lao.com
Home Page (if any)	: www.beer-lao.com

Description of Success Story:

The Lao Brewery Co., Ltd. (LBC) is a production, marketing and sales company expanding step-by-step with a mission to move into the future by ensuring that Beerlao is the preferred brand offering a full taste and total satisfaction as an integral part of a successful life. The objective is to have the brand recognized as the preferred beer provider in Lao PDR and overseas. Exports to Australia, Cambodia, France, Japan, New Zealand, Vietnam, the U.S.A and the U.K. started in 1977. The Lao Brewery Company says it is currently looking at ways to access more countries

The company's business is focused on expanding production to meet growing demand with one pack, one brand to maximize production efficiency. As marketing is not a business priority, however the company's success is linked to sponsoring of community events, mostly sporting activities. Performance indicators and rewards are now being studied in order to improve business performance resulting in a strong financial position.

This is a well-established and well-perceived company that has a development plan, activities and management worth mentioning.

1. Title

The unique taste of a unique country

2. Type of IP concerned

As the IP system is developing and the protection of IP in Lao PDR mainly relies on trademarks. The IP that concerns the Lao Brewery Co., Ltd is its trademarks. Up to now the company has registered seven trademarks in Lao PDR and none abroad and it plans to file further trademark applications in the future.

3. Background

Founded in 1973, the Lao Brewery Industry was at that time a joint-venture between French and Lao businessmen. With a capacity of three million liters per year, the company marketed "BIERE LARUE and "33 Export" for local and Indochinese markets.

With the foundation of the Lao PDR in 1975, the company was nationalized and changed its status to a State-Owned Enterprise. In 1986 an economic reform program initiated a transition from central planning to a market-oriented economy and the launching of the New Economic Mechanism (NEM), at which time the LBC entered into a joint-venture: 49% Lao Government-owned with 51% foreign investment (Loxley: 25.5% and Italian: 25.5%) in 1993 giving a production capacity of 20 million liters per year (employees: 300).

In 1997, besides satisfying domestic consumption, Beerlao products started to be exported to Australia, Cambodia, France, Japan, New Zealand, Vietnam, the U.S.A and the U.K. and were well received by beer drinkers.

In 2002, a new joint-venture was initiated with 50% participation of the Lao Government, 25% TCC International and 25% Carlsberg. The maximum capacity was 60 million liters.

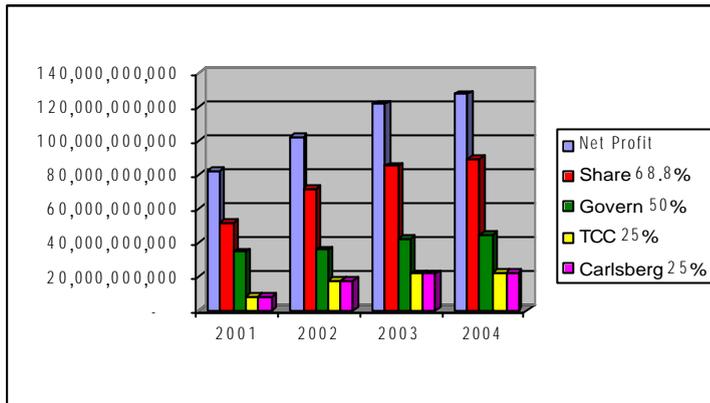
In 2005, with its manpower at 493 employees the company can now increase its production capacity to 85 million liters per year and it won't stop there because the LBC plans to increase production capacity up to 120 million liters per year, starting in August 2005. The LBC plans to market a local Carlsberg beer and two more new Beerlao products such as Light Beer with a low volume alcohol content (<3%) and Dark Beer with a higher volume alcohol content (6-6.5%), before December 2005. In 2006-2008, the LBC will build another factory in the south of the country with capacity of 100 million liters per year.

a



Profit and Share distribution (2000-2004)¹²

As the only company that produces beer in the country, Beerlao products (cans, bottles + drinking water) take almost 99% of the local market share (1% for Heineken and Tiger beers) with its 41 distributors nationwide. Certain raw materials like malt and hops are imported from France, Belgium and Germany. Rice that covers 35% of Beerlao production (3,000 tons/year) is now locally available as compared to 1975 when most of the rice was imported from Thailand and Vietnam.



Major strengths that have contributed to the image of the LBC are:

- Competitive pricing
- Good financial position
- High brand awareness
- High brand loyalty and good image
- Good distribution network
- Good administration back-up
- Intrinsically good products
- Dedicated employees
- Full product range
- Exclusive domestic producer of beer
- Support from Government
- Product positioning, communicating Lao culture
- Having Carlsberg as a shareholder



Thus improving the image of the LBC which is:

- Increasingly recognized for product quality and good service year on year around the country
- Largest (single) tax payer, expected to pay 300 Billion Kip (USD 30 million) in 2005
- Country's top company for management and service.
- Recipient of numerous honors and awards from both the Lao Government and international organizations.
- Certified for five consecutive years as a strong political unit.

¹² Source: Lao Brewery Company, Ltd.

4. Development and Use of IP in Business Strategy

IP is one of the good points that needs mentioning even though the overall situation of IPR in Lao PDR is not well established. The R&D section forms part of the Marketing Division and works very hard to establish the reputation of Beerlao in the domestic and international arenas. In comparison to other countries, LBC is still a small enterprise with certain limitations. However, with good policies and work plans the company can achieve its goals.

So far the LBC has filed and registered seven trademarks in Lao PDR since 1994 and has not filed any trademark applications in foreign countries. Now the LBC is working toward filing additional trademark applications including a new device, logo and label. Their three new products are in the course of securing approval and certification by the Food and Drug Authority and new trademark applications to the Division of IP are under way.

According to the Marketing Director, the trademark plays an important role in the marketing and sales processes. It reaffirms commitment, quality and service for consumers as it proclaims: “drink Beerlao, absorb Lao culture”.

5. Impact on Productivity

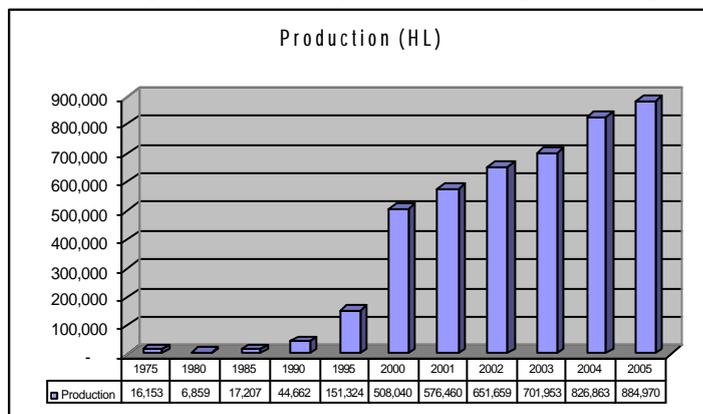
Mr. Bounkanh said: “brand and quality must be linked together. The mark has really strengthened our sales and consolidated our market” and he continued: “we will file international applications where our products are sold to promote the quality and image of the LBC and to protect our products as well. The company needs more understanding and vision on Intellectual Property Rights generally not only on trademarks and it will conduct further studies on other aspects of Intellectual Property that can contribute towards company image, sales, quality, productivity and profits. We will do further research and development on intellectual property as we did studies on market segmentation and visions for the future”.



From Left: Chanthara Sayamoungkhoun, National Consultant, Bounkanh Kounlabouth, Marketing Manager and

“The trademark has indeed contributed to the sales and image of the company. Besides, we dedicate ourselves to the edification of the country by sponsoring national

events: sports, charities. We want people to recognise us as a preferred provider of beer and beverages and to improve our products stronger brand both in and overseas.” Mr. said.



Production (1975-

further to become a Lao PDR Bounkanh

2005)¹³

¹³ Source: Lao Brewery Company. Ltd.

In 2003, Beerlao was awarded gold, silver and bronze medals in Monde Selection at the International Drinks Contest in Belgium and in Paris 2004, 24th International Award for Food and Beverages, October 2004, Paris, Brussels, Belgium 2003 (42nd World Selection), Grand Gold Medal for “Tiger Head Mineral Water”



New Zealand in 2002 (Asia-Pacific Packaged Section)



Beerlao was awarded the Silver Osiris Award at the 7th Brewery Festival in Russia, June 4-12, 2005 in the first year it entered with more than 40 other beer companies from Russia and overseas participating. The most recent award for Beerlao this year is the International Quality Summit Award 2005 and Quality Management (TQM) QC 100 Model which was held in New York, USA, in June 25.

The best local beer, November 2004 (Time Magazine, Asia's Best)

BEST LOCAL BEER
Bia Lao
 LAOS

Among the more curious sights in Laos is the Plain Of Jars. It's a large area in Xieng Khuang province, where dozens of huge, ancient stone jars lie scattered. Although their origin and purpose are unknown, they are thought to be some 2,000 years old.

After a long morning spent looking at these puzzling vessels, refreshment is a convivial prospect—and none more so than Bia Lao. Bottled since 1973 on the outskirts of Vientiane by the Lao Brewery Co., it's an arrestingly crisp brew and also the universal accompaniment to the local cuisine—a cooking style that blends the raw textures of Vietnamese food with the piquancy of Thai spices. There's no stinting on quality: Bia Lao is made from Pilsen malt imported from France, Hallertauer Magnum hops and dry yeast from Germany, and local rice and springwater. The brewers clearly take their calling with appropriate seriousness.

These are factors that have propelled Bia Lao to the top of Asia's beer league. So have the brew's emotional connotations. For wherever you are in the world, one sip of Bia Lao and you are instantly transported to a riverside bistro in Vientiane. The long lunches, the French-colonial streets, the wats and murmuring monks: it all comes back with exquisite precision.

Whoever imagined that Laos could create this foaming magic? It's enough to make you wonder if those ancient stone jars might once have served as beer kegs. —By Alex Perry

BEST URBAN HIKE
The Dragon's Back Trail
 HONG KONG

It may sound utterly implausible, but just 20 minutes from the yammering streets and sooty sidewalks of Hong Kong's downtown heart is a ridgetop world of forested uplands and gurgling waterfalls. For the ideal escape from urban clamor, try the Dragon's Back—the city's finest and most surprising ramble.

From the trailhead at Tai Wan, the initial half-kilometer ascent through bamboo and banana thickets is rewarded with breathtaking views of Hong Kong's craggy southern shoreline and a string of deserted islands. And the route only gets better from here, undulating along the ridgeline of a thin peninsula jutting into the South China Sea before plunging back down the mountainside. The second half of the 8.5-km trail is a tranquil stroll through thick forest that rings with the sound of birdsong and coursing water. The path ends at sleepy Dai Long Wan ("Big Wave Bay"), a short walk from Shek O where numerous restaurants ply weary hikers with cold beer and excellent seafood. The glory of it all is that you're so close to the city but could hardly feel farther away. —By Aryn Baker

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TIME, NOVEMBER 22, 2004

Boat Race Festival, Vientiane 2004



Sporting event and concert sponsored by LBC, 2003



Case Study 2

<i>General Information</i>	
COUNTRY:	Lao PDR
COMPANY NAME:	Vientiane Steel Industry Co., Ltd.
CONTACT ADDRESS	
Contact Person	: Sonesavanh SOUKDALA
Designation	: Deputy Director
Business Address	: 087/12 B Salakham, Km 11 Thadeua Road Hat Xai Fong District, Vientiane Capital Lao PDR
Tel No.	: (856-21) 812 166
Fax No.	: (856-21) 812 098
E-mail	: vstco@laotel.com
Home Page (if any)	: www.vsi-group.com

Description of Success Story:

This story will focus on the development of a steel company that is prospering mainly on the intuition and hopes of the team, which is leading it to success. It is understood that through the lack of both knowledge and skill of intellectual property rights and R&D, the



success of the company is not related to intellectual property assets. Being a least developed, landlocked country, the overall position of the Lao multinational as well as other companies in the Lao PDR suffers unavoidably from this difficult situation. This is the case of the Vientiane Steel Industry Co., Ltd.

In addition to its success, the other side of the coin that no one sees is a bitter one. However it is dedicated to those who strive very hard to make this dream come true as it is said that the “Vientiane Steel Industry Group will grow along with the nation” and “the Group will be developed as the basis of a national industry infrastructure”.

Title

Along with National Development

Type of IP concerned

That the Vientiane Steel Industry Co., Ltd. has up to now focused more on manufacturing quality products needed by communities rather than focusing on IP is understandable.

The only intellectual property that matters to the company right now is its trademark. Due to its lack of knowledge, the company filed only local applications in 1997 and obtained certificates of registration for the mark “VSI” stamped on the steel dented bars with two more marks yet to be granted. No international applications have been sought but are planned for the future.

Background

Vientiane Steel Industry Co., Ltd. was incorporated in joint venture between Lao PDR and foreign partners PDR holding 40% of the shares and the other 60% equally distributed between Thai and Hong Kong. The day-to-day management of the company is in the hands of the Lao partners.



1994 as a joint venture with Lao partners. The company is currently in the hands of Lao partners.

Under the Lao law for Foreign Investment Promotion, the establishment of the company must pass through the Foreign Investment Management Committee¹⁴ (FIMC) for approval. The incorporation was very successful and was promoted by the Government following the launch of the New

¹⁴ A Government body that controls and manages foreign investment in compliance with the law on the promotion of foreign investment, which has now become the Department of Domestic and Foreign Investment under the Committee for Planning and Cooperation.

Economic Mechanism¹⁵ (NEM) initiating the transition from central planning to a market-oriented economy in 1986.

After securing the License for Investment from the Foreign Investment Management Committee, the company's headquarters were built in 1995 at 087/12 Ban Salakham, Km12, Hat Xay Fong District and the factory's construction started in March 1996 over an area of 124,688 square meters at Km 28 (Hat Xay Fong District) south of Vientiane along Thadeua Road in close proximity to the Mekong River.



The construction works took nearly two years and finally, in October 1997, the first steel factory began production of deformed and round steel bars ranging from 8mm to



20mm in diameter under the grades of SR24, SD30 and SD40 with a production capacity of 40,000 tons per year. The products are mainly distributed in local markets with a long term goal of exporting. Raw materials are imported from Russia, India, Japan and Thailand.

To diversify the construction materials and equipment and to satisfy local consumption needs, in 1999 the Forming Steel Factory with an annual production capacity of 40,000 tons was established and followed by the Roofing Tile Factory with a production capacity of 2,500,000 pieces per year.



In 2001, the second steel bar factory was constructed and started producing dented steel bars in early 2003 with an annual production capacity of 110,000 tons. The second steel bar factory houses a more advanced manufacturing capacity using modern technology and is manned by 18 workers including six office staff as compared to the first one operated by 45 workers. It could be said that this factory is 90% automated. Early in 2003, in order to be self-sufficient and to gradually reduce the import of raw

material, the company decided to install an iron foundry by processing used steel within the country. This is good for the country as well as for the company. In the past used iron and steel were exported to Thailand and Vietnam and now they can be recycled locally by the foundry. The Deputy Director said: “the foundry was entirely made in Lao PDR with the participation of workers and senior staff from inside the factory. The total cost for building this steel mill is US\$15,000.00. We are very proud of ourselves”.

Vientiane Steel Co., Ltd. was awarded the National Standard Certification¹⁶ for steel bars under the trademark “VSI”, 2002 and its Vice President and Director, Mr. Phisit Xayathit, was awarded the “Young Businessman¹⁷” award presented by the Association of Young Business in 2004.

¹⁵ A mechanism initiated as a result of the economic reform in Lao PDR, 1989

¹⁶ A certificate issued by the Department of Intellectual Property, Standardization and Metrology (STEA) to a company for quality and standards established by regulation.

¹⁷ A reward given to businessmen for their courage, creativity and development.

Development and Use of IP in Business Strategy

As far as intellectual property is concerned, the company is aware of its importance and sends senior staff to national seminars held by the Department of Intellectual Property, Standardization and Metrology.



Understanding intellectual property, right after the start of production, the company filed a trademark application “VSI” on December 29, 1997 and the certificate of registration was granted on January 19, 1998. The VSI mark is embedded in every steel product and on sale nationwide. The company’s sales supplied 60% of local demand as a result of the VSI mark, thus enabling it to build a second, more-advanced factory and a foundry.

The VSI mark is known to construction companies due to its quality which meets norms and standards and it obtained the National Standard Certification from the Department of Intellectual Property and Metrology (DISM) of the Science, Technology and Environment Agency (STEA) in June 2000. At the end of 2004, 2,000 tons of VSI steel bars were exported to Thailand.



The Deputy Director informed us that all steel bars are reinforced and this is very important. He observed that the chemical composition of the steel consists of carbon, phosphorus, sulfur, manganese, silicon etc., similar in proportion to the steel industries of Thailand and Japan. In addition, the company owns a laboratory to conduct in-house testing e.g. tensile strength (Kgf/mm²), percentage of elongation, yield strength and a cold bend test for several of its products which meet the same standards as in Thailand and Japan.



There are now about 16 to 20 steel mills nationwide as compared to three factories in 1997, and none of them are marketing their products under any trademark. The Deputy Director said that the Vientiane Steel Industry Co., Ltd. Group in 2002 will consolidate its markets and diversify its products under the VSI trademark. At the same time, the VSI trademark may be licensed or assigned to other steel mills. In 2005 the company is also working toward securing the ISO-9001 for its products with the assistance of the STEA/UNIDO.



The annual production of 2,500,000 roofing tiles also serves the public in home construction and is part of the Vientiane Steel Industry Co., Ltd. Group. The tiles are sold locally under the trademark “Lao tile VTP Twin Elephants¹⁸”. The mark was filed with the Division of Intellectual Property (DIP) late last year and now is in the course of being granted a certificate of registration. The products consist of green, blue, red, light blue and regular tiles. According to the Deputy Director, the tiles need to be improved to compete with tiles imported from Thailand in terms of quality and price but the products are popular among the middle and low-income communities who can afford the price (e.g., Lao roofing tiles cost around US\$1.25 each compared with the Thai brands which cost

¹⁸ Earlier this mark was too similar to a Thai brand and following the invention by the DISM, it was amended accordingly to avoid infringement.

US\$1.65. each. Next year the company will file a new application for the trademark “VSP” for engraving on steel bars.

Impact on Productivity

The Deputy Director mentioned: “before, even though we recognized the importance of intellectual property, we did not know how to make full use of it until we actually sold our products and then we realized that a mark or brand is sought by most people who can compare the differences between several products. It has really strengthened our sales and consolidated our markets.”



From Left: Chanthara Sayamoungkhoun,
National Consultant, Sonesavanh Soukdala,
DDG & QC Manager and Phommala

The company needs more understanding of Intellectual Property Rights in a wider sense and will conduct further studies on other aspects of intellectual property that can contribute towards its image, sales, quality, productivity and profits.

“The “VSI” trademark has indeed contributed to our sales because now customers always ask the sellers/shops about the brand/mark of the goods before buying e.g. with steel from the VSI company they see the mark “VSI” stamped on the steel bars.”

the Deputy Director said.

PART I (A)
Listing of Manuals, Guidelines and Directories
In the Area of
Intellectual Property (IP) Portfolio Management

COUNTRY: MALAYSIA

No.	English Title + Brief Description of its Contents in less than 50 words	Year of Publication	Agency Responsible and Address	Contacts (Tel/Fax/email)
A. GEOGRAPHICAL INDICATIONS				
1.	General Information on Geographical Indications This booklet gives an overview of geographical indications focusing on protection, exclusion, registration of geographical indications, right of use, term of protection, eligibility for application and mode of application.	2005	Intellectual Property Corporation of Malaysia 32 nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur	Tel: 22748671 Fax: 22741332 Website: http://www.mipc.gov.my
B INDUSTRIAL DESIGNS				
1.	General Information on Industrial Designs This booklet gives basic information on industrial designs, focusing on the meaning of industrial designs, rights conferred upon the rights owner, registrable designs, excluded designs, filing of registration, term of protection, extent of protection, eligibility for application and mode of application.	2005	Intellectual Property Corporation of Malaysia 32 nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur	Tel: 22748671 Fax: 22741332 Website: http://www.mipc.gov.my
2.	Industrial Designs Law in Malaysia: Cases and Commentary This book is the only available local publication on this developing area of law. It gives the reader a good understanding of design law principles and practice in Malaysia, as well as the operation of its governing statute, the Industrial Designs Act 1996. The book presents in a systematic and clear manner the legal principles and issues relevant to design law. A collection of local and international cases have been compiled and analyzed critically in this work to throw light on the genesis and development of design law in Malaysia.	2004 Author: Dr. Juriah Abdul Jalil	Sweet & Maxwell Asia No 17, Jalan PJS 7/19 Bandar Sunway 46150 Petaling Jaya Selangor Darul Ehsan	+603 5633 0622 +603 5638 4049 (Fax) www.sweetandmaxwellasia.com

C. LAYOUT DESIGNS OF INTEGRATED CIRCUITS				
1.	<p>General Information on Layout Designs of Integrated Circuits</p> <p>The booklet touches on the salient aspects of industrial designs, focusing on the meaning of layout designs, how they are protected, who is eligible for protection, who is the rights holder, term of protection, and the rights of the owner.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mipc.gov.my</p>
D. COPYRIGHT				
1	<p>General Information on Copyright</p> <p>The booklet gives some basic information on what is copyright, works protected, ownership of copyright, duration of protection, legal rights of the owner, enforcement and copyright tribunals.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mipc.gov.my</p>
2.	<p>Copyright Law in Malaysia</p> <p>This book is aimed at providing practitioners, students and those in the copyright-related industries with an introduction to the law of copyright. References to foreign texts and authorities have also been provided to strengthen the arguments. The book expands in an enlightening manner on the Copyright Act for legal practitioners, members of the judiciary, in-house counsel, law students requiring specialized knowledge on technical areas of law.</p>	<p>2001 (2nd edition) Khaw lake Tee</p>	<p>Malayan Law Journal Level 12A (Tower 2), Kelana Brem Tower, Jalan SS 7/15 (Jalan Stadium), 47301 Kelana Jaya, Selangor Darul Ehsan</p>	<p>Tel: 7718.6800 Fax: 7718.6801</p> <p>Email: Customer.Care@mlj.com.my</p>

3.	<p>Copyright Law in Malaysia: Cases and Commentary This book provides a full and authoritative analysis of cases, both local and international, on issues concerning copyright, as well as an up-to-date discussion on all current amendments to the copyright law, such as the Copyright (Amendment) Act 1996, the Copyright (Amendment) Act 1997 and the Copyright (Amendment) Act 2000. The book cites leading local and overseas cases on copyright law and presents copious commentaries to elucidate the wide range of issues in this area of law. The commentaries which are enlightening, thought-provoking and insightful, enable the reader to have an in-depth and critical understanding of copyright law.</p>	<p>2004 Author: Dr. Ida Madieha bt Abdul Ghani Azmi</p>	<p>Sweet & Maxwell Asia No 17, Jalan PJS 7/19 Bandar Sunway 46150 Petaling Jaya Selangor Darul Ehsan</p>	<p>+603 5633 0622 +603 5638 4049 (Fax) www.sweetandmaxwellasia.com</p>
4.	<p>Mengenai Undang-Undang Hakcipta di Malaysia This book was written to solve the age-long issue of lack of any authoritative book on copyright in the national language of Malaysia. It touches on the Act itself, works protected, duration of protection, exclusive rights given by the law, enforcement of copyright and copyright tribunals. As the book was released in 1992, some of the contents are no longer relevant as many amendments have taken place since then.</p>	<p>1992 Rohazar Wati Zuallcobley</p>	<p>Pustaka Pertiwi Sdn. Bhd. 8 Jalan Jujur 3 Blok 1, Bandar Tun Razak 506000 Kuala Lumpur.</p>	<p>Tel: 9717685 Fax: 9716908</p>
E. TRADE MARKS				
1	<p>General Information on Trade Marks The booklet touches on the meaning of trademarks, functions of trademarks, importance of trademark registration, territorial protection, duration of protection, eligibility for protection, how to apply and registered trademark agents.</p>	<p>2005</p>	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332 Website: http://www.mipc.gov.my</p>

2.	<p>Trade Marks Law in Malaysia: Cases and Commentary The book provides a collection of the interpretation and applications of the rules by the courts in leading cases on the subject of trademarks. The book has also added commentary and analysis on cases, highlighting the important principles and comparing them with other cases on the issue. The topics discussed range from the definition of trademarks, registration process, dealings with trademarks, and enforcement of trademark rights in developing areas such as trademarks and the Internet. It discusses the relationship between trademarks and other laws such as geographical indications trade descriptions, passing off and malicious falsehoods.</p>	<p>2004 Author: Dr. Ida Madieha bt AbduL Ghani Azmi</p>	<p>Sweet & Maxwell Asia No 17, Jalan PJS 7/19, Bandar Sunway 46150 Petaling Jaya Selangor Darul Ehsan</p>	<p>+603 5633 0622 +603 5638 4049 (Fax) www.sweetandmaxwellasia.com</p>
3.	<p>Trade Marks and Service Marks The handbook contains narrative text on the practice, applicable rules from the Trade marks Act 1976, Trade Descriptions Act 1972, the relevant conventions together with subsidiary rules and commonly-used court forms. This book would be highly useful for legal practitioners, members of the judiciary, in-house counsel, law students requiring specialized knowledge on technical areas of law and procedure on trademarks.</p>	<p>2003 Advisory Author: Teo Bong Kwang</p>	<p>Malayan Law Journal Level 12A (Tower 2), Kelana Brem Tower, Jalan SS 7/15 (Jalan Stadium), 47301 Kelana Jaya, Selangor Darul Ehsan</p>	<p>Tel: 7718.6800 Fax:7718.6801 Email: Customer.Care@mlj.com.my</p>
4.	<p>Trade Mark Law and Practice in Malaysia The book contains a wealth of information connected with trademark law and practice in Malaysia, and elaborates on the practice involved. It traces the historical development of the subject and discusses cases and materials connected with the subject, including those in the context of cyberspace. It deals in-depth with use of trademarks and its relevance in the registration and post registration stages, with special focus centered on what constitutes a distinctive and registrable trademark, and when one trademark is to be regarded as confusingly similar to another.</p>	<p>2001 Author: Teo Bong Kwang</p>	<p>Malayan Law Journal Level 12A (Tower 2), Kelana Brem Tower, Jalan SS 7/15 (Jalan Stadium), 47301 Kelana Jaya, Selangor Darul Ehsan</p>	<p>Tel: 7718.6800 Fax: 7718.6801 Email: Customer.Care@mlj.com.my</p>

F. PATENTS				
1.	<p>General Information on Patents The booklet deals with the meaning of patents, utility innovation, need to protect an invention, inventions that could be patented, inventions that cannot be patented, national security, term of protection, eligibility for application, mode of application and registered patent agents.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mip.gov.my</p>
2.	<p>Patent Law in Malaysia: Cases and Commentary The book presents the materials in a clear and straightforward manner. It can be understood not only by legal practitioners but also by laypersons who want to know and understand the key concept in patent laws. Judges too would benefit from reading this book when they apply patent laws to adjudicate their cases. Extensive materials have been incorporated into the text and various aspects of the law on patent have been examined and assembled. Further, extensive reference has been made to other works from America, Japan, United Kingdom, Germany, Australia and some other common law jurisdictions.</p>	<p>2004 Author: Dr. Ida Madieha bt Abdul Ghani Azmi</p>	<p>Sweet & Maxwell Asia No 17, Jalan PJS 7/19, Bandar Sunway 46150 Petaling Jaya Selangor Darul Ehsan</p>	<p>+603 5633 0622 +603 5638 4049 (Fax)</p> <p>www.sweetandmaxwellasia.com</p>
3.	<p>Patents in Malaysia Patent Laws in Malaysia had undergone many changes. This Guide Book was prepared with the guidance of an expert from WIPO, and is intended to provide some basic information and guidance on how to make patent applications. The book talks of who is eligible to apply, the difference between patent and utility innovation, exclusions, requirements for application, claims, examination, filing date, work flow, hearing date and appeals. It also contains samples of application forms to be submitted. This guide book would be of great assistance to applicants who seek to protect their inventions and innovations with the Patent Registration Office.</p>	1996	<p>Intellectual Property Division, Ministry of Domestic Trade and Consumer Affairs, Malaysia</p>	<p>The Division was made into a corporate body in 2003, and the book is out of print.</p>

4.	<p>Questions and Answers About the Patent System and Services Provided By the Intellectual Property Division</p> <p>The booklet is intended to answer frequently asked questions on several areas of patent. It addresses topics such as what is patent, what is utility innovation, for what can a patent or utility innovation certificate be granted, who can apply for patent, how can the application be made, confidentiality of the innovation, what is patent information, technical information, commercial implications of patent information and searches. The booklet is indeed a valuable guide for members of the public as well as those intending to file for patent.</p>	1998	<p>Intellectual Property Division, Ministry of Domestic Trade and Consumer Affairs, Malaysia</p>	<p>The Division was made into a corporate body in 2003, and the book is out of print.</p>
5.	<p>Patents in Malaysia - Applicant's Guide</p> <p>This book is an improvised version of the earlier publications as mentioned above on the same subject matter. It talks about eligibility for applications, differentiates between patents and certificates, mentions patentable inventions and eligible utility innovations, newness, inventiveness, industrial applicability and exclusions, and provides grant procedure flowcharts. It also mentions the physical and terminology requirements of documents, claims, abstract, examination, determining of filing dates, grants, amendments, extension of time, hearing of appeals and patent protection in other countries. This book could serve as a comprehensive guide to any person who intends to file a patent application in Malaysia.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mip.gov.my</p>

6.	<p>Patent Agent Examinations 2005, Syllabus And Example Papers</p> <p>The book is intended to provide candidates with an opportunity to demonstrate a broad general technical knowledge, necessary for patent agency work, and to demonstrate their ability to briefly explain various technical topics so that technical readers may understand them. This book contains questions on a number of topics and is therefore a highly valuable guide for those intending to take patent examinations.</p>		<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mipc.gov.my</p>
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G. INTELLECTUAL PROPERTY

1	<p>Intellectual Property Corporation of Malaysia</p> <p>This booklet talks about the newly established Intellectual Property Corporation of Malaysia, its objectives, visions and the acts administered under this body.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mipc.gov.my</p>
2.	<p>Halsbury's Laws of Malaysia-Intellectual Property</p> <p>This practical and user-friendly handbook gives basic information on several areas of intellectual property, such as copyright, patents, trademarks and trade names, and industrial designs. It is copiously footnoted with detailed explanations and case laws. This is a highly valuable book for those who want to obtain in-depth information on these subjects. Legal practitioners, members of the judiciary, in-house counsel and law students would find the book very informative, useful and highly valuable.</p>	2000	<p>Malayan Law Journal Level 12A (Tower 2), Kelana Brem Tower, Jalan SS 7/15 (Jalan Stadium), 47301 Kelana Jaya, Selangor Darul Ehsan</p>	<p>Tel: 7718.6800 Fax: 7718.6801</p> <p>Email: Customer.Care@mlj.com.my</p>

3.	<p>Harta Intelek - Aset Berharga Teras Pembangunan Ekonomi Negara</p> <p>This is a cartoon booklet in the native Malay language that aims to explain to a layman the various fields of IP. The heading itself, if translated reads as follows:</p> <p>Intellectual Property- Valuable Asset- Development Thrust of the Nation's Economy.</p> <p>This pictorial booklet gives an introduction to intellectual property and illustrates patents, trade marks, copyright, industrial designs and geographical indications. It ends with a quiz on IP. This is good material for beginners in intellectual property, particularly students.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mipc.gov.my</p>
H. INDUSTRIAL AND R&D GRANTS				
1.	<p>Intensification Of Research in Priority Areas (IRPA)</p>	2005	<p>The IRPA Secretariat, Science and Technology Division, Ministry of Science, Technology and the Environment, Level 1 & 2, Block C5, Parcel C, Federal Government Administrative Centre, 62662 Putrajaya.</p> <p>Web site: http://www.moste.gov.my/s&t</p>	<p>Tel: 03-8885 8000 (GL) 03-885 8046/8885 8047</p> <p>Fax: 03-8889 2994</p> <p>Email: irpa@moste.gov.my</p> <p>Contact : Zam Abd Karim Sakib Kusmi</p>

2.	Industry Research & Development Grant Scheme(IGS)	2005	The IGS Secretariat, Science and Technology Division, Ministry of Science, Technology and the Environment, Level 1 & 2, Block C5, Parcel C, Federal Government Administrative Centre, 62662 Putrajaya. Web site: http://www.moste.gov.my/s&t	Tel: 03-8885 8000(GL) 03-8885 8065 Fax: 03-88893005 Email: igs@moste.gov.my Contact: Ooi Goan
3.	Demonstrator Application Grant Scheme(DAGs)	2005	DAGS Secretariat,c/o Mimos Berhad, Technology Park Malaysia, 57000 Bukit Jalil, Kuala Lumpur. Website: http://www.nitc.org.my/dags	Tel: 03-8996 5000 Fax: 03-8996 0255 Email: dags@nitc.org.my
4	The Multimedia Super Corridor Research and Development Grant Scheme(MGS)	2005	Multimedia Development Corporation Sdn Bhd (389346-D),MGS Unit, MSC Headquarters, 63000 Cyberjaya, Selangor Darul Ehsan. Website: http://www.msc.com.my/mdc/cs/mgs/default.asp	Tel: 03-8318 8477 Fax: 03-8318 8786 Email : mgs@mdc.com.my

5.	Grant For Product And Process Improvement (ITAF 2)	2005	ITF Secretariat, Small and Medium Industries Development Corporation (SMIDEC), 801C, Level 8, Tower C, Uptown 5 No. 5, Jalan SS21/39, Damansara Utama, 47400 Petaling Jaya, Selangor D.E. Web site: http://www.smidec.gov.my	Tel: 03-7660 8585 Fax: 03-76651920 / 03-76601919 Email: smidec@smidec.gov.my
6.	Grant For Productivity And Quality Improvement And Certification (ITAF3)	2005	ITF Secretariat, Small and Medium Industries Development Corporation (SMIDEC) 801C, Level 8, Tower C, Uptown No. 5, Jalan SS21/39, Damansara Utama, 47400 Petaling Jaya, Selangor D.E. Web site: http://www.smidec.gov.my	Tel: 03-7660 8585 Fax: 03-7665 1920 / 7660 1919 Email: smidec@smidec.gov.my

7.	Grant For Upgrading Engineering Design Capabilities	2005	Chief Executive Officer, Small Medium Industries Development Corporation (SMIDEC), S01C, Level 8, Tower C, Uptown 5 No.5, Jalan 8821/39, Damansara Utama, 47500 Petaling Jaya, Selangor D.E. Web site: http://www.smidec.gov.my	Tel: 03-7660 8585 Fax: 03-7665 1920 / 7660 1919 Email: smidec@smidec.gov.my
8.	E-Manufacturing Grant-ERP	2005	E-Manufacturing Grant Secretariat, Small and Medium Industries Development Corporation (SMIDEC), 801C, Level 8, Tower C, Uptown 5 No. 5, Jalan SS21/39, Damansara Utama, 47400 Petaling Jaya, Selangor D.E. Web site: http://www.smidec.gov.my	Tel: 03-7660 8585 Fax: 03-7665 1920 / 7660 1919 Email: smidec@smidec.gov.my

9.	E-Commerce Grant For SMEs	2005	E-Commerce Grant Secretariat Small and Medium Industries Development Corporation (SMIDEC), 801C, Level 8, Tower C, Uptown 5 No. 5, Jalan SS21/39, Damansara Utama, 47400 Petaling Jaya, Selangor D.E. Web site: http://www.smidec.gov.my	Tel: 03-7660 8585 Fax: 03-7665 1920 / 7660 1919 Email: smidec@smidec.gov.my
10.	Grant For RosettaNet Standard Implementation	2005	RosettaNet Grant Secretariat, Small And Medium Industries Development Corporation (SMIDEC), 801C, Level 8, Tower C, Uptown 5 No. 5, Jalan SS21/39, Damansara Utama, 47400 Petaling Jaya, Selangor D.E. Web site : http://www.smidec.gov.my	Tel: 03-7660 8585 Fax: 03-7665 1920 / 7660 1919 Email : smidec@smidec.gov.my

11.	Technology Acquisition Fund For Women(TAF-W)	2005	Government-Industry Technology Services (GITS),Malaysia n Technology Development Corporation, University Research Park, 43400 Serdang, Selangor D.E. Web site: http://www.mtdc.com.my	Tel: 603-8941 2000 Fax: 603-8941 3632 Email: tafcrdfwef@mtdc.com.my
12.	Technology Acquisition Fund(TAF)	2005	Government Industry Technology Services (GITS),Malaysia n Technology Development Corporation, University Research Park, 43400 Serdang, Selangor D.E. Web site: http://www.mtdc.com.my	Tel: 03-8941 2000 Fax: 03-8941 3632 Email: tafcrdfwef@mtdc.com.my
13.	Technology Acquisition Fund(TAF)	2005	Government Industry Technology Services (GITS),Malaysia n Technology Development Corporation, University Research Park, 43400 Serdang, Selangor D.E. Web site: http://www.mtdc.com.my	Tel: 03-8941 2000 Fax: 03-8941 3632 Email: tafcrdfwef@mtdc.com.my

14.	Commercialization of Research and Development Fund(CRDF)	2005	Government-Industry Technology Services (GITS),Malaysia n Technology Development Corporation, University Research Park, 43400 Serdang, Selangor D.E. Web site: http://www.mtdc.com CRDF Application Process Flow Application Forms: http://www.mtdc.com.my/grant/crdfform.doc	Tel: 603 8941 2000 Fax: 603 8941 3632 <u>Email:tafcrdfwef@mtdc.com.my</u>
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I. LOANS & VENTURE CAPITALS

1.	Small Medium Industries Promotional Program (SMIPP)	2005	Bank Pembangunan dan Infrastruktur Malaysia Berhad, Menara Bank Pembangunan, Jalan Sultan Ismail, P.O. Box 12352, 50774 Kuala Lumpur. Web site: http://bpimb.com.my/loan_scheme.htm	Tel: 03-2691 3399 / 2691 7799 Fax: 03-2692 8520
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2.	Initial Capital Scheme	2005	Bank Pembangunan dan Infrastruktur Malaysia Berhad, Menara Bank Pembangunan, Jalan Sultan Ismail, P.O. Box 12352, 50774 Kuala Lumpur. Web site: http://www.bpim.com.my/loan_scheme.htm	Tel: 03-2691 3399 / 2691 7799 Fax: 03-2692 8520
3.	New Guarantee Scheme	2005	Bank Pembangunan dan Infrastruktur Malaysia Berhad, Menara Bank Pembangunan, Jalan Sultan Ismail, P.O. Box 12352, 50774 Kuala Lumpur. Web site: http://www.bpim.com.my/loan_scheme.htm	Tel: 03-2691 3399 / 2691 7799 Fax: 03-2692 8520
4.	MSC Venture One	2005	MSC Venture Corporation Sdn. Bhd. (476857-D), 1st Floor Raja Wali Block, Cyberview Garden Villas & Office Complex, 63000 Cyberjaya, Selangor D.E. Web site: http://www.mdc.com.my/mscvc/index.html	Tel: 03-8312 7260 Fax: 03-8312 7290 Email: mscvc@mdc.com.my

5.	CTV- Commerce Technology Ventures Funds	2005	Commerce Technology Ventures Sdn Bhd ("CTV") , No.6, Commerce House, 22-24 Jalan Semantan, Damansara Height, 50490 Kuala Lumpur. Web site: http://www.commerce-ventures.com.my	Tel: 03-2732 5577 Fax: 03-2732 1343
6.	Financing for the High Technology Industries	2005	Manufacturing Loans Department, Bank Industri & Teknologi Malaysia Berhad Level 27, Bangunan Bank Industri, Bandar Wawasan, No. 1016, Jalan Sultan Ismail, P.O. Box 10783, 50724 Kuala Lumpur Web site : http://www.bankindustri.com.my	Tel: 03-2692 9080 / 03-2612 8419 Fax: 03 2691 1430 Email : enquiry@bankindustri.com.my
7.	High Technology Venture Capital Fund	2005	Bank Pembangunan dan Infrastruktur Malaysia Berhad , Menara Bank Pembangunan, Jalan Sultan Ismail, P.O. Box 12352, 50774 Kuala Lumpur. Web site : http://www.bpim.com.my/loan_schemes.htm	Tel: 03-2691 3399 / 2691 7799 Fax: 03-2692 8520

8.	DTA Ventures Management Sdn. Bhd.	2005	<p>Dali Sardar 24 A, Jalan Datuk Sulaiman, Tmn. Tun Dr. Ismail, 60000 Kuala Lumpur</p> <p>Web site: http://www.dtacapital.com</p>	<p>Tel : 603 77222500 / 603 77222560</p> <p>Fax : 603 77222570</p> <p>HP: 012-2889114</p> <p>Email : dali@dtacapital.com</p>
9.	BI Walden Management Sdn. Bhd.	2005	<p>Chok Kwee Bee - Executive Director #22-01 Menara Dion, No. 27, Jalan Sultan Ismail, 50250 Kuala Lumpur</p> <p>Web site: http://www.waldenintl.com</p>	<p>Tel : 603 20312202 / 603 20319699</p> <p>Fax : 603 20312205</p> <p>Email : kbchok@waldenintl.com</p>
10.	Cradle Investment Programme	2005	<p>Malaysia Venture Capital Management Berhad (545446-U) (Wholly owned by Minister of Finance Inc.)</p> <p>Level 11, Bangunan Bank Industri 1016 Jalan Sultan Ismail 50250 Kuala Lumpur</p> <p>Web site: http://www.cradle.com.my</p>	<p>Tel : 603 2693 1550</p> <p>Email : enquiries@cradle.com.my</p>

J. TAX INCENTIVES				
1.	Contract R&D Company	2005	Malaysian Industrial Development Authority (MIDA) Block D, Plaza Sentral, Jalan Sentral 5, 50470 Kuala Lumpur. Web site: http://www.mida.gov.my	Tel: 03-2267 3633 Fax: 03-2274 7970
2.	R&D Company	2005	Malaysian Industrial Development Authority (MIDA) Block D, Plaza Sentral, Jalan Sentral 5, 50470 Kuala Lumpur. Web site: http://www.mida.gov.my	Tel: 03-2267 3633 Fax: 03-2274 7970
3.	In-House Research	2005	Malaysian Industrial Development Authority (MIDA) Block D, Plaza Sentral, Jalan Sentral 5, 50470 Kuala Lumpur. Web site: http://www.mida.gov.my	Tel: 03-2267 3633 Fax: 03-2274 7970

4.	Double Deductions For Approved Research Projects	2005	Inland Revenue Board, Technical Division, 15th Floor, Block 11, Government Offices Complex, Jalan Duta, 50600 Kuala Lumpur Web site: http://www.hasilnet.org.my	Tel: 03-6201 7055 Fax: 03-6201 0905
5.	Double Deductions For Cash Contribution To Approved Research Institutes.	2005	Inland Revenue Board, Technical Division, 15th Floor, Block 11, Government Offices Complex, Jalan Duta, 50600 Kuala Lumpur Web site: http://www.hasilnet.org.my	Tel: 03-6201 7055 Fax: 03-6201 0905
6.	Double Deductions For Payment For The Use Of The Services Of Approved Research Institutes, Research Companies, R&D Companies Or Contract R&D Companies	2005	Inland Revenue Board, Technical Division, 15th Floor, Block 11, Government Offices Complex, Jalan Duta, 50600 Kuala Lumpur Web site: http://www.hasilnet.org.my	Tel: 03-6201 7055 Fax: 03-6201 0905

7.	Exemption Of Import Duty, Sales Tax And Excise Duty On Machinery/Materials Used For Research And Development	2005	Malaysian Industrial Development Authority (MIDA) Block D, Plaza Sentral, Jalan Sentral 5, 50470 Kuala Lumpur. Web site: http://www.mida.gov.my	Tel: 03-2267 3633 Fax: 03-2274 7970
8.	Incentives for High Technology Companies	2005	Malaysian Industrial Development Authority (MIDA) Block D, Plaza Sentral, Jalan Sentral 5, 50470 Kuala Lumpur. Web site: http://www.mida.gov.my	Tel: 03-2267 3633 Fax: 03-2274 7970

9.	Incentives For The Promotion Of Computer Software Development In Malaysia	2005	Malaysian Industrial Development Authority (MIDA) Block D, Plaza Sentral, Jalan Sentral 5, 50470 Kuala Lumpur. Web site: http://www.mida.gov.my	Tel: 03-2267 3633 Fax: 03-2274 7970
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PART I (B)

General Overviews of Items (A) – (F)

A. HOW TO COMMERCIALIZE INVENTIONS

Inventions come in many forms, formal and informal. The cornerstone of any IP is protection. The Malaysia Intellectual Property Office encourages all inventors to apply for patent protection. This is most important for the commercialization of their inventions and new-found technologies.

Inventors apply to the Malaysia Intellectual Property Office for patent grants. In the past, patent applications were always dominated by foreign applicants. For quite some time 95% of patent applications came from overseas, while only 5% came from local applicants. This gave cause for concern for many years. However, last year the figure increased to 10% for local applications. This was made possible through aggressive campaigns held in the institutions of higher learning, particularly research institutions. This has encouraged researchers and their institutions to file for patent grants. This is a good start.

One of the greatest sources of invention is in the local universities. The students involved in the science and engineering fields are normally the leaders in discovering new areas of technology.

There are several means of commercializing inventions.

FINANCIAL MEANS

The crux of the problem is getting inventions to the market place. Inventors are not always good businessmen. While they are able to invent, not all of them are able to commercialize their inventions. This is because of a lack of finance. Inventions that do not catch the attention of the commercial exploiters often die a natural death. However keen inventors have to chase financial institutions for assistance. The dilemma is that not all inventors have the skill to enter into the business field. Attempts by some of them have been found to be failures. So they need to join up with businessmen to commercially exploit their works. They then place advertisements in the media to invite the attention of the economic communities. This has worked well in some cases. The only problem is that once the businessman comes into the equation, he may take the lion's share, leaving behind only scraps for the inventors.

Assistance from the Ministry of Science and Technology

The Ministry of Science and Technology of Malaysia realizes the importance of research and development, and the need for technological innovations for sustainable development in a knowledge-based economy. Therefore the Ministry has placed a high priority on the scientific and technological developments in the country.

INDUSTRIAL AND R&D GRANTS

Since the year 1988, the Malaysian Government has been implementing a centralized grant system of financing science and technology (S&T) research in public institutions and research agencies. The Ministry of Science, Technology and Innovation (MOSTI) has taken responsibility for managing the funds and the implementation of S&T research and development (R&D) programs in the country. Other private agencies such as the Multimedia Development Corporation and the Multimedia Super Corridor also participate in providing assistance.

LOAN AND VENTURE CAPITAL

There is one more problem area for the inventor. In cases where the invention has yet to be tested, financial institutions would not be prepared to provide loans. It would be too risky to venture into an unproven business. For that reason, the inventor may have to approach those willing to provide venture capital.

However, it is thanks to the Malaysian Government, as various ministries and agencies have helped the Small and Medium Industries (SMI) through financial assistance given in the form of business loans to entrepreneurs and business owners of specialized industries. These loans are made available through financial institutions such as the Credit Guarantee Corporation Malaysia Berhad, Bank Pembangunan dan Infrastruktur Malaysia Berhad and Bank Industri dan Teknologi Malaysia Berhad and enable these entrepreneurs to obtain loans up to 100% and credit facilities to support their business aspirations. Venture capital is an alternative form of financing.

S&T TAX INCENTIVES

To further encourage the involvement of the private sector in carrying out R&D, the Government of Malaysia has made available various types of incentives for R&D activities. Most of the R&D deductions and allowances are provided for under the Income Tax Act, 1967. The category of incentives by way of Pioneer Status and Investment Tax Allowance are provided under the Promotion of Investments Act 1986.

Therefore an enterprising inventor can always make use of the assistance provided by these financial institutions.

MEETING OF MINDS

They are more often than not unable to bring their inventions to the market place by way of commercialization owing to lack of finance. Banks and other financial institutions do not take risks in unproven areas. Therefore they refuse applications from students who do not have any earning capacity. Their educational institutions do not come forward either to finance their inventions.

In this regard, one possibility is the invention exhibitions that are held in various parts of the country. Here the inventors display their inventions, distribute brochures and give detailed explanations on the functions of the inventions. Any potential businessman who shows an interest in an invention then enters into an agreement with the inventor and commercializes the invention. Exhibitions are held where potential investors are invited to view the exhibits, and if they like what they see, enter into agreements to exploit them. The most celebrated exhibition is the MINDS Exhibition, where hundreds of exhibition halls are erected in reputable venues. The exhibits are judged and awards are given for various categories of invention. This is a boost for the inventors as they receive a lot of publicity through the media. Then the businessmen come into the equation. It is not surprising that even foreign businessmen are attracted to local inventions.

TRADE ASSOCIATIONS

There are trade associations that encourage their members to seek out the latest inventions. These associations which are involved in business activities could join hands with inventors to commercialize their inventions.

Malaysian Invention and Design Society

Founded in 1986, the Malaysian Invention and Design Society is the largest body in Malaysia representing individuals, universities and companies who pursue excellence in invention, creativity, innovation, research and development, and industrial design. MINDS is responsible for promoting high standards of invention and design, fostering professionalism and encouraging continuing professional development amongst its members.

Its objectives are:

- *To encourage creative thinking and the spirit of invention among the people and businesses of Malaysia*
- *To promote and enhance the development and utilization of Malaysian inventions and designs*
- *To provide advice and guidance to individual inventors and designers as well as companies involved in research and development*
- *To offer support and guidance in the commercialization of new inventions and product ideas*
- *To provide professional development and training programs to enhance competitiveness*

MINDS is active nationally and internationally and associated with the World Intellectual Property Organization (WIPO) and the International Federation of Inventors' Associations. With support from the Ministry of Science, Technology and the Environment, Ministry of Domestic Trade and Consumer Affairs, Ministry of Education and SIRIM, MINDS has established itself as the leading body to support inventions and designers in Malaysia.

Grants of up to RM50,000 are available to MINDS members for new inventions and designs.

B. HOW TO BENEFIT FROM ORIGINAL INDUSTRIAL DESIGNS

INTRODUCTION

An industrial design is the ornamental or aesthetic aspect of an article. The design may consist of three-dimensional features, such as the shape or surface of an article, or of two-dimensional features, such as patterns, lines or colors. Industrial designs are applied to a wide variety of products both industrially-produced and handcrafted, from technical and medical instruments to watches, jewelry, and other luxury items; from home wares and electrical appliances to vehicles and architectural structures; from textile designs to leisure goods. The range is wide and covers almost every aspect of our lives.

Benefit to Society

This aesthetic value of a product is appreciated both by individuals and society at large. Hence it is very much reflective of the norms, values and customs in society. Designers acknowledge that the environments, objects and services created as a result of the design process both reflect and help to define the cultural identity of their nations and certain societies within nations. Designers strive to embody and promote the cultural traditions of their national societies while incorporating the best characteristics of international design principles and standards.

First Beneficiary

The first beneficiary is certainly the owner. An industrial designer combines his artistic skills and practical knowledge to create designs. When he registers his designs, his skills receive their rightful protection. When an industrial design is protected, the owner - the person or entity that has registered it - is assured of exclusive rights against unauthorized copying or imitation of the design by third parties. Once a design is registered, a registration certificate is issued. Following that, the term of protection is generally five years, with the possibility of further renewal up to a total of 15 years in most cases. This helps to ensure a fair return on investment. Therefore the first step is to register the design.

Client's Objectives

A study shows that when a client purchases a product, 70% of the decision is motivated by its appearance. Recognising this, designers work within the limits of their profession to further the interests of their clients through provision of the following:

- Regard for strategic, economic and technical objectives,
- Appropriate, good quality and competitive designs,
- Best professional practices
- Efficient, economic and environmentally-sound production means, and
- Honest business practices.

That is to say the first step in designing a new product is to discover the client's needs and how the product will be used. Designers talk to clients about what they want, and carry out research on products and design trends. For example, they read publications and study design styles. They also attend showings of new products in their field. To develop their designs, they consider size, shape, weight, color, and materials to be used. In the end it is the client who obtains satisfaction. By making a product aesthetically appealing and attractive, industrial designs increase its commercial value and facilitate its marketing and commercialization.

Economic Benefits

Industrial designs are what make an article attractive and appealing; therefore, they add to its commercial value and increase its marketability. An effective system of protection also benefits consumers, by promoting fair competition and honest trade practices, encouraging creativity, and promoting more aesthetically-pleasing products.

Protecting industrial designs helps economic development by encouraging creativity in the industrial and manufacturing sectors, as well as in traditional arts and crafts. They contribute to the expansion of commercial activities and the export market.

Industrial designs can be relatively simple and inexpensive to develop and protect. They are reasonably accessible to small and medium-sized enterprises as well as to individual artists and craftsmen, in industrialized and developing countries.

Clear Terms of Contractual Agreements

Designers have one disadvantage. When they sign contracts with businessmen, more often than not, they stand to lose out, especially when they are not very business-oriented.. The entrepreneurs who wish to commercialize the designs often take the lion's share, leaving the designers with little. Designers will need clearly to define the basis on which their total remuneration is to be calculated, before accepting an assignment.

Surveys

In order to benefit further, the designers would have to conduct market surveys. To find out whether a design is practical, they consider cost, ease of use, and safety. They also consider market conditions, or what is selling in the product area.

Some Statistics

In Malaysia industrial design registration came into force in 1999. There were only 204 applications filed in that year, compared to a total of 4,999 applications filed up to July 2005.

Each year there is an average of 1,000 applications filed in Malaysia. It is heartening to learn that around 50% of the applications filed come from inside the country. The number is said to be increasing every year.

Most of the applications are for the protection of decorative items. The most popular applicant is Royal Selangor Pewter that registers mugs and containers. This company has an international reputation as the products are in great demand from foreign visitors to Malaysia. They are popular gift items for many happy occasions.

Following this there is the “Three-V” which is one of the leading exporters of Malaysian furniture, especially to the Middle East. There are also small-scale firms that register on an *ad hoc* basis.

Avenues for Commercialization

Many designs are made known to the public through trade exhibitions. The Malaysian furniture exhibition is very well-known and it attracts large numbers of exhibitors from across the world. This is an area where furniture is properly exhibited and promoted.

As for financial assistance, there is practically no direct assistance. This is only available in the form of simple business loans.

C. CONTRIBUTION OF TRADE MARKS TO BUSINESS DEVELOPMENT IN MALAYSIA

The Legal Framework

As early as 1962 and before, Intellectual Property Rights were administered by the Trade Marks Registration Office. With the enforcement of the Trade Marks Act 1976 and the Patents Act 1983, the Office changed its name to the Trade Marks and Patents Registration Office in 1983 under the Ministry of Trade and Industry. On October 27, 1990, when the Ministry of Domestic Trade and Consumer Affairs was established, an Intellectual Property Division was created. From then onwards the Trade Mark Act was

administered under this Department. Again, on March 3, 2003 the division was turned into a corporate body called the Malaysia Intellectual Property Corporation (IPCM) It was renamed by the Prime Minister of Malaysia as the Malaysia Intellectual Property Office (MyIPO). at the launch of national Intellectual Property Day at Malacca on March 3, 2005. However it still falls under the general aegis of the Ministry of Domestic Trade and Consumer Affairs.

In 1997, a new requirement was created to safeguard against unscrupulous applicants claiming rights. Applicants were required to submit statutory declarations along with their trademark applications. According to the Statutory Declaration Act 1960, anyone found guilty of making a false declaration would receive a jail sentence. Perjury is a serious offence in Malaysia. This is a major area for the trademark regime.

The Trade Mark Act was amended in 2000 to comply with the obligations of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, whereby provisions were created for border measures. Again provisions for well-known marks were also provided for in the amendment. By and large the Trade Mark Act 1976 is said to be very supportive of business development. False claims are punishable under the Trade Description Act 1972, where an individual is fined RM100,000 and a company is fined RM250,000.

Role of MyPO

MyIPO is the custodian of the IP laws. It sets clear functions for the development of the trade marks for the purpose of promoting business. MyIPO assists the trademark regime in Malaysia in the following ways;

- i) provides protection through registration services
- ii) provides advisory services
- iii) provides search facilities for trademarks
- iv) disseminates information to the public through public awareness programs

Trademarks contribute to business development by way of winning over customers. Trademarks do not deal with products, but only with brands. It is the brands that contribute to business development. This paper will deal with various approaches used for brand development to win business and it may explain the contribution of a trademark to business development. In the long run, it is the customer who determines the success of the business.

According to a study by the World Intellectual Property Organization, an average of 1,500 brand names per day are registered. But how many of these are successful brands is the question one has to ask. Success comes in various forms.

Trademarks could certainly contribute to business development. In the first place, the trademark has to be registered. Only registered trademarks have IP value. The value increases over a period of time. We know that the IP value of Coca Cola, IBM and

Microsoft runs into billions of US dollars. Therefore in order for trademarks to succeed in the business world, they have to be registered.

Trademarks also provide recognition for both the financial institutions and the customers. As for the financial institutions, they only recognize the registered trademarks when they intend to approve loans and grants. They would hesitate to give loans to unknown marks.

It is a trademark that makes it possible for its owners compete fairly. With no registration nor recognition, anyone can duplicate a mark. Therefore trademarks do encourage fair competition in the market place.

Malaysia takes a very positive approach nowadays. In the past it used to allow foreign goods to be assembled in Malaysia, and they carried the label "Made in Malaysia." The term "Made in Malaysia" only mentions the assembly and manufacture in Malaysia. The trademark still belongs to the original owner. Malaysia now favors its own trade marks and these are known as Malaysian brands. It is Malaysian brands that we want to promote both locally and overseas.

As trademarks build customer loyalty, the brand is used to entice customers who more often than not use brand names when purchasing goods; a clear indication that it is the trademark that is foremost in their minds.

A good looking brand name is about identification and trust. Every company strives to build brand trust with its customers, most of whom tend to associate brand names with almost every tangible product they encounter daily. Should the trademark establish some form of trust, then it would be successful in the market place. This is always done through claims made in advertisements. More often than not there would be a statement to say something like "quality is guaranteed" and this statement would be emphasized from time to time.

A businessman must be consistent in putting out the same message to the population in the course of developing customer loyalty. The message communicated in every medium should be the same. That is to say, in packaging, displays, guarantees, and any other consumer-targeted communication. Not only the wording, but the colors, typography, and images used in the brand name should all proclaim uniformity. It is such approaches associated with the trademarks that work on the minds of customers.

Again for good sales of products, they must be plausible and desirable. That is to say, the consumers must be convinced that the products they buy are believable and desirable. To this end, the designers have to make sure that the trademark indicates some level of believability. This is about the most difficult aspect of a trademark, as it involves a psychological approach.

There is a saying that the bottom-line in business is survival of the fittest. One has to be constantly on the move. Taking one's eye off the ball in a highly-competitive business environment may even bring the businessman to the brink of insolvency. Trademarks therefore have to keep on emphasizing their appeal to the mind of the customer.

Therefore in some cases trademarks would need to change in form or color to add aesthetic value. The best example one could give in this regard is the Shell logo that has undergone several modifications over the decades. Each change was made to reflect changing tastes. In Malaysia the logos of the daily newspapers have undergone several changes to keep up with the competitive spirit in a competitive business. Sometimes the logos would have to look dynamic, rather than always retaining the same appearance.

A businessman has to understand fully the likes and dislikes of his customers. One needs to find out which segment of the population rejects the product and why. Such a survey will enable the businessmen to create the right message to win over new customers.

Support by Organizations

The Malaysian public is well aware that trademarks are important for business development. The Federation of Malaya Manufacturers (FMM) is an active promoter of brands for business development, as it is fully aware of the need to boost branding in order to increase performance. The FMM has come out with an association called the Branding Association of Malaysia, which is an active and aggressive promoter of brands.

The Branding Association of Malaysia conducts seminars and workshops for business communities and members of the public on the importance of trademarks. Reputable speakers from leading national and international corporations are invited to share their success stories with the audience.

The Branding Association of Malaysia covers areas such as the need for brand names to be catchy, the need for aggressive marketing to win over customers; association of brands with quality and safety; the need for brands to be believable and desirable; establishing brand loyalty; the need to have uniformity in colors, typography, and images used; and the need for constant surveys on customer preference. Many of these seminars are officially opened by Malaysian ministers and high-ranking officials.

Design Companies

There are commercial artists who assist firms in producing trademark logos. Designing logos for trademarks is already becoming big business in Malaysia.

Government Grants

In many industrializing nations, SMEs and the small and medium industries sector, constitute the backbone of the industrial sector in the form of ancillary and supporting industries. This is also the case in Malaysia where SMEs have evolved to support larger companies and the MNCs.

REGISTRATION WITH MYIPO

Each year MyIPO receives almost 20,000 trademark applications. Of these about 51% are local applications, while 49% are from abroad. Generally speaking, trademark is an area that is well-known to the business community. This is evidenced by the fact that Malaysians file more trademarks than patents or industrial designs. In fact, a number of Malaysian marks have even gone international and they bear witness to high quality and standards. Selangor Pewter is our own local brand that creates renown for Malaysia across the world. PETRONAS is another, while Proton is yet one more that is making a mark for Malaysia overseas.

D. CONTRIBUTION OF COPYRIGHT

In Malaysia, the copyright regime is seen to be a key player in the preservation and development of culture, and an important generator of employment and revenue. It is for these reasons that the Government places great emphasis on suppressing piracy in the area of copyright.

The Legal framework

Any successful exploitation can only take place within a legal framework. In Malaysia a copyright system has existed since 1912, but the first copyright statute of independent Malaysia came into force on August 1, 1969, known as the Copyright Act 1969. This Act was repealed in 1987 when the Copyright Act 1987 came into force on December 1, 1987.

Broadly, the Copyright Act 1987 provides for the making of better provisions in the laws in respect of copyright. To this end, the Copyright Act underwent major amendments in 1990, 1996, 1997, 2000 and 2003 to cater for the changing needs on the domestic as well as the international scene. The 1990 amendment was to make provisions for Malaysia to join the Berne Convention. The 1996 amendment was to widen the powers of the Copyright Tribunal to settle disputes between the users of copyright works and the collecting societies, and to provide for the compounding of offences. The 1997 amendment was mainly to provide protection for the contents that pass through the Multimedia Super Corridor. The Act was again amended in 2000 to provide protection for the rights of the performers and it was further amended in 2003 to widen its powers of enforcement and to increase penalties.

Malaysian copyright laws became international standards by its becoming a signatory to the Berne Convention for the Protection of Literary and Artistic works, which is a convention administered by the World Intellectual Property Organization (WIPO), on October 1, 1999. Malaysia also became a signatory to the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement in 1994.

The Copyright Act 1987 protects the literary, artistic and musical works (computer programs are treated as literary works); published editions of such works; sound recordings; films; broadcasts, and works derived from works eligible for copyright.

The Act also specifies the protection period of the works. The duration of a copyright for literary, artistic and musical works is the life of the author plus fifty years after his/her death. For the rest of the works eligible for copyright, this expires fifty years from the start of the calendar year following the year in which the work was first published.

The copyright owner has the exclusive right to control various acts in Malaysia, in relation to a literary, artistic or musical work, a sound recording or a film. Such acts include the reproduction of the work in a printed form; a public performance or show; the communication of the work to the public; the distribution of copies to the public by sale or other transfer of ownership; and the commercial rental to the public.

It is within this framework that the copyright Industry in Malaysia has emerged as the core copyright-based industry.

INDIVIDUAL DEVELOPMENT

The copyright regime supports a wide range of individuals who are key players, in order to promote culture and the industry. The copyright works and the individuals involved are:

- i) Literary works- authors, publishers, students, software developers; script writers
- ii) Artistic Works- architects, photographers
- iii) Musical works- lyric writers, composers
- iv) Sound recordings- recording companies, musicians, sound engineers;
- v) Films- movie and video producers, actors and technicians
- vi) Broadcasts- broadcasting staff

COPYRIGHT-BASED COMPANIES

Apart from the individuals, the copyright-based industries also generate much revenue and many employment opportunities for Malaysians. These core industries are:

- i) Press and literature
- ii) Music, theatrical productions and opera
- iii) Motion pictures and videos
- iv) Radio and TV
- v) Photography
- vi) Software and databases
- vii) Visual and graphic arts
- viii) Advertisement agencies -visual and graphic
- ix) Apparel, textiles and footwear- designs

- x) Jewelry and coins- designs
- xi) Furniture- designs
- xii) Household goods, china and glass- designs
- xiii) Interior design companies - wall coverings and carpets -designs

THE COPYRIGHT-RELATED INDUSTRIES

- i) TV sets, radios, VCRs, CD players, cassette players
- ii) Computers and equipment
- i) Musical instruments
- ii) Photographic and cinematographic instruments
- iii) Photocopiers
- iv) Blank recording material
- v) Paper

Unlike other branches of copyright, the music industry covers a wider range of key players such as songwriters, composers, publishing houses, sound recording companies, studios, sound engineers, manufacturers of music CDs, singers, and musicians.

Collecting Societies

There are also collecting societies for the collection of royalties for those involved in music. The Copyright Act provides for the-setting up of collecting societies. There are currently two operational collecting societies in Malaysia, the Music Authors Copyright Protection Bhd. (MACP) which administers public performances, broadcast and diffusion rights in musical and associated literary works on behalf of its members and the Phonographic Performance Malaysia (M) Pte. Ltd. (PPM) which administers the recording industry's rights. The Performing Artist Rights Malaysia Sdn Bhd (PRISM) collects royalties for singers and musicians in the recording industry.

Development of Local Talents

In an effort to discover local talent, a program called Aademi Fantasia was introduced in 2003 with the cooperation of a pay television network called ASTRO. It has since discovered much new talent.

Umbrella Body

An umbrella body called Persatuan KARYAWAN Malaysia was established in 2001. This body looks after the welfare of artists in the entertainment industry, including actors, singers, stage performers, musicians, song writers and composers.

Conclusion

The copyright sector is growing in its own way and is the leading factor in the development of local culture.

E. VALUATION AND ASSESSMENT OF IP RIGHTS IN BUSINESS ENTERPRISES

Valuation and assessment of IP rights in business enterprises is emerging as a key area of Intellectual Property. In fact the IP community in Malaysia is well aware of this. It is one area that is already being set up in the more developed countries. In the past financial institutions used to provide loans and grants based on tangible property. Of late there has been a move by the banks to use the IP strength and value within an organization to secure loans and financial assistance. This is to say that IP valuation has already come to the fore.

In Malaysia, although the need for IP valuation is already being felt, a clear-cut mechanism is yet to be devised for the evaluation of IP. At present a leading research institution in the country is already making a move towards creating a yardstick to measure IP strength. It is the Standards and Industrial Research Institute of Malaysia, (SIRIM) under the Ministry of Science and Technology. This body is now called SIRIM Berhad since it became a corporate body nine years ago.

SIRIM is now using guidelines in the form of man hours and material costs to value the IP of a product. But this is still in its infancy and needs to evolve further, adding in other components to provide a complete valuation mechanism.

Different lecturers provide different methods of valuation. Each one differs from the other. This makes it difficult for the Malaysians to adopt any specific method as an acceptable form of evaluating or assessing IP.

F. ACCESS TO CAPITAL BASED ON IP ASSETS- FINANCIAL SCHEMES (LOANS, GRANTS) BY GOVERNMENT INSTITUTIONS AND WITH PRIVATE CAPITAL

BRAND DEVELOPMENT

The Malaysian Government encourages those in the Small and Medium Scale Industries (SMIs) to manufacture their own brands enabling them to gain international market acceptance. The Government is well aware that developing and promoting a brand is not a simple matter of giving a product, or a service, a brand-name, or a logo. Highly successful brandnames require market differentiations as they have been developed to such an extent to have global appeal and global market acceptance. To this end, the Government has provided, under the Economic Stimulus Package announced in May, 2003, a Special Fund of RM100 million for the development and promotion of

Malaysian brand names by Malaysian companies. This is handled by the Small and Medium Industries Development Corporation (SMIDEC). Under the scheme, being developed, for the utilization of the fund, a matching grant of up to a maximum of RM2 million can be made to companies that qualify, to cover 50% of the cost of the development of their brands, including the registration of trademarks and patents, as well as for promotional expenses.

FOR PATENT DEVELOPMENT

Assistance from the Ministry of Science and Technology

The Ministry of Science and Technology of Malaysia realizes the importance of research and development, and the need for technological innovation for sustainable development in a knowledge-based economy. Therefore the Ministry has placed a high priority on scientific and technological development.

INDUSTRIAL AND R&D GRANTS

Since 1988, the Malaysian Government has been implementing a centralized grant system for financing science and technology (S&T) research in public institutions and research agencies. The Ministry of Science, Technology and Innovation (MOSTI) has the responsibility of managing the fund and the implementation of S&T research and development (R&D) programs. Other private agencies such as the Multimedia Development Corporation and the Multimedia Super Corridor also participate in providing assistance.

LOAN & VENTURE CAPITAL

Various ministries and agencies have helped the Small and Medium Industries (SMI) through financial assistance given in the form of business loans to entrepreneurs and owners of specialized industries. These loans are made available through financial institutions such as the Credit Guarantee Corporation Malaysia Berhad, Bank Pembangunan dan Infrastruktur Malaysia Berhad and Bank Industri dan Teknologi Malaysia Berhad to enable these entrepreneurs to obtain up to 100% loans and credit facilities to support their business aspirations. Venture Capital is an alternative form of financing.

S&T TAX INCENTIVES

To further encourage the involvement of the private sector in carrying out R&D, the Government of Malaysia has made available various types of incentives for R&D activities. Most of the R&D deductions and allowances are provided for under the Income Tax Act, 1967. The categories of incentives by way of Pioneer Status and Investment Tax Allowance are provided under the Promotion of Investments Act 1986.

PART II (B) : SUCCESS STORIES

Case Study 1

THE MUSIC INDUSTRY IN MALAYSIA

INTRODUCTION

This is a paper prepared pursuant to a study among the ASEAN countries, initiated by the World Intellectual Property Organization (WIPO) and the Association for South East Asia Nations (ASEAN). This study covers success stories based on aspects of intellectual property.

METHODOLOGY

The methodology used to conduct this study came from key sources of information in the industry. Well-known people and key players such as recording companies, collecting societies, lyricists, singers, musicians, and businessmen were among those whom I interviewed to obtain a bird's-eye view of the music industry in Malaysia. I wish to offer my thanks for the valuable information they provided.

KEY INFORMANT

Mr. Sandy Monteiro was appointed Managing Director of Universal Music Malaysia on December 1, 2002 and the Chairman of the Recording Industry Association of Malaysia. Mr. Monteiro has been in the music industry for many years now – starting as Marketing Manager with Warner Music in 1994 and as Executive Director of the Recording Industry Association of Malaysia (RIM) between 1998 and 2000. The Recording Industry Association of Malaysia is a body that represents the interests of the recording industry in Malaysia. While involved in this industry he spearheaded many of its efforts to fight music piracy. In 2000 he left for Singapore. Prior to leaving he issued a press statement to the effect that he had given up hope on the future of the local music industry. However, his passion for music brought him back to take up his current position in Malaysia. With such wide experience in the field of music, he has been identified as the most appropriate and qualified person to be chosen as the key source of information for this paper.

Other Key Informants

Other important sources who provided information were Mr. Tan Ngiap Foo, Chief Executive Officer of Recording Industry Association of Malaysia (“RIM”), Mr Ramani Ramalingam, General Manager of Public Performance Malaysia Sdn Bhd, (“PPM”), a collecting society representing the record industry, Miss Chan Miew Lan, General Manager of Music Authors Copyright Protection Berhad (MACP) and Mr Ong Peng Chu, General Manager of Performers Rights of Malaysia Sdn. Bhd. (PRISM)

THE MUSIC INDUSTRY

The music industry lies at the heart of the copyright regime. Music has become indispensable to mankind. This is one of the copyright works that is being used by the world's population at almost every opportunity ranging from entertainment outlets right up to funeral processions. It used to be thought that it was natural resources and later human resources that formed the most important assets in a nation's economy. But time has proved that it is in IP that the future of the economy lies. In the U.S.A, the most important contributor is no longer the automobile or aeronautic industries. Today the copyright industry, with a strong emphasis on music has emerged as the leading contributor to the economy. Likewise in Sweden the leading industry is the music industry, with millions of albums being exported. Countries that place the highest value on intellectual property and its protection are the U.S., Japan, Sweden and Australia and they derive the greatest returns in terms of percentage of GDP from the music industry. This has opened the eyes of economic analysts. With that in mind, I have chosen the music industry of Malaysia as my example.

The Legal Framework in Malaysia

Successful exploitation can only take place within a legal framework. In Malaysia a copyright system has existed since 1912, but the first copyright statute of independent Malaysia came into force on August 1, 1969 and was called the Copyright Act 1969. This Act was repealed in 1987 when the Copyright Act 1987 came into force on December 1, 1987.

Broadly, the Copyright Act 1987 makes for better provision in the law in respect of copyright. To this end, the Copyright Act underwent major amendments in 1990, 1996, 1997, 2000 and 2003 to cater for both the changing needs on the domestic and international scenes. The 1990 amendment was intended to make provision for Malaysia to join the Berne Convention. The 1996 amendment was to widen the powers of the Copyright Tribunal to settle disputes between the users of copyrighted works and the collecting societies, and to provide for the compounding of offences. The 1997 amendment was mainly to provide protection for the contents that pass through the Multimedia Super Corridor. The Act was amended in 2000 to provide protection for the rights of the performers. It was further amended in 2003 to widen its powers for enforcement and to increase penalties.

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The copyright owner has the exclusive right to control the carrying out of various acts in Malaysia. In relation to a literary, artistic or musical work, a sound recording or a film, such acts include the reproduction of the work in a material form; the performance, showing or playing to the public; the communication of the work to the public; the distribution of copies to the public by sale or other transfer of ownership; and commercial rental to the public.

It is within this framework that the copyright industry in Malaysia has emerged as the core copyright-based industry.

DEVELOPMENT OF MUSIC INDUSTRY

Music in Malaysia has been developing since the days when traditional music flourished. However, as an industry it has only really developed over the past decades, especially since colonial times when the colonial masters brought in gramophones. It was the property of an exclusive group then. The first form of musical entertainment was through the Radio Malaya stations that broadcast songs during the Japanese occupation (1941-1945). Songs were played and were picked up by the listeners. They were broadcast over public radio, i.e. one radio for each village. Following the Japanese occupation, songs were popularized by movies, especially Indian movies. In the 1950s Malay movies also contained songs.

It was only in the 1950s that gramophone records came to be bought even by people of more limited means, and they were played on wind-up gramophone players such as "His Masters Voice." It was the 1960s when pop songs from the west created waves in Malaysia. The Beatles were a group that sensationalized music. Radio stations were still popular sources for songs, and apart from songs on vinyl records, open-reel tape recorders were also introduced in Malaysia. There was a craze for such articles where many songs could be recorded and replayed at any time.

The hi-fi system became popular in the 1970s. Along with that, in the early 1970s cassettes were introduced costing little, and this made them affordable by everyone. There was mass production of radios with cassette players selling at moderate prices. Immediately following this, there was the introduction of cartridges with songs, but, although the sound reproduction was better, they were short lived.

In the 1970s new musical outlets were created to earn money from music. These were dance clubs and discotheques. Towards the latter part of the 1980s karaoke outlets became popular in Malaysia. By this time also most of the recordings on cassettes and record players fell out of favor. In 1996 compact discs became very popular in Malaysia, and still continue to be popular. Musical videos are also in great demand.

It has to be pointed out that records, open reel tapes, cassettes and compact discs were originally imported, but within a short period of time local factories started to produce them. This is just a brief historical background to the development of the music industry.

Universal Music Malaysia

It is against this backdrop that the first success story can be told. I had picked up samples from Universal Music Malaysia. The nearest and keenest competitors to Universal Music Malaysia are Warner Music, EMI and Sony BMG which together control 80% of the market in Malaysia. There are also independent recording companies such as Life Records and Suwah. Altogether there are at least 65 active recording companies in Malaysia dealing with sales of music products. Universal Music Malaysia was formed in 1995. In 1998 Universal Music Malaysia merged with Polygram Recording Company that has been in existence in Malaysia since 1983. Universal Music's business is sales of music products, both audio and video. They handle both local and international artists. Universal Music Malaysia is made up of a staff of 35. There are three directors, five senior managers, supported by marketing, sales and administrative staff. In 1995 they had a turnover of RM38 million. By 2005 this had been drastically reduced to a mere RM20 million.

Universal Music Malaysia (UMG) is the Malaysian branch of the Universal Music Group. It leads the music industry in global sales with an estimated worldwide market share in 2004 of 24.7%. Its global operations encompass the development, manufacture, marketing, sales and distribution of recorded music through a network of subsidiaries, joint ventures and licensees in 77 countries, representing approximately 98% of the music market. Therefore the Universal Music Group owns the most extensive catalogue of music in the industry, which is marketed through two separate divisions, Universal Music Enterprises (in the U.S.) and Strategic Marketing & Commercial Affairs (outside the U.S.) Universal Music Malaysia thrives within the music business environment in Malaysia.

It has to be emphasized at the outset that the music industry is not simply a case of plain sailing. Although considered an important part of the cultural lives of mankind, it has both problems and prospects. In the traditional manufacturing or production sectors there are always standardized supply chains and uniform outputs. But the music industry on the other hand relies on contributions from various groups such as artists and composers that may again tend to vary from project to project or song to song. Those in the music industry have divided the core value chain of the industry into five key areas being artists and repertoire, recording, production, marketing and sales. Each is a unique component in itself.

The industry operates with multiple but close relationships between individuals such as artists, song writers, composers, musicians and producers, who in turn deal with record companies, production houses, recording studios and publishers. We do not find the real hierarchical production process that we see in other manufacturing processes.

PERFORMANCE OF THE MUSIC INDUSTRY

With this background, we can now obtain a bird's-eye view of the problems of the industry. There was a time when consumers used to frequent shops where they could buy music products. In other words music products were only available in shops. However these days consumers need not go to shops anymore. There are three ways in which people have access to music products. They are a) pirated sources; b) their own devices; and c) internet sources.

a) Pirated sources

At one time vinyl records were pirated. These records were produced from music recorded on cassettes. Hence the quality was not good, and therefore the demand for them was not high. However with the advent of optical discs piracy escalated to unprecedented heights. This is where people claimed that technology was an asset and at the same time a liability. When music is recorded on optical discs, there is no compromise whatsoever in quality. Each copy is termed as master. That is to say, when copies are made from a master optical disc, each one becomes a master by itself. This time consumers see no difference between an original and a pirated copy. Again, the pirates are able to bring down prices to unimaginable levels. The Recording Industry of Malaysia has said that it has tried to reduce the price of cassettes to as low as RM1.50, which was the maximum as they would only make a very small profit given all the additional costs in producing marketing and selling an album. But the pirates were able to compete by further reducing prices to RM1.30 by sacrificing quality control. Plus they do not have to pay sales tax, advertising, royalties etc. Sales too take place all over the country, even in reputable sales outlets, without mentioning the open-air night markets. In many cases it was suspected that the producers of the original products could be the ones producing the pirated discs as well. One has to understand the mind of the customer. For these customers, two factors decide their purchases, firstly the quality, and secondly the price. As there is little difference in quality and the price is extremely low, customers preferred such pirated products. The law does not deter the users from possession of such pirated products either. The crux of the issue was that the consumers were given a choice; albeit an unequal choice.

b) Own Devices

With the advent of technological products customers need not seek sales outlets to purchase the musical products. With the coming of CD burners, it has been made possible to create your own optical discs. In the beginning CD burners were sold independently. Nowadays they come as a package with personal computers. Most users burn CDs for personal consumption, using one master CD. However, burning at home is also used as a source of income in some situations. There are multiple burners by which a few hundred copies can be produced in a week. They are sold at night markets, or redistributed to other outlets. Such a means of production and sale is very popular among university students too.

c) Downloading from Internet sites

The music industry is of the firm opinion that it is most affected by the downloading from internet sites that offer free music. Napster was one group that offered free music on a peer-to-peer file sharing system. That was declared null and void by court order. Since then they have now come back as a legal site where music is sold to members. However there are still numerous sites operating on the net, offering free music. These sites offer what they call “world music” ranging from ancient to modern music, cutting across all language barriers. Such sites are very popular, as on one surfers can access almost any kind of music. The music of their choice is first downloaded into their PC and burnt on to optical discs. What is most interesting is that some of the songs that are released for the first time are immediately uploaded onto the net. Again the quality of music in the MP3

file system is almost as good as the original. This is one area where losses are heavy. Downloading and burning are done at home and are difficult to monitor. The crux of the issue is how illegal is it to download and file songs from the net.

HOW THE MUSIC INDUSTRY SUFFERS

Owing to this range of problems, the music industry suffers in a number of ways.

a) **Reduction in Investment**

The cornerstone of the music industry is the continued investment in new recordings by record companies. This investment creates multiple opportunities throughout the industry value chain. The recording industry is said to be taking great risks. In Malaysia, out of 80 albums manufactured there is a less than 10% chance of turning out a commercial success. Coupled with this risk, recent years have seen a drastic reduction in the number of new recordings being made owing to piracy activities. Piracy is the arch-enemy of the music industry. It is said that investment in new recordings is equivalent to R&D in the manufacturing sector. Reduction in R&D activities naturally hinders the potential growth of the industry. Universal Music Malaysia clearly states that its turnover has been reduced by 50% over a period of ten years. In 1995 there was a turnover of RM38 million which was reduced to RM20 million in 2005. The causes of the reduction in investment are: -

- i. **Loss of Sales-** This touches on the loss of sales owing to widespread piracy. The impact of the leakages means that revenue generated from investing in recordings and selling of original music products is much lower than anticipated. The bigger the leakage, the wider the negative impact.
- ii. **Reluctance to invest** – Owing to the sustained downturn in the business over recent years, the music industry is already being perceived as a “negative return” sector for investors. In short the rate of return is unfavorable to their investment. This lack of confidence in the industry naturally means that less money is being made available for recording new albums.

b) **Reduction in Key Players**

As we have already mentioned that the music recording industry deals with various individuals, all of them are collectively affected. The decreasing number of new recordings indicates that there are fewer new entrants into the industry. The reduced number of recordings means fewer financial opportunities to sustain a livelihood solely from the music business.

- i. **Artists** – These days fewer new artists are being signed and fewer established artists are being asked to record new albums. Only the handful of well-known artists who continue to record are promoted extensively, and they manage to dominate the industry by monopolizing radio plays and performance requests. There is less

demand for lesser-known or less-established artists who inevitably drop out of the industry.

- ii. **Songwriters and Composers** – With fewer recordings songwriters and composers find it hard to earn a living from song-writing alone. Many have started to treat it as a second occupation and rely on an income from a permanent job elsewhere. One key source put it in crude terms, “one day they are celebrities and the next they seek jobs by selling food in the markets.”
- iii. **Studio workers** – Fewer albums mean less work. Inevitably, studios that cannot sustain their overheads have to close and their workers such as sound engineers and producers are forced out of work or they emigrate. The demand for session musicians has also reduced significantly. Some companies have chosen to use synthesized music rather than live musicians in order to keep down costs. This, however, does affect the quality of the final product.
- iv. **Record Company Executives** –There are fewer opportunities for new executives to enter the industry as almost all companies have downsized. Another important factor is that several senior executives have left to pursue other career opportunities.
- v. **Video Producers** – With lower demand for video productions costs have to be kept down. As a result many video producers now do not regard the music industry as a reliable source of income.
- vi. **Retailers** – The number of legitimate retail outlets is decreasing as many find it difficult to survive under current market conditions. Another aspect that has directly impacted on the sale of local albums in particular has been the Government’s banning of the sale of music and video products in *pasar malam* (open-air night markets). While this has stopped the sale of legal products in *pasar malam* it has not stopped the pirates who continue to sell their illegal products there quite openly.

c) Increased Costs and Cost Cutting

Since the year 2000 consumers have complained that music CDs are overpriced. They also say this was that reason that prompted them to go for pirated products which were cheaper. Since then pressure has been placed on the music industry to lower the price of its CDs and musical VCDs. On the other hand, their costs continue to rise, making it less profitable and less attractive to venture into or continue in the music industry. These costs include: –

- i. **Advertising and Marketing** – Every media player such as radio, TV, press and magazines has increased its music industry advertising rates by more than 30% (Radio ERA increased by 42%, TV3 increased by 300%).
- ii. **Manufacturing** – Manufacturing costs continue to rise with the increased cost of imported raw materials such as polycarbonate and audiotapes used in the production of CDs and cassettes.

- iii. **Distribution and Delivery** – Given the recent increase in petrol prices, the costs of delivery have risen significantly within a short period of time.

In an attempt to reduce costs, some companies have chosen to use cheaper productions, cheaper suppliers and lower budgets for recordings and videos. Whilst they try to maintain value for money for the consumers, the drop in quality is noticeable and has a negative effect on the industry's image as it turns consumers away from original products. It also impacts the viability of entering foreign markets.

d) **Insufficient Quality and Personal Development**

It is felt that there is a lack of personal development within the industry – either due to the lack of opportunity to learn or the lack of desire to do more to improve. Some of the issues raised are: -

- i. **Lack of commitment** – Many artists believe that they have “made it” upon signing a recording contract. They are happy in their status and put little effort into raising their standards. Others do not believe that the industry will give them long-term security and don't want to try harder.
- ii. **Lack of desire** - Few artists look at a recording deal as a first step, an opportunity to learn more about the business and to improve their skills. Fewer still look at the more professional aspects of growth within the industry such as learning about management, music production and more entrepreneurial skills.
- iii. **Lack of discipline** – Partially linked to their perception of “I made it”, many believe that their status as artists is a license to behave badly. Some give the impression that they generally do not care. Some do not behave professionally and do not treat others with respect. Some mix with the wrong crowd and are easily influenced.
- iv. **Lack of sources for guidance** –
 - ◆ Other than the initial grooming and preparation of an artist, record companies do not pay for his/her ongoing personal development. This is normally left to the manager (of whom there are very few who are qualified). In many cases the artist will appoint a family member to act as manager. As such there are very few managers who chart the progress and continued development of the careers of artists under their care.
 - ◆ Due to the downturn in the industry, there is a lack of career professionals.. There are few places where artists or musicians feel they can go to seek advice and information.
 - ◆ Some artists or musicians may not feel comfortable having to learn from a competitor or from those they deem as “has beens”. They also find difficulty in relating to people whom they feel are less talented or knowledgeable than they

are or who do not understand the industry. This significantly reduces the options for choice of facilitator.

- ◆ Others may lack the academic qualifications to attend institutions that offer suitable courses or may not be able to fulfill the entrance criteria.
- ◆ Some cannot afford the fees for music-based courses in established colleges.
- ◆ The courses available may be too long or too structured for the artists to find time to attend.

NEGATIVE PERCEPTION OF THE MUSIC INDUSTRY AND ITS PARTICIPANTS

The industry suffers from the perception that it is a source of entertainment alone, and is not seen as a significant contributor of income to the economy. Music certainly contributes to the growth of the local culture. Yet the players are not seen as professionals as compared to other industries. The music industry is not seen as a platform to secure a position in an industry of choice among young professionals. One has to understand the nature of the industry itself, as many may try, but very few make it. That has been the fate of the industry. A few try for years and finally make it. Some don't make it at all. There is also a risk factor, not only in this country, but across the globe. It is why players in the industry normally have full-time jobs, with one foot only in the music industry. The continued loss of key management talent deprives the industry of future growth potential.

LACK OF FINANCIAL BACKING AND WELFARE BENEFITS

Record companies fund the bulk of new recordings. They recoup their investment from album sales. These recordings are funded internally, and it is very difficult to source funds that can be used in the generation and promotion of albums privately. Financial institutions will not finance such products without significant collateral against loans. The unfortunate reality is that most artists do not have any collateral to provide.

Therefore, when record companies reduce the number of albums produced, third parties do not take up the slack in the vacuum created. Several artists who have lost their recording contracts could still generate albums if they were able to source their own finance. Those who cannot get backing often drop out of the industry. Once they leave, they do not come back.

For the more established artists this psychological torture is great. For them to return to normal employment and to be seen by the general public as a failed artist is the last thing they want. In desperation a few artists do resort to taking drugs, dealing drugs or working for escort agencies either to mask the realities of life or just to keep moving.

In times of difficulty there are no avenues for financial assistance, legal support or counseling to which an artist can turn. It is only on an *ad-hoc* basis that industry groups and artists' associations will contribute towards medical assistance for sick artists. But such gestures take

place only as “one off” cases. Many artists (as we can see from the state of our veteran artists) are forgotten by everyone once they are no longer in the public eye.

In many cases it is observed that the performing lifespan of most artists is limited to 5-10 years at the most. Following their moment of fame, many are at a loss as to what to do next or how to sustain a livelihood once they are no longer in the limelight. At the end of their days of glory as performers, there is only a slim chance of their moving up to management or production level.

LACK OF INTERNATIONAL DEVELOPMENT AND PROMOTION

Given several of the above issues, there are many reasons why the music industry has not been successful in getting Malaysian acts into the regional or international arena. Among these are:

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- i. Fewer artists of international caliber
- ii. Fewer albums being produced
- iii. Production of albums and videos of lower quality
- iv. Dated “sound” of songs produced (perceived as “unoriginal”)
- v. High costs of marketing to promote artists regionally
- vi. Lack of resources to customize products for international markets

Several of the local Chinese artists have moved to Taiwan and Hong Kong in order to get greater exposure and to work in markets with better financial backing.

Rare Case of Glory

However there are also some positive signs. In rare cases, artists have made it internationally. Siti Norhaliza, the celebrated singer is riding high as the number one singer in this country and has performed at the Royal Albert Hall in London. She is certainly a credit to the nation. She is well organized with intelligent future plans and programs and supported by good advisers. However such cases are rare.

CONCERTS AND PERFORMANCE ISSUES

Concerts are a valuable source of income for the industry and its participants. By making a lot of live appearances, artists can show their skills and improve their stagecraft. Unfortunately there are several issues that inhibit the growth of concerts and live performances. Among them are: -

Lack of venues

The ideal set-up for concerts would be to have a series of established venues where music events can be held on a regular basis around Malaysia. Unfortunately, we do not have such a set-up and in most cases music events are held in the most convenient venue regardless of its suitability.

High Rate of Tax

Taxes imposed for shows are generally very high. There is no guarantee that a concert will be a success. The size of the crowd cannot be predicted and that means it is a risky option.

SOME CONSOLING MEASURES

People in the music industry have made efforts to reward the key players in the industry. One area is the formation of collecting societies that provide them with royalties.

i) Music Authors' Copyright Protection Berhad ("MACP")

The MACP was incorporated as a public company limited by guarantee on September 7, 1989 to administer the rights of owners of local musical works. A total of 16 musicians and publishers founded the MACP. The MACP also administers the rights of owners of foreign musical works. On January 1, 1990 the MACP entered into a reciprocal agreement with the Performing Rights Society of the United Kingdom. This agreement enabled the MACP to administer the rights to the world's repertoire of music for the territory of Malaysia. In April 1990 the MACP enjoyed endorsement from the world's copyright fraternity when it was admitted to membership of the International Confederation of Societies of Authors and Composers (CISAC). Today the MACP claims to be a national collecting society representing the majority of composers, authors and music publishers. There are 2,200 local members and 2.5 million from over the rest of the world. With the acquisition of local rights through membership of almost all local composers, authors and publishers, the MACP now owns or controls the public performance rights for Malaysia to more than 11 million musical works of various categories worldwide. The MACP offers a ray of hope for the lyricists, composers and publishing houses in Malaysia.

ii) Public Performance Malaysia Sdn Bhd (PPM)

The Public Performance Malaysia Sdn Bhd, originally called the Phonographic Performance Malaysia is a national non-profit-making body set up in 1988 as a subsidiary of the International Federation of Phonographic Industries (IFPI) to exercise the recording industry's rights in Malaysia and to grant licenses for the public performance and broadcast of its members' sound recordings and music videos. The PPM therefore represents the producers of sound recordings and music videos contained on magnetic tapes, compact discs, mini-discs, video compact discs, digital videodiscs, laser discs and cassettes. Today PPM is a wholly-owned subsidiary of the Recording Industry Association of Malaysia (RIM), a national group of IFPI. The PPM is responsible for the administration of rights

for broadcasting and public performances and the collection of royalties on behalf of its local and international members. The recording companies receive their share of royalties from public music performances.

iii) Performers and Artists Rights Malaysia (PRISM)

The Performers and Artists Rights Malaysia Pte. Ltd (PRISM) was formed in 2001 to collect remuneration for the performances of its members. PRISM represents the recording artists in the music industry i.e. the singers, musicians and session-musicians. On February 17, 2003, a Memorandum of Understanding was signed between PRISM and the PPM to authorize PPM to collect royalties for and on behalf of PRISM. Today there are some 600 local members and 100,000 foreign artists as members in PRISM. The singers, musicians and session-musicians are paid their share of royalties for public music performances.

KARYAWAN OFFERS HOPE

Although strictly-speaking there are no artists' guilds or trade unions in Malaysia handling the welfare of the members of collecting societies, an umbrella body called the Persatuan Karyawan Malaysia or KARYAWAN was formed in 2000 to look after the welfare of all creative and performing artists , protecting their rights and interests and helping them in their respective careers. Membership is open to all those involved in the music, film, entertainment and broadcasting industries.

KARYAWAN seeks to find solutions and solve problems faced by the local entertainment industry. Among them:

- Limited formal representation at Government level.
- Unemployment of musicians, singers and actors.
- Lack of talent-sourcing activities.
- No long term financial plan. (EPF or pension)
- No social or welfare services.
- Lack of professional training and education.
- Lack of management know-how.
- Lack of protection for artists' rights.

Pension Scheme

In 2004 KARYAWAN created a pension scheme for formerly well-known and veteran artists who have made an invaluable contribution to the country's entertainment industry. Since the creation of the pension scheme eight artists have been receiving a total of RM500 per month and will continue to do so for the rest of their lives.

However, it should be noted that KARYAWAN does not focus exclusively on the interests of the music industry. It covers the interests of artists in general.

Reduction in Entertainment Tax

Freddy Fernandez, Chairman of KARYAWAN has held discussions with the Ministry of Culture, Arts and Tourism, Ministry of Information and the Ministry of Finance for a reduction in the entertainment tax. There seems to be some hope that the tax will be reduced in the coming years.

ACADEMI FANTASIA

In an attempt to revive the careers of the local artists and to discover future talent, efforts have been taken to introduce a new program called Akademi Fantasia. This noble effort was pioneered by Freddy Fernandez in 2003 with the support of a private pay station called ASTRO. It has been well received by the Malaysian public, leading to the discovery of new talent. One more avenue has been opened up for the local artists, and this has now become an eagerly-awaited event.

THE GOVERNMENT'S ROLE

The Malaysian Government is always mindful of the importance of the development of the music industry, and it is aware of its plight. The Ministry of Information, the Ministry of Arts, Culture and Heritage and the Ministry of Domestic Trade and Consumer Affairs have had several meetings on various aspects of the problems and prospects of artists in the industry.

Ministry of Domestic Trade and Consumer Affairs

The action taken by the Malaysian Government comes at an opportune moment to save the situation. At one time the Intellectual Property Alliance placed Malaysia on the priority watch list, but within a year they had removed it from the list, owing to pragmatic and practical approaches that had been taken.

Anti Piracy Task Force

On April 1, 1999 a high-level Task Force headed by the Minister was set up to pool resources from all the Government enforcement agencies and the relevant private sector concerns to discuss ways and means of fighting piracy. The agencies involved were the Ministry of Domestic Trade & Consumer Affairs, Police, Customs, Ministry of Home Affairs, national Film Development Board, Local Authorities, and copyright based industries associations like Recording Industry Association of Malaysia, Motion Picture Association of America and Business Software Alliance.

Introduction of Optical Discs Act 2000

The Optical Discs Act was introduced in 2000 to curb piracy at the manufacturing level. The manufacturing of optical discs cannot take place without a valid license and a manufacturers' code. Manufacturers are also required to maintain records of raw materials (polycarbonate) suppliers and customers. Forensic tests have been introduced on seized optical discs in order to trace the source of production.

National Anti Piracy Campaign

In 2003 a National Anti-Piracy Campaign was launched with the support of the local artists and the copyright-based industries.

Amendment of the Copyright Act

In July 2003 the Copyright Act was amended to provide wider powers to enforcement officers to arrest without a warrant. Deterrent sentences were increased under the Act for infringement.

Hologram Stickers

Hologram stickers were introduced to enable customers to distinguish fake from original products. Introduction of the Trade Description (Original Label) Order 2002 took effect from January 15, 2003. The stickers were placed on all devices on which data may be stored in digital form and read by means of lasers or any other means such as CDs, VCDs, CD-Roms., DVDs, LDs, video and audio cassettes.

Increasing the Size of the Enforcement Division

The numerical strength of the enforcement officers was increased as well. There are currently 55 branches all over Malaysia with a total staff of 1541. At the moment the Government has managed to contain the level of piracy.

CONCLUSION

From the foregoing, it is quite clear that the performance of the music industry is at a crossroads. While the key players lament the negative situation, deep in their hearts there is a burning desire to revive the industry not only as a source of livelihood, but also to ensure that the local culture is enabled to grow further. While Government agencies play their own part in providing whatever is necessary for the development of the industry, the end users too must give their support by purchasing only original labels and abolishing all forms of piracy. This is then a three-way effort - artists, end-users and the Government.

INTERVIEWED

1. *Mr. SANDY MONTEIRO* Chairman, Recording Industry Association of Malaysia
2. *Mr. TAN NGIAP FOO*, Chief Executive Officer, Recording Industry Association of Malaysia RIM.
3. *Mr RAMANI RAMALINGAM-* General Manager, Public Performance Malaysia, Sdn. Bhd.
4. *Ms CHAN MIEW LAN*, General Manager, Music Authors Copyright Protection Bhd.
5. *Mr. FREDDY FERNANDEZ*, Chairman Persatuan KARYAWAN
6. *Mr. AZIZ BAKAR*, Chairman, Malaysian Music Industry Academy
7. *Mr. ONG PENG CHU*, General Manager, Performing Artists Rights Malaysia Sdn Bhd. (PRISM)
8. *Mr. GOPALAKRISHNAN* Chairman, Indian Recording Industry Associations Malaysia

Case Study 2

THE PETRONAS SUCCESS STORY

1. INTRODUCTION

- 1.1. This is a paper prepared pursuant to a study in the ASEAN countries, initiated by the World Intellectual Property Organization (WIPO) and the Association for South East Asia Nations (ASEAN). This study covers success stories based on aspects of intellectual property. The Malaysia Intellectual Property Office nominated me to work as the national consultant for Malaysia, under the guidance of Mr. Lee Yuke Chin of SIRIM, who is the Regional Consultant.
- 1.2. I have chosen to write the story of PETRONAS, the National Petroleum Corporation of Malaysia. Needless to say, I am a loyal supporter and customer of PETRONAS as a user of its gas for my car and for cooking. Their story is based on the success of brand promotion or what is called trademark promotion, based on interviews with certain officials of PETRONAS on July 22, 2005 at their offices. I have also collected information from various official publications they provided at the interviews.

2. BACKGROUND

- 2.1. Petronas is the acronym for Petroleum Nasional Berhad, which is Malaysia's national petroleum corporation. It was incorporated on August 17, 1974, under the Companies Act, 1965, and is wholly owned by the Malaysian Government. The entire ownership and control of the petroleum resources in Malaysia rests with PETRONAS through the Petroleum Development Act, 1974. PETRONAS is an integrated international oil and gas company with business interests in more than 35 countries, and four subsidiaries listed on the Malaysian Board. As at end of March 2004, the PETRONAS Group comprised 93 wholly-owned subsidiaries, with 19 partly-owned outfits and 55 associated companies. PETRONAS is today ranked among the fortune global 500 largest corporations in the world. It is certainly a tale of success, and deserves to have its success highlighted.

3. BUSINESS ACTIVITIES

- 3.1. A brief background to PETRONAS would be useful. PETRONAS is engaged in the exploration and production of oil and gas; oil refining; marketing and distribution of petroleum products; trading; gas processing and liquefaction; gas transmission pipeline network operations; marketing of liquefied natural gas, petrochemical manufacturing and marketing; shipping; and property investment. As at 2005, a total number of 32,716 employees worked for PETRONAS. It is based at:

Tower 1, PETRONAS Twin Towers
Kuala Lumpur City Centre
50088 Kuala Lumpur
Malaysia

4. BUSINESS PERFORMANCE

- 4.1. Petronas entered the local market in 1987, and went international in 1993. The petronas group has registered an impressive performance for the year 2005, which is considered to be the best in all the 30 years of its existence. Such an impressive performance has added luster to the organization. As at march 31, 2005, the petronas group had registered revenues of rm137.5 billion. Its profit before taxation was rm58 billion, while the net profit amounted to rm35.6 billion. Total assets amounted to rm239.1 billion, while the shareholders' fund was rm129.4 billion. It is heartening to mention that nearly 80% of its revenue was generated outside malaysia, meaning that this was comprised of revenues from international operations and exports. Thus its business performance has been highly impressive.

5. FAVORABLE FACTORS

- 5.1. The most impressive and strongest-ever performance of the Group in 2005 could be attributed to a number of factors. The clear-cut philosophy of PETRONAS could be said to have created a frame for its success. Operational efficiency, reliable initiatives, capable leadership concerted team effort, clarity in mission and vision, shared values, as well as strong R&D are among the favorable factors that have guaranteed sustained growth in the group.

- 5.2. The Mission Statement of Petronas is defined as follows;

- We are a business entity
- Petroleum is our core business
- Our primary responsibility is to develop and add value to this national resource
- Our objective is to contribute to the well-being of the people and the nation.

- 5.3. Likewise the Vision Statement of PETRONAS is equally catchy. It reads:

- To be the leading oil and gas multinational of choice.

- 5.4. Again, the shared values of PETRONAS are as follows:

- Loyalty - loyalty to the nation and corporation
- Professionalism – committed, innovative and proactive and always striving for excellence
- Integrity – honest and upright
- Cohesiveness – united in purpose and fellowship.

- 5.5. The Annual Report of 2005 throws further light on the PETRONAS philosophy in treading a practical and successful path. The Report carries statements that are clearly contributory factors in ensuring success for the company. Some of these statements are:
- (i) Our relationships with the communities we serve are built on trust.
 - (ii) Our most important asset is our people.
 - (iii) Globalization makes us neighbors. Respect makes us friends.
 - (iv) Human resource development remains a top priority of PETRONAS' commitment to attract, nurture and retain talents to sustain the Groups' success.
 - (v) Capability building, leadership development and the right mindset -the key focus of PETRONAS' corporate agenda – will transform the Group into a high-performing organization known for its resilience and distinctiveness.
 - (vi) PETRONAS' most important legacy is its investment in the generations to come.

It goes without saying that very few large scale corporations in the world have shaped such philosophical guidelines in steering them to success. PETRONAS is one of the few corporations to possess clear cut ideas and philosophies for success.

6. TECHNOLOGY

- 6.1. PETRONAS is mainly involved in highly sophisticated oil drilling and refinery activities. It clearly appreciates the added value impact of technology in its business competitiveness and sustained growth. It utilizes sound technology to operate world class plants, and creates new products or improvises on existing products. In 1999 the Malaysia pioneer petroleum discovery center or PETROSAINS was set up to stimulate the public's interest in science and technology with the hope of nurturing local scientists and technologists.
- 6.2. There is also a PETRONAS Research and Scientific Services Private Limited Company that undertakes many of the Group's research and development activities. It deals with areas like geo-science, petroleum engineering, facilities engineering, process technology, petroleum products, environmental management, laboratory services, and data management
- 6.3. PETRONAS also develops its in-house technical capabilities through its wholly-owned subsidiary GGP Technical Services Sdn. Bhd. which provides services ranging from basic designs, engineering, procurement and construction management to the oil, gas and petrochemical industries both at home and abroad.
- 6.4. PETRONAS receives grants for commercialization of R&D, and for developing prototypes or pilot plants. Its R&D partners are universities, institutions of higher learning, government research institutes, private consultants, and other companies that are collaborating with PETRONAS.

7. IP AWARENESS

- 7.1 PETRONAS is well aware of the importance of IP to its growth. In the past the subject of IP was addressed on a smaller scale. Today there is a separate and well-organized IP Division within its Legal Department. There is a senior manager, mid-level manager, three executives and two non-executives within the IP Division. They also use external services. The staff is well informed of IP laws and IP protection. They undergo frequent training courses and seminars on IP-related matters in reputable institutions. They keep themselves informed of the importance of IP to business development, especially the need to register their trademarks and patents. PETRONAS has applied for patents and registered its trademarks, designs and domain names. However it is in the area of trademarks that PETRONAS has created a niche for itself across the globe. The PETRONAS group has more than 200 trademarks spread out over 65 countries. To date some 2000 registrations have been made worldwide, which again reflects its consciousness in securing protection for its brands. A check with the Malaysia Intellectual Property office (MyIPO) shows that 110 trademark applications have been registered in all 45 classes. This in itself is a clear sign of the level of IP consciousness within PETRONAS.
- 7.2 PETRONAS believes that owning a patent or other IP right makes it easier to attract finance. They also understand that new products and new designs rate higher than price competition. PETRONAS understands too that its intellectual property rights have the function of protection against potential competitors as well as preventing imitation. Intellectual property is seen as an important asset that can be capitalized by selling or licensing. As for patenting, PETRONAS is of the firm opinion that strategic patenting can prevent the company from prosecution for patent infringement, and that patents, new designs and new technology enhance its corporate image.

8. BRAND NAME AND ITS PROMOTION

- 8.1. The PETRONAS logo is a story in itself. The logo was conceptualized and designed by a local design firm, Johan Designs. The original design underwent some changes to meet the needs of the changing times. The PETRONAS logo is a combination of a drop of oil with the typographic letter 'P' in the form of a triangle in the top right corner. The triangle represents directional movement and dynamism. The solid circle within the logo indicates the wheel of progress. The emerald green color is indicative of nature, representing oil resources from the sea. However, the color itself is a unique green, which they proudly refer to as the "PETRONAS GREEN". The author has indicated that now there is a move to register color marks and he was pleased to learn that the staff are already aware of this development. The color has been registered in the European Union. The Brand Value of PETRONAS is clearly spelt out as TRUSTED, PASSIONATE, PROGRESSIVE, ENRICHING. The PETRONAS logo was sent for registration with the then Intellectual Property Division of the Ministry of Domestic Trade and Consumer Affairs in 1987.

9. BRAND PROMOTIONAL ACTIVITIES

- 9.1 PETRONAS has, to my mind registered its greatest success in the area of customer loyalty. Perhaps very few corporations have been as successful as PETRONAS in winning the hearts of customers. The core of any brand is its promotion. The ultimate aim of any brand development is winning over customers, which PETRONAS has very successfully done, and continues to do. PETRONAS has carried out well-calculated and concerted efforts to promote its brand. Several approaches had been tried, direct and indirect.
- 9.2 The most direct form of brand promotion is certainly the logos that appear on the products themselves. In Malaysia, PETRONAS is the most popular, and foremost among gas stations (in Malaysia they are called petrol stations) that are found in even the most remote corners of the country. In several areas where competitors hesitate to operate, PETRONAS petrol stations provide services to the rural people. Today, there are more than 700 PETRONAS petrol pumps in the country. PETRONAS has also become a household name for cooking gas which has found its way into many homes. PETRONAS cooking gas cylinders are easily available in any part of the country, including the most remote areas.
- 9.3 Promotional activities come in many forms. In-house publications are very good promoters of the brand. PETRONAS is again very well-advertised through the print and electronic media. Advertisements appear from time to time in the leading local dailies in the English, Malay, Chinese and Tamil languages in order to cover all the major ethnic groups in the country.
- 9.4 PETRONAS also advertises in special souvenir books released to mark important events.
- 9.5 Billboards are found in several parts of the country, often at strategic points, where Malaysians converge for various types of activities.
- 9.6 Then there is the indirect approach, which equally wins the hearts of the Malaysians, irrespective of race or religion. Malaysia is a multi-racial, multi-cultural, and multi-religious country. Therefore, one would expect there to be a wide range of religious festivals. PETRONAS has always seized such opportunities to contact the communities through tailor-made advertisements on the occasions of Christmas, Deepavali, Hari Raya Puasa, the Chinese New Year, and Vesak Day. These advertisements have created tremendous and indelible impacts in the hearts of the communities concerned. Such forms of advertisement, offering good wishes to the various communities continue to be the talk of Malaysia for months afterwards.

- 9.7 PETRONAS' logo plays another important role at the prime entry point in Malaysia. Trolleys for transporting baggage at the Kuala Lumpur International Airport carry an advertisement for PETRONAS. Immediately after clearance of immigration, inbound tourists seek out trolleys to transport their baggage to the pick-up points outside the airport. It is on these trolleys that we see PETRONAS advertised. Here the company becomes the first greeter, welcoming foreigners as well as Malaysians who are returning home. This first impression creates an impact on the minds of visitors to Malaysia.
- 9.8 One other area of brand promotion is through the social-outreach program. PETRONAS offers scholarships to various categories of students, ranging from secondary school students right up to students on degree programs. This has been one area that is proudly mentioned by Malaysians – beneficiaries and observers. Scholarships are also given in places where PETRONAS operates such as Kerteh in Terengganu state where the PETRONAS oil refinery is located, Gurun in Kedah where another plant operates, as well as in the States of Sabah and Sarawak. To date PETRONAS has offered numerous scholarships for students pursuing diploma and degree courses at local and foreign institutions of higher education in various fields. In this way, PETRONAS has also been instrumental in creating a large educated class with enhanced human resource capabilities, at a time when the country is on a path towards achieving a developed nation status by the year 2020.
- 9.9 PETRONAS also supports other scholarship programs under the Lembaga Amanah Yayasan Tun Abdul Razak, the Fellowship Perdana Menteri Asia and the Cambridge Scholarship Fund. It offers Best Student Awards to students majoring in specific fields at local universities such as University Kebangsaan Malaysia, University Technology Malaysia, University Islam Antarabangsa and Kolej Agama Sultan Zainal Abidin. A computer center has been set up in Kerteh, Trengganu, and books have been donated for libraries, science and technology competitions sponsored and research efforts supported.
- 9.10 Among other outreach programs are the PETRONAS Adventure Teams that organize four-wheel drive and motorcycle expeditions locally and abroad, carrying the PETRONAS logo across the globe. This is termed brand communication. The PETRONAS Tech Tour is an educational mobile exhibition platform through which PETRONAS communicates its brand to the community as the titular sponsor of the PETRONAS Malaysia Formula 1 Grand Prix as well as part of the SAUBER Formula 1 Team. Launched in 2001, the PETRONAS Tech Tour has so far traveled to 90 locations nation-wide. The Tour promotes 10 brands through the Malaysian International Shipping Corporation, PETRONAS Primax, Bridgestone Tyres, Volvo Tracks/Samsung Electronic, PETRONAS Mesra Stores, and PETRONAS Motorsports. PETRONAS first entered international motor sports in 1995 when it became the main sponsor for the Swiss-based SAUBER Formula. One Team,, and its logo has been seen worldwide.
- 9.11 In 2005 PETRONAS sponsored the Responsible Care Awards, organized by the Chemical Industries Council of Malaysia (CICM) in order to support the improvement of health, safety and environment protection.

- 9.12 There are also several PETRONAS institutions that promote the brand. Foremost is of course the PETRONAS Twin Towers, which are the tallest twin towers in the world where PETRONAS has its headquarters. The building itself is a leading promoter of the logo at the global level. In this building is the Philharmonic Hall which is famous for musical events.
- 9.13 In 1997 the Universiti Teknologi PETRONAS (UTP) was established by invitation of the Malaysian Government. The university was formerly known as the Institute of Technology PETRONAS (ITP). This university offers the pursuit of knowledge and expertise for the advancement of engineering, science and technology in order to enhance the nation's competitiveness. Its objective is to produce well-rounded graduates who are creative and innovative.

10. CONCLUSION

It is the firm opinion of the author that PETRONAS has been unique in promoting its brands. While it is through mere advertisements and direct brand promotions that any business attracts customer loyalty, PETRONAS has taken the path of social service more than direct brand promotion in winning the hearts of its customers. In this way PETRONAS has demonstrated a new path and I am proud to have written the success story of this prestigious organization.

PART I (A)

Listing of Manuals, Guidelines and Directories
in the Area of
Intellectual Property (IP) Portfolio Management

COUNTRY: MYANMAR

No.	English Title + Brief Description of its Contents in less than 50 words	Year of Publication	Agency Responsible and Address	Contacts (Tel/Fax/ema il)
A. PATENT AND INVENTION RELATED				
1.	The Myanmar Patents and Designs (Emergency Provision) Acts	1946		
2.	The Science and Technology Development Law	1994		
3.	Law Journal	1999- 2004	Attorney General's Office	951-384805
4.	No other publication	-		
B. INDUSTRIAL DESIGN RELATED				
1.	The Myanmar Patents and Designs (Emergency Provision) Acts	1945		
2.	No other publication			
C. TRADEMARK RELATED				
1.	The Myanmar Merchandise Marks Act;	1889		
2.	The Registration Act;	1908		
3.	The Sea Customs Act;	1878		
4.	The Land Customs Act;	1924		
5.	Law Journal	1999- 2004	Attorney General's Office	951-384805
6.	No other Publication			

D. COPYRIGHT RELATED				
1.	The Myanmar Copyright Act;	1914		
2.	The Television and Video Law;	1996		
3.	The Computer Science Development Law	1996		
4.	The Electronic Transactions Law	2004		
5.	Law Journal	1999- 2004	Attorney General's Office	951-384805
6.	No other publication	-		
E. BUSINESS RELATED				
1.	The Science and Technology Development Law	Jun 1994		
2.	No other publication	-		
F. FINANCIAL GRANTS				
	No publication	-		

General Publications Concerning IP

1. Title - **Intellectual Property Rights**
- Author - Sein Win
- Year - July, 2005
- Publisher - Room 401/ Building No 222-1 Sapai Marga Street, Hantha Yeikmon, Senmalite
Kamayut, Yangon. Telephone - 501 663 (Ext- 457)
- Description - (Myanmar version) general description of the Berne Convention, TRIPS Agreement and the International Agreement on Performers, Phonogram Producers and Broadcasting, cooperation with developing countries and solving arbitration issues of Intellectual Property Rights.

2. Title - **Intellectual Property (National Literary Award)**
- Author - Aung Than Tun
- Year - June, 2003, 1st time
- Publisher
Kyauktada - U Pyone Mg Mg, Ava Book Store, No. 232, Sula Pagoda Road,
Tounship, Yangon. Tel: 951-706082.
- Description
Property, such - (Myanmar version) This book includes explanations of Intellectual
as copyrights, patents, trademarks, and trade secrets, A general
description of present Myanmar laws concerning Intellectual Property
and International Conventions related to Intellectual Property.
3. Title - **Myanmar Law Digest**
- Author - Aung Than Tun
- Year - 2001, 1st time
- Publisher
Kyauktada - U Pyone Mg Mg, Ava Book Store, No. 232, Sula Pagoda Road,
Tounship, Yangon. Tel: 951-706082.
- Description - (English version) The Myanmar law digest is a complete survey of the
up-to-date legal framework of Myanmar and its practical application
in the light of the changing political economy. It summarizes facts
and basic principles of law with valuable references. It includes an
invaluable bibliography which shows at a glance the eminent authors
and their works on various aspects of laws, old and new; Government
Acts and Ordinances promulgated throughout the ages; law texts and
commentaries; manuals, rulings, directives and digest of rulings. It is
a readable, understandable exposition of the fields it covers and a
most useful handy reference.

PART I (B)

General Overviews of Items (A) – (F)

(A-B) PATENT AND DESIGN RELATED

In Myanmar, there is presently no law or at least no law in operation on patents and industrial designs. This means that production, (commercial) use and trade in goods is possible without permission of the people/companies who may hold the patents or design rights outside Myanmar. Consequently, most entrepreneurs have to invest large amounts in their trademarks so that they can be registered under the present Act to protect them from any illegal action related to their business. Patent and design legislation is not enforced in Myanmar although the Burma Patents and Design Act and the Burma Patents and Designs (Emergency Provisions) Act were enacted as Burma Act No.5 of 1945 and Burma Act No.1 of 1946. The Preamble to the 1945 Act states: Whereas it is expedient to make legislative provision for the protection of inventions and designs, it is more essential for the present day than the time it was passed. The interesting point found in the 1945 Act is that, though section I (2) of that Act provides: “It shall come into force on such date as the President of the Union may, by notification, direct”., in the footnote it is mentioned that the Act was published in Commerce and Supplies Department Notification No.8 dated August 3, 1945 and republished in Burma Gazette 1946, Part I, Page 136, this Act had not yet come into force. But it came into effect later when it was repealed on March 31, 1993 for the second time and replaced with law No. 4/93 passed by the present Government.

Having repealed the Patent and Design Act of 1945, the only law relating to patents and designs still in force is the Burma Patents and Designs (Emergency Provisions) Act 1946. It has been enforceable retrospectively due to section I (2) of this Act since July 1, 1941. Though section 2 of this Act provides “Until the Burma Patents and Designs Act, 1945 comes into operation, the India Patents and Designs Act 1911, shall continue to have effect in Burma, as if, notwithstanding the separation of India and Burma, Burma had continued to be a part of India and accordingly references in that Act to the Advocate-General, the High Court and to the District Court, shall be deemed to include references to the Attorney-General of the Union of Burma, the High Court and the District Courts in the Union of Burma and the President of the Union of Burma shall be regarded as one of the authorities to whom certain documents are to be sent under section 72 of that Act”, nothing has been applicable since the replacement of the substantive Act of 1945.

With regard to pharmaceutical products, the national Drug Law has been promulgated since October 1992 and notifications were issued in August 1993 pertaining to drug registration, drug manufacturing, importing, selling and distribution, labeling and advertisements. In January 1995, The Food and Drug Administration Department was established under the Department of Health, Ministry of Health and there are two committees namely the Drug Advisory Committee to supervise drug registration matters and the Central Food and Drug Supervisory Committee to supervise drug manufacturing and importation. The highest Authority is the Myanmar Food and Drug Board of Authority which was formed to enable the public to buy high-quality, safe and

effective drugs, to register drugs systematically, to enable the public to purchase high-quality, safe food, to control and systematically regulate manufacture, import, export, storage, contribution and sale of food and drugs. Importers of medicines need separate drug importation licenses from the Ministry of Health. Licensing requirements and procedures for medical suppliers may need to be streamlined to allow for more suppliers to compete. Requirements for suppliers are that imported medicines should first be registered. However, these laws do not include patenting in the field of pharmaceutical process and products.

Therefore, it is currently not possible to apply for patent and design registration in Myanmar. Drafting the new legislation for patents and industrial designs to come into line with the TRIPS Agreement has been carried out by the Attorney General's Office in cooperation with Ministry of Science and Technology. However, patent protection in the pharmaceutical area may not be possible,-at least-until the year 2016. Within Myanmar there are no restrictions on the use of pharmaceutical technology because of the total absence of pharmaceutical patent protection.

Besides the Patent and Design Law, which is not enforced, Myanmar has a legislative framework for science and technological development and technology transfer based on industrial development policy. New IPR legislation will have to be drafted in line with this framework.

The Science and Technology Development Law

In 1994, a new law entitled The Science and Technology Development Law was enacted to cope with the changing situation and development of the market economy and to enhance its further development. The Law provides that each contract for technology transfer must be registered; failing which there will be no provision for instituting a suit based on it. The objectives of the Law are prescribed in Section 3, which states as follows:

- i. to develop science and technology and promote industrial production so as to contribute to the National Economic Development Plan;
- ii. to carry out research and development for the increased extraction and utilization of domestic raw materials and the promotion of industrial production based on modern science and technology;
- iii. to effect technology transfer for the promotion of production processes and the improvement of the quality of goods;
- iv. to train the experts required for the development of science and technology and for research and development and to improve existing qualifications;
- v. to communicate and cooperate with domestic and foreign research institutes and organizations for the development of science and technology and research and development;

- vi. to honor and grant appropriate benefits to outstanding experts and inventors in the field of science and technology.

The National Council for Science and Technology Development which is a high-level body headed by a chairman assigned by the Government and consisting of ministers or deputy ministers from the relevant ministries, heads of government departments and organizations mainly responsible for the development of science and technology, and appropriate experts was set up to implement the objectives of the above Law.

The Council has been responsible for technological development nationwide. It laid down the policies for the successful implementation of the objectives of the Science and Technology Development Law. It also provides guidance and supervision for the development of science and technology and R&D activities conducted by government departments and government organizations. Moreover, the Council takes responsibility for coordinating the activities conducted by government departments and government organizations, non-governmental organizations, co-operative societies and private individuals. The Council also has the following tasks:

- i. nurturing of luminaries for the successful implementation of the development of science and technology and R&D and making provision for the improvement of their qualifications;
- ii. making arrangements to improve communication and co-operation with foreign research departments in the field of science and technology;
- iii. providing guidance for the formation of science and technology-related associations;
- iv. forming scientific organizations and work committees as may be necessary and determining the functions and duties thereof;
- v. providing guidance for the convening of, and participation in conferences, seminars and meetings of domestic and foreign science and technology agencies;
- vi. submitting advice to the Government from time to time on matters relating to national and foreign technology transfer;
- vii. recommending the presentation of awards and titles by the State to outstanding luminaries and inventors in the field of science and technology;
- viii. awarding gratuities to outstanding luminaries and inventors in the field of science and technology;
- ix. submitting reports to the Government from time to time on the activities of the Council.

In order to enhance the development of science and technology and to reinforce state development more effectively, the State Law and Order Restoration Council established the Ministry of Science and Technology in 1996. Its major aims are as follows:

- i. to carry out R&D for national economic development.
- ii. to utilize national resources so as to develop the economy, and raise the living standards of the people.
- iii. to disseminate the technological know-how obtained from R&D to the Industrial and agricultural sectors in order to enhance their production.
- iv. to plan and carry out human resource development programs so as to train specialists and professionals in science and technology
- v. to analyze and test raw materials and finished products, and to implement quality control and standardization of industrial products.
- vi. to coordinate research, development and use of atomic energy.

The Ministry of Science and Technology has established five departments, namely the Myanmar Scientific and Technological Research Department, Department of Technical and Vocational Education, Department of Advanced Science and Technology, Department of Atomic Energy and Department of Technology Promotion and Coordination in order to fulfill its remit.

Rules for Transfer of Technology

Another important subject dealt with by the Law is technology transfer. According to its provisions it provides that a person or an organization that has conducted research and successfully developed a new technology may transfer the right to use it to any person or organization upon payment of a fee or free of charge under a licensing contract. The manner and conditions relating to the export and import of technology shall be determined by the Government. The law also prescribed terms and conditions to be contained in contracts for technology transfer. Every contract for transfer of technology must be registered with the Registry established by the Department. There shall be no right to institute a suit based upon a contract which is not registered. However, the law provides that the provisions relating to technology transfer shall not apply to the transfer of a right to patent or design, for which separate specific laws are expected to be introduced in the very near future. However transfer of computer technology, according to Section 40 of the Computer Science Development Law promulgated in 1996 is to be carried out in accordance with the provisions of the Science and Technology Development Law, as mentioned above.

(C) Trademarks

As Myanmar does not have a trademark registration act, no trademark registration office exists. Under these circumstances, protection of trademarks is not yet available in Myanmar. Therefore the rights of parties setting up rival claims to ownership of a trademark are determined in accordance with the principles of common law. The registration of a trademark is a relevant factor for the purpose of determining the date from which a party had intended to claim the marks as his own. On the other hand, a decision between two competitors who are each desirous of adopting a mark which is distinctive in character is entirely a question of who gets to the market first.

The present situation in Myanmar regarding trademarks is:

- i. registration of the ownership of the trademark with the Register of Deeds and Assurances;
- ii. issue of a Caution Notice in the local newspapers, possibly to be printed before the expiry of three years;
- iii. renewal of Registration and re-publication every three years.

As explained above, a plaintiff may bring a common law civil action for “passing off” or a civil action for infringement of a trademark and may seek damages for losses incurred. An injunction stands as the most effective relief as it is a specific order of the court directing the defendant to refrain from continuing the act of infringement or passing off in Myanmar.

Trademark Act and Regulations for Myanmar

In Myanmar, registration of trademarks/service marks accompanies the Registration Act Direction No.13 of the Inspector General of Registration which explicitly provides that, trademarks may be registered under section 18 (f) of the Registration Act. Trademarks/service marks can be registered in the form of words, images, devices or logos in any color or any combination of colors, with the Office of the Registrar of Deeds and Assurances by means of a “Declaration of Ownership of Trademark” in the name of an individual or business organization.

To file a trademark application in Myanmar, a Declaration of Ownership of Trademark, Power of Attorney and ten specimen prints of the mark are necessary. A Declaration of Ownership of Trademark can be filed for only one trademark. A specimen of the mark is to be affixed or reflected thereon, either of goods or services, but without limit to the number or class covered. To qualify for registration, applications must be filed within four months from the date of execution of the Declaration according to the Registration Act, section 23. In the case of a foreign trademark, both a Power of Attorney and a Declaration must be signed and notarized and the signature and seal of the Notary in turn must be attested by the Myanmar Embassy in the country concerned

Registration plays one of the most important roles in protecting trademarks. It offers strong protection for the mark. Registration is afforded in order to introduce an action against a third party which has passed off similar goods bearing the offending mark and so misleading the public. Additionally, registration gives an evidential value in case of a legal dispute.

After registration, there usually follows publication of a Trademark Cautionary Notice in the local newspapers, preferably for international marks in English-language newspapers, such as the Government-owned The New Light of Myanmar and The Myanmar Times which is a private joint venture. Such notice would contain the name or a specimen and particulars of the trademark, the name and address of the owner, the goods or services covered as well as a short warning against infringement of the mark. The Cautionary Notice also plays a very important role in case of trademark conflict. It is neither compulsory nor stipulated by any law but it is an established practice in Myanmar. However, it is also an established practice to make known to the public the ownership of the trademark. The aim of the Cautionary Notice is to raise public awareness and warn any potential infringer. Publication of a Cautionary Notice is usually repeated every three years. Additionally such a publication has a clear trade advertising and commercial value.

In Myanmar, there is no provision in the Registration Act for the validity or renewal periods. Therefore registration once made it is for ever. However, in case of any material changes in the proprietor's name, device, address or goods/services covered in the registered declaration, it should be re-registered. Even so, the owner can maintain the earliest registration date of the mark over subsequent registration dates. At present, most of the IP owners renew registration of their trademarks/service marks once every three years although renewal of registration is not promulgated by any law. Renewal of registration every three years shows the continuance of prior ownership rights. In case of litigation current use of the registered trademark is one of the main facts the Court usually takes into consideration in its decision.

The most effective way to establish the ownership of a trademark in Myanmar is by putting the goods bearing the mark on the local market, advertising, registering and renewing the registration and publication every three years. In case of litigation, mere registration does not decide, but priority in the local market does. In Myanmar, a civil suit is maintainable for infringement of a trademark, and a perpetual injunction may be sought under Section 54 of the Specific Relief Act.

There is no trademark act at present. Regarding the infringement of a trademark, the Acts in which the word 'trademark' appears are:-

i. Myanmar Penal Code:

- Section 478 - "A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trademark".

Section 479 - “Whosoever marks any goods or any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked are the manufacture or a person whose manufacture or merchandise they are not, is said to use a false trademark”.

Section 482 to 489 - “are punishment sections for various infringements of trade or property marks”.

Consequently, criminal prosecution for infringement of a trade mark or property mark in any manner whatsoever may be instituted under the Penal Code.

ii. Civil Action: - A civil suit is maintainable for infringement of a Trademark, and a perpetual injunction may be sought under Section 54 of the Specific Relief Act, which states as the relevant portion of the Section) “When the defendant invades or threatens to invade the plaintiff’s right to, or enjoyment of property, the Court may grant a perpetual injunction”.

Explanation - For the purpose of this section a trademark is property.

Illustration - Improper use of the trademark of B. B may obtain an injunction to restrain the user, provided that B’s use of the trademark is honest.

ii. Criminal Action - Criminal action under the Penal Code is also possible against a person using a false trademark or counterfeiting a trademark, or making or possessing any instrument for counterfeiting a trademark or selling goods marked with a counterfeiting trademark, respectively under sections 482, 483, 485 and 486 of the said Code. According to the exemptions to Section 486 of the Penal Code, the accused can be exempted from sanctions if she/he can prove:

- He/she acted innocently due to lack of knowledge of the difference between counterfeit and genuine.
- He/she can identify the main source of counterfeit.

Punishments range from a fine to three years’ imprisonment, and seizure and destruction of infringing articles and goods can be imposed by court order.

The right to use a trademark is dependent upon the general principles of commercial law. The right which a manufacturer has to his trademark is the exclusive right to use it for the purpose of identification as to where, or by whom the article to which it is affixed was manufactured. The right of parties setting up in opposition to owners of a trademark must be determined in accordance with the principles of common law. The courts in Myanmar have been applying trademark laws as they stood in the United Kingdom prior to 1875 and in India prior to 1940, (when the Trademarks Acts were first introduced in the United Kingdom and India respectively). It will therefore be necessary to examine what the law on trademark was in those countries at the relevant time. If a person appropriates a trademark, he will be committing an actionable offence whether he acts innocently or fraudulently. Illustration (W) to section 54 of the Specific Relief Act sets out the consequences when a defendant improperly uses a plaintiff's trademark.

The Myanmar Merchandise Marks Act

The Myanmar Merchandise Marks Act supplements relevant provisions in the Penal Code. The Act empowers the Court, *inter alia*, to confiscate all goods by means of, or in relation to, which the offense has been committed. According to the Myanmar Merchandise Marks Act, the term "trademark" has the meaning assigned to that expression in section 478 of the Penal Code and that of a trade description, statement or other indication, direct or indirect, as to any goods being the subject of an existing patent, privilege or copyright.

In section 6 of the said Act, the penalty for applying a false trade description is given. In such manner, penalties for selling goods to which a false trade description has been applied and unintentional contravention of the law relating to marks and descriptions are given in sections 7 and 8, respectively. Regarding forfeiture of goods, this is provided for in section 9. Section 22 provides for the punishment for aiding and abetting.

The Sea Customs Act and Land Customs Act

The Sea Customs Act prohibits export or import by land or sea of goods with a counterfeit trademark. The same applies in the area of trade and commerce. Under sections 18 and 19 of the Sea Customs Act, importation into the country by land or sea of goods with a counterfeit trademark within the meaning of the Penal Code or a false trade description within the meaning of the Myanmar Merchandise Marks Acts and goods made or produced outside the limits of the Union of Myanmar and having affixed thereto any name or trademark being, or purporting to be, the name or trademark of any person who is a manufacturer, dealer or trader in the Union of Myanmar is prohibited. Any goods, imported in contravention of this provision shall be liable to confiscation, and in addition any person involved in any such offence is liable to pay a fine under sections 19A and 167 respectively. In sections 170 and 171, a Customs officer is authorized to stop and search any person, vessel or vehicle on the grounds of reasonable suspicion. In section 9 of the Land Customs Act, it is laid down that the provisions of the Sea Customs Act including those above-mentioned are applicable.

Legal Principles

As mentioned above, although there is no specific law, officially reported rulings of the Supreme Court define and prescribe legal principles of trademark ownership. To summarize:

- i. In Myanmar, there is no system for registration of trademarks nor for a statutory title to a trademark. So, the rights of the parties setting up rival claims to ownership of a trademark must be determined in accordance with the principle of common law.
- ii. It will be sufficient in law to prove imitation if there exists such similarity between the two marks, which could, in certain circumstances be considered to be calculated to deceive those persons for whom the goods are intended.
- iii. A trade mark or name which is primarily descriptive of an article, of its composition or mode of manufacture, must be open to everyone and cannot be claimed for exclusive use by one trader.
- iv. Deeds of sale of a trademark do not transfer or assign it if the business connected with it was not transferred along with the mark.
- v. Geographical indications which are not connected to the origin of goods and are not indicative of the place of manufacture are in fact distinctive names and may be allowed even on evidence of little use.
- vi. It is a principle in law that in Myanmar there is no method by which a trademark may be registered, but property in or right to a mark may be acquired by a user.
- vii. An owner of a trademark has no right to prohibit other persons from the use of such mark in connection with goods of a totally different character:
- viii. Action on infringement has been embodied in section 54 of the Specific Relief Act, there being no requirement to prove fraudulent purpose in an infringement suit.
- ix. Two marks at issue need not be identical; similarity though slightly different between them is sufficient to claim infringement.

Admittedly, these case laws would not sufficiently cover the present important global issues, namely, domain names, protection of well-known international marks, matters of parallel import, cybersquatting, rights of trade dress, trademark vs. trustmark, etc., which are not relevant in Myanmar at present.

Myanmar is still considering acceding to the Berne and Paris Conventions and ratifying the WTO Agreement, thus becoming bound by the TRIPS Agreement. The main effect of the new legislation and accession to such international conventions would be to enhance intellectual property protection available in Myanmar and extend the same to foreign authors, inventors and trademark owners.

Moreover, only a few IP cases are officially reported from recent years, perhaps because either such disputes were mostly settled out-of-court or such cases are rarely brought before the Supreme Court from lower courts either as appeals or revisions, thus rendering it impossible for them to become officially-reported rulings. As mentioned above, Myanmar's existing laws only provide remedies to aggrieved trademark proprietors. Consumers are not entitled to sue or to be represented in legal proceedings concerning trademarks and there are at present no legal provisions for consumer protection.

Since 1988, Myanmar has adopted a market-oriented economic system to ensure progress and prosperity for the country and its people. To be in line with the newly-adopted economic system, the legislature repealed and amended old laws and enacted certain new laws to provide a better legal framework for all-round development of the country. The State Peace and Development Council assigned to the Office of the Attorney-General the task of drafting new laws on Intellectual Property. The Attorney General's Office has re-drafted IP Laws to fall in line with the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement made between the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO) under the guidance of the Government and with the help of the Ministry of Science and Technology. Accordingly, the Attorney-General's Office has drafted new laws on patents, industrial designs, trademarks and copyright. These new laws will come into effect before the end of 2005 in order to fulfill Myanmar's obligations under the TRIPS Agreement.

(D) COPYRIGHT

In Myanmar, works of the mind such as literary and artistic works, musical works, dramatic works, sculpture, architecture, engravings, photographs, cinematography, collective works and performances are protected by the Myanmar Copyright Act, 1914 which came into force on February 24, 1914. For the purposes of the Myanmar Copyright Act, copyright means the sole right to produce or reproduce a work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver the work or any substantial part thereof in public.

The owner of the copyright in any work may assign the right, either wholly or partially and either generally or subject to limitations to the Government either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by license, but no such assignment or grant shall be valid unless it is in writing and signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorized agent.

Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything which is conferred by the Act on the sole owner of the copyright. Selling, offering for sale, hiring, distributing or exhibiting in public for the purposes of trade, importing for sale or hiring any work constitutes an act of infringement of copyright. It shall also be an infringement of copyright if a person for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright.

However, there are exceptions to the infringement of copyright, such as, using any work for private study, research, criticism, review, publishing or an address of a political nature delivered at a public meeting, publication in a newspaper of a lecture delivered in public unless such publication is prohibited. Publishing of prints, drawings, engravings or photographs of works of art in public places, and recitation in public of any reasonable extract from any published work is also permitted by the Act.

According to the Myanmar Copyright Act 1914, infringement of copyright is actionable in both criminal and civil courts. The owner of the copyright may have recourse to the courts to institute criminal proceedings against the infringer under the Act. Punishment in respect of infringement consists of a fine up to a maximum of 20 Kyats but not exceeding 500 Kyats. Making or possessing plates for the purpose of producing counterfeit copies shall be punishable with a fine which up to a maximum of 500 Kyats. For any subsequent offence the penalty is imprisonment for up to one month or a fine to a maximum of 1000 Kyats, or both.

In Myanmar no specific mechanisms exist for search, seizure and disposal of property relating to copyright. However, the general provisions of the Criminal Procedure Code relating to search, seizure and disposal of property can be applied. Sections 101 - 103 allow for any search to be made in the presence of at least two witnesses, who are respectable inhabitants of the locality and will be required to sign the list to attest to its accuracy. The proprietor of the place searched may be present during the search

Any property found in the course of search shall become an exhibit in any legal proceedings and the court has authority to dispose of it in accordance with sections 516-A and 517 of the Criminal Procedure Code. Section 516-A provides that the court may, in certain cases, make an order for the seizure or disposal of property pending trial. Section 517 states that when an inquiry or a trial in any criminal court is concluded it may make such order as it thinks fit for the disposal, by destruction, confiscation, or delivery of the property to any person claiming to be entitled to custody, or against whom any offence is said to have been committed, or which has been used for the commission of any offence.

In addition, every suit or other civil proceeding regarding infringement of copyright shall be instituted at the Supreme Court or at the Court of District Judge under section 13 of the Myanmar Copyright Act. For settlement of disputes relating to copyright infringement, the Civil Procedure Code plays an important role in Myanmar. Under the Code there are effective procedures for judgments and speedy disposal of the suits to be

made. To be in conformity with the Civil Procedure Code, an action has to be commenced with a complaint by the owner of the copyright as plaintiff. Relief remedies through civil action include an injunction or interdict, damages or accounts.

Regarding infringement cases instituted under civil law against the infringer, if the court is satisfied by an affidavit or otherwise, that the infringer or the defendant is about to abscond, or is about to remove or dispose of the whole or any part of his property, the court may either issue a warrant of arrest and bring the defendant before it to show cause why he should not produce security for his appearance, under Order 38, Rule 1 of the Civil Procedure Code, or may direct a conditional seizure of such property under Order 38, Rule 5 and 6 of the same Code.

For infringement of copyright in television and video productions, there is a specific Law, The Television and Video Law, which lays down penalties for certain offenses. Under section 33 of that Law, the offense of copying, distributing, hiring or exhibiting a censor-certified video tape, for commercial purposes, without the permission of the license holder, may be punished with imprisonment of up to three years or a fine not exceeding Kyats 100,000 or both. In these cases, as the penalty is considered to be effective and the trial usually follows rapidly, the owner of the copyright may not have recourse to civil action. However the fact that the infringer has been punished under the relevant penal law shall not be a bar to civil litigation.

The penalties for import and export of any type of computer software or any information proscribed by the Myanmar Computer Science Development Council are defined in Section 36 of the Computer Science Development Law.

Although The Myanmar Copyright Act, 1914 still exists, not a single case has been reported up to the date for the infringement of the Copyright Act, but this does not mean that there have never been disputes relating to copyright and neighboring rights. In copyright matters disputes occur only rarely in literary and musical fields. Even then disputes do not always reach the courts. Almost all such disputes are settled through negotiation. Bodies such as the Literary and Journalist Organization, the Motion Picture Organization, the Music Organization, the Artist and Artisans Organization play a key role in ensuring negotiation and coordination.

As regards copyright, The Myanmar Copyright Act 1914 has not been activated in the past and is at present no longer in use. A new draft is being coordinated and discussed in order to enact a new law that would be in conformity with the country's changing economic and social situation.

The Computer Science Development Law

As regards protection against software piracy, no protection can be sought due to the lack of advanced technology. However, section 36 of the Computer Science Development Law, enacted in 1996 provides penalties for import or export of any type of computer software or any information proscribed by the Myanmar Computer Science Development Council under section 6(g) of the said Law.

The Electronic Transactions Law (2004)

Under the provisions contained in The Electronic Transactions Law enacted on April 30, 2004 this Law shall apply to any type of electronic record or electronic data message used in the context of commercial and non-commercial activities including domestic and international dealings, transactions, arrangements, agreements, contracts and exchanges and storage of information.

The main objectives of this Law are as follows:

- i. to support electronic transaction technology in building a modern nation;
- ii. to obtain more opportunities for development of sectors including human resources and the economic, social and educational sectors by electronic transaction technology;
- iii. to recognize the authenticity and integrity of electronic record and electronic data messaging and give legal protection thereto in matters of internal and external transactions, using computer networks;
- iv. to enable transmission, reception and storage of local and foreign information simultaneously, using electronic transaction technology;
- v. to enable effective and speedy communication and co-operation with international organizations, regional organizations, foreign countries, local and foreign government departments and organizations, private organizations and persons, using computer networks.

The Electronic Transactions Control Board was formed in accordance with this Law in order to carry out activities in conformity with the policies relating to electronic transaction technology, legal affairs and specifications to enable communication, co-operation and dealing effectively and speedily, with international organizations, regional organizations, foreign countries and local and foreign organizations.

Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a maximum term of 3 years or a fine or both:

- i. sending, hacking, modifying, altering, destroying, stealing, or causing loss or damage to electronic records, electronic data messages, or the whole or part of a computer program.
- ii. interception of any communication within the computer network, using or giving access to any person of any fact in any communication without permission of the originator and the addressee;

- iii. communication to any other person directly or indirectly of a security number, password or electronic signature of any person without the permission or consent of such person;
- iv. creating, modifying or altering information or distributing information created, modified or altered by electronic technology in a manner detrimental to the interests of or to lower the dignity of any organization or any person.

(E) BUSINESS RELATED

At present, there are no specific guidelines or directories set up for business-related IPR for universities, companies, or small and medium-sized industries. However, under provision 12 of the Science and Technology Development Law selling or allowing the right to use the technology of the Government department or Government organization may be permissible in the following cases:

- i. monetary benefits may be granted in the prescribed manner to the relevant inventor or to persons who are instrumental in the development of the technology
- ii. if the person who has obtained the right to use the technology so desires, he may assign duties to the inventor or to persons who are mainly instrumental in the development of the technology in accordance with the existing regulations and bye-laws for Government servants.

The following provisions should be contained in contracts for technology transfer:

- i. Statement of the nature and applicability of the technology transferred;
- ii. Statement as to the type of the technology, the nature and amount of the financial payment;
- iii. Statement of the period for which the transferred technology may be used;
- iv. Statement of the rights and responsibilities of the transferor and transferee of the relevant technology;
- v. Other agreements.

It was also mentioned that, with the approval of the Government, the Ministry of Science and Technology may issue rules and procedures if necessary. Moreover, the Scientific Development Council or Ministry or Myanmar Scientific and Technological Research Department (MSTRD) may issue such orders and directives as may be necessary. At present, joint venture companies (state-owned and private) utilize the trademark, design and technology of foreign companies through relevant agreements such as trademark agreements, technical transfer agreements, etc., for which payment is allowed under the provisions of the Union of Myanmar Foreign Investment Law.

(F) FINANCIAL GRANTS

At present, there is no financial grant made for patent registration fees or technology acquisition fees.

Conclusion

The Government and the people of Myanmar are using their best efforts towards the all-round development of the country in pursuance of political, economic and social objectives, set by the State Peace and Development Council. For a developing country, investment in every sector of the economy, both domestic and foreign, is a key factor to promoting its economic development, which forms the basis for all other developments. The Union of Myanmar has invited participation in terms of technical know-how as well as investment from sources inside the country and abroad for the proper evolution of the market-oriented economic system and development of the economy for the country and for the people. To encourage and promote investment, there must be transparent and effective laws consistent with the prevailing economic situation. To come into line with the economic system, the State Legislature has taken positive action to facilitate a legal framework for smooth running of businesses, including the foreign trade sector and other trade-related aspects.

Protection of intellectual property rights is accorded great importance as an incentive and encouragement in promoting investment and economic development. The protection of such rights can only be obtained by way of legislation. Laws on intellectual property must be comprehensive and transparent and must contain sufficient provisions ensuring effective mechanisms to convince investors that their rights are safeguarded. In view of this, the State Peace and Development Council enacted the Foreign Investment Law in less than three months after it assumed power. The Myanmar Citizens Investment Law was also enacted at the same time. Under both laws, it is provided that rights to trademarks, patents and technical know-how shall be evaluated and included in investment.

In Myanmar, the intellectual property system is not well-developed and there is no Intellectual Property Office. Only with the adoption of the market-oriented economic system, has the importance of this subject been realized and particular attention focused on it. In spite of the fact that there exists no specific law regarding intellectual property rights in Myanmar, infringements of the said rights can be remedied under the existing laws as mentioned above. Existing laws relating to intellectual property are obsolete and do not meet the current trends and developments in the field of intellectual property.

Myanmar joined the World Trade Organization (WTO), and also abides by the provisions of the relevant treaties of this Organization, in particular the TRIPS Agreement and the ASEAN Framework Agreement on Intellectual Property. As a result, all draft laws have to be reviewed and redrafted so as to ensure compliance with the international and inter-governmental obligations of Myanmar. Establishing the new Ministry of Science and Technology and designating it as the focal point to deal with intellectual property matters will help expedite the application of the new laws. The Supreme Court and the different courts of law have also been exercising the judicial powers conferred on them in the proper way, taking into consideration the intellectual property rights protection enshrined in international conventions and agreements including the TRIPS Agreement.

The TRIPS Agreement contains an entire section devoted to enforcement. The aim of that section is to ensure that the provisions on protection are properly enforced. It contains both general and special obligations in this respect. It also gives a particularly prominent place to the enforcement of intellectual property rights and contains very detailed provisions in that respect. Being fully aware of the fact that the enforcement mechanism of these laws does not meet the norms and standards provided in the TRIPS Agreement, Myanmar has been endeavoring to draft and enact new laws on intellectual property. To reflect the international legal provisions, the Attorney General's Office has been working on successive draft laws for the protection of IPR in line with the provisions of the TRIPS Agreement as well as the ASEAN Framework Agreement on Intellectual Property.

The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and the transfer and dissemination of technology to the mutual advantage of producers and users of technological knowledge and by means conducive to social and economic welfare and balance of rights and obligations. Enactment alone however hardly fills the vacuum in IP field. Its byelaws such as rules, procedures and other necessary measures have to be followed up, so setting up the necessary infrastructure, training officials and staff as well as educating the public who will deal with or relate to the subject matter, are important. Such tremendous tasks will have to be carried out not only before 2005 but also afterwards.

PART II (B) : SUCCESS STORIES

Case Study 1

GENERAL INFORMATION

COUNTRY : Myanmar

COMPANY NAME : FAME Pharmaceuticals

Contact Address : No. 20, Corner of Mingyi Maha Min Gaung and Nawaday Street,
Industrial Zone (3), Hlaing Tharyar City of Industry, Yangon

Contact Person : Dr. Khin Maung Lwin

Designation : Managing Director

Business Address : No. 20, Corner of Mingyi Maha Min Gaung and Nawaday Street,
Industrial Zone (3), Hlaing Tharyar City of Industry,
Yangon

Telephone Number : 95-1-681908; 95-1-682199

Fax Number : 95-1-680122

E-mail : drkml@famespirulina.com.mm

Home Page (if any) : www.famepharma.com

Type of IP concerned

Trademark

A major section of the population in many developing countries such as Myanmar still relies on traditional medicine. Myanmar's traditional medicine has been used for generations and still enjoys a place of great importance in catering to the health needs of the people. It has been well developed over thousands of years and has become a successful and distinct entity. At the time of Myanmar's royal family, the people depended solely on traditional medicine for their health care. The role of traditional medicine declined during the colonization by the British. At that time the British Government introduced western medicine to Myanmar, for prevention as well as curative purposes. But people living in small villages far away from the cities still relied on traditional medicine for their needs. The Myanmar system of traditional medicine was preserved in secrecy by traditional medicine practitioners and handed down for posterity through people closely related to them. During the British colonization and the Japanese invasion, Government hospitals and community health care facilities mainly followed the

western system. But the health care provided did not fulfill the needs of the whole country and so in many instances, traditional medicine was the only available remedy for most of the population, both in urban and rural areas. Traditional medicine continues to be widely used in the post-independence period and numerous legislative and other measures have been taken throughout the years to support the role of traditional medicine and preserve it for posterity.

It continues to flourish in Myanmar not only because of its efficacy but also for a number of other reasons. In the western system of medicine, the drugs used for treatment of illnesses are produced by pharmaceutical companies and manufactured in laboratories using chemicals and biological techniques. This makes western drugs more expensive than traditional ones which are formulated by using medicinal plants, animal parts, and natural minerals. Therefore, the prices of traditional medicine drugs are lower and more affordable. Traditional medicines are also more easily obtainable because although health facilities are provided all over the country, including in rural areas, availability of western medicine is still limited in remote areas, and sometime even in small cities.

Furthermore, some Myanmar people are reluctant to use western drugs because of their side effects. Since traditional medicine was formulated from natural medicinal plants, animal products and minerals, side effects are relatively low. Not only is traditional medicine invaluable in the prevention and treatment of diseases and in improving health conditions but it has also been noted that many traditional medicines are considered to be more effective and to produce fewer side effects than modern pharmaceuticals. In many low-income countries, where access to “modern” health care services and medicines is limited by economic and cultural factors, traditional medicine continues to play a significant role in health care because of its accessibility and affordability. In Asia, traditional medicine has maintained its popularity in many countries, even when conventional medicine is readily available. In western countries, too, not only are traditional medicine and traditional medicine therapies gaining in popularity but traditional medicine has now also been recognized by western science as a valuable source of products and health care treatments. It often provides material for the development and commercialization of new pharmaceutical products.

In Myanmar, the National Drug Law was promulgated in October 1992 and notifications were issued in August 1993 pertaining to drug registration, drug manufacturing, importing, selling, distribution, labeling and advertising. In January 1995, The Food and Drug Administration Department was established under the Department of Health and there are two committees namely the Drug Advisory Committee to supervise drug registration matters and the Central Food and Drug Supervisory Committee to supervise drug manufacturing and importation. The highest authority is the Myanmar Food and Drug Board of Authority which was formed to enable the public to consume good-quality, safe food and to control and regulate manufacture, import, export, shortage, contributions and sale of food and drugs.

At present, the two government pharmaceutical factories, the Myanmar Pharmaceutical factory and the Yangon Pharmaceutical factory produce essential drugs including prescription-only medicines and over-the-counter remedies. Myanmar Pharmaceutical Industries (MPI) is one of the six-state owned industries under the Ministry of Industry (I) engaged in the production of a variety of specific pharmaceutical and consumer goods. Apart from these factories there is a Development Centre for Pharmaceutical Technology in Gyogone, Yangon which was established with the financial and technical assistance of the Japanese International Cooperation Agency. There are approximately 32 small private pharmaceutical factories in

Myanmar. They produce only over-the-counter remedies, such as vitamins, analgesics and cough syrups. The Myanmar Food and Drug Administration (FDA) does not in principal allow domestic production (private pharmaceutical factories) of prescription drugs, fearing quality problems. The FDA is afraid that insufficient capacity of the domestic pharmaceutical companies could lead to unacceptable health-risks. Private companies are permitted to produce only over the counter remedies as they do not at present have the expertise, technical know-how and resources to produce prescription-only medicine.

In the Declaration on Health Development in the South-East Asia Region in the 21st Century, the Health Ministers of the member states set out their decisions on health sector reform. One of them is to promote traditional medicine. It stated that our region has a rich heritage of indigenous systems of treatment. We will strive to integrate these into the mainstream of health care, promoting traditional systems that provide relief, are scientifically proven to be safe, easily available, accessible and affordable. As the Government of the Union of Myanmar has laid down guidelines to upgrade the role of traditional (herbal), complementary and alternative medicines in Myanmar, it is the duty of Myanmar nationals to produce good-quality, effective and safe herbal medicines as well as internationally-accepted modern alternative medicines for the health of the people. The Government is promoting private entrepreneurs so as to produce generic drugs. It offered great encouragement for FAME to be established as a privately-owned pharmaceutical company for the manufacture of modern phyto-medicine in Myanmar.

FAME Pharmaceutical Company has been established since 1994. 'FAME' is a made-up word and it has a very delightful meaning. **F** is for famous; **A** is for ability; **M** is for magnificent; and **E** is for energetic. Before the establishment of its pharmaceutical factory FAME was only one authorized distributor of medicines produced from the Myanmar Pharmaceutical Factory (MPF). FAME became famous for distribution of a multivitamin entitled "FAME pluvimin" produced from spirulina grown in Myanmar. The strength of the FAME name has also enabled it to establish a pharmaceutical factory to produce traditional and alternative medicine to a high standard. FAME studied many medicinal plants using high technology led by Dr Khin Maung Lwin who is a physician as well as having been awarded a Doctorate in alternative medicine in Germany and who is the Managing Director of FAME.

In 1997, a research group was established including physicians and scientists for the purpose of carrying out scientific research on the manufacture of herbal medicine to international standards. The pilot production was started on January 2001. Following upon its success, large-scale production began in February 2002. Following the guidelines laid down by the Head of State, FAME has also produced many good quality alternative medicines for six major diseases (diarrhea, diabetes, dysentery, high blood pressure, malaria, and tuberculosis) which are prevalent in Myanmar as a substitute for imported western medicines, to save foreign currency and to free Myanmar from relying on other countries. FAME produces pharmaceutical products in specially-designed bottles and packaging materials. Formulations and packaging of the medicinal products are registered according to the current Registration Act in Myanmar. The name became very popular among the population and gained a good reputation because of its high quality and low-cost alternative medicinal products. The trademark "FAME" was used to prevent misleading customers with regard to the origins of the products as well as the suppliers' reputation and goodwill. FAME became the leading manufacturer of modern phyto-medicine in Myanmar and has received national and international awards for its quality products.

Some of FAME's projects involve working with scientists and researchers from the University of Yangon, Yangon Technological University, and the Department of Medical Research, Ministry of Health Yangon. In order to develop scientific research in the medicinal plants producing the new drugs, FAME has affiliations with scientists from Germany, the United Kingdom and Australia. Testing that could not be carried out in Myanmar due to lack of facilities has been carried out in laboratories in Germany, Switzerland and the United Kingdom. Moreover, research projects on development of quality controls are carried out in collaboration with Bio-Techno Park, Berlin, Germany, the British Herbal Association, United Kingdom, the University of New South Wales, Australia.

Research for extraction methods, results of efficacy experiments and quality control are an important part of FAME's business strategy. However, herbal medicines and herbal products are different from chemical drugs. They are crude plant materials, such as leaves, flowers, fruits, seeds, stems, wood, bark, roots, rhizomes or other plant parts, which may be entirely fragmented. As such, it is not often possible to obtain existing patent law protection for herbal medicines by claiming the discovery of new chemical entities, which are novel, involve an inventive step and are industrially applicable. Besides, herbal products there are powdered herbal materials or extracts, tinctures and fatty oils of herbal materials prepared by steeping or heating herbal materials in alcoholic beverages and/or honey, or other materials. The production process is usually simple and generally no new chemical entities have been developed: the preparation processes used are well-known. Therefore neither the product nor the process is considered novel, and no patent can be obtained. However, FAME has Master Formulations and Standard Operating Procedures (SOP) which could constitute Intellectual Property (IP). Scientific research has been conducted using modern technology for finding new pharmaceutical products and Intellectual Property Rights (IPR) will become a defense for the image of a successful business. As Myanmar is still drafting a patent law with the emphasis on public health issues, according to government officials, FAME is trying to obtain a patent in the United States and Germany for its scientific findings on herbal medicines.

Patent legislation, which is potentially the most relevant Intellectual Property Right (IPR) for pharmaceutical products, is not in force in Myanmar. Although the Emergency Act 1946 and Indian Act 1911 are theoretically still in force, no patent law is currently enacted. As a consequence, it is not possible to apply for patents in Myanmar. There are no restrictions on the use of pharmaceutical technology because of the total absence of pharmaceutical patent-protection. Only trademark registration can be used to prevent unfair competition and counterfeit goods. Therefore, FAME has registered each and every product as a trademark registration to protect its products in Myanmar. Its first product was a natural multivitamin. Up to November 2004, FAME has produced 38 natural pharmaceutical products which have been registered and distributed in local and overseas markets.

Using modern technology, FAME has produced good quality products under the guidelines laid down by WHO-GMP, and the factory became the first pharmaceutical company to receive a GMP certificate in January 2003 from the Ministry of Health of the Union of Myanmar. Apart from having a GMP certificate from the Ministry of Health, FAME also received the ISO 9001:2000 International Quality Management System with a recommendation from BVQI Auditing Team of the United Kingdom on October 10, 2002. Manufacturing many evidence-based alternative medicinal products, FAME is well known for its quality, safety and efficacy. Products are produced not only for local markets but also for export to neighboring ASEAN

countries and various foreign countries including Japan, Korea, and Germany. FAME has developed a considerable reputation and goodwill inside and outside the country over a short period, due to its high-quality and inexpensive products.

Beside producing medication, FAME started to publish monthly journals on reputed medicinal plants and related diseases in 2003. These are intended to be purely educational and informative and are distributed free-of-charge. However, they are not intended to take the place of any treatment prescribed by a physician. FAME has also organized programs to educate the public through electronic media, printed media, exhibitions, and leaflets etc. It has also set up regular programs to share its knowledge of alternative medicine with physicians and patients by holding seminars as well as workshops throughout the country. It has also taken part in conferences as well as exhibitions of traditional medicine and products to promote public awareness and highlight the value of alternative medicine.

FAME is situated at No.20 on the corner of Mingyi Maha Min Gaung Road and Nawaday Street, Industrial Zone 3, Hlaing Thayar City of Industry, Yangon, Myanmar. The factory has been built and is managed according to GMP guidelines and met the ISO 9001:2000 Quality Management System. The factory is organized by department such as planning, administration, production, quality control, research and development, sales, marketing, engineering, and quality management. Management and administration is headed by the Managing Director. The Board of Directors and the general managers are in charge of their respective disciplines. FAME has 20 professional scientists such as medical doctors, pharmacists, biochemists, chemists, botanists, microbiologists and traditional medicine specialists; 50 technical support staff such as engineers and accountants, and 180 manual workers making a total of 250.

The planning department is responsible for the purchase of all materials necessary for manufacture such as raw materials, packing materials, machines, equipment, etc. All the production plans are laid down by this department according to market demand. 90 percent of the raw materials are collected from local sources and only 10 percent are imported from other countries. A pharmaceutical garden has been established for growing medicinal plants in upper Myanmar.

Production is the largest department and divided into I, II and III units. Each unit is supervised and managed by experienced pharmacists. FAME has successfully produced and is marketing alternative medicine for six major diseases: Diarstat for diarrhea, Plasmogin for malaria, Dia-herb for diabetes, Dysenzi for amoebic infections. Medicines for diabetes and tuberculosis are being manufactured and will soon be introduced. FAME functions with an annual turn over of USD 2 millions. Up to the present it has already manufactured 42 natural products which are distributed on the local and international pharmaceutical markets. FAME has ten offices and pharmacies in Yangon, Mandalay and Taungyi. It also has more than a thousand sub-distributors in every township in all the states and divisions.

Quality control is responsible for ensuring the high-quality of all products. QC is done at all levels, from buying, through all the production steps to the finished products. Research and development plays an essential role in the growth of the business. The scientists from this section have been discovering new phyto-pharmaceuticals for various common disorders in Myanmar. FAME has also established an in-house intellectual property management group to oversee all international patent filings and matters relating to patent strategy.

The sales department is responsible for distribution of the products throughout the country by means of a door-to-door delivery system. FAME products have been exported to Germany, Belgium, Singapore, Thailand, Korea, Taiwan, China, Japan, Malaysia, Philippine, and Bangladesh. The marketing section ensures product recognition by potential customers including medical doctors, traditional medicine practitioners and the general public. FAME has also more than (1000) sub-distributors in every township in all states and divisions.

The quality management department is a section which is compulsory in every factory certified by ISO 9001:2000. A management representative, previously known as a quality manager, is responsible for close and continuous monitoring of systems laid down by ISO to maintain standards. FAME's products comply with international standards but are very cheap in comparison with those of imported herbal products.

FAME has been able to mass-produce high quality products such as spirulina, honey, medicated honey, bee products, herbal products and consumer items at a reasonable price.

Spirulina Products

Spirulina is a natural food source of protein of an extremely high biological value containing, gamma linolenic Acid (GLA), anti-oxidants, chlorophyll, phycocyanin, trace-elements (selenium), biochelated iron, vitamin B12. Myanma Spirulina is a purely natural food without any chemical or synthetic additives. It is found in four alkaline lakes, three of which are a series of extinct volcanic craters situated beside the Chindwin River. Lake Twin Taung is the most beautiful and best-known. Spirulina is harvested throughout the year although the peak blooming season occurs in the summer months, especially in March and April. FAME has manufactured the following spirulina formulae:

1. *SPIRU-C* (antioxidant supplement)
2. *SPIRU-GARLIC* (cholesterol-lowering agent)

Herbal Medicine Products

FAME has prepared herbal raw materials according to WHO guidelines on agricultural and collection practices (GACP) for medicinal plants. FAME is now a leading manufacturer and distributor of herbal products. Dr. Khin Maung Lwin, Managing Director of FAME, is a member of the International Herb Association (USA) and the Herb Research Foundation (USA). FAME is manufacturing a variety of herbal products for local and oversea markets and is planning to produce further herbal products in the future. FAME has already manufactured the following:

- Dia-herb (anti-diabetic)
- Dysenzi (anti-amoebic and anti-cancer)
- Diarstat (anti-diarrheal)
- Fame Chlorella (detoxifier and anti-anemic)
- Ganocan (anti-cancer and detoxifier)

- Hepatec (hepatoprotective)
- Hepa-B (anti-hepatitis B)
- Herbal Fresh (anti-stress and anti-depressant)
- Immugin (immuno-enhancement)
- Immunoplex (immuno-enhancement and anti-HIV)
- Milk Thistle (hepato-protective and liver support)
- Nonicap (anti-cancer and pain killer)
- Neurogin (neurotropic and microcirculation enhancer)
- Plasmogin (anti-malarial)
- Tinoflam (anti-inflammatory and analgesic)
- Urocrush (urolithiasis)
- Saw Palmetto (benign prostatic hyperplasia)
- Echinacold (acute respiratory tract infections)
- Motulax (mild laxative)

Honey and Bee Products

Products manufactured by bees are highly beneficial for humans as food supplements. Honey is a sweet fluid composed of the nectar and deposits from plants as gathered, modified and stored in honeycombs by honeybees. Pure natural honey is of the finest quality and not contaminated with radioactive materials. It is full of minerals, vitamins, enzymes and antioxidants. Natural Honey can relieve physical and mental exhaustion, increase appetite, and enhance digestion and absorption. In children, it can enhance growth and development, as well as the body's immune system. There are many health benefits of honey as a nutritional supplement with its antioxidant, antiseptic and antibiotic effects, its wound healing properties, healing of peptic ulcers, varicose and skin ulcers, its use in first and second-degree burns etc. FAME has produced medicated honey products by mixing extracts from some natural plants with natural honey. FAME has produced the following honey and bee products:

- Bee Pollen (benign prostatic hyperplasia and male vitality)
- Royal Jelly (anti-aging agent)
- Asparagus Honey (sexual tonic)
- Citric Honey (refreshment)
- Garlic Honey (cholesterol lowering)
- Ginseng Honey (immuno-enhancement)
- Licoric Honey (peptic ulcer)
- Lingzhi Honey (anti-cancer and detoxifier)
- Natural Honey (general tonic)
- Noni Honey (anti-cancer and pain killer)
- Pyomay Honey (menstrual disorders)
- Tinospora Honey (anti-inflammatory and analgesic)

Consumer Products

Consumer products are based mainly on medicinal plants and the following products have been produced by FAME.

- Neem Skin Cream (skin infections)
- Neem Mouth Wash (dental caries)
- Clove Mouth Wash (toothache and gingivitis)
- Ganogesic Balm (anti-inflammatory and analgesic)
- Herbigesic Cream (anti-inflammatory and analgesic)
- Naturla Healer (wound healing-excluding mouth)
- Propolis Honey (wound healing-including mouth)
- Herbicough (anti-tussive)
- Nemoderm (natural antiseptic)

FAME has marketed its products with newly-created packaging material designs such as the image of a bottle, capsule etc. in order to attract consumers. All FAME's designs have been registered, together with the trademark "FAME" in the Office of Trademark Registration. FAME has used special technology to prevent counterfeiting of its design and processing technology.

Market dominance is achieved through market surveys and continuing medical education (CME) by the Managing Director through doctors and representatives. The elaboration of business methods depends on the qualifications of the staff. Local and international training courses are important factors for success. FAME has therefore conducted in-house job training inside and outside the country. The international training given to the administrators (especially the Managing Director, other directors, and general managers) is of fundamental importance for the development of the business. On-the-job training to upgrade technical skills as well as intellectual assessments of the scientific staff in R&D, quality control, marketing, and production is carried out on an ongoing basis. Market surveys are carried out all the year round in order to assess customers' needs and demands. Information on reputed medicinal plants and the diseases they treat are published monthly and distributed free-of-charge to doctors.

FAME has rapidly expended in order to provide high-quality, low cost alternative pharmaceutical products in Myanmar. The research and development division is responsible for discovering new drug therapies. FAME is well known for the quality, safety and efficacy of its products which are aimed not only at the local market but also for export to neighboring ASEAN countries and other foreign countries. FAME has received many international and national awards for its standards of quality and technology and it has become internationally known for the development of its technology and quality management very rapidly. FAME has been honored with the following awards:

- (i) The 29th International Trophy for Quality, 2001, Frankfurt, Germany
- (ii) The 30th International Trophy for Quality, Golden Trophy for Quality, 2002, Paris, France

- (iii) The 4th Century International Quality Era Award, 2002, Geneva, Switzerland
- (iv) The Golden Asia Award for Excellence, 2002, Hong Kong, China
- (v) Myanmar Industrial exhibition, First Prize (Gold Medal), March 2003, Mandalay, Myanmar.
- (vi) Golden Trophy for Technology and Quality, March, 2004, Geneva, Switzerland.

In addition, FAME is the only pharmaceutical company to have received a certificate of Good Manufacturing Practice (GMP) from the Ministry of Health, Union of Myanmar presented on January 1, 2003. FAME was also awarded the ISO 9001:2000 quality management system by BVQI in the UK on October 10, 2002.

FAME warmly welcomes any offer for business co-operation in order to expand its markets worldwide. It is willing to co-operate with any foreign company in a long-term business partnership. FAME can arrange any type of business agreement very rapidly. It also offers to anyone with an interest in its products, whether a wholesaler or a retailer, the possibility of contacting the Company.

Myanmar offers mutual co-operation in the manufacture of pharmaceutical and health-care products, renovation and development of existing pharmaceutical factories, and the establishment of a new pharmaceutical factory on a joint-venture basis.

Case Study 2

GENERAL INFORMATION

COUNTRY : Myanmar
COMPANY NAME : NIBBAN Electric and Electronics ▣

Contact address : No.8, Yan Naing Swe Lane (2), Tarketa Industrial Zone
Yangon Myanmar

Contact Person : Dr. Aung Thein

Designation : General Manager

Business Address : No.8, Yan Naing Swe Lane (2), Tarketa Industrial Zone
Yangon Myanmar

Telephone Number : 951-547471
Fax Number : 951-547370

Email : nibban@mptmail.net.mm
Home page (if any) : Nil

Type of IP concerned

Trademark

In Myanmar, small and medium-sized industries (SMIs) have become a key component of the country's strategy towards broadening its industrial base as well as providing a linkage with large-scale enterprises. It is considered that the accelerated development of industry is crucial to Myanmar becoming a modern nation in the near future. Therefore the promotion of SMIs is given high importance. In terms of number, SMIs currently comprise over 96% of the total number of industrial establishments and still occupy 80% of the total manufacturing labor force. They are being increasingly recognized as an integral part of the industrialization process and an important source of employment creation, innovation, and economic vitality. SMIs represent the most suitable platform through which indigenous entrepreneurs can progressively upgrade their investment and their management skills; principally as feeder industries for larger enterprises. They provide ready-made business networks and distribution channels on which further industrial progress and diversification can be built. To gain greater impetus for the industrialization process, the Committee for Industrial Development (CID),

which is an important inter-ministerial committee, has been formed. Myanmar Industrial Development Committee (MIDC) was formed under the CID and a working committee (MIDWC) was also formed under MIDC to implement the tasks laid down by the CID with the assistance of nine sub-committees. In Myanmar, there is neither a separate policy nor a law governing SMIs. The Government's policies and objectives for the economic sector do not differentiate between large and small enterprises. The information emanating from MIDC and its objectives may be referred to as policy guidelines for development of SMIs that would assist in the development of the economy with more equitable distribution of income; complementing and supporting large-scale industries through a network of industrial linkages; producing products of good quality and value; increasing productivity through the use of modern technology and management. A key feature of the development of manufacturing industries in the country is its industrial zones. To meet strong infrastructural requirements industrial zones have been established since 1995. At present there are 18 of these zones established at growth points in the country. MIDC which is the inter-ministerial committee responsible for giving greater impetus to the industrialization process oversees those zones through Industrial Zones Supervision Committees with the assistance of the respective State and Division Peace and Development Councils. The task of these zone committees is to implement plans and programs laid down by the MIDC and to carry out such tasks as they deem fit for development of private industries in their respective zones. The Minister for Industry is the chairman of the Myanmar Industrial Development Working Committee (MIDWC), undertaking the task of assisting the development of the zones, especially in the area of technology transfer through plant visits, short-term attachment training at the plants, short and long-term training at vocational training schools, workshops and seminars etc.

It was recognized that the SMIs sector consisted of different types of enterprises. Thus their problems are varied and complex depending both on the sectors they are in and their level of development. However, there are some problems which are common to all such as an inadequate level of technological and managerial skills; lack or inadequacy of research and development facilities; difficult access to technological information; difficulties in marketing and distribution; low level of productivity; inadequate access to financial institutions; higher costs for the purchase of materials because of the small quantities ordered, etc.

In the fiscal year 2001/2002, the number of factories engaged in manufacturing stood at 53,338 of which 97% were private companies, with 3% state-owned. The share of the private sector is particularly high in light industries producing simple consumer goods whereas state owned factories account for 60% of all units in the case of agricultural equipment and 70% in the case of machinery and equipment. In general, it is noted that industrial activity of any significant size is concentrated in state-owned factories. In 2004, among the total registered SMIs, distribution figures the production of electrical goods stood at only about 0.08%. Myanma Machine Tools and Electrical Industries (MTEI) established under the Ministry of Industry is one of the state-owned industries and produces electronic goods in cooperation with foreign companies from countries such as Korea and Thailand. Others are small and medium-sized private industries and most of them produce electronic items for Myanmar's needs as a substitute for foreign products. The privately owned NIBBAN Electric and Electronics Industry has become a successful producer of electric and electronic goods. NEE has made a success of its business due to the high-quality production standards of its inexpensive electronic items.

NEE started trading under the name Shwe PAHO Industry in 1972, and entered the electronics market by introducing the PAHO ADAPTOR (an AC to DC converter). PAHO means “centre” and aims to be a reliable source of supply of quality electronic products to meet customer demand. The trademark PAHO was registered at the Registration Office of Deeds and Assurance under the law existing in Myanmar. At that time, the marketplace was saturated with electronic products imported from foreign countries with very few manufactured locally. NEE successfully produced its PAHO ADAPTOR with a DC output in the range 0 to 12V to offer customers a home-produced article..

In 1973, although NEE distributed dynamic microphones for public address systems as its second product, it failed to compete with foreign companies because of lower quality and higher prices, stopping production a year later. The high frequency DC to AC converters for fluorescent light was the first local product manufactured in 1975. NEE produced two types of high frequency converters, one for industrial use which could illuminate from five to ten fluorescent tubes and another for domestic use for illuminating a single fluorescent tube in various sizes (nine inches, one to four feet etc). The NEE converter was successful because it could compete with foreign products in quality as well as on price. However, NEE had to stop production of converters when other local brands entered the market, offering the same quality at lower prices. Around 1976, battery-powered fluorescent tube ballasts were used countrywide and NEE produced the PAHO battery charger that was urgently required in local markets. NEE was successful with this product and demand increased year by year.

In Myanmar, only water-forced electric generators had been used to supply electricity for the country for over one hundred years. Increasing demand for electricity because of the increasing population needs has caused shortages in the last decade. As a result, a quota system was used to supply electricity. Sometimes, the voltage was out of the specified range (220V-240V) and so voltage regulators (step-up transformers) were needed to adjust it. Safeguards for power-line interruptions for unstable voltages were also needed to prevent unexpected damage due to incorrect voltage supplies for items such as refrigerators, air-conditioners etc while using the voltage regulator.

The PAHO step-up transformer was put on the market and was able to compete with other local products due to its superior quality, durability and reasonable price. NEE produced different models of transformers according to market needs and adjusted its functions and sizes in keeping with the controlled standard to harmonize with the end use.

In later years, NEE has produced several types of safeguards (power line interruption for low and high voltages) for electronic items such as audio visual systems, computers, copiers, air conditioners, TVs, DVDs and VCDs, refrigerators, washing machines, radios, phones and overhead projectors. An uninterrupted power supply (UPS) for computers was also produced. PAHO electronic items were accepted as quality products in the local market and attracted consumers with their quality and price.

NEE also produced the Auto Star 5 KVA Automatic Voltage Regulator, an electronic circuit motor drive to compete with the Japanese-made Stavol 2.5 KVA type regulator. It met with success in the market due to its high quality and low price. However, production of the automatic voltage regulator was stopped due to lack of raw materials and prices increased after the first year.

In 1982, the Myanmar television program (MRTV) was first introduced by the Myanmar broadcasting organization and second-hand Japanese-made television sets which ran on 110/120 volts entered the market. NEE produced a step-down transformer which could convert 220 volts to 110/120 volts as the Myanmar power supply system only provided 220 volts. At that time NEE gained a reputation for its PAHO trademark in electronic markets.

Japanese-made Television (TV) Antennae which help to receive good-quality pictures and sound also entered the market. Growing use of television around the country was due to progress in programming and led to an increasing demand for new TV models from Japan and other countries. In 1984 NEE introduced its first model BXR TV Antenna onto the local market to compete with foreign products under its NIBBAN trademark. NEE tried hard to penetrate the market using different strategies as consumers thought more highly of foreign products than those produced locally especially in the field of electronics. Although the NIBBAN antenna could compete with foreign standards in quality it was sold at a very low price in order to attract consumers. After a year, people accepted the NEE antenna and its reputation spread throughout the country. NEE launched special promotional programs in order to publicize its products and improved their quality at the same time. Trade secrets, durability, and quality control (QC) are basic requirements for survival in business. Advertising is a way to attract the customer to new products. NEE invested in its new brand name, NIBBAN, by advertising in several ways: attending exhibitions, delivering pamphlets, and advertising in newspapers, magazines, and journals, etc. At that time, there was only trademark registration to protect the Company from unfair competition and infringing goods. NEE made a certain amount of profit from its antenna because of steadily-increasing demand in the local market which led to the possibility of investing more in its research and development programs, thus enabling it to offer a greater range of electronic products.

In 1991 NEE started to advertise the NIBBAN TV ANTENNA on television. Consequently, the antenna became well known through out the country. Moreover, NEE took part in several local industrial exhibitions in a drive to meet its customers as well as its counterparts in order to share experiences. NEE was trying hard to enhance the quality of its products and at the same time to satisfy the customers' requirements. In 1994, the second broadcasting station, Mya Waddy (MWD) was established by the Government. As a result, a new type of TV antenna was required to receive the programs transmitted from both stations. NEE created a new antenna called TXR series (TV antenna) in order to receive good-quality sound and vision from both MRTV and MWD broadcasting stations. In the following year, a new model 2-in-1 antenna booster was introduced onto the market to meet consumer needs. In cities, the TV antenna has to be set up at the top of a building to receive clear sound and vision. There is however some difficulty in setting an antenna up on high apartment blocks. NEE tried to find a solution to this problem and they introduced a new 2-in-1 TV antenna together with a booster to meet market needs. This model only needs to be set up in the front of an apartment to receive programs transmitted from the two broadcasting stations. It also included a booster amplifier to offer visual clarity and higher volume as well as a noise filler to prevent interference

Up to now, NEE has produced four electronic items: the PAHO battery-powered fluorescent tube, the PAHO step-up transformer, the PAHO battery charger, and the NIBBAN TV antenna, more for the purpose of meeting customer demand than making vast profits for the industry which has as its motto "Supplying the requirements of the market in time is our main duty".

The Myanmar Government is actively seeking regional and international cooperation. Myanmar became a member of ASEAN in 1997 and signed agreements on economic cooperation. Cooperation plays an important role in the private sector according to the Hanoi Plan of Action, Bali Concord and Vientiane Action Program approved by the Head of State. According to the strategy of the Vientiane Action Program (2004-2010), efforts are being made for the emergence of a single market in priority sectors by 2010 leading to an increase in the competitive power of small and medium-sized enterprises including investment.

NEE realized that internationally-certified standards play a vital role in the quality of its products. It has endeavored to obtain certification from the ISO (International Organization for Standardization) for nearly seven years. It has invested time, money and energy in its work, based on the Japanese concept of a good house-keeping system (5S). It has tried to manage its production processes according to the standards laid down by the ISO and the following steps have been taken in order to obtain the ISO quality management standard.

1. NEE has managed to build up a clean and systematic environment in processing and storage of its goods in order to protect the high quality of its products.
2. Managed to train the workforce to follow the necessary rules and regulations in processing the products.
3. Managed to repair and maintain machines by using the TPM system (total productive maintenance) in order to maintain standards of quality.
4. Managed to set up a quality control circle (QCC) to solve problems or complaints related to the quality of its products and to find ways of improving quality.
5. Managed to control the quality levels of the products (TQM)

It has endeavored to fulfill the above requirements for nearly six years. After obtaining advice from an expert from Malaysia over a period of eight months, NEE finally obtained the ISO certificate (9001:2000) by passing the examination and inspection carried out by examiners from UKAS. ISO certification is one of many competitive advantages especially in export markets. NEE has to ensure the quality of its products as well as maintaining on-going improvements in its management structures.

NEE believes that the best way to penetrate markets is to meet consumer requirements. It has used this strategy and tried to keep its place in the local markets, bearing in mind the motto “supplying the requirements of the market in time is our main duty”.

It is well-known that the business plan is a mechanism to ensure that the resources or assets of a company are used profitably in all its activities in order to develop and retain a competitive edge. NEE studied many aspects of business as well as consulting with experts and has also learned from the business environment before setting up its business plan. The human resources department, finance department, procurement department, production department, marketing department, research and development department, quality assurance department,

sales and service department are eight major departments in NEE's business. It has trained its staff in the skills necessary in their respective areas in order to improve their knowledge of electronics and future inventions. Using qualified teachers, offering on-the-job training, reading technical papers, articles, magazines and books, surveying market environments, collaboration with other companies, encouraging physical and mental fitness, incentives, giving weekly seminars, attending seminars or workshops both at home and abroad are important tools the NEE uses to train its staff.

It is very important to supply products of a consistent quality to meet the increasing demand. NEE has a quality assurance department to control specifications or standards of raw materials and components from its business partners during processing and also finally checking the products before marketing. It has tried to keep its machines in good order with a high-quality maintenance program. NEE has trained its staff (engineers and technicians) with special programs in collaboration with other companies in subjects such as technical training, management training, skill development training etc. The staff from the research and development departments have been striving hard to find solutions to the technical problems as well as fulfilling market requirements. NEE has invested heavily in this area in order to enhance the quality of its products so as to come into line with technological developments as well as to produce new and modified products in accordance with market needs.

Market surveys play an important role. The analyzed data is extremely helpful in decision-making whether for launching further products or enhancing the quality or function of its present product line. The NEE TV ANTENNA has penetrated the local electronics market following a market analysis.

In Myanmar there is at present no statutory law to protect intellectual property assets such as trademarks, inventions or designs. However, NEE registered the trademarks PAHO and NIBBAN at the Registration Office of Deeds and Assurance through a Myanmar trademark law firm. NEE has tried to keep its good name for quality control and to satisfy consumers with its electronic products. It has invested heavily in advertising the trademark (brand) of its products by several means such as leaflet distribution, advertising on TV and FM radio, taking part in exhibitions, establishment of a showroom and service center and setting up a sales promotion program. According to the present IP system in Myanmar, NEE has no chance of protecting its IP assets, especially for product design. However, it has used a special procedure to control the design of its software to prevent unauthorized copying. Moreover, agreements such as non-disclosure in order to protect its IP are included in contracts with employees or partners.

Myanmar changed her economic course from a centrally-planned economy to a market-oriented system in late 1988. Since then, a series of structural reforms has been introduced which were designed to open up and integrate the economy with the world economy. These reform measures were intended to lead to a more liberal market-oriented economic structure. Accordingly, laws, orders, rules, regulations and notifications which prohibited or restricted the private sector from engaging in economic activities were replaced and many laws and rules which were kept in abeyance were revived and amended to be in line with the system and with the changing times and circumstances. New legal policy instruments giving the private sector as well as foreign investors and businesses the right to do business and to invest in the country were enacted. Myanmar has been enjoying considerable economic growth since it shifted to a market economy in 1989.

Myanmar became a fully-fledged member of ASEAN on July 23, 1997 and joined the ASEAN Free Trade Area (AFTA) to take advantage of the benefits accorded under the Common Effective Preferential Tariff Scheme (CEPT) which is a mechanism with a 15-year time frame running from January 1, 1993. Myanmar expects to achieve a free trade zone within the region by 2008. Moreover, a healthy Intellectual Property system that will be set up in the near future will be a key element in encouraging foreign direct investment (FDI). Myanmar is anticipating that large amounts of products from the other ASEAN countries including electronic goods will enter its market in 2008 and will lead to an increase in foreign investment in manufacturing. NEE is trying hard to keep abreast of market forces by controlling product quality, improving awareness of its trademark and applying new strategies especially in R&D.

PART I (A)

Listing of Manuals, Guidelines and Directories
in the Area of
Intellectual Property (IP) Portfolio Management

COUNTRY: PHILIPPINES

No.	Title and Brief Description	Year	Agency Responsible and Address	Contacts (Tel/Fax/email)
A. PATENT AND INVENTION RELATED				
1.	<p>Outright Grant for patent applications filed with national and regional offices</p> <p>The Outright Grant for Intellectual Property (IP) applications was implemented to provide additional incentives to the UP (University of the Philippines) Diliman faculty to generate IP and to provide means for further defining the rights and duties of the faculty vis-à-vis UP Diliman in accordance with the UP System IPR policies and OVCRD (Office of the Vice-Chancellor for Research and Development) mandate. Outright grants will also help streamline OVCRD operations in relation to the efficient use of its operating budget.</p>	2005	University of the Philippines- Office of the Vice Chancellor for Research and Development Lower Ground Floor, Phivolcs Bldg., C.P. Garcia Ave., Diliman, Quezon City 1101	<p>Tel Nos. (632)927-2309 (632)927-2567</p> <p>Tel/Fax: (632)927-2568</p> <p>E-mail: ovcrd@up.edu.ph</p>
2.	<p>DOST Memorandum Circular No. 001, Series of 1998 – Establishing an Administrative Mechanism for Acquisition, Transfer and Enforcement of Intellectual Property Rights in the National System.</p> <p>This governs the intellectual property rights (IPR) protection of inventions/ innovations, utility models, industrial designs, copyrights and other related IPR resulting from DOST-directed, DOST-assisted, and contract R&D projects of DOST and its agencies and councils.</p>	07 Dec 1998	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Maripaz L. Perez, Undersecretary for Regional Operations</p> <p>Tel. (63-2) 837-7494 Fax (63-2) 837 2944</p> <p>Email : mlperez@dost.gov.ph</p>

3.	<p>UP System IPR Guidelines (Board Of Regents-approved) and a Primer thereon</p> <p>Comprises the guiding principles for the protection of inventions of faculty, researchers, administrative personnel, and students of the university.</p> <p>The Primer presents in a simple manner the UP System Guidelines on IPR, and provides answers to frequently asked questions.</p>	2003	<p>Office of the Vice-President for Planning and Development ;</p> <p>Office of the Vice President for Legal Affairs; and Technology Licensing Office</p>	<p>(632)981-8500 loc. 2506</p> <p>(632)981-8500 loc. 2548 (632)928-3709</p>
			Quezon Hall University of the Philippines Diliman, Quezon City 1101	(632)928-2665
4.	<p>DOST Memorandum Circular No. 001, Series of 2002 – Providing for a Mechanism to Operationalize Intellectual Property and Technology Management in the Department of Science and Technology and National Research and Development System, and Amending Pertinent Provisions of Memorandum Circulars 001 (s.1998) and 002 (s.1992) and for other purposes.</p> <p>This governs the DOST's intellectual property and technology management system relative to its directed, assisted and contracted science and technology activities</p>	08 Nov 2002	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Maripaz L. Perez, Undersecretary for Regional Operations</p> <p>Tel. (63-2) 837-7494</p> <p>Email : mlperez@dost.gov.ph</p>
5.	<p>Technology Incubation for Commercialization Program (TECHNICOM)</p> <p>This program provides assistance in facilitating the access of SMEs to research facilities and personnel of R&D institutes and other government institutions to address their technical needs.</p>	17 Feb 2003	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Rogelio A. Panlasigui</p> <p>Tel. (63-2) 837 2943 Fax (63-2) 837 2930</p>
6.	<p>Implementing Rules and Regulations (IRR) of the Magna Carta for Scientists, Engineers, Researchers, and Other S&T Personnel in the Government</p> <p>This provides various forms of incentives and rewards to science and technology personnel and promotes S&T careers in the Government</p>	04 Feb 1998	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Carol M. Yorobe</p> <p>Tel/Fax (63-2) 837 2941</p>

7.	<p>Decisions and Final Orders Rendered by the Director General 2000-June 2004 Language : English 574 pages Decisions and final orders from 2000 to June 2004 rendered by Emma C. Francisco, IPO Director General (1998-2004) on <i>inter partes</i> cases and complaints for violation of IPR (NOTE: Decisions from July – December 2004 in <i>inter partes</i> cases, IPR violation complaints, and settlement of disputes involving copyright) not included in the book but available as separate documents.</p>	2004	Intellectual Property Office of the Philippines	<p>Engr. Rolando B. Saquilabon Assistant Director Documentation, Information and Technology Transfer Bureau Rolando.Saquilabon@ipophil.gov.ph Tel. +63 2 7525450 local 202 Fax +63 2 897 1724</p>
8.	<p>www.mainlib.upd.edu.ph This website provides information on collections in the University Library of UP Diliman encompassing one Main Library and 26 College or Unit libraries in the Diliman campus. Materials include IP books, journals, articles. Language : English</p>		University of the Philippines Library	
9.	<p>www.mainlib.upd.edu.ph/opac.htm This website provides information on the collections in the University of the Philippines College of Law library. Materials include IP books, journals, articles. Language : English</p>		University of the Philippines Law Center	<p>Antonio M. Santos Law Librarian University of the Philippines College of Law Tel +63 2 920 5514 loc 302 Fax+63 2 929 2180</p>
10.	<p>Law on Intellectual and Industrial Property ; Proceedings of the Institute on Intellectual and Industrial Property Rights / edited by Esteban B. Bautista Language : English 328 pages These proceedings on intellectual and industrial property : law, practice and government regulation were conducted by the U.P. Law Center, from February 17 to 24, 1975</p>	1975	University of the Philippines Law Center	<p>Antonio M. Santos Law Librarian University of the Philippines College of Law Tel +63 2 920 5514 loc 302 Fax+63 2 929 2180</p>

11.	Intellectual Property Code : Republic Act N0. 8293, effective January 1, 1998 Language : English 124 pages	1997	Institute of Judicial Administration University of the Philippines Law Center	Antonio M. Santos Law Librarian University of the Philippines College of Law Tel +63 2 920 5514 loc 302 Fax+63 2 929 2180
12.	Intellectual Property Code of the Philippines : Republic Act No. 8293 and its implementing rules and regulations Language : English 332 pages	2001	Office of the National Administrative Register, University of the Philippines Law Center	Antonio M. Santos Law Librarian University of the Philippines College of Law Tel +63 2 920 5514 loc 302 Fax+63 2 929 2180
13.	Salient features of the intellectual property law/ by Esteban B. Bautista Language : English 60 pages Lecture delivered on Feb. 21, 1975 at the Seminar on Intellectual and Industrial Property sponsored by the University of the Philippines Law Center	1975	University of the Philippines Law Center	Antonio M. Santos Law Librarian University of the Philippines College of Law Tel +63 2 920 5514 loc 302 Fax+63 2 929 2180
14.	Patents Under the Intellectual Property Code / Vicente B. Amador Language : English 794 pages States the author's interpretation of new concepts in the law citing decisions of the defunct Bureau of Patents, Trademarks and Technology Transfer, and American jurisprudence.	2001	Publisher : Rex Book Store	+63 2 736 0567 +63 2 735 1364 +63 2 735 5527 +63 2 735 55 34
15.	ipophil.gov.ph This website provides useful information on how to file an application for invention patent including downloadable forms and fees.		Intellectual Property Office of the Philippines	Engr. Cecilo M. Fernandez Director MIS Bureau Cecilio.Fernandez@ipophil.gov.ph

B. INDUSTRIAL DESIGN RELATED				
1.	<p>DOST Memorandum Circular No. 001, Series of 1998 – Establishing Administrative Mechanism for Acquisition, Transfer and Enforcement of Intellectual Property Rights in the National System.</p> <p>This governs intellectual property rights (IPR) protection of inventions/innovations, utility models, industrial designs, copyrights and other related IPR resulting from DOST-directed, DOST-assisted, and contract R&D projects of DOST and its agencies and councils.</p>	07 Dec 1998	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Maripaz L. Perez, Undersecretary for Regional Operations</p> <p>Tel. (63-2) 837-7494 Fax (63-2) 837 2944</p> <p>Email : mlperez@dost.gov.ph</p>
2.	<p>DOST Memorandum Circular No. 001, Series of 2002 – Providing for a Mechanism to Operationalize Intellectual Property and Technology Management in the Department of Science and Technology and National Research and Development System, and Amending Pertinent Provisions of Memorandum Circulars 001 (s.1998) and 002 (s.1992) and for other purposes.</p> <p>This governs the DOST's intellectual property and technology management system relative to its directed, assisted and contracted science and technology activities</p>	08 Nov 2002	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Maripaz L. Perez, Undersecretary for Regional Operations</p> <p>Tel. (63-2) 837-7494 Fax (63-2) 837 2944 Email :</p> <p>mlperez@dost.gov.ph</p>
3.	<p>Technology Incubation for Commercialization Program (TECHNICOM)</p> <p>This program provides assistance in facilitating the access of SMEs to research facilities and personnel of research and development institutes and other government institutions to address their technical needs.</p>	17 Feb 2003	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Rogelio A. Panlasigui</p> <p>Tel. (63-2) 837 2943 Fax (63-2) 837 2930</p>
4.	<p>Implementing Rules and Regulations (IRR) of the Magna Carta for Scientists, Engineers, Researchers, and Other S&T Personnel in the Government</p> <p>This provides various forms of incentives and rewards to science and technology personnel and promotes S&T careers in the government</p>	04 Feb 1998	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Carol M. Yorobe</p> <p>Tel/Fax (63-2) 837 2941</p>

5.	Patents Under the Intellectual Property Code / Vicente B. Amador Language : English 794 pages States the author's interpretation of new concepts in the law citing decisions of the defunct Bureau of Patents, Trademarks and Technology Transfer, and American jurisprudence.	2001	Publisher : Rex Book Store	+63 2 736 0567 +63 2 735 1364 +63 2 735 5527 +63 2 735 55 34
6.	ipophil.gov.ph This website provides useful information on how to file an application for an industrial design registration including downloadable forms and fees.		Intellectual Property Office of the Philippines	Engr. Cecilo M. Fernandez Director MIS Bureau Cecilio.Fernandez@ipophil.gov.ph
C. TRADEMARK RELATED				
1.	Decisions and Final Orders Rendered by the Director General 2000-June 2004 Language : English 574 pages	2004	Intellectual Property Office of the Philippines	Engr. Rolando B. Saquilabon Assistant Director Documentation, Information and Technology Transfer Bureau Rolando.Saquilabon@ipophil.gov.ph Tel. +63 2 7525450 local 202 Fax +63 2 897 1724
2.	Trademarks Under the Intellectual Property Code / by Vicente B. Amador Language : English 389 pages Attempts to examine and state the author's interpretation of new concepts in the law citing decisions of the defunct Bureau of Patents, Trademarks and Technology Transfer, and American jurisprudence.		Publisher : Rex Book Store	+63 2 736 0567 +63 2 735 1364 +63 2 735 5527 +63 2 735 55 34

3.	<p>ipophil.gov.ph This website provides useful information on how to choose a trademark, how to file an application for trademark registration including downloadable forms and fees, and a searchable database containing the list of trademarks already registered and pending application.</p>		Intellectual Property Office of the Philippines	Engr. Cecilo M. Fernandez Director MIS Bureau Cecilio.Fernandez@ipophil.gov.ph
D. COPYRIGHT RELATED				
1.	<p>UP System IPR Guidelines (Board Of Regents-approved) and a Primer thereon</p> <p>Comprises the guiding principles for the protection of inventions of faculty, researchers, administrative personnel, and students of the university.</p> <p>The Primer presents in a simple manner the UP System Guidelines on IPR, and provides answers to frequently asked questions.</p>	2003	<p>OFFICE OF THE VICE-PRESIDENT FOR PLANNING AND DEVELOPMENT; Office of the Vice President for Legal Affairs; and Technology Licensing Office</p> <p>Quezon Hall University of the Philippines Diliman, Quezon City 1101</p>	<p>(632)981-8500 loc. 2506</p> <p>(632)981-8500 loc. 2548 (632)928-3709</p> <p>(632)928-2665</p>
2.	<p>DOST Memorandum Circular No. 001, Series of 1998 – Establishing Administrative Mechanism for Acquisition, Transfer and Enforcement of Intellectual Property Rights in the National System.</p> <p>This governs intellectual property rights (IPR) protection of inventions/innovations, utility models, industrial designs, copyrights and other related IPR resulting from DOST-directed, DOST-assisted, and contract R&D projects of DOST and its agencies and councils.</p>	07 Dec 1998	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Maripaz L. Perez, Undersecretary for Regional Operations</p> <p>Tel. (63-2) 837-7494 Fax (63-2) 837 2944</p> <p>Email : mlperez@dost.gov.ph</p>

3.	<p>Handbook for Authors Guide for authors who submit manuscripts to the refereed journals of OVCRD namely: Humanities Diliman, Science Diliman and Social Science Diliman</p>	2004	<p>University of the Philippines-Office of the Vice Chancellor for Research and Development</p> <p>Lower Ground Floor, Phivolcs Bldg., C.P. Garcia Ave., Diliman, Quezon City 1101</p>	<p>Tel Nos. (632)927-2309 (632)927-2567</p> <p>Tel/Fax: (632)927-2568</p> <p>E-mail: ovcrd@up.edu.ph</p>
4.	<p>DOST Memorandum Circular No. 001, Series of 2002 – Providing for a Mechanism to Operationalize Intellectual Property and Technology Management in the Department of Science and Technology and National Research and Development System, and Amending Pertinent Provisions of Memorandum Circulars 001 (s.1998) and 002 (s.1992) and for other purposes. This governs the DOST's intellectual property and technology management system relative to its directed, assisted and contracted science and technology activities</p>	08 Nov 2002	<p>Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City</p>	<p>Dr. Maripaz L. Perez, Undersecretary for Regional Operations</p> <p>Tel. (63-2) 837-7494 Fax (63-2) 837 2944</p> <p>Email : mlperez@dost.gov.ph</p>
5.	<p>Copyright Under the Intellectual Property Code Language : English 759 pages Attempts to examine and state the author's interpretation of new concepts in the law</p>	1998	<p>Publisher : Rex Book Store</p>	<p>+63 2 736 0567 +63 2 735 1364 +63 2 735 5527 +63 2 735 55 34</p>

E. BUSINESS RELATED				
1.	<p>DOST Memorandum Circular No. 002, Series of 1992 – Guidelines on Technology Transfer Arrangements in the National Research and Development System</p> <p>These cover all technology transfer arrangements entered into by member agencies and institutes of the National Research and Development Systems with public or private clients whether domestic or foreign. These involve transfers of technologies where premium for private ownership exists.</p>	23 March 1993	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Maripaz L. Perez, Undersecretary for Regional Operations Tel. (63-2) 837-7494 Fax (63-2) 837 2944 Email : mlperez@dost.gov. ph</p>
2.	<p>DOST Memorandum Circular No. 001, Series of 2002 – Providing for a Mechanism to Operationalize Intellectual Property and Technology Management in the Department of Science and Technology and National Research and Development System, and Amending Pertinent Provisions of Memorandum Circulars 001 (s.1998) and 002 (s.1992) and for other purposes.</p> <p>This governs the DOST's intellectual property and technology management system relative to its directed, assisted and contracted science and technology activities</p>	08 Nov 2002	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Maripaz L. Perez, Undersecretary for Regional Operations Tel. (63-2) 837-7494 Fax (63-2) 837 2944 Email : mlperez@dost.gov. ph</p>
3.	<p>DOST Administrative Order No. 006, series of 2004 – Guidelines for the Grants-in-Aid Funds of the Department of Science and Technology and its Agencies</p> <p>These guidelines include provision of ownership and utilization of programs/project results/ intellectual property rights protection</p>	14 Oct 2004	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Maripaz L. Perez, Undersecretary for Regional Operations Tel. (63-2) 837-7494 Fax (63-2) 837 2944 Email : mlperez@dost.gov. ph</p>

4.	<p>Small Enterprises Technology Upgrading Program (SET-UP) This program provides assistance to MSMEs to support and sustain the growth of the manufacturing sector</p>	14 May 2002	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Maripaz L. Perez, Undersecretary for Regional Operations</p> <p>Tel. (63-2) 837-7494 Fax (63-2) 837 2944</p> <p>Email : mlperez@dost.gov.ph</p>
5.	<p>Technology Incubation for Commercialization Program (TECHNICOM) This program provides assistance in facilitating the access of SMEs to research facilities and personnel of research and development institutes and other government institutions to address their technical needs.</p>	17 Feb 2003	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Rogelio A. Panlasigui</p> <p>Tel. (63-2) 837 2943 Fax (63-2) 837 2930</p>
6.	<p>Implementing Rules and Regulations (IRR) of the Magna Carta for Scientists, Engineers, Researchers, and Other S&T Personnel in the Government This provides various forms of incentives and rewards to science and technology personnel and promotes S&T careers in the government.</p>	04 Feb 1998	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	<p>Dr. Carol M. Yorobe</p> <p>Tel/Fax (63-2) 837 2941</p>

F. FINANCIAL GRANTS				
1.	<p>Manual for Researchers Highlights the financial support granted by OVCRD for thesis, dissertation and research projects through the Outright Grant. The research project grantee must be a regular member of the faculty or the Research Extension and Professional Staff (REPS) in active service at the University of the Philippines at UP Diliman or UP Extension Program in Pampanga regardless of the status of employment (excluding lecturers, professors emeriti, and faculty members on sabbatical leave) A thesis/dissertation grantee must be a regular member of the faculty or REPS, UP employee and a graduate student enrolled in UP Diliman.</p>	2005	<p>University of the Philippines- Office of the Vice Chancellor for Research and Development</p> <p>Lower Ground Floor, Phivolcs Bldg., C.P. Garcia Ave., Diliman, Quezon City 1101</p>	<p>Tel Nos. (632)927-2309 (632)927-2567</p> <p>Tel/Fax: (632)927-2568</p> <p>E-mail: ovcrd@up.edu.ph</p>
2.	<p>DOST Administrative Order No. 006, series of 2004 – Guidelines for the Grants-in-Aid Funds of the Department of Science and Technology and its Agencies These guidelines include provisions for ownership and utilization of programs/project results/ intellectual property rights protection</p>	14 Oct 2004	<p>Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City</p>	<p>Dr. Maripaz L. Perez, Undersecretary for Regional Operations</p> <p>Tel. (63-2) 837-7494 Fax (63-2) 837 2944</p> <p>Email : mlperez@dost.gov.ph</p>
3.	<p>Small Enterprises Technology Upgrading Program (SET-UP) This program provides assistance to MSMEs to support and sustain the growth of the manufacturing sector</p>	14 May 2002	<p>Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City</p>	<p>Dr. Maripaz L. Perez, Undersecretary for Regional Operations</p> <p>Tel. (63-2) 837-7494 Fax (63-2) 837 2944</p> <p>Email : mlperez@dost.gov.ph</p>

4.	<p>Technology Incubation for Commercialization Program (TECHNICOM)</p> <p>This program provides assistance in facilitating the access of SMEs to research facilities and personnel of research and development institutes and other government institutions to address their technical needs.</p>	17 Feb 2003	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	Dr. Rogelio A. Panlasigui Tel. (63-2) 837 2943 Fax (63-2) 837 2930
5.	<p>Implementing Rules and Regulations (IRR) of the Magna Carta for Scientists, Engineers, Researchers, and Other S&T Personnel in the Government</p> <p>This provides various forms of incentives and rewards to science and technology personnel and promotes S&T careers in the government</p>	04 Feb 1998	Department of Science and Technology Gen. Santos Avenue, Bicutan, Taguig City	Dr. Carol M. Yorobe Tel/Fax (63-2) 837 2941
6.	<p>Info Brief: The SPEED Project</p> <p>A DBP lending program for Small and Medium-Sized Enterprises (SMEs). The guidelines describe the components of the program, the role of participating government agencies, funding and technical assistance.</p>	2005	Development Bank of the Philippines Program Development II 3 rd Flr., Gil Puyat Avenue, Makati city	Tel. # 818-9511 loc. 2350; 893-4913
7.	<p>Primer on DBP Forest Program</p> <p>A DBP non-lending program that strengthens support for environmental protection. The primer provides information about the program: its features, participating organizations, eligible partners, degree of assistance the DBP offers, funding.</p>	2005	Development Bank of the Philippines Program Development I 5 th Flr., Gil Puyat Avenue, Makati city	Tel. # 818-9511 loc. 2515/2546; 893-4444 Fax No. 812-8088, 893-5380

G.	OTHERS			
1	<p>Republic Act No. 8293: The Intellectual Property Code of the Philippines</p> <p>An Act prescribing the Intellectual Property Code and establishing the Intellectual Property Office, providing for its powers and functions.</p>	1997	<p>Bureau of Patents, Trademarks and Technology Transfer (BPTTT) Department of Trade and Industry</p> <p>NOTE: BPTTT has been abolished. All matters are referred to the Intellectual Property Office IPO Bulding 351 Gil Puyat Avenue Makati City</p>	<p>Marilou B. Ilacio Librarian Intellectual Property Office</p> <p>Tel: (632) 752-5450 loc. 205 Fax: (632) 897-1724</p> <p>Email: marilou.ilacio@ipo.phil.gov.ph</p>
2	<p>Manual of Substantive Examination Practice</p> <p>A comprehensive reference guide on matters of patent law and interpretation. It gives instructions as to the practice and procedure to be followed in the various aspects of the substantive examination of Philippine patent applications in accordance with R.A. 8293.</p>	2002	<p>Bureau of Patents Intellectual Property Office IPO Building 351 Senator Gil J. Puyat Avenue, Makati City</p>	<p>Engr. Epifanio M. Evasco Director Bureau of Patents Intellectual Property Office</p> <p>Tel/Fax: (632) 897 1737</p> <p>Email: epifanio.evasco@ipophil.gov.ph</p>
3	<p>Report of the Director General : Breaking Barriers, Facing Challenges, Creating Opportunities Through the Years</p> <p>Final Report by Emma C. Francisco, Director General (1998-2004) that highlights the major accomplishments of IPO then under the Office of the President of the Philippines, the 2005 work plan and the 5-year Information Systems Strategic Plan.</p>	2004	<p>Intellectual Property Office IPO Building 351 Senator Gil J. Puyat Avenue, Makati City</p>	<p>Maria Elena R. Obrero IPRS 4, Assistant Chief Technology Transfer Registry Division Intellectual Property Office</p> <p>Tel: (632) 752-5450 loc. 204 Fax: (632) 897-1724</p> <p>Email: elena.obrero@ipophil.gov.ph</p>

4	<p>Decisions and Final Orders Rendered by the Director General: 2000 – June 2004</p> <p>A compilation of decisions and final orders from 2000 to June 2004 rendered by Emma C. Francisco, IPO Director General (1998-2004) on <i>inter partes</i> cases and complaints of violations of IPR</p> <p>(NOTE: Decisions from July – December 2004 in <i>inter partes</i> cases, IPR violation complaints, and settlement of disputes involving copyright) not included in the book but available as separate documents.</p>	2004	Intellectual Property Office IPO Building 351 Senator Gil J. Puyat Avenue, Makati City	<p>Engr. Rolando B. Saquilabon Assistant Director Documentation, Information and Technology Transfer Bureau</p> <p>Intellectual Property Office</p> <p>Tel: (632) 752-5450 loc. 202 Fax: (632) 897-1724</p> <p>Email: rolando.squilabon@ipophil.gov.ph</p>
5	<p>Intellectual Property Office Official Gazette Volumes I to VIII</p> <p>The Official Gazette contains all information regarding Intellectual Property matters. (<i>e.g. publication of patent applications, granted patents, registered UM/ID, permitted trademarks for opposition, registered trademarks, notices of lapsed patents, cancellation orders, notices of non-payment of annuities, etc.</i>)</p>	1998 to 2005	Intellectual Property Office Department of Trade and Industry 351 Senator Gil J. Puyat Avenue, Makati City	<p>Marilou B. Ilacio Librarian Intellectual Property Office Tel: (632) 752-5450 loc. 205 Fax: (632) 897-1724 Email: marilou.ilacio@ipophil.gov.ph</p>
6	<p>Intellectual Property Office Official Gazette Volume II No. 1</p> <p>Includes the Implementing Rules and Regulations on (1) Trademarks, Service Marks, Trade Names, and marked or Stamped Containers; (2) Voluntary Licensing; (3) Dispute Settlement; (3) <i>inter partes</i> Proceedings; (4) Administrative Complaints for Violation of Laws involving IPR; (5) Utility Models and Industrial Designs; and (6) Inventions.</p>	1999	Intellectual Property Office Department of Trade and Industry 351 Senator Gil J. Puyat Avenue, Makati City	<p>Marilou B. Ilacio Librarian Intellectual Property Office</p> <p>Tel: (632) 752-5450 loc. 205 Fax: (632) 897-1724</p> <p>Email: marilou.ilacio@ipophil.gov.ph</p>

7	<p>Bureau of Patents, Trademarks and Technology Transfer Official Gazette Volumes I to X</p> <p>The Official Gazette contains all information regarding Intellectual Property matters. (<i>e.g. publication of granted patents for Inventions, Utility Models, Industrial Designs, permitted trademarks for opposition, registered trademarks, notices of lapsed patents, cancellation orders, notices of non-payment of annuities, etc.</i>)</p>	1988 to 1997	<p>Bureau of Patents, Trademarks and Technology Transfer Department of Trade & Industry NOTE: BPTTT has been abolished. All matters are referred to the Intellectual Property Office IPO Bulding 351 Gil Puyat Avenue Makati City</p>	<p>Marilou B. Ilacio Librarian Intellectual Property Office</p> <p>Tel: (632) 752-5450 loc. 205 Fax: (632) 897-1724</p> <p>Email: marilou.ilacio@ipophil.gov.ph</p>
8	<p>www.ipophil.gov.ph/tmgazette</p> <p>The IPO E-gazette for Trademarks contains registered trademarks and applications published for opposition. Official signs, emblems, logos, insignia of both local and foreign government institutions are also published here.</p>	2004 to 2005	<p>Intellectual Property Office Department of Trade and Industry 351 Senator Gil J. Puyat Avenue, Makati City</p>	<p>Pee Cunanan Information Officer III Publication Division, AFHRDSB Intellectual Property Office</p> <p>Tel: (632) 752-5450 loc. 108 Fax: (632)</p> <p>Email: socorro.cunanan@ipophil.gov.ph</p>
9	<p>Intellectual Property Office 1998-1999</p> <p>Report covering the years 1998-1999: highlights major accomplishments, statistics on inventions, trademarks, utility models and industrial designs</p>	2000	<p>Intellectual Property Office Department of Trade and Industry 351 Senator Gil J. Puyat Avenue, Makati City</p>	<p>Marilou B. Ilacio Librarian Intellectual Property Office Tel: (632) 752-5450 loc. 205 Fax: (632) 897-1724 Email: marilou.ilacio@ipophil.gov.ph</p>

10	<p>2000 & Beyond: Riding the Tides of Change</p> <p>Report covering the years 2000-2001: highlighting major accomplishments, statistics on inventions, trademarks, utility models and industrial designs, procedures with schematic diagrams on filing of applications for patents, trademarks, technology transfer, <i>inter partes</i> cases and complaints of IP violations</p>	2001	<p>Intellectual Property Office Department of Trade and Industry 351 Senator Gil J. Puyat Avenue, Makati City</p>	<p>Marilou B. Ilacio Librarian Intellectual Property Office</p> <p>Tel: (632) 752-5450 loc. 205 Fax: (632) 897-1724</p> <p>Email: marilou.ilacio@ipo.ph</p>
11	<p>Intellectual Property Office 2002 Annual Report</p> <p>Report covering the year 2002 : highlights major accomplishments, statistics on inventions, trademarks, utility models and industrial designs, procedures with schematic diagrams on filing of applications for patents, trademarks, technology transfer, <i>inter partes</i> cases and complaints of IP violations</p>	2003	<p>Intellectual Property Office Department of Trade and Industry 351 Senator Gil J. Puyat Avenue, Makati City</p>	<p>Marilou B. Ilacio Librarian Intellectual Property Office</p> <p>Tel: (632) 752-5450 loc. 205 Fax: (632) 897-1724</p> <p>Email: marilou.ilacio@ipo.ph</p>
12	<p>2003 Annual Report: Intellectual Property Office</p> <p>Report covering the year 2003 : highlights major accomplishments, statistics on inventions, trademarks, utility models an industrial designs, procedures with schematic diagrams on filing of applications for patents, trademarks, technology transfer, <i>inter partes</i> cases and complaints of IP violations</p>	2004	<p>Intellectual Property Office Department of Trade and Industry 351 Senator Gil J. Puyat Avenue, Makati City</p>	<p>Marilou B. Ilacio Librarian Intellectual Property Office</p> <p>Tel: (632) 752-5450 loc. 205 Fax: (632) 897-1724</p> <p>Email: marilou.ilacio@ipo.ph</p>

13	<p>Republic Act No. 166: Rules of Practice in Trademark Cases</p> <p>The material contains all the amendments to the Rules and to R.A. 166, otherwise known as the Philippine Trademarks Law.</p> <p>NOTE : R.A. 166 has been repealed by Republic Act No 8293 (Intellectual Property Code of the Philippines)</p>	1993	<p>Bureau of Patents, Trademarks and Technology Transfer (BPTTT) Department of Trade and Industry NOTE: BPTTT has been abolished. All matters are referred to Intellectual Property Office IPO Bulding 351 Gil Puyat Avenue Makati City</p>	<p>Marilou B. Ilacio Librarian Intellectual Property Office</p> <p>Tel: (632) 752-5450 loc. 205 Fax: (632) 897-1724</p> <p>Email: marilou.ilacio@ipo.ph</p>
14	<p>Republic Act No. 165: Rules of Practice in Patent Cases</p> <p>The material contains significant amendments to the Rules and to R.A. 165, otherwise known as the Philippine Patent Law. NOTE : R.A. 165 was repealed by Republic Act No. 8293 (Intellectual Property Code of the Philippines)</p>	1993	<p>Bureau of Patents, Trademarks and Technology Transfer (BPTTT) Department of Trade and Industry NOTE: BPTTT has been abolished. All matters are referred to the Intellectual Property Office IPO Bulding 351 Gil Puyat Avenue Makati City</p>	<p>Marilou B. Ilacio Librarian Intellectual Property Office</p> <p>Tel: (632) 752-5450 loc. 205 Fax: (632) 897-1724</p> <p>Email: marilou.ilacio@ipo.ph</p>
15	<p>Getting Ahead With IP</p> <p>A publication intended to encourage Small and Medium-Sized Enterprises (SMEs) to protect their intellectual property assets</p>	2004	<p>Intellectual Property Office IPO Building 351 Senator Gil J. Puyat Avenue, Makati City</p>	<p>Marilou B. Ilacio Librarian Intellectual Property Office</p> <p>Tel: (632) 752-5450 loc. 205 Fax: (632) 897-1724 Email: marilou.ilacio@ipo.ph</p>

PART I (B)

General Overviews of Items (A) – (F)

This is a general description concerning the overall status of implementation and achievements in the Philippines in the areas covered by the project of the World Intellectual Property Organization: “*Compilation of Manuals, Guidelines and Directories Customized for ASEAN Member Countries*”, namely:

- (A) *how to commercialize inventions*
- (B) *how to profit from original industrial designs*
- (C) *contribution of trademarks to business development*
- (D) *contribution of copyright*
- (E) *valuation and assessment of IP rights in business enterprises*
- (F) *access to capital based on IP assets-financial schemes (loans, grants) by government institutions and private capital*

Business in the Philippines shows a growing appreciation of the advantages provided by intellectual property rights: creation, protection, registration, commercialization, technology transfer, licensing, franchising, and enforcement.

The appreciation, however, does not mean full understanding of IPR at the outset.

Typically, the strategic use of IPR in business is a result of certain financial results that are more readily seen to be coming from research and development programs. The realization that “some” IPR exist comes much later, perhaps due to the impact of certain factors (for example, imitation of a company’s product, or attempts by a company’s competitors to undermine its efforts to secure patent protection) on the financial performance of the company as a whole or of a particular product or product line.

The desire to further enhance revenues gives rise to improved packaging. This, in turn, leads to branding. At this point, awareness of the need to create a trademark or logo becomes real. Hence, awareness of “some” IPR in trademark arises.

The motivation, associated with increased revenues, to conquer the market or a significant segment of the market, precipitates advertising in different media. A sense of ownership over the advertising materials manifests itself which, in turn, awakens a strong desire to obtain exclusive rights and to protect those exclusive rights over the materials. Hence the awareness of copyright.

Once experience shows that good results in the financial statements of a company come from IPR, there is a shift either to include IP as a strategy in a business plan or a slower, more calculated move to incorporate IPR in the company's business plan.

The foregoing is a general description of IPR in business which does not apply to those that have observed how local and foreign companies maximize profits and who have realized how other companies have relied on IPR for their growth. Hence, in this small group, IPR was a business strategy from the outset.

Government agencies charged with enhancement of the business environment as well as academic institutions have varying levels of awareness of IPR, its nature and uses. Financial institutions seem to have the lowest level of awareness of IPR.

The Department of Science and Technology (DOST) is the government agency with the most advanced knowledge of IPR and, accordingly, implements programs that provide technical and financial assistance for research and development as well as the creation, acquisition, and commercialization of IPR.

The University of the Philippines-Diliman's Office of the Vice – Chancellor for Research and Development (UP-OVCRD) implements programs similar to those of the Department of Science and Technology, primarily benefiting its faculty, staff and students.

For both DOST and UP-OVCRD, commercialization of IPR involves finding a business partner from the private sector or matching their existing IPR with a private company's needs.

Valuation and assessment of IP rights in business enterprises is not a regular practice. Valuation is sought usually only in relation to an application to take up financial programs, loans or grants. However, such programs are scarce. For example, the Senior Vice-President of the Development Bank of the Philippines said that the Bank "had a special financing window for small borrowers including Filipino inventors. The bank utilized its own funds for lending to inventors upon endorsement by the Department of Science and Technology (DOST). A number of borrowers were granted loans under the program. Some had fully settled their loans while others failed to pay due to high cost of research and development of the project aggravated by lack of skills in business management by the owner." Mr. Reynes also said that "(today, the DOST Financing Facility is no longer available. But the DBP has continued partnership with DOST on other programs such as the Sustainable Partnership for Energizing Entrepreneurship Development (SPEED) which is in support of the micro, small, & medium entrepreneurs; and the DBP Forest Program for the environment in which they would apply the appropriate technology to convert the harvests into products that might be possible sources of livelihood. In general, the Bank prioritizes projects that have greater impact on national development such as employment generation, environment protection, and energy conservation."

Persons dealing with IPR can readily see that these rights are largely present in these priority areas although the Bank does not see them in that light. In the words of the DBP's Senior Vice-President: "we believe, our present dealings with Department of Science & Technology (DOST) have nothing to do with Intellectual Property".

PART II (B) : SUCCESS STORIES

Country: Philippines

Case Study 1



NATURES LEGACY EXIMPORT, INC.

Rising Above Competition Through Innovation And Originality

TYPE OF INTELLECTUAL PROPERTY CONCERNED

Natures Legacy Eximport, Inc. is a company which values innovation and originality as forces that attract buyers. Lead to product innovation and original designs which have enabled Natures Legacy™ to rise above the competition. Natures Legacy™ seeks strategic protection for its innovations and original designs using different types of intellectual property, namely: invention, utility models, industrial designs, trademarks, and copyright.

COMPANY BACKGROUND

Natures Legacy Eximport, Inc. was founded in 1996 by Pedro and Catherine Delantar in Cebu, Philippines. It had four members of staff including the Delantars themselves. As the demand for their products increased, the company grew from a small-scale business in 1996 to a full-grown manufacturing firm with 120 direct employees in 2005 (excluding satellite workers in different areas such as through sub-contracts).

Natures Legacy™ manufactures home furnishings and accessories, architectural components, and garden articles made from cast stone and cast wood (from agri-forest waste), that are exported to Europe, USA, the Middle East, and Asia. With its innovative products and creative designs continually gaining support in the export market, the company continues exploiting intellectual property (IP) as a business strategy. This has earned Natures Legacy™ several citations and awards such as the Manila FAME Katha for Product Design and Material Innovation, Environment Preferable Products (EPP) & Recycled Content Products Trade Show Most Creative Award sponsored and organized by California Integrated Waste Board, Philippine Golden Shell Awards for Manufacturing Excellence and Design Excellence, and California City Government Citation for Material Innovation.



Pedro and Catherine Delantar

East,
designs
as a
several
Awards
(RCP)

Prior to setting up Natures Legacy™ in 1996, the Delantars were already engaged in the stone-craft business from 1993. At that time, they produced hand-carved natural stones using mostly Mactan stone – an indigenous stone found in quantity in Mactan, Cebu. Product designs were intricate, inspired by the art of Ancient Greece. Hand carving the artwork was a very tedious process, and the quality of the products was not consistent as they depended entirely on the skill of the carvers. Mass production of quality products was therefore limited.

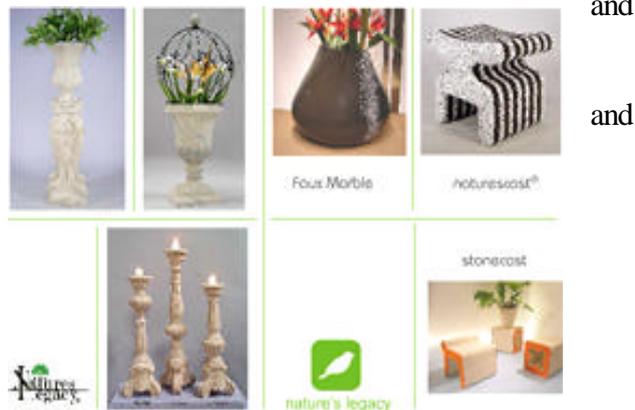
Intent on expanding their production capacity, the Delantars decided to use a cast stone process to mass produce their original stone-craft designs. At that time, cast stone was produced using a traditional process whereby sand, cement and water were mixed homogeneously and poured into a waxed mold, and allowed to cure for days at ambient temperature. The products made by such a method were quite heavy and not as durable as the products carved from natural stone. And worse, they did not look like Mactan stone at all!

The Delantars found that using the traditional method of stone-crafting did not really give them an edge in the market because competitors were already offering the same thing. In short, their initial business did not prosper because it relied solely on conventional methods for casting stone that failed to simulate the characteristics of natural Mactan stone.

The Delantars realized that if they had nothing new to offer, they could not compete with the more established exporters. Thus, Natures Legacy™ was established with the objective of bringing new products and processes into the industry which could be identified as different from those of their competitors.

After tedious experiments, Natures Legacy™ came up with a new product and process that successfully simulated Mactan stone. This product looks and feels like Mactan stone, but is very much lighter and even more durable!

As a company strategy, Natures Legacy™ acquired IP registrations with the Intellectual Property Office of the Philippines for all its innovative products and processes. It also has 26 patent registrations in the invention utility model categories and several patent applications the pending in the major export markets, primarily U.S.A and Europe. Natures Legacy™ has obtained Philippine copyright registrations for its original product designs.



In 1999, Natures Legacy™ had a turnover of PhP 29 million. In 2002, its sales revenue increased 228% (PhP 95 million). However, in 2003, this fell when the market became saturated with products similar to those which Natures Legacy™ had introduced.

To protect itself from further losses, Natures Legacy™ filed IP cases with the Philippine courts which sought immediate resolution. While waiting for the outcome of the IP cases, Natures Legacy™ continued to make further innovation to maintain its lead over its competitors. Believing that the use of IPR makes a difference in a growing company like Natures Legacy™, the Delantars look forward to a business environment where IP rights are truly and fully respected and protected.

DEVELOPMENT AND USE OF IP AS BUSINESS STRATEGY

Creating an IP Portfolio

Natures Legacy™ embarked on extensive research and development (R&D) activities in 1997. The initial objective was to come up with a cast stone product that simulates Mactan stone – an off-white fossilized natural stone that has a rough texture characterized by random cracks and interstices. Furthermore, the simulated cast stone should be light, durable, capable of mass production, easy to cast, and cost effective - without compromising consistency, quality, appearance and other characteristics of natural Mactan stone.

A light product would mean greater flexibility in producing items of larger size. A durable product would protect from unwanted and costly breakages during transport. Further, with easy-to-cast materials, the company would be in a better position to produce new designs and more functional products. Mass production would ensure timely delivery of orders while cost effective methods would increase profitability. In addition, the abundance of raw materials was considered as a major factor in ensuring sustainability of production.

Initially, all of these factors were adopted as major criteria put on the drawing board by Natures Legacy™ in their research and development activities. Guided by these criteria, Natures Legacy™ was finally able to create a simulated cast stone product that resembled Mactan stone using calcium carbonate as the main component admixed with resin as a binder. In the beginning, there were five variants registered as invention patents and utility models in 1999.

The patented products were indeed superior to the traditional products! Thus, Natures Legacy™ was able to capture the export market for Mactan stone-based products. Natures Legacy™'s new range of cast stone products was a big hit in export markets such as the U.S.A, Europe, the Middle East and some Asian countries.



However, Natures Legacy™'s first market success was damaged by unfair competition. Unscrupulous competitors started copying the new products resulting in a number of IP cases which are still pending resolution in Filipino courts. Although the pirates affected the sales and revenue of the first batch of its cast stone products, Natures Legacy™ kept on inventing and producing more new products.

After the first set of inventions and innovations, Natures Legacy™ re-invested part of the revenue generated from previous IPR into further research and development activities to sustain the development of new products and processes, a strategy that provided the company with a competitive advantage over its competitors. Thus, Natures Legacy™ was able to come up with over twenty innovations out of the five initial invention patents and utility models.



As Natures Legacy™ continued its search for and formulation of better products, in 2003 it created another revolutionary product utilizing non-stone materials. This new category of product innovation was conceptualized by the Delantars in 2002 when they were clearing the grounds of their factory of twigs, branches, cut grass and shrubs. Instead of burning these waste materials, the Delantars decided to convert them into environmentally-friendly products. They branded the new products Naturescast™, a trademark now registered in the U.S.A, with registration pending in the Philippines.

The prospects for the future are overwhelming. The material is environmentally-friendly and has diverse applications including for home and garden accessories as well as architectural components. Natures Legacy™ has registered this new category of product for patent protection in the Philippines and other countries. The company is now actively promoting this product line using the brand name Naturescast™.

IP Enforcement as Part of Business Strategy

In 1999, given meager resources and logistics to enforce its IP rights against infringers, Natures Legacy™ managed to issue warnings and notices but these were ineffective against infringement.

Natures Legacy™ missed the opportunity to fully experience and enjoy the monopoly supposedly afforded them by their IPR because of imitators.

However, this unfortunate experience that Natures Legacy™ had with its initial patented/registered products did not discourage the Delantars from moving forward. Instead of shying away from IP issues, Natures Legacy™ vigorously pursued its IPR violators and even allocated a larger budget for IP enforcement.

From 1999 to 2002, Natures Legacy™ devoted part of its revenue to funding IP enforcement activities. By 2003, the Delantars had acquired the resources and logistics to bring cases to court against companies that were blatantly producing and selling patented cast stone products in violation of Natures Legacy™'s patents.

The Delantars believe that a patent has real value only if it can be enforced.

According to the Delantars, if the IP system works in developed countries, there is no reason why it cannot work in the Philippines. Thus, despite the difficulties encountered, Natures Legacy™ vows to continue protecting and enforcing its IPR and gain the respect it deserves for its IP creations.

Obtaining Patent Protections in Other Countries

In 2003, as part of its IP strategy, Natures Legacy™ expanded its IP protection initiatives to major markets such as the U.S.A and Europe. The company realized that obtaining patent protection in the marketplace is as important as obtaining patent protection in the production place. By acquiring IP protection in the marketplace, a company like Natures Legacy™ can exercise better leverage and control against infringing products, regardless of their origin.

Recently, Natures Legacy™ used the Patent Cooperation Treaty (PCT) system as a cost-effective means for filing its patent applications in major export markets. Since the Philippines became a member of the PCT in 2002, Natures Legacy™ has filed four patent applications through the PCT. Natures Legacy™ finds the PCT International Search Report a very useful tool in deciding whether or not to proceed with the national phase entry. With the PCT International Search Report, Natures Legacy™ was able to pursue its PCT applications selectively and economically in PCT member countries where its products are marketed.

Licensing as a Business Strategy

Recently, Natures Legacy™ started to offer some of its IPR for sale or licensing. A number of local and foreign companies have shown interest in forging licensing arrangements with Natures Legacy™ covering some of its patented products.

On this aspect, as long as its interests are not prejudiced, Natures Legacy™ continues to pursue an open-license policy in order to maximize IP commercialization. The company is now selling some of its IPR and part of the sale proceeds will be used to fund its IP-related activities.

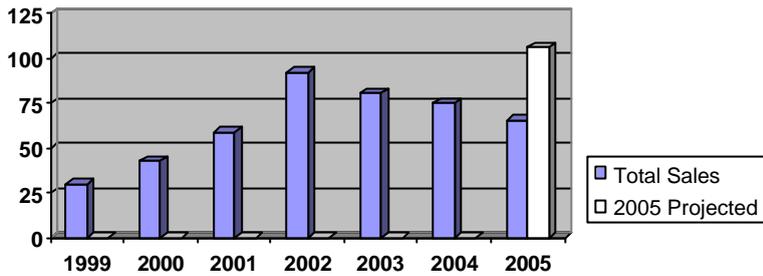
IMPACT ON PRODUCTIVITY

In 1998, when Natures Legacy™ exhibited its innovative products for the first time at a trade fair, interested buyers submitted their sample orders in bulk. This opportunity demonstrated market impact and success for the promising new products that were introduced to the market for the first time. The first year proved to be rewarding as Natures Legacy™ generated PhP 29M from sample orders alone. With the quantity of sample orders, Natures Legacy™ was very confident that the new product would establish and sustain its hold on the market. Natures Legacy™ was able to increase its production in the second and subsequent years. In 2002, the company was able to sell PhP 95M worth of

cast stone products covered by its patents. The revenues would have been higher had the market not been flooded with imitations and infringing products!

FINANCIAL PERFORMANCE

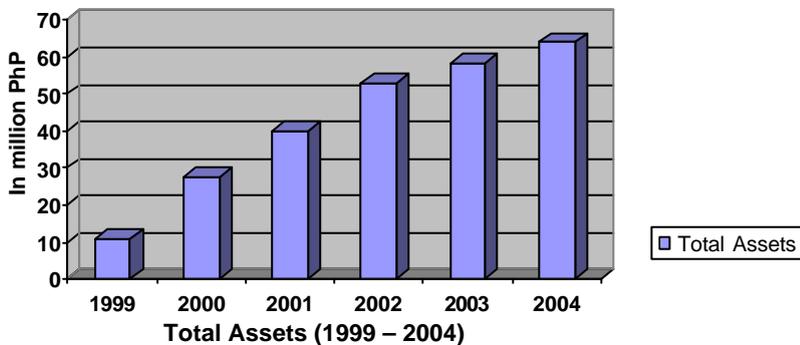
The impact of IP protection on the company’s financial performance is seen in the following graphs.



Total Sales (1999 - 2005)

As shown in the above graph, it is expected that by the end of 2005, sales will reach over PhP 100M.

The incremental increase over the 2004 figure is attributed to the Naturescast™ invention. Every new product or creation enabled the company to regain market share and improve selling prices according to Mr. Delantar.



Total Assets (1999 - 2004)

Despite the declining sales revenue from 2002 to 2004, Natures Legacy™’s assets (shown in the above graph) increased over the same period. The

increase in assets was due to the acquisition of new equipment and expansion of facilities to support new product lines in Naturescast™. The company expects to see a rapid return on investment with Naturescast™ now enjoying a lead in the market in terms of share and price. The Delantars are optimistic that this trend will continue for the full term of the patent. In this aspect, strong IP enforcement plays a critical role in sustaining Natures Legacy™’s market lead.

Natures Legacy™ has survived competition not only because it was able, even to a limited extent, to enforce its IPR, but also because of its determination and perseverance to continue creating, inventing, and innovating. This strategy, which is anchored and founded on continuing IP-propelled product and process innovations, was adopted by Natures Legacy™ to



The Delantars showed their factory and products (inset) to Atty. Emma Francisco, former IPOPhil Director General (in black), and Engr. Rosella Fernandez, former Asst. Director of Bureau of Patents, IPOPhil (in red) in a plant visit

maintain and sustain its competitive advantage over its competitors. Through these innovations, it has become the market leader in this industry. Continuing innovation empowers and enables Natures Legacy™ to sustain this lead in terms of product trends and market direction.

To get away from the unhealthy price competition that was brought about by infiltration and violation of Natures Legacy™'s IPR, the company had to re-position itself in order to survive. Natures Legacy™ shifted to the high end of the market by producing large cast stone products through improved processes. Somehow Natures Legacy™ manages to keep on satisfying its buyers because of the original products the company it produces.

Natures Legacy™ has created a niche in the A & B market segments. With these target market segments, it came out with another patented high end product, different from cast stone which it called “cast marble”. The cast marble also became a hit and Natures Legacy™ now enjoys a market monopoly.

After the cast marble, Natures Legacy™ came out with its cast wood products made from agri-forest waste materials. This product is also the first of its kind. Natures Legacy™ has received various awards and citations for this new product category in the Philippines and the U.S.A. having learnt from its cast stone products, it has carefully positioned itself in the market by using the PCT system for patent protection in major markets.

Past experience has made Natures Legacy™ aware of the intricacies of IP enforcement and has prepared it to face future challenges to its IPR. It has now equipped itself with the resources to prevent and combat infringement and violation of its IPR.

Natures Legacy™ hopes that the IP cases it has filed will soon be resolved in its favor and that other industry players will be encouraged to develop and create their own products. A pro-patent policy and decision would greatly help promote IPR for the cases filed by Natures Legacy™, as an effective tool for national development.

Through innovation, Natures Legacy™ improved the production of quality products giving the company the competitive edge it needs in the highly competitive export-based handicraft industry in the Philippines and the Asian region.

On the whole, Natures Legacy™ any company can overtake its through IP-propelled product and creations that are protected by a system where IP creations are valued, and encouraged.



believes that competitors innovations strong IP respected,

Case Study 2



Title:

SPLASH CORPORATION *A Company Thriving On Continuous Innovation And Product Differentiation*

Type of Intellectual Property Used:

Splash Corporation is one of the few Filipino companies that actively uses the IP system to strengthen its business and market position. It has applications for and has acquired multiple IP rights in the field of industrial property, namely, invention, utility model, design and trademark worldwide. It has a copyright for every original slogan and all advertising materials it uses in promoting its products.

Background:

From Backyard to Big League

Armed with a strong entrepreneurial spirit, Dr. Rolando Hortaleza M.D. and his wife, Dr. Rosalinda Ang Hortaleza M.D., started a small-scale business operation that repackaged ordinary acetone, cold wave lotion and cuticle removers in 1985. The company's name was RBH Cosmetics. It had employees: Dr. Rolando Hortaleza, Dra. Hortaleza and one assistant. Dr. Hortaleza and assistant were in charge of production while Dr. Hortaleza acted as the one-woman accounting department. As the demand for their products had to hire more people. RBH Cosmetics later Splash Cosmetics and then Splash Manufacturing Corporation. It is now Splash Corporation with close to 400 employees.



Drs. Rolando and Rosalinda Hortaleza

three
Rosalinda
the
Rosalinda
grew, they
became

The couple's flair for innovation started in 1987 when they repackaged hairspray to eliminate the use of expensive aerosol cans used in imported hairsprays. Out of this simple but innovative idea, they started selling hairspray formulations in amber bottles which consumers could then transfer into cheap reusable plastic squeeze-spray containers. Since their hairspray formulation was of the same quality as the imported and more expensive aerosol hairsprays, the C&D market provided a positive response. With this seemingly simple innovation, Splash tasted its first PhP 1M in revenue.

Inspired by the
another pioneering
based facial cleanser.



outcome of the first innovation, Splash launched product in 1988—the Philippines' first fruit-based. The new astringent formula was a milder but

equally effective facial cleanser with a moisturizing and natural healing effect because it is based on natural ingredients. Splash began making waves in the market with its new facial cleanser in avocado and cucumber variants which were sold under the brand name Extract™. With this innovation, Splash reached sales of PhP 40M in 1989 and rose to No. 2 in the market, threatening the position of the long-established foreign-owned astringent brands. By then Splash had already seen the importance of product innovation and differentiation and thus began setting aside a certain sum for research and development as well as for development of its brands.

However, Splash overlooked the importance of protecting its new product formulation.

Not having an IPR protection for the fruit-based astringent, the product was easily copied. Splash's momentary leadership in the astringent market lasted for only two years. Thus, shortly after tasting success from its second invention, Splash lost its novelty as competitors started making and selling similar products.

In retrospect, Splash could have enjoyed its market position for a longer period had it acquired IP protection in either the invention or the utility model categories for its innovative formulation of the first fruit-based facial cleanser in the Philippines. The lack of appropriate IP protection prevented Splash from erecting an effective barrier against competition and it lost its momentum for the Extract™ facial cleanser.

The Hortalezas were not daunted. Imbued with a crusading spirit, Splash developed another innovative product that changed the facial market forever. In 1991, at the time when the astringent market was considered to be in decline, launched Extraderm™ exfoliant. The market accepted the product because of the wonders it on the skin. Extraderm™ was, and still is, effective controlling pimples and smoothing the skin by the scars left by pimples. It also worked to slough off dead skin cells, peel the rough outer layer, lighten the skin, treat acne, and prevent skin ageing.



care
Splash
eagerly
worked
in
hiding

With the lessons learned from the Extract™ innovation, Splash, did not waste time in acquiring a utility model patent for the Extraderm™ exfoliant. The company also obtained a trademark registration for its brand name “Extraderm™” which became a by-word in the C&D market, the highest percentage of consumers in the Philippines for skin care products. This product brought in the first PhP 1B revenues for Splash in 1996.

The patent Splash acquired for Extraderm™ protected the company from its competitors and enabled it to earn the resources to fortify its position in the industry. Henceforth, after years of continued acceptance by the market, Extraderm™ catapulted Splash to a respectable place in the personal care industry. Splash has therefore created an entirely new market category—that of exfoliants.

Extraderm™ is indeed one of the successful brands that has earned Splash the recognition it deserves by being the first Filipino-owned company with the passion to create and offer innovative and quality products in the personal and beauty care industry – an industry once dominated by large global companies.



There was no turning back. After Extraderm™, Splash continued to launch innovative products under its brand name as Maxipeel™, Skin White™, Biolink™ and other brands such as Tricks™, Control™, Kolours™, Deowhite™, Hiyas™, and Cover & Clean™. Each product has its own success story.

In 1996, Splash became one of the top 1000 corporations in the Philippines. With the continuing flow of innovative products, Splash joined the top 300 Philippine corporations in 2004.

In twenty years, the once backyard business grew into a conglomerate of companies which caters not only to the Filipino market but also to other consumers across the globe. In June 1998, Splash International Inc. was established in order to lay the groundwork for new markets in other countries. One of its strategic steps is to obtain IP protection for its products in these countries. Splash has applied for patents and trademarks in 17 countries as a pro-active strategy to back-up its globalization plans and related activities.

In 2000, Splash established PT Splash Indonesia as a joint venture with a local group with majority shares being owned by Splash Corporation. The Indonesian experience was replicated in other countries. Splash products are now marketed in Southeast Asia and the Middle East.

Splash has laid the foundations in preparation for its plan to enter the global market aggressively. “Why hide from globalization? We are not waiting for competitors to come to us, we are going after them”, challenges Dr. Hortaleza.

Splash aims to create a new awareness for Filipino products among foreigners. The tag line “Made in the Philippines” is not just about handicraft items or dried mangoes anymore. Splash made sure that the Philippines had other products to offer by identifying them through trademarks directly associated with Splash Corporation.

Development and Use of IP in Business Strategy

Splash’s speedy rise to the top in the personal care industry is mainly attributable to its being a consumer-driven company based on innovation and product differentiation. Quality was a given from the start. And since they knew they could not compete on price, Splash focused on quality and differentiation as the backbone of their competitive advantage.

In the Philippines, the personal and beauty care industry used to be dominated by multinational companies until Splash Corporation dared to do what seemed to be impossible – compete with the multinationals through innovation.

True enough, Splash Corporation has successfully joined their ranks through product innovation.

According to Dr. Hortaleza, product innovation need not be radical breakthroughs that require substantial investments in time and money; these can be pioneering products or incremental refinements that improve product performance in ways that consumers value.

In Splash, patented innovation is valued as an intangible asset that continues to help create tangible economic value. From their experience, a successful patented product can give the company

breathing space to keep it away from competition and mutually-destructive price wars. The temporary monopoly Splash enjoys through its patents enables the company to build up the resources necessary for brand building, and to develop the muscle to expand and modernize in order to keep the flow of innovation going and to sustain growth.



Dr. Hortaleza (right) relates the IP strategy of the company to Atty. Emma Francisco, former Director General of IPOPhil (center), and Engr. Rosella Fernandez, former Asst. Director of Patents, IPOPhil (left).

Splash uses patents as a temporary but powerful protection from competitors. This is extended through branding and brand management. Splash believes that branding creates recall of an innovative product. Splash develops brands that are easily identifiable with the product to achieve an effective barrier against late entrants. Brands can exist forever as long as the product does not lose its importance or does not become obsolete.

Product innovation and brand management are therefore inseparable. One cannot stand alone. One cannot be successful without the other. It is for this reason that Splash builds on the dual platforms of product innovation and strong brand management.

Part of the profits collected from patented and branded products are set aside to finance research and development of new products and for the creation of new brands that will introduce a new product to the market.

In 2003, Splash built a modern research and development facility called Splash Research Institute (SRI) whose task is the unremitting search for new sources of value that would satisfy the rapidly growing needs of the personal care and nutraceutical industry. For this, Splash employs cutting-edge technology. The facility has interdependent departments whose energies are directed towards creating breakthrough products. It is equipped with state-of-the-art facilities to ensure that research and development activities are carried out according to internationally-accepted



scientific and technical standards. While Splash has thrived on improvement patents in the past, it looks forward to creating breakthroughs in the field of health, beauty and personal care. Splash Research Institute underscores the commitment of Splash to research and development as the motor for its growth.

Indeed, the importance of IP registration cannot be ignored in the industries where Splash operates. Even in the area of packaging, Splash has a creative team that combines beauty and function in each packaging design. Splash has already acquired design patents for some of its packaging designs.

Splash is prudent in all things. But when it comes to IP creation and acquisition of rights, the company sets no limits. For example, according to Dr. Hortaleza, 2004 records will show that Splash allocated around PhP 10M for IP acquisition alone. However, he does not mind spending more than that if the innovation is revolutionary and has a great market potential.

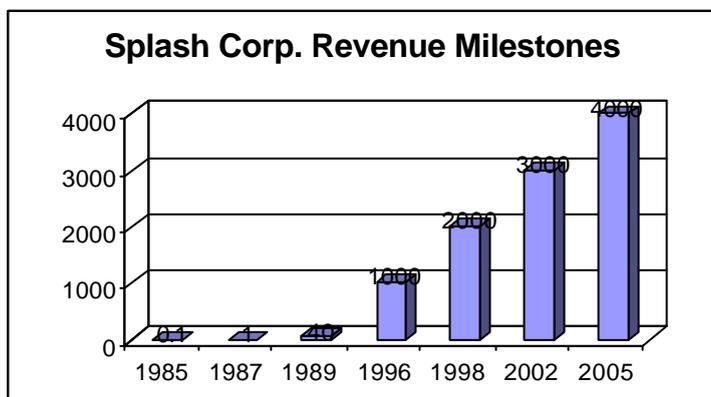
In Splash, innovation and product differentiation is a vital business strategy. Hence, acquiring IP protection is a must for every product innovation.

Impact on Productivity

The success of Extraderm™ has made the greatest impact on the growth of Splash such that the growth of the company can be divided into two periods, that is, BE which means Before Extraderm™ and AE which means After Extraderm™.

The graph below shows the phenomenal growth of Splash Corporation in almost twenty years of existence from 1985 to 2004. 1985 – 1991 is said to be the BE period and 1992 onwards is what they call the AE period. Although the first billion sales came later in 1996, the years 1992 -1995 were when Splash was able to earn sufficient resources to expand the business which catapulted the company to the top 1000 corporation in 1996 when it reached one billion pesos in sales revenue.

“We were successful in building a brand, we established loyalty”, says Dr. Hortaleza. “If millions started pouring in because of our innovative hairspray, the billions came in because of Extraderm™. That really made us,” admits Dr. Hortaleza. “We became one of the Top 1,000 corporations, then we made it to the Top 300,” he added.



With Extraderm™, Splash has successfully broken the glass ceiling, so to speak, which prevented Filipinos from making their mark in the cosmetics industry - an industry which used to be dominated by foreign and/or imported products before Extraderm™.

The brand made its mark because the product has something different, something new, to offer. Behind the brand is a utility-model patent for the new formulation. With the utility model, Splash was able to enjoy a monopoly for a longer period than it had with Extract™.

From the day Extraderm™ exfoliant was launched in 1991, sales consistently rose, driven only by word-of-mouth coming from superior product performance and because the product was entirely new. Splash was thereby able to create a new market and to work in it exclusively because of IPR.

Freed from attacks by competitors and counterfeiting, Splash quickly gained market dominance and, accordingly widened the gap which separated it from its competitors. For five consecutive years from 1991, Splash grew 60% annually, largely because of Extraderm™. The product not only stunned the competition, it kept them at bay because of the utility model patent, which placed Extraderm™ in a new category – the exfoliant category.

With the success of Extraderm™, Splash realized the power of the IP system – patents and trademarks especially. Superior branding coupled with innovation is instrumental to enjoying a phenomenal rise in sales.

After Extraderm™, Splash created Maxipeel™ as part of its market segmentation strategy aimed at consolidating the company's hold on the exfoliant market. The formulation of



Maxipeel™ was more advanced than Extraderm™. Maxipeel™ is another successful brand which was rapidly accepted by the market. Splash, however, attributes the success of Maxipeel™ to Extraderm™. It believes that Extraderm™'s aura rubbed off on Maxipeel™. Today, the combination of Extraderm™ and Maxipeel™ covers 80% of the Filipino exfoliant market.

Riding the momentum, Splash came out with another innovative skin-whitening product series, once again faster and more effectively than its competitors. Again, Splash was able to position itself as the market leader in the beauty care industry in the Philippines. Whitening became a craze. Competition followed, but by the time it did, Splash already had a head start. Skin White™ is now the country's market leader in skin whitening.

The table below shows the market share of Splash's major brands as of 2004 and its overall market position. At 56.2%, Maxipeel™ has a greater share of the market than Extraderm™ which is at 23.1%. This is due to the market segmentation strategy and also partly due to the more advanced formulation of Maxipeel™.

Market Share of Splash's Major Brands

Major Brands	Market Share	Market Position
~ Maxi Peel (Exfoliant) ~ Extraderm (Exfoliant)	56.2 % 23.1 %	Dominate the exfoliant market
Skinwhite (Lotions)	27.2 %	No. 1 in the skin whitening lotion category
Biolink (Soap)	3.6 %	Strong contender in the whitening soap category

Period: Full Year 2004
Coverage: Total Philippines
Source: ACNielsen Retail Index

The Splash success stories are never-ending because the company ensures that the stream of IP-protected innovation continues. The company believes that one innovation can create a competitive advantage, but it is a stream of products that keeps the brand leader at the top as it reflects the continuously-changing needs of its consumers more effectively than its competitors.

PART I (A)

Listing of Manuals, Guidelines and Directories
in the Area of
Intellectual Property (IP) Portfolio Management

COUNTRY: SINGAPORE

No .	English Title + Brief Description of its Contents in less than 50 words	Year of Publication	Agency Responsible and Address	Contacts (Tel/Fax/email)
A. PATENT AND INVENTION RELATED				
1.	<p>Intellectual Property and Biological Resources: Perspectives on Contemporary Issues By drawing together the various strands of the debates in different legal sub-specialties—including patent law, international environmental law, indigenous rights, traditional knowledge, it is hoped that a more complete and balanced picture will emerge of the controversies surrounding the use of the intellectual property system in the commercial exploitation of bioorganic innovation.</p>	Oct 2004	<p>Marshall Cavendish International (Singapore) Private Limited Times Centre, 1 New Industrial Road, Singapore 536196</p>	<p>Catherine Tan Tel: (65) 6-213-9320 E-mail: catherinetan@sg.marshallcavendish.com</p> <p>Ivy Liew Tel: (65) 6-213-9493 E-mail: lvyliew@sg.marshallcavendish.com</p>
2.	<p>Singapore Precedents and Forms: Intellectual Property Law Contains succinct commentary on the law and with cross references to related precedents and form for easy reference. Offers practical and easy-to-follow pointers in the commentary to assist the user with the use of the precedents and forms. Providing a wide selection of precedents and forms on assignments, licensing, non-disclosure agreements, agency and distribution agreements which you can select and modify for various factual and situational permutations.</p>	2005	<p>LexisNexis Singapore 3 Killiney Road #08-08 Winsland House 1, Singapore 239519</p>	<p>Tel: 6733 1380 Fax: 6773 1719</p>
3.	<p>Butterworths' Singapore Statues – Intellectual Property (Patent Act/Computer Misuse Act: An Annotation)</p>	2001	<p>LexisNexis Singapore 3 Killiney Road #08-08 Winsland House 1, Singapore 239519</p>	<p>Tel: 6733 1380 Fax: 6773 1719</p>

4.	<p>Asia Intellectual Property Reports A comprehensive collection of reports of judgments (many previously unreported) on intellectual property law from Hong Kong, Malaysia, India, Philippines, Singapore and Thailand. Subjects include copyright, patents, trademarks, confidential information and passing off.</p>	1993 – 1996	<p>LexisNexis Singapore 3 Killiney Road #08-08 Winsland House 1, Singapore 239519</p>	<p>Tel: 6733 1380 Fax: 6773 1719</p>
5.	<p>Patent Protection Regimes This book covers one type of intellectual property: patents. Patent protection is jurisdictional, the rights associated with a patent being enforceable only in the country or region in which the patent is registered. To obtain patent protection, one would have to understand the procedures and meet requirements as mandated by the law of each country or region.</p> <p>The authors have written this book in the hope of assisting readers by providing a commentary together with an easy-to-navigate comparative table, highlighting key features of the patent systems of Australia, the European Patent Office, Japan, Malaysia, the United States and Singapore.</p>	2003	<p>LexisNexis Singapore 3 Killiney Road #08-08 Winsland House 1, Singapore 239519</p>	<p>Tel: 6733 1380 Fax: 6773 1719</p>
6.	<p>A Guide to Patent Law in Singapore This book aims to provide a practical guide to the patent system in Singapore. Apart from UK and Australian cases, the book also discusses decisions of Singapore courts, which have played an important role in the development of the law.</p>	2005	<p>Sweet & Maxwell 6 Battery Road #29-03 Singapore 049909</p>	<p>Patrick Tan Tel: 6333 0800 Fax: 6333 0900 Email: Patrick.Tan@thomson.com</p>

7.	<p>A Guide to protecting your ideas, inventions, trademarks and products (2nd Edition)</p> <p>Catherine Tay explains in simple language the basic principles of patents, trademarks, registered designs and copyrights. This book will guide general readers and professionals on how to protect their rights and the valuable rights that can be acquired under the law. Also includes an informative segment on the ways of exploiting personal patents, trademarks or copyrights for financial gains in the global market place.</p> <p><i>*an earlier edition published in 1997 is available.</i></p>	2002	<p>Times Edition by Marshall Cavendish</p> <p>Times Centre 1 New Industrial Road Singapore 536196</p>	<p>Tel: 65-6213 9300 Fax: 65-6285 4871 Email: tedcsd@sg.marshallcavendish.com</p>
8.	<p>Intellectual Property Law of East Asia</p> <p>After setting the stage with background chapters dealing with the role of intellectual property in the international marketplace, the basic concepts of intellectual property rights, and the role that they play in common business and commercial transactions, this book provides readers with a country-specific discussion of the laws and regulations relating to patents, copyrights, trademarks, and know-how. In addition, the book covers important related regulatory areas, including the laws relating to technology transfers and licensing agreements.</p>	1997	<p>Sweet & Maxwell</p> <p>6 Battery Road #29-03 Singapore 049909</p>	<p>Patrick Tan</p> <p>Tel: 6333 0800 Fax: 6333 0900 Email: Patrick.Tan@thomson.com</p>

9.	<p>Intellectual Property Law in Asia</p> <p>This is a country-by-country survey of the essentials of intellectual property law in the developed and developing nations of eastern and southern Asia. Separate chapters, each written by an authority or authorities in the law of the country he or she covers, clearly explain the intellectual property law regimes in China, Taiwan, Hong Kong, Macao, Japan, Korea, Vietnam, Singapore, Malaysia, Thailand, The Philippines, Indonesia, and India. Each country chapter focuses on the following issues:</p> <ul style="list-style-type: none"> - current legal instruments and applicable international treaties and agreements - crucial historical considerations - institutions - reform measures - patents, utility models, and designs - trademarks, appellations of origin, and domain names - unfair competition, passing-off, protection of well-known marks, and trade secrets - copyrights, including neighboring rights and database protection - licensing and technology transfer - enforcement procedures 	2003	<p>Kluwer Law International 7201 McKinney Circle Frederick, MD 21704</p>	<p>Tel: 1-800-234-1660 (within the U.S.) +1-301-698-7100 (outside the U.S.)</p>
10.	<p>Patents Infopack</p> <p>An infopack is a handbook that gives an overview of a form of IP including the application processes (where applicable). An online version of the publication is available at http://www.ipos.gov.sg.</p>	<p>Latest update March 2005</p>	<p>Intellectual Property Office of Singapore 51 Bras Basah Road #06-01 Plaza by the Park Singapore 189554</p>	<p>IPOS IPERC Tel: 6331 6571 Fax: 6331 6562 Email: ipos_iperc@ipos.gov.sg</p>

11.	<p>Intellectual Property and U.S. Relations with Indonesia, Malaysia, Singapore and Thailand</p> <p>That too-often-ambiguous commodity, intellectual property, was declared one of the primary goals of foreign economic policy in the mid-1980s by the United States. In the resulting tangle of economic politics and policies, issues of compliance, effectiveness, domestic pressures and foreign policy, and U.S. stature all arose. Intellectual property protection, as Uphoff claims, allows insight into both international trade policy and the economic costs and advantages of this process. Case studies focus on each of the ASEAN governments' decisions on how to respond to U.S. pressure over copyrights and patents. Research, based on existing publications and interviews with government officials and scholars is both timely and illuminating.</p>	1991	<p>Southeast Asia Program Cornell University 180 Uris Hall Ithaca, NY 14853-7601</p>	<p>Melanie Moss Distribution & Business Manager 95 Brown Rd. Box 1004 Ithaca, NY 14850</p> <p>Tel: (607) 255-8038 Fax: (607) 255-7534 mdm44@cornell.edu</p>
12.	<p>Guide to Regional Intellectual Property Laws for Libraries</p> <p>The aim of the Guide to Regional Intellectual Property Laws for Librarians is to 'produce a practical guide for librarians in ASEAN ... to understand the intellectual property issues involved in running a library service in the new digital age'. Throughout the guidebook, the collaborators have endeavored to add value to a mere presentation of the ASEAN intellectual property laws with a liberal dose of excellent advice on what librarians should or should not do in certain situations. Furthermore, in the chapter on new technology issues, the authors have also been able to bring into sharp focus some of the technical and legal issues that will confront libraries as they navigate their way in the information society.</p>	2002	<p>National Library Board 100 Victoria Street Singapore 188064</p> <p>Baker & McKenzie #27-01 Millenia Tower 1 Temasek Avenue Singapore 039192</p>	<p>Tel: 6332-3255 Email: helpdesk@nlb.gov.sg</p> <p>Tel: 6338 1888 Fax: 6337 5100 Email: singapore.info@bakernet.com</p>
13.	<p>IP Protection in Asia : Practical Strategies <i>Abstract not available</i></p>	1996	<p>Asia Law & Practice 5/F Printing House, 6 Duddell St, Central, Hong Kong</p>	<p>Tel: 852 2523 3399 Fax: 852 2815 9466 Email: enquiries@alphk.com</p>

14.	APAA IP Digest [Journal] <i>Abstract not available</i>		Asian Patent Attorneys Association	info@apaaonline.org
B. INDUSTRIAL DESIGN RELATED				
1.	Singapore Precedents and Forms: Intellectual Property Law Contains succinct commentary on the law and with cross-references to related precedents and form for easy reference. Offers practical and easy-to-follow pointers in the commentary to assist the user with the use of the precedents and forms. Providing a wide selection of precedents and forms on assignments, licensing, non-disclosure agreements, agency and distribution agreements which you can select and modify for various factual and situational permutations.	2005	LexisNexis Singapore 3 Killiney Road #08-08 Winsland House 1, Singapore 239519	Tel: 6733 1380 Fax: 6773 1719
2.	A Guide to protecting your ideas, inventions, trademarks and products (2nd Edition) Catherine Tay explains in simple language the basic principles of patents, trademarks, registered designs and copyrights. This book will guide general readers and professionals on how to protect their rights and the valuable rights that can be acquired under the law. Also includes an informative segment on the ways of exploiting personal patents, trademarks or copyrights for financial gains in the global market place. <i>*an earlier edition published in 1997 is available.</i>	2002	Times Edition by Marshall Cavendish Times Centre 1 New Industrial Road Singapore 536196	Tel: 65-6213 9300 Fax: 65-6285 4871 Email: tedcsd@sg.marshallcavendish.com

3.	<p>Intellectual Property Law of East Asia</p> <p>After setting the stage with background chapters dealing with the role of intellectual property in the international marketplace, the basic concepts of intellectual property rights, and the role that they play in common business and commercial transactions, this book provides readers with a country-specific discussion of the laws and regulations relating to patents, copyrights, trademarks, and know-how. In addition, the book covers important related regulatory areas, including the laws relating to technology transfers and licensing agreements.</p>	1997	<p>Sweet & Maxwell 6 Battery Road #29-03 Singapore 049909</p>	<p>Patrick Tan Tel: 6333 0800 Fax: 6333 0900 Email: Patrick.Tan@thomson.com</p>
4.	<p>Intellectual Property Law in Asia</p> <p>This is a country-by-country survey of the essentials of intellectual property law in the developed and developing nations of eastern and southern Asia. Separate chapters, each written by an authority or authorities in the law of the country he or she covers, clearly explain the intellectual property law regimes in China, Taiwan, Hong Kong, Macao, Japan, Korea, Vietnam, Singapore, Malaysia, Thailand, The Philippines, Indonesia, and India. Each country chapter focuses on the following issues:</p> <ul style="list-style-type: none"> - current legal instruments and applicable international treaties and agreements - crucial historical considerations - institutions - reform measures - patents, utility models, and designs - trademarks, appellations of origin, and domain names - unfair competition, passing-off, protection of well-known marks, and trade secrets - copyrights, including neighbouring rights and database protection - licensing and technology transfer - enforcement procedures 	2003	<p>Kluwer Law International 7201 McKimney Circle Frederick, MD 21704</p>	<p>Tel: 1-800-234-1660 (within the U.S.) +1-301-698-7100 (outside the U.S.)</p>

5.	<p>Designs Infopack An infopack is a handbook that gives an overview of a form of IP including the application processes (where applicable). An online version of the publication is available at http://www.ipos.gov.sg.</p>	<p>Latest update March 2005</p>	<p>Intellectual Property Office of Singapore 51 Bras Basah Road #06-01 Plaza by the Park Singapore 189554</p>	<p>IPOS IPERC Tel: 6331 6571 Fax: 6331 6562 Email: ipos_iperc@ipos.gov.sg</p>
6.	<p>Intellectual Property and U.S. Relations with Indonesia, Malaysia, Singapore and Thailand That too-often-ambiguous commodity, intellectual property, was declared one of the primary goals of foreign economic policy in the mid-1980s by the United States. In the resulting tangle of economic politics and policies, issues of compliance, effectiveness, domestic pressures and foreign policy, and U.S. stature all arose. Intellectual property protection, as Uphoff claims, allows insight into both international trade policy and the economic costs and advantages of this process. Case studies focus on each of the ASEAN governments' decisions on how to respond to U.S. pressure over copyrights and patents. Research, based on existing publications and interviews with government officials and scholars, is both timely and illuminating.</p>	<p>1991</p>	<p>Southeast Asia Program Cornell University 180 Uris Hall Ithaca, NY 14853-7601</p>	<p>Melanie Moss Distribution & Business Manager 95 Brown Rd. Box 1004 Ithaca, NY 14850</p> <p>Tel: (607) 255-8038 Fax: (607) 255-7534 mdm44@cornell.edu</p>
7.	<p>Guide to Regional Intellectual Property Laws for Libraries The aims of the Guide to Regional Intellectual Property Laws for Librarians is to 'produce a practical guide for librarians in ASEAN ... to understand the intellectual property issues involved in running a library service in the new digital age'. Throughout the guidebook, the collaborators have endeavoured to add value to a mere presentation of the ASEAN intellectual property laws with a liberal dose of excellent advice on what librarians should or should not do in certain situations. Furthermore, in the chapter on new technology issues, the authors have also been able to bring into sharp focus some of the technical and legal issues that will confront libraries as they navigate their way in the information society.</p>	<p>2002</p>	<p>National Library Board 100 Victoria Street Singapore 188064</p> <p>Baker & McKenzie #27-01 Millenia Tower 1 Temasek Avenue Singapore 039192</p>	<p>Tel: 6332-3255 Email: helpdesk@nlb.gov.sg</p> <p>Tel: 6338 1888 Fax: 6337 5100 Email: singapore.info@bakernet.com</p>

8.	IP Protection in Asia : Practical Strategies <i>Blurb not available</i>	1996	Asia Law & Practice 5/F Printing House, 6 Duddell St, Central, Hong Kong	Tel: 852 2523 3399 Fax: 852 2815 9466 Email: enquiries@alphk.com
9.	APAA IP Digest [Journal] <i>Abstract not available</i>		Asian Patent Attorneys Association	info@apaaonline.org

C. TRADEMARK RELATED

1.	Singapore Precedents and Forms: Intellectual Property Law Contains a succinct commentary on the law and with cross references to related precedents and form for easy reference. Offers practical and easy-to-follow pointers in the commentary to assist the user with the use of the precedents and forms. Providing a wide selection of precedents and forms on assignments, licensing, non-disclosure agreements, agency and distribution agreements which you can select and modify for various factual and situational permutations.	2005	LexisNexis Singapore 3 Killiney Road #08-08 Winsland House 1, Singapore 239519	Tel: 6733 1380 Fax: 6773 1719
2.	Asia Intellectual Property Reports A comprehensive collection of reports of judgments (many previously unreported) on intellectual property law from Hong Kong, Malaysia, India, Philippines, Singapore and Thailand. Subjects include copyright, patents, trademarks, confidential information and passing off.	1993 – 1996	LexisNexis Singapore 3 Killiney Road #08-08 Winsland House 1, Singapore 239519	Tel: 6733 1380 Fax: 6773 1719
3.	Law of Trade Marks and Passing Off in Singapore The Law of Trade Marks and Passing Off in Singapore deals comprehensively with the events and developments that led up to the new Act, as well as the novel principles and concepts that have been incorporated in the Act. It also examines decisions of the European Court of Justice and the UK courts on equivalent provisions of the Act and expounds their impact on the law in Singapore.	2003	Sweet & Maxwell 6 Battery Road #29-03 Singapore 049909	Patrick Tan Tel: 6333 0800 Fax: 6333 0900 Email: Patrick.Tan@thomson.com

4.	<p>A Guide to protecting your ideas, inventions, trademarks and products (2nd Edition)</p> <p>Catherine Tay explains in simple language the basic principles of patents, trademarks, registered designs and copyrights. This book will teach general readers and professionals how to protect their rights and the valuable rights that can be acquired under the law. Also includes an informative segment on the ways of exploiting personal patents, trademarks or copyrights for financial gains in the global market place.</p> <p><i>*an earlier edition published in 1997 is available.</i></p>	2002	<p>Times Edition by Marshall Cavendish</p> <p>Times Centre 1 New Industrial Road Singapore 536196</p>	<p>Tel: 65-6213 9300 Fax: 65-6285 4871 Email: tedcsd@sg.marshallcavendish.com</p>
5.	<p>Intellectual Property Law of East Asia</p> <p>After setting the stage with background chapters dealing with the rôle of intellectual property in the international marketplace, the basic concepts of intellectual property rights, and the role that they play in common business and commercial transactions, this book provides readers with a country-specific discussion of the laws and regulations relating to patents, copyrights, trademarks, and know-how. In addition, the book covers important related regulatory areas, including the laws relating to technology transfers and licensing agreements.</p>	1997	<p>Sweet & Maxwell</p> <p>6 Battery Road #29-03 Singapore 049909</p>	<p>Patrick Tan</p> <p>Tel: 6333 0800 Fax: 6333 0900 Email: Patrick.Tan@thomson.com</p>

6.	<p>Intellectual Property Law in Asia This is a country-by-country survey of the essentials of intellectual property law in the developed and developing nations of eastern and southern Asia. Separate chapters, each written by an authority or authorities in the law of the country he or she covers, clearly explain the intellectual property law regimes in China, Taiwan, Hong Kong, Macao, Japan, Korea, Vietnam, Singapore, Malaysia, Thailand, The Philippines, Indonesia, and India. Each country chapter focuses on the following issues:</p> <ul style="list-style-type: none"> - current legal instruments and applicable international treaties and agreements - crucial historical considerations - institutions - reform measures - patents, utility models, and designs - trademarks, appellations of origin, and domain names - unfair competition, passing-off, protection of well-known marks, and trade secrets - copyrights, including neighbouring rights and database protection - licensing and technology transfer - enforcement procedures 	2003	Kluwer Law International 7201 McKinney Circle Frederick, MD 21704	Tel: 1-800-234-1660 (within the U.S.) +1-301-698-7100 (outside the U.S.)
7.	<p>The Protection of Well-Known Marks in Asia This collection of expert essays examines the legal protection of well-known marks both under trademark and unfair competition law in 10 different jurisdictions of the Asia-Pacific region, analysing the still widespread piracy of well-known marks in the context of the underlying legal and cultural concepts.</p>	2000	Kluwer Law International 7201 McKinney Circle Frederick, MD 21704	Tel: 1-800-234-1660 (within the U.S.) +1-301-698-7100 (outside the U.S.)
8.	<p>Intellectual Property: Trade Marks Act – A Commentary</p>	2002	LexisNexis Singapore 3 Killiney Road #08-08 Winsland House 1, Singapore 239519	Tel: 6733 1380 Fax: 6773 1719

9.	<p>Trademarks Infopack An infopack is a handbook that gives an overview of a form of IP including the application processes (where applicable). An online version of the publication is available at http://www.ipos.gov.sg.</p>	<p>Latest update March 2005</p>	<p>Intellectual Property Office of Singapore 51 Bras Basah Road #06-01 Plaza by the Park Singapore 189554</p>	<p>IPOS IPERC Tel: 6331 6571 Fax: 6331 6562 Email: ipos_iperc@ipos.gov.sg</p>
10.	<p>Intellectual Property and U.S. Relations with Indonesia, Malaysia, Singapore and Thailand That too-often-ambiguous commodity, intellectual property, was declared one of the primary goals of foreign economic policy in the mid-1980s by the United States. In the resulting tangle of economic politics and policies, issues of compliance, effectiveness, domestic pressures and foreign policy, and U.S. stature all arose. Intellectual property protection, as Uphoff claims, allows insight into both international trade policy and the economic costs and advantages of this process. Case studies focus on each of the ASEAN governments' decisions on how to respond to U.S. pressure over copyrights and patents. Research, based on existing publications and interviews with government officials and scholars, is both timely and illuminating.</p>	<p>1991</p>	<p>Southeast Asia Program Cornell University 180 Uris Hall Ithaca, NY 14853-7601</p>	<p>Melanie Moss Distribution & Business Manager 95 Brown Rd. Box 1004 Ithaca, NY 14850 Tel: (607) 255-8038 Fax: (607) 255-7534 mdm44@cornell.edu</p>
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12.	IP Protection in Asia : Practical Strategies <i>Blurb not available</i>	1996	Asia Law & Practice 5/F Printing House, 6 Duddell St, Central, Hong Kong	Tel: 852 2523 3399 Fax: 852 2815 9466 Email: enquiries@alphk.com
13.	APAA IP Digest [Journal] <i>Abstract not available</i>		Asian Patent Attorneys Association	info@apaaonline.org

D. COPYRIGHT RELATED

1.	Singapore Precedents and Forms: Intellectual Property Law Contains a succinct commentary on the law and with cross-references to related precedents and form for easy reference. Offers practical and easy-to-follow pointers in the commentary to assist the user with the use of the precedents and forms. Provides a wide selection of precedents and forms on assignments, licensing, non-disclosure agreements, agency and distribution agreements which you can select and modify for various factual and situational permutations.	2005	LexisNexis Singapore 3 Killiney Road #08-08 Winsland House 1, Singapore 239519	Tel: 6733 1380 Fax: 6773 1719
2.	Asia Intellectual Property Reports A comprehensive collection of reports of judgments (many previously unreported) on intellectual property law from Hong Kong, Malaysia, India, Philippines, Singapore and Thailand. Subjects include copyright, patents, trademarks, confidential information and passing off.	1993 – 1996	LexisNexis Singapore 3 Killiney Road #08-08 Winsland House 1, Singapore 239519	Tel: 6733 1380 Fax: 6773 1719
3.	Copy Not Right: be creative, be original, be hip [VCD] This video by the Honour Intellectual Property (HIP) Alliance, the flagship public awareness initiative of Intellectual Property Office of Singapore (IPOS), aims to educate and promote appropriate use of copyright work.	2004	Intellectual Property Office of Singapore 51 Bras Basah Road #06-01 Plaza by the Park Singapore 189554	Linda Lim Tel: 6331 6583 Fax: 6331 6562 Email: lim_lee_kuan@ipos.gov.sg

4.	<p>A Guide to protecting your ideas, inventions, trademarks and products (2nd Edition)</p> <p>Catherine Tay explains in simple language the basic principles of patents, trademarks, registered designs and copyrights. This book will teach general readers and professionals on how to protect their rights and the valuable rights that can be acquired under the law. Also includes an informative segment on the ways of exploiting personal patents, trademarks or copyrights for financial gains in the global market place.</p> <p><i>*an earlier edition published in 1997 is available.</i></p>	2002	<p>Times Edition by Marshall Cavendish</p> <p>Times Centre 1 New Industrial Road Singapore 536196</p>	<p>Tel: 65-6213 9300 Fax: 65-6285 4871 Email: tedcsd@sg.marshallcavendish.com</p>
5.	<p>Intellectual Property Law of East Asia</p> <p>After setting the stage with background chapters dealing with the role of intellectual property in the international marketplace, the basic concepts of intellectual property rights, and the role that they play in common business and commercial transactions, this book provides readers with a country-specific discussion of the laws and regulations relating to patents, copyrights, trademarks, and know-how. In addition, the book covers important related regulatory areas, including the laws relating to technology transfers and licensing agreements.</p>	1997	<p>Sweet & Maxwell</p> <p>6 Battery Road #29-03 Singapore 049909</p>	<p>Patrick Tan</p> <p>Tel: 6333 0800 Fax: 6333 0900 Email: Patrick.Tan@thomson.com</p>

6.	<p>The Law of Copyright in Singapore (2nd edition)</p> <p>As compared to the first edition of this work, which was published over ten years ago following the enactment of the Singapore Copyright Act 1987, the Second Edition contains vast sections of additional material and information pertaining, <i>inter alia</i>, to all jurisprudential and legislative developments relevant and subsequent to the development of the 1987 Act. This edition is particularly welcome, in the light of substantial technological developments and the corresponding legislative and other responses that have come to dominate intellectual property thinking in such pervasive terms.</p> <p><i>*an earlier edition published in 1989 is available.</i></p>	2000	SNP Editions	Tel: Fax: Email:
7.	<p>Intellectual Property Law in Asia</p> <p>This is a country-by-country survey of the essentials of intellectual property law in the developed and developing nations of eastern and southern Asia. Separate chapters, each written by an authority or authorities in the law of the country he or she covers, clearly explain the intellectual property law regimes in China, Taiwan, Hong Kong, Macao, Japan, Korea, Vietnam, Singapore, Malaysia, Thailand, The Philippines, Indonesia, and India. Each country chapter focuses on the following issues:</p> <ul style="list-style-type: none"> - current legal instruments and applicable international treaties and agreements - crucial historical considerations - institutions - reform measures - patents, utility models, and designs - trademarks, appellations of origin, and domain names - unfair competition, passing-off, protection of well-known marks, and trade secrets - copyrights, including neighbouring rights and database protection - licensing and technology transfer - enforcement procedures 	2003	<p>Kluwer Law International 201 McKinney Circle Frederick, MD 21704</p>	Tel: 1-800-234-1660 (within the U.S.) +1-301-698-7100 (outside the U.S.)

8.	<p>Copyright Infopack An infopack is a handbook that gives an overview of a form of IP including the application processes (where applicable). An online version of the publication is available at http://www.ipos.gov.sg.</p>	<p>Latest update March 2005</p>	<p>Intellectual Property Office of Singapore 51 Bras Basah Road #06-01 Plaza by the Park Singapore 189554</p>	<p>IPOS IPERC Tel: 6331 6571 Fax: 6331 6562 Email: ipos_iperc@ipos.gov.sg</p>
9.	<p>Intellectual Property and U.S. Relations with Indonesia, Malaysia, Singapore and Thailand That too-often-ambiguous commodity, intellectual property, was declared one of the primary goals of foreign economic policy in the mid-1980s by the United States. In the resulting tangle of economic politics and policies, issues of compliance, effectiveness, domestic pressures and foreign policy, and U.S. stature all arose. Intellectual property protection, as Uphoff claims, allows insight into both international trade policy and the economic costs and advantages of this process. Case studies focus on each of the ASEAN governments' decisions on how to respond to U.S. pressure over copyrights and patents. Research, based on existing publications and interviews with government officials and scholars, is both timely and illuminating.</p>	<p>1991</p>	<p>Southeast Asia Program Cornell University 180 Uris Hall Ithaca, NY 14853-7601</p>	<p>Melanie Moss Distribution & Business Manager 95 Brown Rd. Box 1004 Ithaca, NY 14850 Tel: (607) 255-8038 Fax: (607) 255-7534 mdm44@cornell.edu</p>
10.	<p>Guide to Regional Intellectual Property Laws for Libraries The aim of the Guide to Regional Intellectual Property Laws for Librarians is to 'produce a practical guide for librarians in ASEAN ... to understand the intellectual property issues involved in running a library service in the new digital age'. Throughout the guidebook, the collaborators have endeavoured to add value to a mere presentation of the ASEAN intellectual property laws with a liberal dose of excellent advice on what librarians should or should not do in certain situations. Furthermore, in the chapter on new technology issues, the authors have also been able to bring into sharp focus some of the technical and legal issues that will confront libraries as they navigate their way in the information society.</p>	<p>2002</p>	<p>National Library Board 100 Victoria Street Singapore 188064 Baker & McKenzie #27-01 Millenia Tower 1 Temasek Avenue Singapore 039192</p>	<p>Tel: 6332-3255 Email: helpdesk@nlb.gov.sg Tel: 6338 1888 Fax: 6337 5100 Email: singapore.info@bakernet.com</p>

11.	IP Protection in Asia : Practical Strategies <i>Blurb not available</i>	1996	Asia Law & Practice 5/F Printing House, 6 Duddell St, Central, Hong Kong	Tel: 852 2523 3399 Fax: 852 2815 9466 Email: enquiries@alphk.com
12.	APAA IP Digest [Journal] <i>Abstract not available</i>		Asian Patent Attorneys Association	info@apaaonline.org

E. BUSINESS RELATED

1.	LexisNexis Law for Business Series: Intellectual Property Legal issues presented from a business perspective. The growth of new areas like the Internet, E-commerce and bio-technology has emphasised the importance of intellectual property. The ability to identify the intellectual property of a business and then carefully manage those rights and commercially exploit them will give any business a competitive edge. Every successful businessman or CEO should therefore ensure that he is armed with the basic fundamentals of intellectual property law. Intellectual Property Law has been specially prepared to present in a compact volume essential knowledge of the law governing intellectual property in Singapore.	2002	LexisNexis Singapore 3 Killiney Road #08-08 Winsland House 1, Singapore 239519	Tel: 6733 1380 Fax: 6773 1719
2.	Developing and Managing a Franchise There are many issues that franchisors and franchisees will have to discuss and contemplate before entering the world of franchising. With that in mind, the Franchising and Licensing Association (FLA) Singapore and LexisNexis have collaborated to present a publication on franchising to assist entrepreneurs, franchisors and franchisees to understand the concept of developing and managing a franchise.	2004	LexisNexis Singapore 3 Killiney Road #08-08 Winsland House 1, Singapore 239519	Tel: 6733 1380 Fax: 6773 1719

3.	<p>The Business Guide to Singapore Written by local experts, the Business Guide to Singapore is the ultimate Singapore business reference. The Business Guide to Singapore brings together all the information needed to do business in Singapore. The Business Guide to Singapore is one of a series of guides written by experts on Asia for business people needing to know how business is conducted and regulated in Singapore. Most guides tend to focus on cultural issues, rather than the practicalities of business in Singapore. The Business Guides focuses more on the business and legal context, enabling you to avoid costly mistakes.</p>	1997	Butterworth-Heinemann Asia	
4.	<p>Intellectual property protection reforms : (theory, evidence and policy) In recent years, intellectual property-based industries have become more important to the world's economies. However, while most of the writing on the economics of intellectual property protection policy has been speculative, this book offers a testable economic theory. The theory of natural intellectual property protection reform, analyzes how economic development influences IPR policy and in turn, how IPR reform affects innovation. Empirical support for the theory and a case study based on data gathered from Singapore's software developers are included. The book should be of interest to economists, and those who form economic policy, who work in the information industries or follow Singapore's economic development.</p>	1999	Singapore University Press AS3-01-02 National University of Singapore 3 Arts Link Singapore 117569	Tel: 6776 1148 Fax: 6774 0652 Email: nusbooks@nus.edu.sg

5.	<p>Intellectual Property Law of East Asia</p> <p>After setting the stage with background chapters dealing with the role of intellectual property in the international marketplace, the basic concepts of intellectual property rights, and the role that they play in common business and commercial transactions, this book provides readers with a country-specific discussion of the laws and regulations relating to patents, copyrights, trademarks, and know-how. In addition, the book covers important related regulatory areas, including the laws relating to technology transfers and licensing agreements.</p>	1997	<p>Sweet & Maxwell 6 Battery Road #29-03 Singapore 049909</p>	<p>Patrick Tan Tel: 6333 0800 Fax: 6333 0900 Email: Patrick.Tan@thomson.com</p>
6.	<p>IP Starter</p> <p>IP Starter is a new resource by IPOS to educate businesses on IP issues before they launch a new product. Based on the nature of your product or service and how it distinguishes itself in the marketplace, IP Starter guides you in your IP decisions, from the type of IP protection required to practical ideas on preventing copycats, as well as where to secure protection, among others. IP Starter also offers general information on the possible time and costs involved for the different types of IP protection. Get practical tips from featured case studies and find useful links to experts and government entities for more IP advice.</p> <p><i>*an online version is available at http://ipstarter.surfip.gov.sg</i></p>	2004	<p>Intellectual Property Office of Singapore 51 Bras Basah Road #06-01 Plaza by the Park Singapore 189554</p>	<p>IPOS IPERC Tel: 6331 6571 Fax: 6331 6562 Email: ipos_iperc@ipos.gov.sg</p>

7.	<p>Intellectual Property Harmonisation within ASEAN and APEC</p> <p>Intellectual Property Harmonisation in ASEAN and APEC investigates the complex issues that lie at the root of this major block to the unhampered global flow of commerce based on intangible assets. By highlighting the background of Asian legal systems, both in terms of culture and intellectual property systems, the authors suggest how the current obstacles towards greater harmonization and integration may be overcome. Defining the accepted principles enshrined in TRIPS, the Paris Convention, and other international agreements, the presentation describes the relatively-successful European experience and then goes on to develop strategic variations geared to relating more precisely to harmonization, integration and co-operation in the East Asian region.</p>	2004	<p>Kluwer Law International 7201 McKinney Circle Frederick, MD 21704</p>	<p>Tel: 1-800-234-1660 (within the U.S.) +1-301-698-7100 (outside the U.S.)</p>
8.	<p>Parallel Imports in Asia</p> <p>Due to the diversity of legal regimes in the jurisdictions covered, reliable information on the regimes of parallel imports in Asia has been hard to come by. Now, Parallel Imports in Asia brings together the insight and experience of fourteen academics and practitioners in this specialized but highly significant field, each highly respected in his or her particular country. Two concise introductory chapters clearly present the economic and legal foundations of the subject matter. Then, thirteen chapters offer in-depth analysis of exhaustion of intellectual property rights and parallel imports for each of twelve Asian jurisdictions-China, Taiwan, Japan, Korea, Vietnam, Thailand, Indonesia, The Philippines, Malaysia, Singapore, Hong Kong, and India-plus the Australasian bloc. With this book, businesses in all of these countries-and in particular India and the Australasian countries-can assess the strength of their IP rights against parallel importation in other parts of Asia.</p>	2004	<p>Kluwer Law International 7201 McKinney Circle Frederick, MD 21704</p>	<p>Tel: 1-800-234-1660 (within the U.S.) +1-301-698-7100 (outside the U.S.)</p>

9.	<p>SCOPE IP: IP Is Your Business – Can You Cope [Marketing Brochure]</p> <p>In today's knowledge-driven economy, IP is a critical resource and its proper management is a core strategy for any business aspiring to be successful.</p> <p>This brochure provides a general overview of what is IP and what is SCOPE IP.</p>	2005	<p>Intellectual Property Office of Singapore 51 Bras Basah Road #06-01 Plaza by the Park Singapore 189554</p>	<p>Sarah Yeo Tel: 6330 2782 Fax: 6331 6562 Email: ipos_scopeip@ipos.gov.sg</p>
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F. FINANCIAL GRANTS

1.	<p>Planning a Business: Financing Your Business [Website] http://www.business.gov.sg/plan/fin-biz-index.htm</p>	Last updated 25 Jan 2005	www.business.gov.sg	
2.	<p>Patent Application Fund PLUS [Website] Singapore wants to encourage inventors to patent inventions and commercialize their inventions. This scheme helps cover some of the costs of filing patent applications. It covers professional and official fees and other related charges of patent filing, but not the cost of maintaining a lapsed patent application due to negligence, the defense of a patent, R&D costs, and charges arising from the transfer of rights. http://www.sedb.com/edbcorp/sg/en_uk/index/startups/startupfinance/patent_application.html</p>	2004	<p>Intellectual Property Strategic Business Unit Singapore Economic Development Board 250 North Bridge Road #28-00 Raffles City Tower Singapore 179101</p>	<p>Tel: (65) 68326832 Fax: (65) 63342767 Email: IP_enquiry@edb.gov.sg</p>
3.	<p>Assistance Schemes and Programmes: For Innovation/R&D/Intellectual Property [Website] http://www.sedb.com/edbcorp/sg/en_uk/index/startups/assistance_schemes/for_innovation.html</p>	2004	<p>Singapore Economic Development Board 250 North Bridge Road #28-00 Raffles City Tower Singapore 179101</p>	<p>Tel: (65) 68326832 Fax: (65) 68326565</p>
4.	<p>Assistance Schemes for Enterprises [Website] http://www.spring.gov.sg/portal/products/assist/Assistance_Schemes_for_Enterprises.html</p>	2005	<p>SPRING Singapore SPRING Singapore 2 Bukit Merah Central Singapore 159835</p>	<p>Tel: (65) 62786666 Fax: (65) 62786667</p>

5.	Business Cash Financing [Website] http://www.ocbc.com.sg/sme-banking/loans/Lns_WCF_BusCashFinancing.shtm	2004	OCBC Bank 65 Chulia St #01-00 OCBC Centre Singapore 049513	1800 538 1111 (Singapore) (65) 6538 1111 (Overseas) Email: BB-CSC@ocbc.com.sg
6.	SME Loan [Website] http://www.hlf.com.sg/loans/smeloa/index.html	2005	Hong Leong Finance 16 Raffles Quay #01-05 Hong Leong Building Singapore 048581	Hotline : (65) 64162777 Fax : (65) 64162788 Email : customerservice@hlf.com.sg (for service enquiries) loans@hlf.com.sg (for loan enquiries)
7.	SMEs Financing – Assistance Schemes [Website] http://www.sif.com.sg/loans_sme.htm		Sing Investments & Finance Limited 135 Cecil Street #01-01 LKN Building Singapore 069536	Tel 6221 9998 Fax 62211098 (Credit Admin) Fax 62250837 (Deposits)
8.	Commercial Loans – SMEs [Website] http://www.uob.com.sg/pages/business/loans/cloans/	2005	United Overseas Bank 80 Raffles Place UOB Plaza 1 Singapore 048624	Tel: 1800 22 66 121
9.	Financing [Website] http://www.hsbc.com.sg/sg/commercial/finance/default.htm	2005	Hong Kong and Shanghai Bank HSBC Building 21 Collyer Quay #08-01 Singapore 049320	1800 216 9008 (local) 65 6216 9008 (overseas) E-mail: contact@hsbc.com.sg
10.	Loans – Businesses [Website] http://www.singapurafinance.com.sg/webtop/loans/Business/commercial.phtml	2005	Singapura Finance 150, Cecil Street, #01-00, Singapore 069543	Tel: 6880 0633 Fax : 6225 8310 Email : enquiry@singapurafinance.com.sg

G. OTHERS				
1.	<p>Plant Varieties Protection Infopack</p> <p>An infopack is a handbook that gives an overview of a form of IP including the application processes (where applicable).</p> <p>An online version of the publication is available at http://www.ipos.gov.sg.</p>	<p>Latest update March 2005</p>	<p>Intellectual Property Office of Singapore</p> <p>51 Bras Basah Road #06-01 Plaza by the Park Singapore 189554</p>	<p>IPOS IPERC</p> <p>Tel: 6331 6571 Fax: 6331 6562 Email: ipos_iperc@ipos.gov.sg</p>

PART I (B)

General Overviews of Items (A) – (F)

A. HOW TO COMMERCIALISE INVENTIONS

1. Technology Transfer and Research Collaboration in R&D and Academic Institutions

In Singapore, technology transfer and collaboration with industry play a central role in the two main universities as well as the five polytechnics. Besides these institutes of higher learning, the Agency for Science, Technology and Research (A*STAR) looks after twelve research institutes.

The National University of Singapore (NUS) has an enrolment of 32,000, including 9000 postgraduate students. It has eight schools/faculties, an academic staff of 2080 and another 1130 research staff. In 2003, the NUS produced some 6150 graduates and 2660 postgraduates in the fields of engineering, science, medicine, business administration, architecture and building and estate management, law, arts and social sciences, and dentistry.

The Nanyang Technological University (NTU) has a full-time student population exceeding 22,800, including 7100 postgraduates. It has 1400 academic and 580 research staff members. In 2003, some 5400 graduated in the fields of engineering, applied science, accountancy, mass communications, and education. Of these, about 1260 obtained higher degrees.

The two universities are major producers of research output and they have been involved in a succession of initiatives aimed at capitalising opportunities latent in their research laboratories. This is to disseminate new and useful knowledge resulting from research and ensure that technology transfer obligations of the university towards a research sponsor are met.

The NUS and the NTU have taken steps to enhance infrastructure and mechanisms to facilitate university-industry interaction with technology transfer being central to the research process. The NUS and the NTU have dedicated technology transfer offices known as the Industry and Technology Relations Office (INTRO) and the Innovation and Technology Transfer Office (ITTO) respectively.

Formed in August 1992, INTRO deals with the entire range of research collaboration, IP management and technology transfer activities. It has established mechanisms via an IP management plan to assist staff members through the invention disclosure process, IP protection, collaboration with industry and licensing. A separate unit called NUS Venture Support is responsible for nurturing start-ups.

Since 1992, INTRO has facilitated the filing of more than 700 patents, of which 166 have been granted. 84 license agreements have been successfully concluded generating an estimated revenue of \$1.44 million[#] and equity in lieu of royalties of some \$4.85 million. In 2002, 136 research collaboration agreements were signed, with a total project value of \$42.5 million or 15.3% of the NUS annual research budget. INTRO has established over 800 partnerships through research collaboration, project agreements and a Memorandum of Understanding (MOU). Two thirds of new and ongoing projects are in the disciplines of medicine, science, engineering and computing.

Formed on March 18, 2000, ITTO aims to promote innovation and transfer of the NTU's intellectual capital for industry's use through licensing and new venture creation. ITTO ensures the protection of IP through a process for disclosure, evaluation and assessment of inventions and patent applications. ITTO supports the schools and various research centers in technopreneurship development and training by providing resources to aid the research on and teaching of entrepreneurial-related subjects.

In 2001/2002, the NTU had a total of 103 collaborative projects with industry, 161 projects with other government bodies, and another 253 projects with other universities and research organizations were in progress, with private funding totaling \$44 million. 31 patents were filed and three spin-off companies were formed. The main thrust of the NTU's research strategy is to concentrate on multi-disciplinary research, in order to optimize the pooling of resources, and to foster synergy and cross fertilization of research.

From 2001 to 2003, both the NUS and the NTU received 451 invention disclosures. 444 patents were filed and 102 granted. The combined research funding for science and engineering was \$352 million. Research undertaken in collaboration with industry, government bodies, local and foreign organizations represents a significant percentage of the universities' overall research effort. Such collaborations are strongly encouraged as they represent a major avenue for technology transfer and rejuvenation of research and improvement to the curriculum. Furthermore, the two universities receive support for research projects under the Academic Research Fund provided by the Ministry of Education. These more academically-oriented projects allow the universities to develop and refine their long-term research capability and strengthen their core competence, especially in the areas of strategic interest to the industry and the nation.

The five polytechnics in Singapore are Nanyang Polytechnic (NYP), Ngee Ann Polytechnic (NP), Republic Polytechnic (RP), Singapore Polytechnic (SP) and Temasek Polytechnic (TP). All the polytechnics have their respective technology transfer/innovation offices. These offices encourage entrepreneurship, and help in the protection and commercialization of IP generated by students and lecturers who collaborate on joint projects with companies.

SP's Technology Transfer Centre was set-up in 1990, and they have had many successful joint projects with companies. One successful case is that of a lecturer who patented a formula to make purple gold malleable enough to be fashioned into rings and pendants. An agreement was reached with a well-known local jeweller, Aspial, to

[#] All figures quoted are in Singapore dollars, unless stated otherwise.

market the product globally (<http://www.sp.edu.sg/department/dis/-ttc.htm>). NP's Innovation and Enterprise Office, (<http://www.np.edu.sg/ie/AboutIEOffice.html>) provides services that include IP protection and assistance in the process of commercialization. TP has collaborated with a number of government agencies and private enterprises on several R&D projects in the areas of life sciences, engineering and design (http://www.tp.edu.sg/newsevents/press/aug3105_RandD.htm). RP's Centre for Innovation and Enterprise promotes entrepreneurship through partnership with industry (<http://www.rp.edu.sg/schoolscentres/cie.asp>). The NYP's Centre for Business Innovation provides innovative knowledge services and business solutions to industry partners and clients. To date, over 100 industry projects, involving a range of business solutions, to over 80 industry partners and clients from various industries have been completed (http://www.nyp.edu.sg/SBM/sbm_cbi.html).

Besides the above institutes of higher learning, The Agency for Science, Technology and Research (A*STAR) supports, funds and manages 12 research institutes; five in biomedical and seven in science and engineering areas. Its research institutes cover fields as diverse as high performance computing, microelectronics, data storage, information technology, and biomedical sciences. They are keen to partner industry players in research and development.

A*STAR oversees The Growing Enterprises with Technology Upgrade (GET-Up) program, a pro-active integrated approach aimed at boosting the global competitiveness of local technology-intensive enterprises. SMEs which aspire to grow with technology upgrading are known as the "Growing Enterprises" or "GEs" in short. The program aims to harness the existing support schemes of EDB, SPRING Singapore, IE Singapore and the technical capabilities of A*STAR research institutes to help these companies upgrade and globalize. Between the year 2003 and March 2005, the GET-Up team has visited 536 companies. Of these, 47% were from the engineering sector, 29% from the infocomm sector, 14% from the electronics sector and 10% from the chemical sector.

The program consists of three different assistance schemes. The Operation and Technology Road-mapping (OTR) assistance scheme is to help the SMEs develop a Technology Roadmap which is aligned with the company's mid-term goals and strategy. This will involve both the OTR and technology experts from A*STAR's research institutes and the company's senior management. Since March 2005, 49 OTRs for 44 companies have been completed.

The Technology for Enterprise Capability Upgrading (T-Up) is another assistance scheme that is a multi-agency effort by A*STAR, EDB, SPRING Singapore, IE Singapore and IDA which will second Research Scientists and Engineers (RSEs) to local enterprises to enable them to access the pool of R&D talent in the Research Institutes. The research institutes will endeavor to match suitable RSEs with a company based on the R&D project in mind. Partial funding (co-share up to 70% of the researchers' salary) will be provided to the company for the salary of the RSEs up to a maximum of two years. After this period there is an option for companies to retain the seconded staff on a full-time basis if there is mutual agreement. The T-Up program aims to build up the technological manpower capability of small enterprises in Singapore. Since March 2005, 71 RSEs have been seconded to 56 companies.

Finally, there is the Technical Advisor (TA) assistance scheme. The TA provides in-depth technical advice to companies and serves as a bridge to the research institutes. A senior staff member of the research institutes will be appointed as the TA and will spend half a day each month in the company for free. Additional consulting time is chargeable. Since March 2005, 25 TAs have been appointed to 23 companies.

Besides the GET-Up program and the three assistance schemes, A*STAR also has a commercial arm called Exploit Technologies Pte Ltd (ETPL), which works with researchers from its research institutes to generate, identify, protect and exploit IP created for the benefit of Singapore. In recent years it has acquired and developed specialists in the fields of IP management, technology intelligence and competitive intelligence, commercialization, incubation and spin-off management. For example, it is well appreciated that biotechnology is an industry with a high level of risk and a long lead-time to market. A 'gap' between the publicly-funded, upstream academic research activities and the downstream commercial activities has been identified. Venture capitalists are not likely to fund very early stage incubation of companies, and the IP is usually not developed sufficiently to generate revenue from licensing-out to interested third-party entities. This 'gap' was plugged by ETPL via the Commercialisation of Technology (COT) grant to fund such early-stage, developmental and validation research originating from A*STAR's research institutes. Such research is of great benefit as its commercial value is increased significantly, thereby attracting potential licensees.

Sources: *Singapore Country Study: Feasibility of Establishing IP related Business Development Hubs in ASEAN; Singapore Biotech Guide 2004/2005;*

<http://www.a-star.edu.sg/astar/index.do>; <http://www.sp.edu.sg>; <http://www.np.edu.sg>;
<http://www.nyp.edu.sg>; <http://www.tp.edu.sg>; <http://www.rp.edu.sg>

B. HOW TO PROFIT FROM ORIGINAL INDUSTRIAL DESIGNS

1. Protection for Industrial Designs in Singapore

The Registered Designs Act (Cap. 266) came into force on November 13, 2005. The Act, together with subsidiary legislation consisting of the Registered Designs Rules 2000, forms the legislation governing the registered designs law in Singapore.

Prior to November 13, 2000, protection for designs in Singapore was automatically granted upon registration in the United Kingdom. With the enactment of the Registered Designs Act in Singapore, all designs that were registered in the UK prior to November 13, 2000 will continue to enjoy protection in Singapore. The Registered Designs Act is accessible at <http://statutes.agc.gov.sg>.

Protection for a registered design lasts for an initial period of five years from the date of application. The registration may however be renewed every five years up to a maximum of 15 years, subject to the payment of renewal fees. To file for design protection, an applicant can choose to file online via eDesigns (<http://www.ipos.gov.sg>) or submit a paper application to the Registry at the Intellectual Property of Singapore

(IPOS). The estimated processing time for a design is two to three months. Only a formal examination is conducted by the Registry.

Like many countries, Singapore allows priority claims in design applications. If there is a corresponding application filed earlier in a Paris Convention country or World Trade Organisation member country, it is possible for an applicant to claim priority from the first filing provided the registration in Singapore is made within six months from the date of the first filing.

A design refers to the shape, configuration, pattern or ornament applied to an article by an industrial process. To qualify for registration, it must, in general, be new and has to be applied to an article by an industrial process, i.e. more than 50 copies of the article have been or are intended to be produced for sale or hire.

On April 17, 2005, Singapore acceded to the Geneva Act of the Hague Agreement.

2. Government

The Ministry of Information, Communication and the Arts (MICA) is the overall lead agency for developing the design industry in Singapore. In August 2003, the DesignSingapore Council was formed to spearhead a national initiative to develop and promote design in Singapore. The Council implements programs to grow the design-driven industries (architectural services, advertising services and visual communications design, interior design, fashion design, product and industrial design and so on) and to actively profile and promote Singaporean design overseas. To foster a more pervasive design culture in Singapore, the Council seeds new design awareness programs through schools, public institutions and activities (<http://www.designsingapore.org>).

3. Education

Design is taught as part of the “Design and Technology” course – a compulsory subject at lower secondary (age 13-14) and optional for the upper secondary (age 15-16) levels. The polytechnics and specialised art schools (NAFA - Nanyang School of Fine Arts and Lasalle-SIA College of the Arts) offer diplomas in various design disciplines.

Design modules are also offered in engineering courses in Nanyang Technological University (NTU) and the National University of Singapore (NUS), including a masters’ in design technology at the Design Technology Institute (with the Eindhoven Institute of Technology) in the NUS Faculty of Engineering. The NUS also offers degrees in architecture and industrial design from its School of Design and Environment.

4. Competitions and Awards

Design competitions of varying types are available in Singapore. A good example of a local competition is a product design competition held by Samsung Asia Pte Ltd. Applicants are required to design covers and accessories for Samsung’s MP3 players.

The Singapore Design Award (SDA) is a prestigious international award given to outstanding examples of innovations from all over the world. Launched by IE Singapore in 1988, the biennial SDA has been organized by the Designers Association Singapore (DAS) since 2000. SDA is open to all Singaporean and foreign-based designs and the award competition categories cover product design, graphic design, interactive design and packaging design.

5. Design Projects

There are many design projects supported or sponsored by the DesignSingapore Initiative. One such project is the Singapore Design Festival 2005.

(<http://www.designsingapore.org/Default.asp?Page=184>)

Sources: <http://www.mica.gov.sg>; <http://www.designsingapore.org>;
<http://www.ipos.gov.sg>

C. CONTRIBUTION OF TRADEMARKS TO BUSINESS DEVELOPMENT

1. Trademark protection in Singapore

The legislation governing trademark law in Singapore is made up of the Trade Marks Act 1999 (Cap. 332), together with its subsidiary legislation which consists of the Trade Marks Rules and Trade Marks (International Registration) Rules (The Trade Marks Act is available at <http://statutes.agc.gov.sg>).

In Singapore, the registration of a trademark is valid for 10 years from the date of application. Protection can last indefinitely subject to the payment of renewal fees, and with proper use of the mark. To file for trademark protection, an applicant can choose to file online via eTradeMarks (<http://www.ipos.gov.sg>) or submit a paper application to the Registry of Trade Marks at the Intellectual Property of Singapore (IPOS). Upon submission, the application would go through formal examination, search, examination and publication before proceeding to registration. The estimated processing time for a trademark is four to six months.

Like many countries, Singapore allows priority claims in trademark applications. If there is a corresponding application filed earlier in a Paris Convention country or World Trade Organization member country, it is possible for an applicant to claim priority from the first filing provided the registration in Singapore is made within six months from the date of the first filing.

With effect from July 1, 2004, well known marks were given greater scope of protection. For instance, the owner of a well known trademark may take action against the use of a trademark if the use of a trademark would take unfair advantage of the distinctive character of the well-known trademark.

Singapore is a contracting country to the Madrid Protocol.

2. Use of Trademarks in Branding and Franchising

Many SMEs in Singapore have established successful and thriving businesses based on their branding initiatives. These successful companies are predominantly from the Food and Beverage (F&B) industries. Some examples of such successful brands are Ya Kun (one of the case studies), BreadTalk, Barang Barang and Expressions.

There are many private companies that offer branding services in Singapore. International Enterprise Singapore (IE Singapore), a statutory board under the auspices of the Ministry of Trade and Industry (MTI), has a directory of the contact details of about 50 brand specialists on their website.

Recognizing the strategic importance of branding for business expansion, IE Singapore launched its "Branding for Internationalisation" Programme to help Singapore-based firms develop a global presence. The key initiatives of the program are designed to help companies research brand strategies, better understand their brand needs, audit their brands, identify brand opportunities and bridge the gap between brand awareness and investment. Since its implementation, more than 600 executives have received training in branding through customized workshops, seminars and conferences.

IE Singapore's 'BrandPact' is a multi-agency initiative developed to meet the varied brand development needs of local enterprises as they grow and expand within Singapore and into the global marketplace. BrandPact will support both firm-level branding capability development as well as industry-wide branding efforts. This holistic initiative aims to raise awareness and understanding of branding, develop brand-savvy executives and act as a catalyst for the adoption of branding as a strategy for business competitiveness.

<http://www.iesingapore.gov.sg/events/index.jsp?vert=BZ&secfield=2>).

IE Singapore also has an on-line diagnostic brand assessment toolkit to help interested companies conduct a general self-assessment to test their brand status. This analytical virtual scorecard helps businesses to understand better some of the possible issues to consider before deciding to embark on branding.

3. Brand Awards

IE Singapore holds the Singapore Brand Award ceremony annually to identify and recognise the 15 Most Valuable Singaporean brands. The award is purely a desktop exercise, using only publicly available information. The valuation process adopts the same internationally established and accepted methodology as that used in the annual "The Best Global Brands" league table published jointly by Business Week and Interbrand.

SINGAPORE BRAND AWARD 2004

Brand	2004 Rank	Value (S\$M)
Singtel (wireline and wireless)	1	1,874
United Overseas Bank (UOB)	2	1,570
Development Bank of Singapore (DBS)	3	1,165
Asia Pacific Breweries (APB)	4	1,137
Overseas Chinese Bank Corporation (OCBC)	5	724
Great Eastern	6	583
Singapore Airlines (SIA)	7	332
Fraser & Neave (F&N) - (Soft Drinks & 100Plus)	8	137
Brand's	9	126
Tiger Balm	10	115
OSIM	11	106
Creative Technology	12	93
Food Empire	13	73
AKIRA	14	46
Eu Yan Sang	15	44

Source :

(<http://www.iesingapore.gov.sg/events/index.jsp?vert=BZ&secfield=2&catfield=7&subfield=215>)

The Association for Small and Medium Enterprises (ASME) has initiated a Singapore Promising Brand Award (SPBA) to recognise SMEs who have shown stellar performances in the communication of their brands. The awards go to businesses who have managed their brands successfully and strategically to generate value. The awards are evaluated by a panel of judges using the following criteria: brand strength/identity, brand culture, integrated brand communications, brand equity and brand performance. By raising the awareness of branding through these awards, the aim is to create more leverage on the brands of Singapore-based companies in order to achieve global recognition. Since its inception in 2001, this is one of the most highly-regarded awards in the business community.

Superbrands is an independent arbiter of branding which publishes a series of books giving insights into world-famous brands. The Singapore Superbrands 2004 was the second edition for the Singaporean market and featured 89 of Singapore's leading local and international brands. The Superbrands Council members assess and grade the brands using the following criteria: customer loyalty, market dominance, longevity, overall market acceptance and goodwill.

Sources: *Singapore Country Study: Feasibility of Establishing IP related Business Development Hubs in ASEAN*; <http://www.iesingapore.gov.sg>; <http://www.ipos.gov.sg>

D. CONTRIBUTION OF COPYRIGHT

1. Automatic Protection

In Singapore, copyright protection is automatically conferred on the author from whom the work originates as soon as it is created and fixed in a material or tangible form. Thus, an author of a work does not need to file for registration to get copyright protection. As long as the work is independently created, it has copyright protection. However, if two separate works, based on the same idea, are created independently, there would be copyright on each independent work.

2. Term

The duration varies according to the type of copyright work concerned.

Literary, dramatic, musical, artistic works	70 years from the end of the year in which the author died. If the work is published after the death of the author, it lasts for 70 years from the end of the year in which the work was first published.
Published editions of literary, dramatic, musical or artistic works (layout)	25 years from the end of the year in which the edition was first published.
Sound recordings and films	70 years from the end of the year of release of the sound recording or film.
Broadcasts and cable programs	50 years from the end of the year of making the broadcast or cable program.
Performances	70 years from the end of the year of the performance.

3. Awareness Programs

The Honour IP (HIP) Alliance is a group of government agencies, private organizations and industry associations with a common interest in pursuing the need for education on IP. In partnership with IPOS, the HIP Alliance teaches people to respect and reward original creative works by 'Saying No! to Piracy'.

(<http://www.ipos.gov.sg/main/index.html> > Our Programmes > General Public > HIP Alliance)

4. New Copyright Provisions

i. Circumvention of Technological Measures

Due to the increasing ease in which digital copyright works can be reproduced and disseminated, and in order for them to be adequately protected, it has become necessary to render legal protection to technological measures employed by

copyright owners to prevent unauthorized access or to restrict unauthorized use of their works.

ii Rights Management Information

Rights management information includes information identifying the author of a work and the terms and conditions relating to the use of the work. Such information in electronic form may be attached to or embodied in a copy of a work or appear in connection with the communication or making available to the public of a copy of a work.

For both of the above, there is criminal liability for willful infringement by a party for the purpose of commercial advantage

(<http://www.ipos.gov.sg/main/index.html> > About IP > Copyright > Other Copyright Provisions).

iii. Liability of Network Service Providers

The Copyright Act provides network service providers (NSP) with limited legal immunity from liability. An NSP is defined as a person who:

- (a) provides services relating to, or provides connections for, the transmission or routing of data (for transmission, routing or providing connections); and/or
- (b) provides or operates facilities for, online services or network access (for system caching, storage and referral).

Under certain conditions, an NSP would not be liable for copyright infringement for tasks carried out such as the transmission, routing or provision of connections, system caching and storage and referral.

5. IP Associations

There are several IP Associations in Singapore. They include:

- Business Software Alliance
- International Federation of the Phonographic Industry
- Recording Industry Association (Singapore)
- Recording Industry Performance Singapore Pte Ltd – (RIPS)
- International Confederation of Societies of Authors and Composers
- Composers and Authors Society of Singapore Ltd – (COMPASS)

- The Copyright Licensing and Administration Society of Singapore Ltd
- The Motion Picture Association
- Music Publishers (S) Ltd – (MPS)

RIPS, COMPASS and MPS are examples of collective associations. The presence of these associations is an indication of the importance of copyright protection in Singapore.

6. Economic Contribution of Core Copyright Industries in Singapore

NUS (National University of Singapore) Consulting released a study in 2004 evaluating the economic contribution of the core copyright industries in Singapore. Output, the value added and employment were used as the three main indicators of the study. The five core copyright industries refer to the following, in descending order of importance:

- i. Software and Databases
- ii. Press and Literature
- iii. Music, Theatrical Productions and Opera
- iv. Advertising Services
- v. Radio and Television

Output

In 2001, total output from these five industries amounted to \$12,115.5 million. This was a 1.7% increase from the 2000 amount of \$11,916.3 million. The long-term growth from 1986 to 2001 was at an average compounded rate of 12.8% per annum. From 1986 to 1990, a remarkable short-term growth of 18.2% per annum was achieved.

Value Added

In 2001, the core copyright industries generated value added of \$4,310.4 million or 2.8% of the GDP. This showed a decline of 5.4% compared to 2000 when the value added was \$4,554.4 million while the GDP contracted by 3.5%. The core copyright industries outperformed the economy in terms of long-term growth from 1986 to 2001 at 12.8% annually, being 3.2% points above the 9.6% attained by the economy during the same period. The best 5-year performance of these industries also coincided with the best overall growth of the nation between 1986 and 1990, with the core copyright industries growing at 18.9% against the economy's 14.4% per annum.

Employment

In 2001, the core copyright industries had a total of 72,552 employees, which accounted for 3.5% of the labor force. This was a 3% increase compared to 2000 when the employees numbered 70,430. The years between 1990 and 1995 saw these industries' workforce rising at a remarkable 7.9% per annum compared to the 2.1% growth in the economy during the same period.

Productivity and Remuneration

In 2001, the labor productivity of the core copyright industries was \$59,411 of value added per worker. This was a 5.6% increase per annum from \$26,069 in 1986. Such growth from 1986 to 2000 was mainly due to improvements in output efficiency per employee. However in 2001, there was a productivity loss of 8.1% due to a decline in the value added to output ratio. Average remuneration per worker was \$45,198. This meant it was \$1,198 above the \$44,000 achieved in the overall services sector in Singapore.

The study suggests that the core copyright industries have the potential to outperform the overall economy's expansion. However, these industries also seem to have a tendency to contract when the economy contracts.

Sources: *NUS Consulting: Economic Contribution of Core Copyright Industries in Singapore*; <http://www.ipos.gov.sg>; <http://www.newiplaws.org.sg>

E. VALUATION AND ASSESSMENT OF IP RIGHTS IN BUSINESS ENTERPRISES

Accounting firms and private consulting houses in Singapore, including the four major international accounting firms, have traditionally offered IP valuation services for potential business applications. Generally, SMEs and start-ups perceive these services as an additional cost and an unattractive option because of their limited funds.

Most firms employ their own methods (e.g. market approach, cost approach, income approach, etc) and tools when valuing IP. These methods, however, are not suitable for every valuation situation. The situation becomes more challenging when a certain degree of sophisticated technical know-how is required, e.g., in new technology fields where no benchmark exists. A lot would then depend on the technology's positioning in the market.

Generally, with the exception of some start-ups, smaller SMEs do not view IP as an asset that can be used to secure funding. IP is usually regarded as a cost that needs more expenditure, something to which they are averse. Thus, IP ranks low on their list of priorities in the face of daily survival. Banks do not have a concrete policy on IP asset securitization because the concept of IP as an asset is still new to Singapore. The SMEs also do not have the habit of listing IP as an asset in their balance sheets.

Start-ups, especially spin-offs which are a result of IP created during research from the two universities, have increased in recent years. In valuation for seed funding, the NUS uses its own in-house expertise which is based on a formula that is a mix of income projection, market trends and the track record and salesmanship of the inventor-entrepreneur.

FRS 103 – Business Combinations

- For acquisitions for annual periods beginning on or after **July 1, 2004**
- Also for acquisitions before effective date if conditions are satisfied
- Legislated on July 1, 2004

The Council on Corporate Disclosure and Governance (CCDG) issued the Financial Reporting Standard (FRS) 103 to replace the FRS 22. FRS 22 permitted business combinations to be accounted for using one of two methods: the pooling of interests method or the purchase method. Analysts indicated that having two methods of accounting for similar transactions would not allow for the comparability of financial statements. Others argued that having two methods of accounting created incentives for structuring transactions to achieve a desired accounting result, since the two methods can produce different results.

Furthermore, the pooling of interests method was prohibited in Australia, Canada and the United States, and it was thought that it would be advantageous for international standards to converge with those in Australia and North America. Accounting for business combinations varied across jurisdictions in other respects as well. These included the accounting for goodwill and intangible assets acquired in a business combination, the treatment of any excess of the acquirer's interest in the fair values of identifiable net assets acquired over the cost of the business combination, and the recognition of liabilities for terminating or reducing the activities of an acquiree.

Therefore, this FRS has been issued to improve the quality of, and seek international convergence on, the accounting for business combinations, including:

- i. the method of accounting for business combinations;
- ii. the initial measurement of the identifiable assets acquired and liabilities and contingent liabilities assumed in a business combination;
- iii. the recognition of liabilities for terminating or reducing the activities of an acquiree;
- iv. the treatment of any excess of the acquirer's interest in the fair values of identifiable net assets acquired in a business combination over the cost of the combination; and

- v. the accounting for goodwill and intangible assets acquired in a business combination.

Sources: http://www.ccdg.gov.sg/frs/attachments/2004/FRS_103.doc; *Singapore Country Study: Feasibility of Establishing IP related Business Development Hubs in ASEAN*

F. ACCESS TO CAPITAL BASED ON IP ASSETS – FINANCIAL SCHEMES (LOANS, GRANTS) BY GOVERNMENT INSTITUTIONS AND WITH PRIVATE CAPITAL

1. Introduction

Singapore has many financial schemes available for entrepreneurs and researchers. These schemes include seed funding for start-ups, research and development (R&D) grants, loans and subsidies from both public sources and venture funding from private sources.

i. Academic Grants

The Agency for Science Technology and Research (A*STAR), through the Biomedical Research Council (BMRC), provides funding support to research that contributes to Singapore's vision of becoming a premier centre for biomedical research and development. These funds are for researchers in Singapore's public research sector, not employees of A*STAR-funded research institutes:

- Project Grants - seed funding for promising researchers who are in the early stages of their career to engage in research for up to three years.
- Program Grants - funding for an extensive program of research by established researchers for up to five years, in the first instance.
- Co-operative Grants - funding interdisciplinary collaborative research involving two or more groups of researchers for five years in the first instance. The collaboration should focus on a common theme and leverage on current strengths of each individual research group.
- Core Competence Grants - funding for a research unit that engages in work considered by the BMRC to be of strategic importance. Funding will be for five years in the first instance.
- The Science and Engineering Research Council (SERC) Funding Scheme for Public Sector R&D projects provides 100% funding of direct costs for science and engineering projects for three years.

- The SERC Funding Scheme for Strategic Research Programme provides 100% funding of direct costs for science and engineering projects from universities, research institutes and centres. Projects must have a value of more than \$500,000[#] but less than \$3 million over a three-year period.

ii. R&D Grants for Companies

The Economic Development Board (EDB), a statutory board of the Ministry of Trade and Industry (MTI), provides R&D grants to startups, local enterprises and large global companies.

- The Research Incentive Scheme for Companies (RISC) provides partial grant for costs resulting from R&D projects. The scheme aims to encourage companies to develop R&D capabilities in strategic technology areas, and support the company in increasing its long-term industrial competitiveness.
- The Innovation Development Scheme (IDS) provides assistance to companies to develop capabilities in the innovation of products, applications and services.
- The Biomedical Sciences Proof of Concept (BMS POC) scheme provides seed funding to support the development of early ideas that are patentable and could lead to the formation of new startups or licensing deals with biomedical science companies.

iii. Start-up Grants

(a) Government

- Bio*One Capital, a subsidiary of EDB, administers the Biomedical Sciences Innovate 'N' Create Scheme (BMS INC). This scheme provides seed funding to support local biomedical start-ups to foster a biomedical sciences entrepreneurial environment in Singapore. Investments are between \$250,000 to \$2 million in the form of equity or convertible loans.
- The Start-up Enterprise Development Scheme (SEEDS) by EDB provides seed funding to start-ups, and offers a dollar-for-dollar match for start-ups. Businesses must show a substantial innovative or intellectual content, high growth potential and scalability for the international market. Every dollar raised by a startup from third-party investors will be matched by EDB, up to a maximum of \$300,000. Third-party investors must invest a minimum of \$75,000. Both SEEDS Capital and third party investors will then take equity stakes in the company proportionate to their investments. About

[#] All figures quoted are in Singapore dollars, unless stated otherwise.

100 companies have successfully obtained SEEDS funding (May 2005). Successful applicants come from industries such as IT, biotechnology, electronics and e-commerce, media and communications, and nanotechnology.

- A*STAR's Technology Incubator Program covers up to 85% of R&D costs or up to \$300,000 per year for two years.
- Venture Investment Support for Start-ups (VISS) – a \$50 million program that directly co-invests into early stage promising and strategic companies that are based in or linked to Singapore. Start-ups in any industry are eligible for a matching dollar for every two dollars of private investment, up to \$500,000.
 - Patent Application Fund (PAF) Plus by EDB is a scheme to defray the costs of patenting, up to \$30,000, and is available to all Singapore-based SMEs.
 - The Standards, Productivity and Innovation Board (SPRING), another statutory board of the MTI, manages two funding schemes for start-ups:
 - The Micro Loan Program is a fixed-interest rate-financing program for start-ups and small enterprises, particularly those that are asset-light and knowledge-intensive. This loan can be used to modernize and automate operations, expand existing businesses and augment working capital needs.
 - The Loan Insurance Scheme offers loans that suit the risk profile of the borrowers, with the interest rate based on the start-up's credit assessment.

(b) University

- The National University of Singapore (NUS) has its own Venture Support Fund, which provides seed funding of up to \$300,000 in convertible loans or redeemable preference shares. It recently established a Technology-to-Market Fund (T2M) with an initial \$200,000. T2M provides modest but critical support to selected technologies arising from research projects that need further development to be commercially viable.
- Research at the universities is also supported by the Ministry of Education through its Academic Research Fund.
- The Entrepreneurial Talent Development Fund (ETDF) was started in 2004 to provide funding to Institutes of Higher Learning (IHL) to support their Student Venture Programs. Full-time and part-time students (except

part-time students under the continuing education program) are eligible, regardless of nationality. Students who have graduated within a year from their date of application are also eligible if their business venture was started during the time they were students. For every \$3 invested by the ETDF, the IHL and the student must invest \$1 each. The maximum investment by the ETDF is \$50000.00. To date (May 2005), the NUS has used the ETDF to seed seven student companies over the last six-month period. The goal is to seed twenty such companies a year, up to 100 in the five-year life span of the ETDF.

iv. **Venture Capital**

- ☛ More than 150 local and international venture capital fund management groups are located in Singapore, managing some \$16 billion funds
- ☛ The Government has also invested in venture funding. The Technopreneurship Investment Fund (TIF) is a US\$1 billion venture capital fund-of-funds that assists Singapore-based institutions to participate in the local venture capital industry.
- ☛ The fund is managed by TIF Ventures (TIFV) and the company's charter is to manage funds of funds, and associated activities with emphasis on harnessing new technology and value-added business building capabilities.
- ☛ EDB hosts a DEALS Portal which aims to match companies seeking venture funding to Singapore's venture capital community. One can register and upload the business plan at the DEALS Portal. The portal automatically matches and directs the business plan to the appropriate venture capital in Singapore.

v. **Banks and Finance Institutions**

The local banks and finance institutions have many financing and loan schemes to help the SMEs. For example, the Overseas Chinese Banking Corporation (OCBC), is the first to offer venture banking. The TechFinancing Centre offers credit facilities to technology start-ups which have already raised capital from venture capitalists or qualified business angels. The credit terms include items such as working capital, equipment and accounts receivable financing. For a complete description of funding schemes offered by banks and financial institutions available to SMEs, refer to the directory of listings under the 'Financial Grants' section.

Sources: Singapore Country Study: Feasibility of Establishing IP related Business Development Hubs in ASEAN;

http://www.ocbc.com.sg/sme-banking/loans/Lns_WCF_BusCashFinancing.shtm;

<http://www.hlf.com.sg/loans/smeloan/index.html>;

http://www.sif.com.sg/loans_sme.htm;

<http://www.uob.com.sg/pages/business/loans/clloans/>;

<http://www.hsbc.com.sg/sg/commercial/finance/default.htm>;

<http://www.singapurafinance.com.sg/webtop/loans/Business/commercial.phtml>

PART II (B): SUCCESS STORIES

Case Study 1

General Information	
COUNTRY: Singapore	
COMPANY NAME : Merlin MD	
CONTACT ADDRESS	
Contact Person	: Mr. Howard Califano
Designation	: CEO
Business Address	: 29 Woodlands Industrial Park, #04-13/14 Northtech (Lobby 3) Singapore 757716
Tel No.	: 65-6892-0020
Fax No.	: 65-6892-0080
E-mail	: howard@eastern-gate.com
Home Page (if any)	: www.merlinmd.com

Description of Success Story:

Merlin MD is a Singapore-based medical devices company that specializes in developing innovative technologies for the treatment and prevention of stroke. Merlin MD's IP portfolio is primarily focused on patents, as they are developing their own proprietary products as well as licensing selected products/processes from companies from Europe and North America. Their R&D takes pricing and medical requirements of the market into account. For example, when they first introduced their coronary stent into the market, they benchmarked it against existing devices and in doing so were able to enhance their product design to achieve superior performance. Some of these attributes include low profile, improved flexibility, thin stents, low inflation pressure and high radial strength.

1. Title :

Case Study 2: Merlin MD

2. Type of IP concerned (e.g. TM, ID, Patent, etc.)

Patents

Merlin MD is building a patent portfolio around its proprietary technology and submitted five patents to IPOS from 2003-2004 with one application through the PCT. Prior to filing patent applications, the company assessed the technology both internally and with their law office based on prior art searches. Merlin MD will proceed to file for patent protection regionally and internationally in key markets.

To enhance its product development strategy for stroke management and vascular disease, Merlin entered into an exclusive license agreement with The Johns Hopkins University in 2004 for several pioneering patents that could lead to a dominant position in the field of cellular management. Merlin has acquired worldwide patents relating to the use of novel compounds in drug delivery for the treatment of vascular disease. These patents have been filed, examined and granted or awaiting grant.

Merlin MD will continue to file patents to protect products under development and future products that are currently at the concept stage. Their patent portfolio currently includes and will include technologies in the areas of delivery systems for intracranial (IC) and coronary applications, implant devices for IC and coronary applications and cellular management with coating technology.

Trademarks

They registered the trademark “X*Calibur” in Singapore in 2003 for a family of coronary products in the treatment and prevention of hemorrhagic and ischemic stroke. They are in the process of filing for the trademark of the company’s name, ‘Merlin MD’.

3. Background (*historical conceptualization of the concerned technology, product, business etc.*)

Merlin MD was established in August 2002. Strategically headquartered in Singapore, housed in a facility of over 12,000 sq feet in product research and development, quality control, manufacturing, and clean room operations, their medical devices assist interventional neuro-radiologists, neurologists and neurosurgeons in conducting clinical trials on stroke patients.

Merlin has started sales and marketing of its X*Calibur coronary stent in Asia. Initial sales are in India, Indonesia, and China, and subsequently to the rest of Asia, Latin America and Eastern Europe. Three key centers in India have been established to generate revenues and to build up their brand name. The strategy is to have direct sales support in Singapore as a springboard for the region to provide market control while staying at the cutting edge of technology and market trends.

Merlin has established research collaboration programs with Singapore’s National Heart Centre and the Nanyang Technological University for its drug-eluting program.

Merlin MD’s product line covers:

For cardiology:

- Merlin Coronary Stent and Delivery System
- PTCA Balloon Catheters

In addition to developing its own products, Merlin MD is also the distributor of Merit Medical U.S.A in the region.

The company's product strategy offered:

- (1) The X*Calibur IC, which is a unique intracranial stent and delivery platform that can navigate the "Siphon" of the internal carotid artery and access the intracranial arteries. This product has proprietary features with superior platform technology.
- (2) The X*Calibur Patch, a novel covered stent, for the treatment of aneurysms, which will exclude the aneurysm from the circulatory system by blocking the neck of the aneurysm and redirecting the blood flow. Once it is introduced onto the market, it will catalyze a family of products for the company.

4. Management Team

The company's management team has over 60 years of combined experience in medical devices R&D, and commercialization. The team has been awarded over 30 U.S. and global patents in interventional procedures.

Deepak Gandhi, Chairman

Deepak Gandhi brings over 29 years of experience in medical devices to the Company. Before joining Merlin MD, he was Director of Material Technologies for In-Cube Inc, an incubator research company set up in Silicon Valley. He supported material-related issues for Intra-Pace, one of the incubator's start-ups. Prior to that, he was Executive VP of New Product Development and Chief Technology Officer for Micrus Corporation. While there, he successfully developed a new coil detachment technology that was launched and commercialized in May 2000 in a record time of 18 months. Deepak was a key member of the management team in the establishment of Intella Interventional Systems in 1992, where he held the position of Senior VP. He has worked in several medical device start-ups in various executive capacities. He also successfully founded a medical device company in India to design and manufacture urology, gastroenterology, and ob/gyn products. Between 1981 and 1985, Mr. Gandhi worked for Advanced Cardiovascular Systems (Guidant) as a project manager in extrusion/coating and helped to develop first generation over-the-wire angioplasty catheters and materials. Overall, he has worked in over 10 start-ups specializing in medical devices for the past 25 years. He is the inventor or co-inventor on over 25 issued patents in cardiology, neurology, oncology, and gastroenterology. He is a graduate in chemical engineering from the University of Wisconsin, with an MS in plastics engineering from the University of Lowell, Mass., U.S.A.

Howard Califano, CEO

Howard Califano has been employed in various organizations, holding positions in executive management, on the Board of Directors and as a Consulting Director. Prior to his current positions, he was the Chief Executive Officer for Johns Hopkins Singapore Pte Ltd and Johns Hopkins-NUH International Medical Centre Pte Ltd. As the Chief Executive Officer for Johns Hopkins Singapore Pte Ltd, he led and managed a team of 150 researchers, physicians, administrators and staff to establish a center of excellence in research, education and patient care. From 1995 to 1999, he was Assistant Dean, The Johns Hopkins University, School of Medicine, where he was responsible for the business development activities of the University, including the Office of Technology Licensing, responsible for commercializing all medical discoveries originating there.

Michael J. O'Connor, COO

Michael O'Connor brings extensive experience in the operations and strategic growth of medical device companies. At Merlin MD, he leads the company's research management, technology transfer and business development. Prior to joining Merlin, he was VP of Operations for Micrus Corporation. He joined Micrus in March 1998 and was instrumental in the development, pilot phase, and commercializing of their implantable coil and delivery system. Mike was responsible for all operations including; manufacturing, engineering, facilities, quality, materials, customer service, and shipping/receiving. Prior to that, he worked at Cardima as a Senior Process Engineer in charge of production and engineering for the electro-physiology catheter line. Before that he worked as a Manager within the corporate R&D organization. He coordinated and implemented the successful creation of the Pilot Process Development group with Boston Scientific. This organization within BSC was a vertically-integrated engineering, production and management organization with production capabilities for; molding, extrusion, balloon forming, custom devices and catheter assemblies (Neuro, EP, PTA and PTCA). Mike brings to Merlin over 12 years of expertise in manufacturing medical devices. He has a BS from University of Lowell, Mass., U.S.A.

5. Development and Use of IP in Business Strategy *(Please explain the technology etc. used, elaborate on its development and how the IP concerned is being applied in the business strategy)*

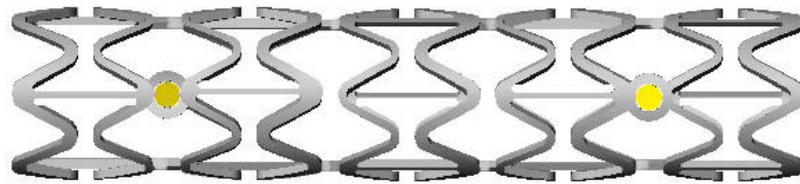
Merlin MD builds brand identity through product development. Having an R&D pipeline ensures competitiveness in the market by developing a series of products that will help maintain the company's position in the market. The company has a strong team of engineers/scientists developing these products.

Even though the gestation period for product development can be long, they feel that the value lies in their Intellectual Property. The asset appreciation of their IP will become an important factor in getting a good valuation for their investors when the company positions itself for a public offer or acquisition by one of the major companies in this field.

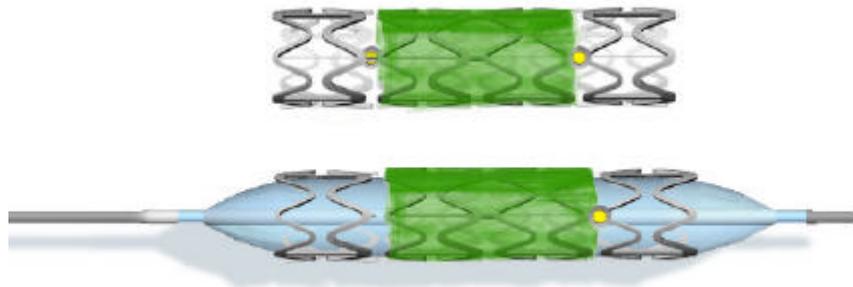
The company's product development strategy is composed of two parts:

Firstly, Merlin MD has developed the X*Calibur IC, which is a unique intracranial stent and delivery platform that can navigate the "Siphon" of the internal carotid artery and access the intracranial arteries. This product has proprietary features with superior platform technology.

Secondly, Merlin MD is developing a novel covered stent, called the X*Calibur Patch for the treatment of aneurysms, which will exclude it from the circulatory system by blocking the neck of the aneurysm and redirecting the blood flow. This is a novel approach for treating aneurysms and once it is introduced onto the market, it will catalyze a family of products for the company. Each product will be introduced sequentially with each product being able to expand the type and location of the aneurysm that can be treated.



Bare-stent. Copyright of Merlin MD. All rights reserved.



Patch-stent. Copyright of Merlin MD. All rights reserved.

Merlin has filed five patent applications based on its proprietary technology with IPOS and will proceed to file regional and foreign applications to cover key markets worldwide. Prior to filing these patent applications, the company assessed the technology both internally and with its law office, based on prior art searches.

To enhance its product development strategy for stroke management and vasculature disease, Merlin became a party to the exclusive licensee agreement with The Johns Hopkins University for several pioneering patents that can lead to a dominant position in the field of cellular management. In fact, Merlin has acquired international patents relating to the use of compounds that affect cell behavior positively in the reduction of restenosis. These patents have been filed, examined and granted or are awaiting grant.

Merlin MD plans to continue filing patents to protect products under development and future products that are currently at the concept stage. Their patent portfolio currently includes and will include technologies in the areas of delivery systems for IC and coronary applications, implant devices for IC and coronary applications and cellular management with coating technology.

6. Impact on Productivity (e.g. how IP has contributed towards market dominance, company image, sales, quality, productivity and profits)

Merlin MD's key strategy is to leverage on Singapore as their headquarters to reach out to physicians in Asia to conduct new product development and clinical trials. Through these relationships, they aim to equip physicians with the precision devices and accessories they need to treat patients.

They plan to sell their products in Singapore, India, China, Malaysia, Indonesia and then to expand to the rest of South East Asia, Latin America and Eastern Europe. Therefore, Merlin MD leverages on Singapore as a base because of its high quality medical device manufacturing capabilities, strong brand value, growing biomedical capabilities and medical expertise and infrastructure to provide innovative yet cost-effective products to regional markets. Merlin MD's objective is to achieve market dominance in the rapidly-expanding medical device markets within the Asia-Pacific region.

Merlin MD develops its own proprietary technologies, as well as licensing selected products from the U.S. and Europe. This allows Merlin to create a portfolio of products that are ideally suited to the Asia Pacific markets in the shortest time possible. Their products are customized to fit the disease, physiology and market patterns of the untapped Asia Pacific markets. Their R&D takes pricing and medical requirements of the market into account. For example, when they first introduced their coronary stent, they benchmarked it against existing devices on the market and in so doing were able to enhance their product design to achieve superior performance. Some of these attributes include low profile, improved flexibility, thin stents, low inflation pressure and high radial strength.

In order to produce revenue, Merlin has started sales and marketing of its X*Calibur coronary stent in Asia. Initial sales have come from India, Southeast Asia, China and the rest of Asia. Three key centers in India have been established to generate revenues and to build up the brand name. The strategy is to have direct sales support in Singapore as a springboard for the region to provide market control while staying at the cutting edge of technology and market trends. Merlin hopes to develop relationships with key opinion formers in order to build up its credibility amongst local clinicians who will then endorse their products.

Case Study 2

GENERAL INFORMATION	
COUNTRY: Singapore	
COMPANY NAME : Ya Kun International Pte Ltd	
CONTACT ADDRESS	
Contact Person 1	: Mr. Adrin Loi
Designation	: Executive Chairman
Contact Person 2	: Mr. John Ong
Designation	: Managing Director
Business Address	: 100 Cecil Street ,11 th Floor, The Globe Singapore 069532
Tel No.	: (65) 6222 4567
Fax No.	: (65) 6222 9711
E-mail	: adrin@yakun.com ; john@yakun.com
Home Page (if any)	: www.yakun.com

A Brief History of Ya Kun

The following is a reproduction of the founder's story found on Ya Kun's website and outlets:

In 1926, with just a black wooden suitcase, 15-year-old Loi Ah Koon boarded an old Chinese junk to set sail from Hainan Island in China to Singapore. After crossing the South China Sea, he finally set foot upon Singaporean soil with uncertainties swirling around in his head. Having neither kith nor kin there, he gravitated towards the local Hainanese community. There, he was introduced to work as an assistant at a Hainanese coffee stall.

He picked up the tricks of the trade fast. Before long, he could hear the jingling of his meager earnings in the pockets of his khaki shorts. This aroused the entrepreneurial spirit in him. He partnered two fellow Chinese immigrants to start their own coffee stall business. When his partners later decided to venture elsewhere on their own, he decided that it would still be business as usual. He continued to serve coffee, tea, eggs and toast to a wide range of customers, including coolies, merchants, money-lenders, police inspectors and boat operators.

Ah Koon got married during one of his visits to his home in China. In 1936, his wife joined him in Singapore. She worked alongside her husband, perfecting her skill of churning out homemade kaya (a local jam made of egg and coconut) to go with their toast. Ever

resourceful, he also began roasting his own coffee. He bought coffee beans, added 'Planta' (a well-known margarine in Singapore) and sugar, and roasted these over firewood at the back of his stall.

He would spend his nights sleeping on the hard wooden countertop at the stall in order to be on time to serve his first customers at five in the morning. When these customers barked their orders, he would, with chalk in hand, scribble their preferences furiously on the same countertop he had slept on.irate customers never floored him. With a serene smile and a resigned shrug, he kept at his chores. His kind nature always shone through. To those in need he gave generously. For those who read, he provided the daily newspapers. To regular customers, he extended credit.

After more than 15 years in Telok Ayer Basin, an area in Singapore's central business district (CBD), Ah Koon relocated his business to Lau Pa Sat, a popular local market and food center. This was yet another place in the heart of the country's CBD. The stall was then simply called Ya Kun Coffee Stall. The business remained there for another 15 years during which it was awarded 'The Most Courteous Stall in Lau Pa Sat' award. In 1984, it moved back across the street to Telok Ayer Transit Food Market to make way for the revamp of Lau Pa Sat. Finally in 1998, Ya Kun Kaya Toast Coffee Stall settled down at its present site in Far East Square, a trendy part of Singapore's CBD.

1. Title:

Ya Kun Singapore Pte Ltd and Ya Kun International Pte Ltd

2. Type of IP concerned (e.g. TM, ID, Patent, etc.)

Adrin Loi, the youngest son of Ah Koon, was faced with the challenge of how he was to expand the family business. Despite the popularity of Ya Kun's kaya toast and coffee, its business operations were limited to just one outlet. Internal organic growth was considered but raising the resources that were required for such a move proved to be a daunting challenge. After conducting some research, Adrin realized that he had in his hands a substantial IP portfolio that could be used to grow the business. For example, his father had built up a lot of goodwill among Singaporeans resulting in strong brand recognition of the Ya Kun name amongst the local population. With this IP portfolio in hand, new expansion strategies were developed for the company.

Trademark

Adrin had grasped the importance of the company's trademark and filed for international protection of the company's name "Ya Kun" as well as its unique logo. This proved to be an important business move as he later learnt that certain foreign parties had tried filing Ya Kun's trademark in a market in which they were interested. If Ya Kun had not filed for protection earlier, they could have been blocked from entering the market.

In 2001, a company called Ya Kun International Pte Ltd was spun off to franchise its coffee stall business in Singapore and other countries. The new company became the licensee of the Ya Kun trademark, and was itself the owner of the franchise system including the copyrighted manuals and other proprietary know-how and techniques. Ya Kun International has also been given the exclusive world-wide rights to operate and market the business concept.

A. Trade Secrets

Another form of IP that Ya Kun has is its trade secrets. The kaya spread is a family recipe developed over many years and is a closely-guarded trade secret. The kaya spread is manufactured in a separate, family-owned factory, and the staff is made up of family members. Another important and closely-guarded trade secret is the well loved Ya Kun coffee which is renowned for its rich, unique and traditional taste. The mixing of the various types of coffee to achieve this special aroma and flavor is done solely by one of Adrin's older brothers.

B. Copyright

All the Ya Kun outlets have the same posters depicting the ambience of bygone days. The main purpose of these posters is to portray and promote the nostalgia element of Ya Kun. The target audience were those who fell within the 20 to 40 age group, because they were the ones who could understand, appreciate and afford the products offered by Ya Kun. Ya Kun has ensured that it owns the copyright to all the posters, which were developed by the Leo Burnett office in Singapore.

3. Background

Before Adrin came to the helm in 1999, Ya Kun's business strategy is best described as being dated. Its business approach was conservative, and lacked modern managerial and business expertise. Furthermore, due to the simple nature of the business model, and the lack of depth and breadth of product offerings, it was relatively easy to copy and duplicate. As a result, there was little impetus for change and growth.

In 2000, Adrin brought in a team from FT Consulting, a franchise consulting company, to help develop and expand the business by capitalizing on its IP portfolio. Ya Kun went through a franchise development program with the consultants which enabled it to franchise its business properly to interested parties. Strategies and tools on how best to manage and protect their IP were developed as part of the program.

Just before the launch of the franchise in 2001, the management of Ya Kun International felt that Ya Kun should continue to tap into the nostalgia it represented and provide every customer with the ambience of yesteryear, yet at the same time offer modern-day air-conditioned comfort with a contemporary lifestyle appeal. However, the prices had to remain affordable. The goal was to cater to the local population and local tastes, without duplicating the many Western-styled coffee franchise outlets that were already in existence. The present Ya Kun café concept was born.

4. Development and Use of IP in Business Strategy

The management embarked on a franchising model in 2001 and moved away from the ‘mom and pop’ type of establishment. Franchising is especially effective when companies have limited capital as it allows them to expand rapidly and develop a wider market for their products. The Ya Kun franchise consisted of the following aspects:

- A. Trade secrets like the kaya spread and the special mix of coffee.
- B. Creating adverts that reflected nostalgia for a bygone era.
- C. Marketing a lifestyle concept that emphasized a café-style ambience.
- D. Every outlet was outfitted with the same type of furniture and decor to ensure that all customers enjoyed the same experience.
- E. Focusing on kaya toast and coffee as these food items can be consumed at any time of the day. The menu was also expanded to improve the products offered.
- F. Prices were kept affordable so that there would be mass appeal.
- G. The menu was customized to meet the preferences of the local palate.
- H. The company’s factory was accredited with HACCP certification, an international Food Safety Management Standard which ensures high quality in the process of food preparation.

In September 2001, the first Ya Kun franchise outlet opened at Robinson Point in the central business district. The franchisee gave a lot of important feedback about the tastes and preferences of customers, which helped Ya Kun to achieve continuous improvements to their franchise model. To date, there are 20 outlets in Singapore.

5. Impact on Productivity (*e.g. how IP has contributed towards market dominance, company image, sales, quality, productivity and profits*)

Using the strategies and tools developed by the consultants, and further enhancing them in-house, Ya Kun successfully expanded operations overseas. In June 2003, it granted a Master Franchise for Indonesia. In February and March of 2005, Ya Kun entered into Master Franchise Agreements with Taiwan and South Korea respectively.

In Korea, located at the trendy Apkujung commercial district of Seoul, the first Ya Kun outlet is next to Cine City, a popular movie theatre. A second outlet has been secured and will be opened by the fourth-quarter of 2005. The Managing Principal of the Master Franchisee is confident of opening 20 outlets in the next three years and at least 35 outlets within the next five.

In Taiwan, the first outlet was opened in Taipei's Neihu district. At least ten new outlets have been planned over the next year. The Managing Principal in Taiwan firmly believes that the distinctive business concept and unique products of Ya Kun will help start a new food culture in the very competitive scene of Taiwanese food and beverage.

Ya Kun's overseas expansion plans include constantly seeking out master franchise or direct investment opportunities. Between January 31 and February 5, 2005, the company participated in JETRO's (Japanese External Trade Organization) Invest Japan Study Program. Ten food services companies from around the world were selected for this prestigious trip sponsored by the Japanese Government. Only three of the participating companies were from Asia, with the rest coming from the United States, Europe and Australia. Ya Kun also participated in FOODEX, one of the world's largest food exhibitions held in Tokyo in March 2005, during which it received a positive reaction to its kaya spread. Ya Kun plans to launch its kaya spread in Japan over the next year, and establish its first outlet by early 2007. There are also eight outlets in Indonesia.

With more than 500 applicants hoping to clinch the franchise in Singapore, the company stopped granting local franchises to new applicants in 2004. Although there has been keen overseas franchise interest from countries like Malaysia, Hong Kong, Thailand, the Philippines, Australia, India and China, the company is in no hurry to enter into franchise relationships in these markets. "Franchising is a long-term relationship, and is often likened to a marriage. We would rather be careful in choosing the right partner, in order to ensure that our business remains viable in every country that we go to," said Mr Adrin Loi.

The company was recently awarded the prestigious 'Superbrand' status in Singapore, winning in the Food and Beverage category. It has also received the prestigious SPBA Heritage Brand Award, given to well-known Singaporean brands with at least 40 years of history. The financial returns of franchising for Ya Kun have been robust, as can be seen by the following statistics:

Approximate revenue contribution
Approximate pre-tax net profit contribution

Company-owned	72%
	63%
Franchising	28%
	37%

Conclusion

Ya Kun's experience shows that sound and proper Intellectual Property management can help in making a company very successful. The portfolio of IP – trade secrets, trademarks, copyright and the subsequent branding achievements all came together to help make Ya Kun a popular food and beverage destination for the local population. IP has helped to associate Ya Kun with nostalgia, and a truly homegrown company that appeals to both young and old.

Faced with increasing competition from look-alikes in Singapore, Mr Loi commented: "We welcome healthy competition, because the ultimate beneficiaries will be the consumers. For our part, we will continue to harness the value of our 60-year-old brand, improve our products and operations, and maintain strong tie-ups with Government agencies such as the Singapore Tourism Board and IE Singapore to promote this uniquely Singaporean product. We had a head-start and have a good team, and we intend to leverage on these advantages to make Ya Kun not only a well-known homegrown name, but an international brand that will make Singaporeans proud."

Source: <http://www.yakun.com>

PART I (A)

List of Manuals, Guidelines and Directories
in the Area of
Intellectual Property (IP) Portfolio Management

COUNTRY: THAILAND

No .	English Title + Brief Description of its Contents in less than 50 words	Year of Publication	Agency Responsible and Address	Contacts (Tel/Fax/email)
A. PATENT AND INVENTION RELATED				
1.	www.toryod.com This is the website of the Thai Society for Innovation providing world class resources in the form of patent information, search tools, and patent download and mapping to encourage incremental innovation, facilitate exchange of information, and provide a market place for trading of inventions.	Presently updated	Thai Society for Innovation (TSI), Food Product Research and Development Institute, Kasetsart University, Bangkok	Tel. no. 662-9428629 ext. 908, 626 Email: TSImember@yahoo.com
2.	Types of IP- Patent (in Thai) index at www.ipthailand.org , the official website of the DIP. This gives information on procedures and steps on filing of patents, latest directives and regulations and advice to users.	Presently updated	Department of Intellectual Property (DIP), 44/100 Sanambinnam Rd, Amphur Muang, Nonthaburi 11000, Thailand	Patent Office Tel. no. 662-5474713-7, 5474710
3.	Patent Gazette (in Thai). This is a publication of patent applications. It also appears on-line under "Patent publication" on the tool bar of www.ipthailand.org .	Periodically	Department of Intellectual Property (DIP)	Hard copies of the patent Gazette can be found at major libraries and industry and trade organizations
4.	www.ipic.moc.go.th This is the website which provides abstracts of patents granted by the USPTO, EPO, JPO, and the DIP with user guides for searching patents in English and in Thai.	Presently updated	Industrial Property Information Center, DIP	Tel. no. 662- 547 4654 Email: admin@ipic.moc.go.th
5.	"Top Thai Innovations Volume 1" (in Thai). This is a book showcasing innovations which were winners at the National Innovation Awards 2005 and innovations which are the subject of joint projects with the private sector, totaling 50 innovations.	September 2005	National Innovation Agency (NIA), Ministry of Science and Technology, 73/1, Rama VI Rd., Thung Phayathai Sub-District, Rajthevi District, Bangkok 10400	Tel. no. 662-6446000 Fax. no. 662-6448444 Email: info@nia.or.th The book is available at Chulalongkorn University Book Center

6.	Handbook of Patent Registration and Patent Law. This gives advice on how to file a patent application and explanation of the Patent Law in detail. Somewhat outdated.	1994	By Mr. Vibul Tangkittipaporn	Available at Chulalongkorn University Book Center Tel. no. 662-2187010-15 Fax no. 662- 2549495 http://www.chulabook.com
7.	"Innovate Thailand: Case studies from the U.S. and the EU and the strategy for building innovation for Thailand" (in Thai). This book looks at the policies and measures used by the U.S. and EU as well as analyzing weak and strong points to determine a suitable strategy for Thailand.	April 2005 ISBN 974229743-6	NIA Author: Mr. Prida Yangsukstaporn	Available at Chulalongkorn University Book Center
8.	Traditional knowledge index on the home page of www.ipthailand.org which provides a search facility of the database containing works on traditional knowledge notified to the DIP plus basic information and departmental announcements on notification of traditional knowledge.	Presently updated	IP Capitalization Office, DIP, 44/100 Sanambinnam Road, Amphur Muang, Nonthaburi 11000, Thailand	
B. INDUSTRIAL DESIGN RELATED				
1.	All the items in Item A above are applicable here as industrial designs are considered to be a section of patents according to Thai patent law.			
C. TRADEMARK RELATED				
1.	Types of IP- Trademark index (in Thai) on the home page of www.ipthailand.org , the official website of the DIP. It gives basic information on trademarks and guidance on how to apply for registration of a trademark plus relevant rules and regulations as well as an application form. It also provides information on procedures for applying for trademarks abroad.	Presently updated	Department of Intellectual Property (DIP)	

D. COPYRIGHT RELATED				
1.	Types of IP- copyright index (in Thai) on the home page of www.ipthailand.org , the official website of the DIP. It gives basic information on copyright and guidance on how to register copyright works as well as the relevant rules and regulations.	Presently updated	DIP	
2.	CD compilation of model contracts on copyright for MS Word 98/2000	N/A	Chulalongkorn University Book Center	
3.	"Practical Steps on Legal Issues Arising from Copyright Cases in the Intellectual Property and International Trade Court". This book in its 3 rd edition provides comprehensive information on procedures in copyright cases as well as steps for initiating litigation in both civil and criminal cases.	2005	By Judge Supis Praneetpolkrang	Available at Chulalongkorn University Book Center
E. BUSINESS RELATED				
1.	"Intellectual Property Valuation Techniques" (in Thai). This book addresses the various factors and criteria for valuation of intellectual property with reference to actual business facts and cases.	September 05	By Mr. Prida Yangsukstaporn ISBN 974-93458-3-4	Available at Chulalongkorn University Book Center
2.	"Handbook for Registering & Managing Intellectual Property" (in Thai). This book provides comprehensive instructions on the registering of intellectual property works, the assessment of their business potential and the ways and means to determine and manage an IP portfolio.	August 05 ISBN 974 229 790-8	National Innovation Agency (NIA)	
3.	Information on converting assets into capital on the home page of www.plangsinsap.or.th , the official website of the Assets Capitalization Bureau. It provides background information on assets capitalization and hyperlinks with other relevant agencies particularly with the DIP on converting IP assets into capital.	Presently updated	Assets Capitalization Bureau, Building no. 41, Prime Minister Office, Pissanulok Road, Dusit, Bangkok 10300, Thailand	Tel. 662-629-9222 Fax. 662- 629 9222 ext. 205 Email: acb@plangsinsap.or.th

4.	Intellectual Property Central Market index on the home page of www.ipthailand.org , the official website of the DIP. It contains a search tool for available IP products as well as providing an online market place for the buying and selling of IP products and offering opportunities for joint ventures.	Presently updated	Department of Intellectual Property (DIP)	Intellectual Information Center, DIP Tel. 662- 5474660-1 Fax. 665- 5474661
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F. FINANCIAL GRANTS

1.	The index "IP Capitalization" on the tool bar of the home page of www.ipthailand.org . This provides very helpful guidance for those interested in turning IP assets into capital as they will have access to all the relevant regulations, procedures for loan applications with IP as collateral, and examples of how the conversion should be done.	Presently updated	Department of Intellectual Property (DIP)	
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PART I (B)

General Overview of Items (A) – (F)

A. COMMERCIALIZATION OF PATENT AND INVENTION RELATED

Thailand passed its first patent law in 1979 although the first draft law was in existence before the First World War. The latest patent law was passed in 1999¹⁹ to comply with the provisions of the TRIPS Agreement and to facilitate acceding to regional and international agreements on patents as well as to stimulate innovation at grass-roots level through the introduction of the petty patent which requires only novelty and industrial applicability, omitting the requirement for innovative steps. This protection of petty patent was based on the premise that easy registration of inventions should be protected as well to give encouragement to local inventors who might not be able to fulfill the three criteria of invention patents, namely, novelty, innovative step, and industrial applicability. To make the granting of petty patent even faster, the patent law does not impose opposition before grant so the proof of novelty and industrial applicability is sufficient to allow the granting of a petty patent which will run for six years renewable twice for a term of two years each. This new feature of the law has been successful since the number of applications²⁰ in 1999 was 1,886 local applications and 5,011 from abroad compared to the year 2004 in which the number of applications stood at 3,428 local applications and 5,148 from abroad. During the six-year period the number of Thai applications has risen by 81% whereas in the same period the number of foreign applications has risen by a mere 2.7%. However, if the number of filed petty patents is removed, it can be seen that the number of local ones in 1999 was only 185 and the figure for 2004 was 1,390. Thus, the increase is even more dramatic when the figures for local petty patents alone are given, showing an increase of 651%!

According to Professor Sanjaya Lall in his study²¹ as part of a UNCTAD/ICTSD Capacity Building Project on Intellectual Property Rights, the Technology Effort Index (1997-98) based on the figures for productive enterprise R&D per capita (US\$) and patents per 1,000 people, Thailand was ranked 52nd with a total of 0.0005 compared with 0.8649 in Japan (No. 1). The number of patents per 1,000 people in the case of Thailand in 1997-98, was 0.002, and Thailand was ranked 47. This is a big contrast when compared with the figure per 1,000 people in the U.S. (No. 1), which stood at 3.297. The figures show a huge gap between a developing country such as Thailand and developed countries like Japan and the U.S. in terms of technology. The introduction of petty patent has evidently increased the number of patent applications in Thailand but no gain made could be used to improve the ranking given by Professor Sanjana Lall as he used the number of patents taken out internationally (in the U.S.) as the basis of his calculations, excluding petty patent. However, if the total number of local patents (inventions, processes, and petty patents) granted by the Thai Department

¹⁹ See the English text of the Patent Act at http://www.ipthailand.org/Static/IPSystem/PATENT_ACT.doc

²⁰ See the filing and registration statistics at the Statistics index on the Thai home page of www.ipthailand.org

²¹ Indicators of the relative Importance of IPRs in developing countries by Sanjaya Lall, Professor of Development Economics, Oxford University with the collaboration of Manuel Albaladejo, Queen Elizabeth House, Oxford University

of Intellectual Property is used to arrive at the figure of patents per 1000 people, the total for 2004 would be 0.01376. In any case it is still insignificant when measured against the figures achieved by the leading industrialized countries. It is not clear whether the degree of innovation could be measured by the number of filed and granted patents alone. The Thai Government is aware of this fact and that there is a high degree of innovation at the grass-roots level involving traditional knowledge. Traditional knowledge should be given due value. But how? The Thai Government set up the Assets Capitalization Bureau²² on April 22, 2003 based on two basic assumptions. Firstly, while the poor do have assets, there are limited operational channels for them to access capital, secondly, creating access to capital can be a modality for unleashing the productive capacity of the poor thereby helping them to escape the poverty trap. The Assets Capitalization Bureau split the assets into five categories, namely, land, rental right, public land, intellectual property, and machinery. The Department of Intellectual Property (DIP) has been assigned to turn intellectual property assets into capital: the so-called intellectual property capitalization. The DIP has been promoting this policy vigorously for intellectual property works with official registration certificates, namely, patents, petty patents, trademarks, layout designs and geographical indications and those without official registration certificates, namely, copyright, trade secrets, and traditional knowledge. In the case of copyright, there is already a system of voluntary notification to the DIP. Likewise, in the case of traditional knowledge, not given any legal protection so far by any *sui generis* law in Thailand, the DIP issued a regulation on November 7, 2002 allowing for the notification of traditional knowledge and the setting-up of a database²³ of Thai traditional knowledge. Traditional knowledge notifiable to the DIP is divided into two categories, namely, community knowledge and folklore. There have been around 3800 notifications to date. In addition to implementing the policy of turning intellectual property assets into capital, the publicity campaign and promotion of traditional knowledge has also served to unleash the innovative power at the grass-roots level, putting intellectual property within easy reach of the population especially in rural areas, for, although this knowledge has been part of their life and heritage it has rarely been commercially or systematically exploited. It awakens a sense of pride in the community and its heritage and also promotes recognition of the talent existing at the grass-roots that will further promote innovation and increase the number of patent applications filed in the country. The DIP set up a specialized unit, the IP Capitalization Administration Office to deal with this issue and especially for giving advice to the public. Activities were organized to raise awareness on IP capitalization such as the IPC Fair (IP Capitalization Fair), the most recent of which was held from September 30, to October 2, 2005 with a wealth of entertaining activities for adults and children.

In order to boost innovation and its commercialization, the Thai government also established the National Innovation Agency (NIA) under the Ministry of Science and Technology on October 1, 2003 to support systematic development of innovation in order to help adjust the economic infrastructure and competitiveness of the country, in particular through developing innovation as a strategic tool in order to accelerate the realization of the national innovation system. The NIA has a central role in coordinating and creating networks and linkages among the academic, technological, production, financial, investment, and management bodies in order to ensure

²² See http://www.plansinsap.or.th/format1/en_index.php

²³ Search the traditional knowledge notifications data base at <http://www.ipthailand.org/ipthai/sql/locality/sear.asp>

innovation. In 2004-2005 the NIA focused its plan of action in three key areas, namely, raising the level of innovation, promoting innovation culture, and building innovation bodies. In its plan to promote innovation culture, it organized the National Innovation Awards 2005 in which 208 works were submitted, out of which 158 were economic innovations and 50 were social innovations. The winner²⁴ of the top prize in economic innovation was the production of agglomerated rice starch as a filler for direct compression tablets. This product has been granted patents in Thailand, the U.S. and Europe. It also received the innovation prize from the National Research Council and Brussels Eureka 2000. Its sale figures are expected to reach 50 million Bahts in a year. The winner of the top prize in social innovation was an artificial leg made from recycled stockings costing about 75 Bahts per leg compared with those made with imported materials and costing about 1,350 Bahts per leg.

There have been efforts at different levels to spur innovation in the country from the grass-roots level up. The number of local petty patents granted and traditional knowledge products notified are rising exponentially although the number of local invention patents is not rising at the same rate. In 1999, the total number of Thai invention patent filings was 738 whereas in 2004, the number stood at 819, not forgetting when a few years after 1999 Thai invention patent filings actually decreased, that is, 561 in 2000, 534 in 2001, 615 in 2001. So it is essential to pay attention also to promoting breakthrough and incremental innovations which could be granted invention patents, although they are more difficult to obtain than petty patents or traditional knowledge protection. There must be clear recognition that to gain international protection, retain monopolistic rights and competitive advantage and prevent market entry of competitors more effectively, patents for inventions are important..

B. INDUSTRIAL DESIGN RELATED

Industrial design has been part of Thai patent law since the first Patent Act was promulgated in 1979. In that year, there were 25 applications. The number of applications broke the double-digit barrier in 1982 with 187. In recent years, starting from 1998, the number of Thai applications always outdid those of foreign applicants. For example, in 2002, there were 2,415 Thai applications and 822 from abroad, in 2003, there were 2,624 Thai applications and 1,007 from abroad, and in 2004, 2,609 Thai applications and 960 from abroad. The number of Thai industrial design applications is in stark contrast to that for Thai invention patent applications. For example, in 2004 the figure for Thai industrial design applications was 2,609 while that for Thai invention patents was 819. This clearly shows the popularity of industrial design registration in Thailand. Perhaps industrial design is easier to register as it involves drawings rather than technical claims. There has been no active promotion of the use of industrial designs as people seem to be aware of its use. Since the passing of the first patent law in 1979 up to the end of 2004, there were 29,794 industrial design applications, out of which 18,577 were Thai applications. This indicates that the number of Thai industrial design applications constitutes about 62% and those for foreign applications 38% of the total number of applications made. The gap between Thai and foreign applications on industrial design is narrow compared with the gap between Thai invention patent

²⁴ See Top Thai Innovations by National Innovation Agency

applications and foreign applications over the same period, namely, 24,918 Thai applications against 73,620 foreign ones.

C. TRADEMARK RELATED

People understand that logos or brands are synonymous with trademarks. However, the DIP has been conducting public awareness campaigns stressing the need for a trademark to be registered if the trademark owner wants to make use of all the remedies available under the Trademark Act²⁵. The latest Thai trademark law as revised in 2000 incorporates the acceptance of trademark application forms completed pursuant to an international or regional agreement on trademark to which Thailand is a party. This has been influenced by ASEAN cooperation on intellectual property, working on the system of ASEAN's regional filing on trademarks leading the way to the establishment of the ASEAN Trademark. These efforts are now stalled as other issues came up and occupied the attention of member states. However the latest Trademark Act expressly contains a provision for any international filing such as in the Madrid Protocol or the ASEAN regional filing in its Article 11²⁶.

The affirmation of the concept of universal exhaustion of rights has been made through a series of judicial decisions on this issue. In the case of trademarks, the practice of the so-called parallel import has been evident for a very long time due to the presence of the 'gray' importers who import legitimate products into the country, bypassing the official exclusive distributor or the trademark holder. Several cases were brought before the Thai court before the inception of the Central Intellectual Property and International Trade Court and they were decided in favor of the gray importers as the court deemed that the gray importer did not infringe the trademark of the rights holder as he purchased a legitimate product overseas and that the rights holder himself should refer to his agreement with the distributor who sold that product to the Thai gray importer.

The concept of a well-known product has been well-established in Thailand as can be seen from a number of judicial decisions even before the establishment of the Central Intellectual Property and International Trade Court. The underlying rationale for the decisions of the Thai court seems to be that trademark applications must be filed in good faith. The deliberate misappropriation of someone's mark is not tolerated. The authorities took action to revoke certain misappropriated marks on the grounds of public order or public policy²⁷ as in the case of the marks of famous European football clubs such as Juventus, AC Milan and Manchester United.

²⁵ Although there are also limited remedies for unregistered marks under Sections 271-275 of the Penal Code against imitation of marks.

²⁶ Para 2 of Article 11: "In the event that Thailand becomes a party to an international agreement or cooperation on trademark, if such trademark application form is done in according with the provisions of the said international agreement or cooperation, such application shall be deemed the trademark application form under this Act." This is the paraphrase of the last paragraph of Article 17 of the Patent Act.

²⁷ Article 62 of the 2000 Trademark Act: "Any person who deems that any trademark conflicts with the public order, morality, or public policy, may request the Trademark Committee to order the revocation of such mark."

Since the inception of the Central Intellectual Property and International Trade Court on December 1, 1997, statistics²⁸ show that cases of trademark infringement far outnumber civil cases on trademarks. For example, in 2004, there were 48 civil cases concerning trademark infringement, the sum in dispute being around 3.2 billion Bahts, 104 appeals against decisions of the Trademark Board, and 36 cases concerning cancellation of trademark registrations, whereas there was a total of 2470 criminal cases²⁹. (It should be noted that the number of cases involving appeals against decisions of the Trademark Board have risen dramatically probably reflecting the heightened awareness of the public regarding their rights and remedies under the trademark law and the increasing reputation of the Intellectual Property and International Trade Court as the official arbiter on the matter. This is derived from the fact that in 2000, appeals against decisions of the Trademark Board numbered only 16 whereas in 2004 they went up to 104. Even in the first 10 months of 2005, the appeals against decisions of the Trademark Board have reached 89.) In most cases, the accused pleaded guilty, giving grounds for leniency. The punishment for trademark counterfeiting is severe as it provides for a term of imprisonment not exceeding four years and/or a fine of not more than 400,000 Bahts³⁰.

D. COPYRIGHT RELATED

Thailand acceded to the Paris Act of the Berne Convention and passed the latest copyright act before the coming into force of the TRIPS Agreement. The rights granted are more comprehensive than the minimum standards stipulated in the TRIPS Agreement. There are several instances of these higher standards, some of which have given rise to unexpected results.

The case of criminal penalties under the Thai copyright law is one obvious example. There are two levels of criminal penalties regarding copyright infringement. One concerns direct infringement³¹, the other concerns indirect infringement³². Both types of infringement can incur fines if the acts were not carried out for a commercial purpose. If carried out for commercial reasons, both incur imprisonment and/or fines.

²⁸ See <http://www.cipitc.or.th>

²⁹ This could be divided into 196 cases under Sections 271-275 of the Penal Code and 2470 cases under the Trademark Act. Out of the 2470 cases under the Trademark Act, only 3 cases involve counterfeiting, while the rest involve the importing, selling, and offering for sale of counterfeited goods under Sections 108 and 109.

³⁰ See Article 108 of the 1999 Trademark Act.

³¹ Article 61 of the Copyright Act 1994: "Any person who infringes copyright or performer's right according to Articles 27, 28, 29, 30, or 52 is liable to a fine of between twenty thousand Bahts to two hundred thousand Bahts.

If the commission of an offense as set out in paragraph 1 is carried out for a commercial purpose, the wrongdoer shall be liable to either imprisonment of between six months to four years or a fine of between one hundred thousand Bahts to eight hundred thousand Bahts, or both.

³² Article 70 of the Copyright Act 1994: "Any person who infringes copyright under Article 31 is liable to a fine of between ten thousand Bahts to one hundred thousand Bahts.

If the commission of an offense under paragraph 1 is carried out for a commercial purpose, the wrongdoer shall be liable to either imprisonment of between three months to two years or a fine of between fifty thousand Bahts to four hundred thousand Bahts, or both.

As far as direct infringement is concerned, Thai law does not distinguish between unauthorized acts of reproduction or adaptation, communication of the work to the public, rental of the original or copy of a computer program, audiovisual work, cinema, or sound recording. Infringement of these rights carries a minimum fine and/or imprisonment. Other infringements are treated on a par with copyright piracy without distinguishing the different levels of moral outrage associated with different offenses. The ready availability of criminal sanctions for all types of copyright infringement has led to the nearly exclusive use of criminal procedures to stop the infringement and obtain compensation although the Thai copyright law allows the injured party to resort to civil remedies including the Maleeva type injunction. The statistics of the Central Intellectual Property and International Trade Court clearly show that in 2004, there were 66 civil cases concerning copyright infringement and the amount in dispute was around 3.7 billion Bahts, whereas the number of criminal cases concerning offenses under the Copyright Act was 3,076. In the case of copyright, the emphasis on criminal sanctions could have originated from semantic confusion. Under Thai copyright law, copyright piracy like any other kind of copyright infringement is termed copyright infringement. The special meaning of "copyright piracy" as defined in Footnote no. 14 (b)³³ of the TRIPS Agreement is not recognized as such under Thai copyright law. The term used under Thai copyright law is "copyright infringement". This means that the use of criminal sanctions under the Thai copyright system is wider than the minimum TRIPS requirement in Article 61³⁴. However, most of the criminal cases are not of the direct infringement type, but that of indirect infringement as stipulated in Article 31³⁵ of the Thai Copyright Act. Out of a total of 3,076 criminal cases in 2004 concerning copyright infringement, 3,075 were offenses under Article 31. Most of the accused in these cases entered guilty pleas.

The categorization of the offense of unauthorized communication of a work to the public as a criminal offense³⁶ coupled with the fact that all the offenses under Thai copyright law are compoundable has led to a curious result as far as sound recording works are concerned. Since sound recordings are copyright works under Thai copyright law, there are three groups of possible rights owners, namely, creators of musical works (copyright), performers (performers' right), producers of sound recordings (copyright). None of the groups except the producers of sound recordings has managed to enforce its rights. The right of communication of the work to the public has never been enforced against major broadcasting organizations or even major entertainment venues. This right has been enforced by producers of sound recordings mainly against karaoke bars

³³ "pirated copyright goods" shall mean any goods which are copies made without the consent of the rights holder or person duly authorized by the rights holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or related right under the law of the country of importation.

³⁴ "Members shall provide for criminal procedures and penalties to be applied at least in cases of willful trademark counterfeiting or copyright piracy on a commercial scale....."

³⁵ "Any person who, knowing or having reason to believe that any work has been made in violation of the copyright of another person, acts on such work to gain profit shall be deemed to infringe copyright if his act consists of any of the following: (1) sale, possession for sale, offer for sale, lease, or offer for lease (2) communication of the work to the public (3) distribution in a manner that may cause prejudice to the copyright owner (4) importation or order for importation.

³⁶ Article 27 of the 1994 Copyright Act: "Any act done to a copyrighted work under this Act without authorization according to article 15(5) is deemed copyright infringement if it consists of any of the following: (1) reproduction or adaptation (2) communication of the work to the public.

and restaurants. This led to protests by karaoke bar owners and restaurants as representatives of the rights owners would arrive incognito, request a certain song and when that song was played, the establishment owner would be arrested and his equipment confiscated. As the Thai copyright law³⁷ allows the infringer and the rights holders to come to a settlement, many cases did not reach the Central Intellectual Property and International Trade Court as they were settled earlier. There have been attempts to draft a law on collecting societies but without any concrete result so far. The problem has been somewhat complicated since owners of many Thai musical works have assigned their rights to sound recording producers who in many cases are the copyright owners of both the musical works and sound recordings. As far as performers are concerned, they are not in a position to enforce their rights as allowed for in the Rome Convention (to which Thailand is not a signatory), namely, the right to equitable remuneration upon communication of the sound recording of their performance to the public.³⁸ There has only been one case of infringement of performers' right brought before the court and it is still pending. It should be noted that the penalty for infringement of performers' right is the same as that for other kinds of infringement of copyrighted works. However this is not of much help to the performers because of their weak bargaining power vis-à-vis broadcasting organizations and sound recording producers.

E. BUSINESS RELATED

The IP capitalization program has borne little fruit as far as commercial loans are concerned since only a sum of 38.44 million Bahts has been extended to holders of patents, trademarks, and copyright. At present, the DIP has cooperation arrangements with the Small and Medium Enterprises Bank, the Government Savings Bank, and Bangkok Bank on loans to owners of intellectual property and which are confined to only patents, trademarks and copyright. It should be noted that traditional knowledge is not the type of product accepted by the participating banks. This is obvious as traditional knowledge products are by their very essence a community right so it would be difficult for banks to extend loans to individuals who rely on traditional knowledge. This is not the case with patents, trademarks, and copyright where there are clearly-defined proprietary rights. Bank borrowing procedures have to be followed regardless of whether the borrowers are grass-roots entrepreneurs or savvy enterprises. The problem is very much compounded by the lack of a venture capital culture in Thailand where financial institutions deal with fixed assets as collaterals and are unsure of how to treat intellectual property which is intangible. Therefore the process of IP capitalization will be arduous unless there is a massive injection of funds to provide the necessary equity for deserving innovations and other IPR on a joint-venture basis rather than a commercial one.

³⁷ Article 66 of the 1994 Copyright Act: "The offense under this Act could be settled by the parties."

³⁸ See Article 55 of the 1994 Copyright Act.

F. FINANCIAL GRANTS

There is no direct financial grant for commercial activities involving IPR. The most visible help is the IP capitalization program conducted by the DIP in the context of the more important assets capitalization scheme of the Thai government although that involves loans not grants. However, there are grants for R&D through the use of research funds via the National Research Council. The money is used to fund important research in various fields whether related to or resulting in IPR. Recently, the establishment of the National Innovation Agency³⁹ to promote innovation in a systematic way to create an innovation culture in Thai enterprises and increase national competitiveness is obviously a step in the right direction as it helps to fund projects on innovation with commercial potential.

In addition, the Government has been trying to encourage enterprises to spend more on R&D by allowing them to earn tax-deductible sums amounting to twice that which they spend on R&D. However, where there has not for a long time been for a systematic approach to promoting innovation in a sustainable manner, financial grants in a direct or indirect way will take some time to bear fruit as enterprises have to prepare their work force to contribute to the innovation culture and make the best use of the tax incentives on offer.

³⁹ See <http://nia.or.th>

PART II (B) : SUCCESS STORIES

Country - Thailand

Case Study 1

The Siam Pulp and Paper Public Company Limited



The Siam Pulp and Paper Public Company Limited is part of the Siam Cement Group known under the famous elephant trademark, which is the associate mark of all the companies in the Group, and is the holding company for the paper and packaging arm. In this study, it will be referred to as 'the Company'. The story of the Company started in 1979 when it was set up as the first Thai company to manufacture pulp from bagasse. Since then, the Company has gone from strength to strength, with Siam Pulp and Paper Public Company Limited as the holding company and winner of many distinctions, awards and prizes as well as the front runner in the promotion and use of innovation. The development of the Company from just a manufacturer of pulp into the command center of the integrated pulp, paper and packaging business has been remarkable and has resulted in the largest integrated pulp, paper and packaging enterprise in Thailand.

About the Company

The Company was established by Siam Cement Group in 1979 although the involvement of the Group in the paper business actually started in 1965 with the setting up of Thai Paper Industry Co., Ltd., producing kraft paper used for cement bags. Siam Cement Group became more active in 1975 when it became the provisional administration of Thai Paper Industry Co., Ltd., whose name was changed in 1976 to Siam Craft Industry Co., Ltd. Siam Cement Group became a major shareholder and administrator of the kraft paper company in 1976. The paper company was given promotional investment privileges in 1966 and the product went on sale in 1969. In 1977, it was the first company in Thailand to receive the industrial standard mark of the Ministry of Industry.

The Thai Pulp and Paper Public Company Limited, the first bagasse pulp manufacturer to receive promotional privileges from the Board of Investment, was established in 1979. In the same year, it was listed in the Security Exchange of Thailand. The business was also expanded to cover packaging. In 1983, the Company ventured into printing and writing paper business under the name of Thai Paper Co., Ltd. Printing and writing paper started to come off the production line in 1984 through the Alkaline Sizing Process, the first in the country. In 1991, this product was awarded the TISI Standard, making Thai Paper Co., Ltd. the first Thai manufacturer to receive such recognition. In 1992, the Company expanded its pulp capacity to 120,000 tons per year.

The Company went regional in 1996 in its kraft paper business by signing a joint-venture contract with UPPC (United Pulp and Paper Co., Ltd.), the largest kraft paper manufacturer in the Philippines, in order to build a special paper mill there.



Since its inception, the income of the Company has grown exponentially due to expansion, diversification, and improvement of productivity. The Company has relied on massive investment, the latest technology, continuous improvement of management efficiency and human resources development to become the largest integrated producer of paper products in Thailand with over 2,000,000 tons of products per year. The enlarged business consists of pulp, printing and writing paper, packaging paper and corrugated containers.

The business of pulp, printing and writing paper consists of The Siam Forestry Co., Ltd., The Siam Pulp and Paper Public Company Limited., Siam Cellulose Co., Ltd., Phoenix Pulp and Paper Public Company Limited, Thai Paper Co., Ltd., and Thai Union Paper Public Company Limited.

The business of packaging paper consists of Siam Kraft industry Co., Ltd., Thai Kraft Paper Industry Co., Ltd., Thai Union Paper Industry Co., Ltd., United Pulp and Paper Co., Inc. (Philippines), and Thai Cane Paper Public Company Limited.

The business of corrugated containers consists of Thai Containers Group Co., Ltd., Thai Containers Ltd., Thai Containers Industry Co., Ltd., Thai Containers Ratchaburi (1989) Co., Ltd., Thai Containers Songkhla (1994) Co., Ltd., Thai Containers Chonburi (1995) Co., Ltd., Citipack Co., Ltd., Nippon Hi-pack (Thailand) Co., Ltd., and Thai Containers V&S Co., Ltd.

Apart from the subsidiaries in the holding Company, there are also two associated companies, namely, Siam Toppan Packaging Co., Ltd. and Thai British Security Printing Public Company Limited.

In 2005 the number of employees in business stands at 4,340, an increase of only 60 employees over that of 2004 and 110 employees over that of 2003. It can be seen that the business is technology-intensive rather than labor-intensive as it relies heavily on state-of-the-art technology requiring massive investment.

The Company and its subsidiaries have over 30 registered trademarks for their various products, although they all also use the elephant mark of the Siam Cement Group. The Company holds one patent granted in 1999 by the Department of Intellectual Property of Thailand. It is a patent on a process involving the storage of bagasse with the use of lacto-bacillus. In addition, the Company has applied for and obtained industrial design protection for eight cargo pallet designs.

Records of distinctions and accolades from at home and abroad are a clear indicator of the performance of the enterprises and their work force. The Company and its subsidiaries have done remarkably well in this regard, reflecting a forward-thinking management and the importance of improving productivity and competitiveness in its integrated businesses.

The search for excellence has brought accolades for the Company in the form of the Prime Minister's Industry Awards and an Honorable Mention from the Ministry of Industry. In 1998, 1999 and 2003 it received the Prime Minister's industry Award for quality management, environmental management and productivity respectively. Other companies in the group such as Siam Kraft Industry Co. Ltd. with the Prime Minister's Industry Awards for environmental management (2000) also received similar accolades.

Thai Containers Ltd. received the Prime Minister's Industry Awards for quality management (2000), productivity (2002), and safety management (2005), Thai Paper Co., Ltd. received the Prime Minister's Industry Awards for safety management (2000), and environmental management (2001). It could therefore be said that from 1998 to 2005 the subsidiaries of the Company managed to win the Prime Minister's Industry Awards and Honorable Mentions from the Ministry of Industry in one or more categories every year.

Improvements through encouragement of participation by employees has paid dividends not only in terms of local commendations but foreign ones as well. In 2003 Thai Paper Co., Ltd. was the first company in the printing and writing paper industry to be awarded the Deming Application Prize from the Union of Japanese Scientists and Engineers. In 2004 Thai Containers Ltd. and Thai Containers Ratchaburi (1989) Co., Ltd. received the Award for TPM Excellence- First Category from Japan Institute of Plant Maintenance (JIPM).

The Company has laid emphasis not only on safety, quality and productivity but also on the environment, reflecting its social responsibility to the public at large. This can be seen from the Commendation for Manufacturer Promoting Good Environmental Conservation in Thailand from the Siam Environment Club awarded to Siam Cellulose Co., Ltd. and Thai Union Public Company Limited in 1992-1993. Thai Union Paper Public Company Limited received the Outstanding Water Environmental Protection Award from the Environmental Engineers Association of Thailand and the Environment and Community Development Association in 1994- 1995. In 1998 Thai Union Paper Public Company and Thai Union Paper Industry Co., Ltd. received the Green Label award for quality products promoting environmental awareness from the Thai Industrial Standards Institute (TISI) and Thailand Environmental Institute. Siam Kraft Industry Co., Ltd. was granted Asia Waste Management Excellence Award 2001 from the Regional Institute of Environmental Technology (RIET).

The Company has paid much attention to one of its most important assets, namely its employees by providing them with welfare benefits and care in an admirable way, resulting in several awards from the relevant authorities such as the Outstanding Awards for Safety, Occupational Health and Environment from the Ministry of Labor and Social Welfare received by Thai Paper Co., Ltd. (2000), Thai Paper Co., Ltd. and Siam Kraft Industry Co., Ltd. (2002), Thai Union Paper Industry Co., Ltd. (2004). The importance of employee welfare has been evidenced through the winning of Outstanding Awards for Employee Welfare from the Ministry of Labor and Social Welfare by Siam Cellulose Co., Ltd. and The Siam Forestry Co., Ltd. (1996), the Siam Pulp and Paper Public Company Limited, Siam Cellulose Co., Ltd., the Siam Forestry Co., Ltd., and Thai Paper Co., Ltd. (1997), and the Siam Pulp and Paper Company Limited (2003).

In an atmosphere where improvement is encouraged, together with maintenance of a very high standard of welfare and care in all the companies in the group, it is not surprising that creativity has really thrived since several companies have been winning foreign design awards, in particular the packaging business, awards such as those presented by the Flexographic Technology Association (FTA) to Thai Containers Ltd., Thai Containers Group Co., Ltd. from 1999 to 2005, Asia Star Award- Outstanding Packaging Design Award in the Asian Region from the Asian Packaging Federation (APF) given to Thai Containers Ltd. (1998), and Thai Containers Group Co., Ltd. (2003)

Commercialization of IP Products

The Company and its subsidiaries carry a comprehensive range of products ranging from pulp to various forms of paper, and corrugated containers. They have also gone into the production of raw materials, namely, wood for pulp making. The factories in the group have been innovating for several years to solve technical problems and have gone further in making use of innovation for increasing productivity and opening new lines of business or products.

The Company has been using its own resources in commercializing products protected by IPR by manufacturing them themselves and through joint ventures with other domestic and foreign companies.

The Company has placed much importance on IP in enhancing its competitiveness as it has given a higher priority to improving its products and designs than cutting prices. It is also highly committed to using IPR to prevent imitation by competitors and restrict competition by potential rivals. It views the use of patent applications as a very important strategic means to pre-empt patent infringement by its competitors. More importantly, the Company is convinced that its corporate image will be greatly enhanced through its pro-active use of patents, designs, and technology. It is therefore not surprising to see the Company actively and enthusiastically involved in the drive for innovation.

However, the actual commercialization of IP products through licensing seems to be a problem for the Company as it has not made any income through assigning or licensing its IP products. This is not a problem faced only by the Company but by Thai industry as a whole. (The Department of Intellectual Property has been launching a campaign to turn IP works into commercial assets. This has resulted in commercial loans of only around 40 million Bahts by the participating commercial banks for the owners of IP works. The amount of finance involved is insignificant.) The Company does not find it easy to attract outside investment for its IP works either.

In 2004 the Company set up a special committee to encourage the production of IP products and has engaged outside experts to promote innovation and creativity in its paper and packaging business especially through the training of its personnel to be more knowledgeable in producing IP products.

In the commercialization of its IP products, the Company has been relying on commercial bank loans. This is possible because of the performance record of the companies in the group as can be seen from its 2004 income of about 3.8 billion Bahts. It should be noted that the Company has not received any venture capital investment at all. This could well be the explanation as to why it has not placed too much importance on the attraction of its IP products to outside investors.

The fact that the Company has to rely on its own resources or its access to commercial bank loans can be seen from the lack of Government grants for developing a prototype or pilot plants or commercialization of the results of its R&D efforts. However, the Company has benefited from tax exemptions.

The Company has found partners in its R&D sector from the universities and higher education institutions and Government research institutes, as well as through collaboration with other companies.

The Company has made use of patent information in its R&D but does not rate it very highly. Patent information was only given average marks.

As far as patent application is concerned, the Company is of the view that the costs of application are too high and that the process takes too long. The lengthy period is understandable considering the backlog due to an insufficient number of patent examiners at the Department of Intellectual Property.

Innovation has clearly played a big part in product development and IP has an important role in the vision and strategy of the Company as can be seen by its product "Mira Board".

This product is the result of the collaboration between the marketing team of Siam Kraft Industry Co., Ltd. and the production team of Thai Union Paper Industry Co., Ltd. It is a duplex for foil which has been laminated with foil or MPET (Metalize poly ethylene Terethalate film). Mira Board has been used as packaging material for several years without much success because it was mainly used for expensive products or those with anti-imitation features. The cost of Mira Board was high as the paper used was high-quality, made from chemically-treated white pulp that was laminated and polished. Some printing factories tried to cut down on costs by using duplex board (100% recycled paper) but this was not popular since the paper was laminated on a sheet-by-sheet basis.

The motivation for coming up with a new product came from the marketing team which was convinced that it would be possible to develop a market for this kind of product. It therefore felt that the costs would be lower if foil-laminated duplex paper was produced. The team members believed that they could create market demand for this type of product because it looks appealing, as well as creating value-added for the goods wrapped in it. They consulted with the production team of Thai Union Paper Industry Co., Ltd. and it was agreed that the main objective of their cooperation should be to create a demand by developing low- cost foil-laminated duplex that could be used as distinctive packaging by customers, thus introducing a new product in line with the Company's increase in production capacity and creating opportunities for better sales and profits.



They considered that they could discover the requirements of their clients and make use of their technical know-how to produce something with eye appeal, moderately priced and with immediate application. They carried out a study on current market needs and the potential for creating demand for Mira Board. They experimented by using 100% recycled paper which was foil-laminated. They discovered that by using rolls of paper in the lamination process, the cost would be much lower than using sheets of paper. They then started to sell the paper to processing and printing factories which would laminate the foil themselves. This type of paper is known as duplex for foil. As Siam Kraft Industry Co., Ltd. maintains a database of the packaging plants and end users, it contacted them directly to introduce the foil-laminated paper. It hired K-Laser Technology to do the foil lamination of the paper roll and sold the finished product under the name "Mira Board". This product was well received by clients as they did not have to do the lamination themselves. Several important users such as Colgate, Unilever, Lion, Kimberly-Clark have changed their packaging from duplex paper to Mira Board. This is

a clear example of innovation concerning the choice of raw materials and the technological process that creates the added value.

Promotion and Use of Innovation

The Company has been actively promoting innovation within its subsidiaries. This was in response to problems that arose during the production process, when the search was on for improvements. Management encouraged this development by offering small prizes and cash rewards in token sums. At this early stage, innovation was initiated purely on the shop floor. The incentive was in the form of recognition of efforts by the management and its peers. It could be said that at the early stage innovation was not a direct result of promotion by the Company or strong emphasis on intellectual property. However, it seemed to take on a life of its own and thrived in the Company. Employees enjoyed collaborating to solve problems and make improvements to their way of working. There seemed to be a latent culture of innovation in the paper and packaging business. Management also realized that encouragement of innovation helped create solidarity among employees, not only among those from the same section but among staff from other sections or even different factories in the paper and packaging business. They felt that it was important to promote innovation in an organized, systematic and dynamic way to increase the productivity and competitiveness of the Company. This feeling is shared by the Siam Cement Group as a whole since it has identified innovation as a key factor on its business agenda. Its aim is to become an innovative organization and to achieve competitive supremacy in 2007. Siam Cement Group announced the country-wide competition to promote innovation in all the subsidiaries in the group with great fanfare in August 2004 and allowed its six business groups⁴⁰ to implement their own "innovation plan". The name of the scheme for the whole Siam Cement Group is 'The Power of Innovation Award'⁴¹, and each business group was asked to organize a competition in its own sphere of business to determine the two best teams to compete for the first prize of 1 million Bahts. The Company decided to organize the Paper and Packaging Business's Power of Innovation Award⁴² by involving staff at all levels and in all the subsidiaries.

The Siam Cement Group defines innovation as creating something new, be it a product, process, or business model, which the Group can use. Innovation could be either a breakthrough or incremental innovation, giving rise to changes which are value-added and effective. It is the result of the use of knowledge, creativity, technology and management in conjunction with the promotion of the innovation culture. In the eyes of the Group, this is a culture which facilitates positive change by encouraging employees at every level to think in a

¹ Siam Cement Industry, Cementhai Building Products, Cementhai Distribution, Siam Pulp and Paper, Cementhai Chemicals, and Cementhai Holding

² The term "Power of Innovation Award" was coined by Mr. Veera Prechawuthi, administrative manager of the procurement section of Siam Cement Industry of Siam Cement Group. He won a prize of 25,000 Bahts for coming up with the term. He said he tried to think of words that demonstrate dedication and real power and to combine them with innovation. So he came up with "Power of Innovation".

³ The work plan of the Company is firstly to get up a momentum for creating common understanding, demonstrating a real business need and gain acceptance from top management, identifying obstacles and key areas for innovative culture by undertaking the matching activities of the issue of Inno passport and road shows, organizing managers' workshops, and participating in the Siam Cement Group-wide survey by Accenture; and also to develop infrastructure and enhance capabilities to promote an atmosphere for innovation, to recognize innovation in business and to enhance capabilities through matching activities of introducing 'empowerment' and 360 assessments for managers, organizing the PPB Power of Innovation Award, setting innovation targets in medium- and long-term action plans, and gaining knowledge in terms of product and process innovation and business models as well as restructuring its R&D function.

novel way, break old patterns, keep an open mind and be assertive and ready to venture into new fields, to be committed to the search for excellence. In this way management must organize a system to recognize success, however small, and reward employees who have contributed to innovations in its business.

The Company decided to organize the PPB's Power of Innovation Award by involving personnel at all levels and in all its subsidiaries. It defines the objectives of the competition as encouraging employees to think in a different way with praise and recognition for employees who contribute to new ideas in the organization. The innovation award competition was intended to promote an atmosphere supportive of innovation by offering praise and recognition to the winners. This in turn would stimulate others to work for the benefit of their team or their business as a whole. The Company management fully understood that while its competitions would pick up the best and most distinctive innovations, to capture the interest and attention of the employees and to demonstrate the benefits from such innovation, another equally important objective would be to demystify innovation. This could be done by giving commendatory prizes for less distinctive innovations to show employees that innovation is important to everyone and that everyone can innovate. The Company thus decided to offer rewards on two levels, namely, for the group and for the individual businesses. The Platinum Award of up to 500,000 Bahts would be presented to the winner in the group, and at the individual business level, there would be three Gold Awards of 100,000 Bahts each, three Silver Awards of 50,000 Bahts each and Bronze Awards of 25,000 Bahts each.

Mr. Chaovalit Ekabut,⁴³ Executive Vice President and the architect of PPB's Power of Innovation Award, said that the Company considered the competition as part of the process not an end in itself. This process is termed the Innovation Journey undertaken by the Company and all its staff members. It is going to be a long journey starting from the PPB's Power of Innovation Award 2005. He considered it imperative to get everyone on board from the very outset. Mr. Chaovalit Ekabut himself and the top management of the Company set off on the Innovation Road Show by visiting all the subsidiary companies to explain the rationale behind the innovation push and the objectives of the competition so that all the employees could understand what the Company expected from them. This aim of this Show was to demonstrate to the staff that the Company was serious in its idea to promote innovation in a sustained and dynamic way, that it was crucial to the success of the Company now and in the future, and that the most important players in the process were the employees themselves. Top management was also involved in the managers' workshops in all the subsidiaries to ensure support for the Paper's Power of Innovation. Mr. Chaovalit Ekabut emphasized that he wanted to capture the interest of employees and spark their imagination in the search for excellence. He felt that while the Innovation Journey should be moving forward, it should also be fun for everyone. The management expected that bonds would be forged among employees as well as an eagerness to search for excellence through innovation. The Company issued Inno Passports to all its employees to create a common understanding and encourage lateral thinking. Mr. Chaovalit explained that instead of circulating brochures or leaflets the Company considered the information in the form of a passport would be more useful as the passport holders could participate in the year-round activities organized in support of the competition.

The Company laid down clear guidelines for the competition to select the two best projects for competition at national level. Projects were divided into three fields, namely, pulp and writing and printing paper, packaging paper, and packaging containers. Each project submitted had to

⁴ Interview during the PPB's Power of Innovation Award Year 2005 at Impact Muangthong Thani on 15 October 2005.

be completed before August 2004 and already in commercial use. The winners in the three fields would receive the awards with the cash prizes of 100,000 Bahts each (about 2,500 USD). A total of 173 projects was submitted in the specific fields of pulp and paper (73 projects), packaging paper (54 projects), and packaging (54 projects). The decision on the three gold award winners was made in-house. However, the Company set up a special committee of five members comprising Mr. Chaovalit Ekabut and four outside experts to select the winner of the Platinum Award and the runner-up for entry into the nationwide competition. The special committee met on September 24, 2005 to consider the winning projects.

The first project was in the field of pulp and writing and printing paper and was about the hydroponic culture of eucalyptus saplings. This project was carried out by a team from Siam Forestry Co., Ltd. who found that the two varieties of eucalyptus tree, namely, CT76 and CT236 with a high pulp yield showed poor survival rate when grown through tissue culture or rooted culture. The team, aware that the survival of the plants grown from rooted cuttings depended on the strength of the saplings, thought that the hydroponic system could be used to produce healthy saplings. The team invented appropriate containers for the hydroponic culture of the saplings, developed suitable nutrients for the two varieties, and recycled the used nutrient solution to prevent pollution. This hydroponic method over a period of nine months produced a total of 819,351 saplings at a cost of 0.38 Baht per sapling compared with the cost of 1.03 Baht per sapling for the tissue culture. It also reduced the production time for root cutting from six months to two. The nutrient solution was used to water the saplings grown in the soil. Nothing was wasted and the environment was not harmed. The survival rate went up to 88.66% compared with the rate of less than 40% for the rooted cuttings.

The second project was in the field of packaging paper and was the invention of the zero speed detector for the low speed machine at Stoker Power boiler No.8 at Ban Pong mill. This project was carried out by a combined team of engineers and technicians from Siam Kraft Industry Co., Ltd. and Thai Kraft Paper Industry Co., Ltd. Before submitting this project, the team members faced the problem of damage to the stoker due to the continued spraying of lignite by the spreader resulting in the piling of burning lignite on the stoker, and the shear pin had already snapped due to high torque. Damage was done to the stoker as the operator did not realize that the stoker had stopped moving since he lacked the detection equipment. The team realized that there was no suitable detection equipment because the stoker shaft rotated very slowly (66 minutes per rotation) so even the available zero speed detector was not able to detect speed until it was too late. The team was aware that the movement of the stoker created an electric current and that it would have to design the circuit which could detect zero speed on the stoker shaft. It experimented with the adding of the gear set at the stoker shaft to increase the number of rotations to allow detection by a speed guard sensor. This method was found to be problematic as it consumed too much space as well as being expensive and making it difficult to disassemble the stoker shaft. The team also tried to use the electric current distributed to the motor to determine whether the shear pin had already broken. However, this idea was dropped because, when the current was at 0.8- 1.5A, it could not detect damage to the shear pin. The team decided to build its own zero speed detector by converting the movement of the stoker shaft to electric current. The team installed the proximity switch in front of the target so it could detect the signal and determine whether the shear pin had broken or not, regardless of whether the target teeth stopped opposite the proximity switch. The detector was able to detect the broken shear pin three times in one year, thus pre-empting damage similar to that which occurred in 2004 incurring a cost of 1.84 million Bahts.

The third project was in the field of packaging containers and concerned the manufacture of twin flute corrugated board by using one single facer machine requiring a low level of investment in order to introduce a new product, reducing risk in market development, and increasing competitiveness due to lower manufacturing costs. The team submitting this project was made up of employees of Thai Containers Group Co., Ltd. and Nippon Hi-Pack (Thailand) Co., Ltd. They realized that Thailand needed more of the twin flute corrugated boards to make containers for auto parts and equipment as well as chemicals and plastics for export. The type of corrugated board stronger than the one normally used is the twin flute with the AA flute and AAA type flute. The team felt that if it could produce the twin flute corrugated board then their company could enlarge its product range to include bulk packs, produce packaging and industrial packaging. The team members thought of alternative means ranging from installing another A flute single facer to add to the existing one, to installing a new dual flute. They cost 50m Bahts and 40m Bahts respectively and would occupy too much space. So the team decided to increase the capability of the existing single facer by building and installing the single face splicer and sandwich belt. The modified machine could produce five layered AA flute corrugated boards. The investment was minimal compared with the price of 40m Bahts for the new dual-flute machine. There are several patentable features such as the movement of the single face splicer and the cutting blade, the shape of the blade and the design of the single face splicer. This new AA twin flute corrugated board is expected to bring in an additional income of about 27 million Bahts a year.

The committee unanimously chose the Platinum Award winner, the first runner-up, and the second runner-up (which would not participate in the nationwide competition) but did not announce the result scheduled to be declared on October 15 at Impact Muangthong Thani. The committee awarded points according to the following criteria: innovative idea, implementation effort required, benefit and impact, and patentability.

In determining the points for each project, the committee was given clear guidelines.

Under the criterion of innovative ideas, high marks were given to that which results in a new industry or business, average marks for an innovation which changes the basis of competition as well as creating new opportunities in an existing industry, low marks for an innovation which is a product-line extension or process modification resulting in improved income or greater efficiency.

For implementation effort, top marks were awarded for an innovation developed through multidisciplinary efforts, cross-functional cooperation, or a new business model, average marks for an innovation mainly developed by the participant himself or derived from a change in work practices, the lowest marks being for innovation as a result of the purchase of new or improvement of existing technology.

Regarding benefit and impact, the emphasis was on concrete benefits to the company so top marks were awarded to an innovation yielding great benefits, average marks for an innovation yielding average benefits and low marks for innovation yielding little benefit.

On patentability, importance was given to an innovation which is a registrable work of IP in the sense that high marks were awarded to an innovation which could be patented comprehensively, namely product and process, average marks to an innovation which could be

partly registrable as either a product or process, and low marks for an innovation which is not registrable as a work of IP.

The ceremony to award the Platinum Prize to the winning team was staged to resemble boarding a plane to the sites of the three teams. This was to reflect the fact that innovation is like a journey. It was symbolic of the Innovation Journey by the Inno Airways. Participants seemed to enjoy and take pride in the event. The atmosphere was like a beauty pageant, not physical beauty but intellectual beauty. The winner was the hydroponic culture team who looked into various aspects of innovation ranging from containers, nutrients and their environmental impact as well as the ability to overcome obstacles with the process that could be applied to trees other than eucalyptus.

The Company achieved its aim of maximum employee participation in the cultivation of an innovation culture. The judges unanimously awarded the Platinum Prize winning team the sum of 500,000 Bahts. The winner and the runner-up will enter to the Siam Cement Group-wide competition to compete for the top prize of 1 million Bahts. It should be noted that the Company and the whole Siam Cement Group has worked on the Award process without receiving any grant or help from the Government and will continue to do so.

The judges unanimously selected the team submitting the project on the hydroponic culture of eucalyptus as the Platinum Prize winner for the team's ability to adjust and improve the existing technology with good research of prior art and innovative ideas in improving on the various aspects of the culture to suit the eucalyptus varieties needed as well as the attention paid to environmental effects. Furthermore, the team has demonstrated its ongoing efforts to improve and adjust the techniques for other plants and purposes, reaffirming the fact that innovation is an ongoing process. The team submitting the project on the twin-flute corrugated board came second as it demonstrated technical excellence in making use of limited resources and space to add value to the existing machine. Both teams will go forward to the competition at the Siam Cement Group-level where the winner will receive 1 million Bahts.

Mr. Chaovalit Ekabut, Senior Vice President in charge of the Paper and Packaging Business of the Siam Cement Group emphasized the importance of communications and public relations. He said that a major factor in ensuring the success of this project was the dissemination of information to employees at every level so as to create awareness. According to him, awareness helped to create both the foundation and atmosphere in which recognition and praise for the innovators could be appreciated and motivation increased by having role models. He said that in addition to organizing the competition a comprehensive public relations campaign had to be in place. Awards alone would not be sufficient. Mr. Chaovalit Ekabut felt that there had to be a public relations operation in other fields so that innovation could be linked to the business culture, improvement of personnel management, performance assessment and the systems of incentives and rewards.

The Company has been embarking on a very exciting journey using the power of innovation to move forward with its own initiatives and the wholehearted participation of its employees at all levels to compete more efficiently due to trade liberalization measures and a series of regional free trade arrangements.

Conclusions

1. The innovation process in the Company has been developed from within and has received a major endorsement by the management's commitment to the power of innovation.
2. Participation by employees at every level has been a major factor contributing to the Company's campaign for promoting innovation in a sustainable and dynamic way.
3. The Company has managed to create an atmosphere of friendly competition in the paper and packaging business, making innovation a fun process for everyone. This is a very concrete example of the demystification of intellectual property.
4. The Company has put as much emphasis on recognition as on awards. This dual approach will help develop the innovation culture in the Company.
5. Public relations are a major contributor to the success of the innovation campaign as they help to create awareness and enthusiasm across the board.
6. The initiative of the Siam Cement Group as a whole and the active involvement of the Company in promoting innovation is a good example for the rest of the private sector showing that it can be an enjoyable way of cementing bonds of friendship and understanding among employees and not just a mere technical endeavor.
7. Greater awareness and enthusiasm in innovation could be a major springboard for the study of prior art from millions of pieces of patent information available free of charge. This would speed up the innovation process.
8. The innovation campaign as carried out by the Company in a comprehensive manner could be a model for other private sector companies in Thailand regardless of their type of business or size.
9. Every aspect of a Company can be improved through the process of creating an innovation culture.
10. The search for excellence has to be maintained at all times through the use of constant innovation.

Case Study 2

Beauty Gems Group Co. Ltd.

Beauty Gems Group has contributed much to the Thai gem and jewelry export business over the past 40 years due to its role not only in opening up new export markets for Thai gems and jewelry but also raising the overall standard of the industry through the use of innovative technology and protection of intellectual property rights. In this study, Beauty Gems Group will be referred to as Beauty Gems.

From a humble beginning as a small family-run business in 1964, the business of the Sriorathaikul family has grown over the past four decades into one of the leading manufacturers of gems and jewelry with an annual turnover of about 5500 million Bahts in 2004 and a staff of over 3,500 in 2005. Its success seems to have stemmed from total dedication to perfection and an unwavering commitment to the protection and use of intellectual property rights in a creative and laudable manner.

About Beauty Gems

Beauty Gems is the manufacturer of gems and jewelry for export, mainly in gold, platinum, and silver. The business started in 1964 with the husband and wife team of Mr. Pornsit Sriorathaikul and Dr. Sunee Sriorathaikul at the helm. Beauty Gems Group Co., Ltd. was established in 1992 as the headquarters of all the companies in the group. Its success seems to have run in parallel with the emergence of the Thai gem and jewelry industry to its present position as a center for gems and jewelry and Asia's biggest exporter in this field. Beauty Gems has also grown to become a global player in the gem and jewelry business and a member of all the major domestic and international trade associations.⁴⁴ It has attracted clients from all over the world with its high quality, superior craftsmanship and competitive prices. Mr. Pornsit Sriorathaikul and Dr. Sunee Sriorathaikul have been elected as President of the Thai Gem and Jewelry Traders Association several times and during their respective tenures helped to put the Bangkok Gems and Jewelry Fair on the agenda of international traders of gem and jewelry.

Beauty Gems is famous for producing a full range of gem and jewelry products ranging from mass-market pieces to high-end custom-made ones. It is a one-stop subcontractor who can meet all clients' needs in jewelry sourcing, design and manufacture in accordance with the exacting specifications laid down by its talented employees, thereby upholding the tradition of Thai craftsmanship and making the best use of state-of-the-art technology.

Beauty Gems has adopted a well-defined management policy, namely, determination, honesty, service, and respect for customers. This policy has been the guiding principle for all its companies and the foundation of its success. It defines its mission as follows:

"Our mission is a quest that has remained unchanged since the first day we opened our doors. It is simply a commitment to produce beautiful, high quality, competitively-priced merchandise for a global market. We also contribute to the development of Thailand's gem and jewelry

¹ Board of Trade of Thailand, the Federation of Thai Industries, Thai Gem and Jewelry Traders Association, the Gem and Jewelry Institute of Thailand, Tourism Council of Thailand, the Jewelers Board of Trade, USA, International Colored Gemstone Association

industry by working together with both private and government sectors. As a pioneer in seamless operations, integration and constant reliability, we proudly maintain our legacy of finely-honed craftsmanship, through the use of the most modern technology in Southeast Asia. Continuous training, research, dedication to quality, honesty and integrity will remain the jewels in our crown."

The family established Beauty Gems Factory Co., Ltd. on June 5, 1973 with a registered capital of 3 million Bahts. It has been the jewel in the crown of Beauty Gems ever since. It started with a staff of more than 300, manufacturing jewelry settings in 14k, 18k and Platinum 900, 950 set with high quality precious stones and diamonds. As its business was export-oriented, it was granted Board of Investment privileges in 1976. It gained the approval of the Customs Department for operating a bonded warehouse to stock gold, platinum, and diamonds imported for the manufacture of fine jewelry for export. This reduced expenses and complications which could have arisen if the bonded warehouse had not existed.

Ten years after its establishment, Beauty Gems increased its staff to 600 and its registered capital to 13.5 million Bahts to cope with the growing demand from markets in the U.S., Japan, France, Switzerland, Germany, Saudi Arabia, Hong Kong, Singapore, and many other countries. It seems that the emphasis of Beauty Gems on quality standards, and unique, beautiful designs have fully satisfied the demands of its international customers.

Just eight years after its establishment, Beauty Gems won the International Asia Award Singapore-Bangkok in 1981. This was followed by the First Prize in All Five Categories at the Bangkok Gems & Jewelry Fair 1985, a premier gems and jewelry exhibition in the region, organized by the Department of Export Promotion of the Ministry of Commerce. Another international milestone was reached through the Diamond International Award 1986 for diamonds and necklaces from De Beers in Italy and the America Award 1986 from the U.S.A. Several awards were also won in 1988. These included the Diamonds International Award for Diamond and Onyx Earrings from De Beers as well as the International Europe Award II in France. The performance of Beauty Gems stood out not only in its own field but also in the entire Thai private sector as seen from the Outstanding Thai Manufacturer Award 1988, Thailand's leading Export Executives 1988 and the Top Companies in Thailand 1988.

Beauty Gems scored success after success as seen from the awards received at the Bangkok Gems & Jewelry Fair from 1991 to 2004. Its total commitment to quality seemed to have borne fruit not only in terms of an expanded consumer base but also in its commitment to quality.

Beauty Gems also excelled in the design and production of diamond jewelry as seen from the winning of the Hong Kong Diamond Design Award 1990 and Hong Kong Diamond Design Award 1993. The exquisite craftsmanship of the work force and the total commitment to quality of the management have also brought international recognition for the Company's gold jewelry in the form of the Grand Prize of Unique Gold Objects "Tree of 2000 Millennium" by the World Gold Council, Millennium Gold for Eternity, three awards at the Gold Jewelry Design Award of the Year, organized by the Department of Industrial Promotion and the World Gold Council in 2001, and in 2002 the Finals of Design Excellence Gold Jewellery of Finest Quality, 2nd Gold Virtuosi the World Gold Council International Jewellery Design Awards, Italy.

The gem and jewelry business in Thailand directly and indirectly employs around 4 million people. It constitutes a major foreign exchange earner for Thailand. Beauty Gems geared itself to export from the outset and scored much success as can be seen from the Export Products Award 1986 from the Ministry of Industry, the Top Exporter of the Year Award 1987 presented by the then Prime Minister General Prem Tinsulanonda, Thailand's Leading Export Executives 1988 presented by the then Prime Minister Chatichai Chonhavan, the Prime Minister's Export Award 1992 from the then Prime Minister Anand Panyarachun, and the Prime Minister's Export Award in the Best Exporter Category in 2004. At the present time, the Company exports 97% of its products while 3% are for domestic sale.

Recognition of the role and commitment of the two founders, Mr. Pornsit and Dr. Sunee Sriorathaikul, to producing beautiful, high quality, competitively-priced merchandise for a global market and their devotion to the development of the Thai gem and jewelry business by working with both the private and public sectors was acknowledged in the form of the Working Woman of the Year 1995, the Life Award in 1997, the Gem and Jewelry Businessman of the Year 1998, Businesswoman devoted to Society of the Year in 1998, the Outstanding Awards of Business Woman of the Year 2001 on the International Woman's Day, the Leading Women Entrepreneurs of the World 2003, and the Leading Women Entrepreneurs of the World 2004.

Designs have been one of the important factors underpinning the success of the Company and its subsidiaries. It makes use of the latest technology in the gem and jewelry industry. Beauty Gems has in-house designers for settings and finished products. It has become a popular and sought-after place of apprenticeship for budding designers. It has laid much emphasis on originality of designs as well as appealing to the tastes of foreign customers, even those as discerning as the Japanese. Beauty Gems was one of the first Thai companies to penetrate the Japanese gem and jewelry market. It has now become the top gem and jewelry exporter to Japan.

Many prizes and awards to Beauty Gems over the years speak volumes about its business practices vis-à-vis its customers, work force, and the public, not to mention fellow traders in the gem and jewelry market. It is therefore not surprising that Beauty Gems received an ISO 9001 on July 9, 2002. This is a clear testimony to the commitment of the company to go for the finest quality by using an international quality management system.⁴⁵ This was made possible with the concerted efforts and dedication of all its employees who took only six months to win this certification for the company. Dr. Sunee Sriorathaikul, the President of Beauty Gems Group,⁴⁶ emphasized that it was crucial to keep the employees happy and satisfied as this would be reflected in the quality of the products. She further stated that the philosophy of Beauty Gems was to be successful in business in the long run by relying on providing an honest and superior service to its customers. She thinks that customer satisfaction

² Dr. Adisai Bodharamik, the then Minister of Commerce, stated in his congratulatory message to Beauty Gems Factory that ".....To gear up the recovery process of Thailand's economy, the Government has taken the initiative to find new overseas markets and help the private sector build a competitive edge for exporting. These days, stiff competition on an international scale and demanding requirements from importing countries have forced exporters to become more competitive than ever. It is by developing product quality and design as per market requirements, on a par with international standards, that such competitiveness can be acquired. Also, keeping pace with the world's business environment by constantly upgrading the Company's management system promises to be a successful business solution....."

³ Interview on 11 October 2005

is the first priority of Beauty Gems. A visit to its 10-storey, emerald-shaped tower, the most advanced jewelry manufacturing plant in Asia, would convince any visitor that the finest gems and jewelry are produced there with state-of-the art technology able to satisfy the most discerning customers.

The emphasis of Beauty Gems from the outset was on quality, not only in terms of its products of but also the overall standard of the Thai gem and jewelry industry. Even 10 years ago, it was realized that there had to be a reliable body for awarding benchmarks and certification to gold and silver products. Beauty Gems helped set up the Bangkok Assay Office in 1985 to provide an efficient, professional and personalized service as well as conducting studies to keep abreast of the latest technologies. Bangkok Assay Office also undertakes the development of suitable alloys to meet the needs of manufacturers of precious metal jewelry. To increase synergy within the group, Bangkok Assay Office is located in the same building as Beauty Gems of Bangkok Co., Ltd. Beauty Gems of Bangkok was set up to produce high-quality products for discerning markets through the use of exquisite craftsmanship and creative designs. The Gemopolis Industrial Estate is one of the most integrated and complete gem and jewelry manufacturing facilities in the world and has received investment promotion privileges from the Board of Investment and special industrial estate status from the Industrial Estates Authority of Thailand. Beauty Gems saw an opportunity to diversify into diamond cutting as there was a huge rise in demand for custom-cut diamonds in 1989 and 1990. It set up Royal Diamond Polishing Works and Royal Diamond Cutting Co., Ltd. to provide top-quality cut diamonds to its subsidiaries and other companies in Thailand. This diversification and proliferation of subsidiaries necessitated the founding of Beauty Gems Group Co., Ltd. as the administrative headquarters of the group. In anticipation of the rising demand for gems and jewelry in the U.S., Beauty Gems of the U.S.A Co., Ltd. was set up in 1994. With its business interests at home and abroad, Beauty Gems set up Beauty Gems Holding Co., Ltd. in 1996. This new holding company also enables Beauty Gems to diversify the group's portfolio beyond the gem and jewelry business.

It can be seen that the development of Beauty Gems has been carefully planned in response to the need for higher standards, greater reliability, and anticipation of promising business opportunities while trying to achieve maximum synergy.

Commercialization of IP Products

Beauty Gems has promoted the its brand name so that it is synonymous with high quality and perfection. It is meticulous at every stage of the production process, from the selection of the finest materials to outstanding craftsmanship in polishing and assembly. Beauty Gems products are renowned for their perfection in the world's leading markets.

In 1999, Beauty Gems received the Certificate "Thailand's Brand" presented by the then Prime Minister Chuan Leekpai. This was a clear recognition of the efforts and success of Beauty Gems in portraying itself as a purveyor of quality. This has been achieved in the major markets for Thai gems and jewelry, as a high percentage of the sale of Beauty Gems products is to overseas customers accounting for 97% of its total revenue in contrast to 3% for sales to the domestic market.

This success of the Beauty Gems brand has been built not only on the company's total commitment to quality and perfection but also on its determination to support the Thai government's policy of promoting the reputation of Thai products by attaching the tag "Made in Thailand" to every piece of its jewelry products. This has helped to raise appreciation of the excellence of Thai craftsmanship overseas. The increased appreciation in turn helps to cement the reputation of Beauty Gems on quality and perfection. Beauty Gems has benefited from this symbiotic relationship not only for its designs but also its belief that products made in Thailand have to be promoted as vigorously as possible by the private sector in conjunction with the public sector.

Beauty Gems has made and exported quality products under its brand name to overseas markets and called this line of product "Les Jardins de Venus" in the U.S. and another line called "Lien d' Amour" in Japan. However, this is not the whole story as many of Beauty Gems' products are not retailed overseas under the Beauty Gems label but that of its customers. This means that for the past 40 years Beauty Gems has managed to build unwavering trust and confidence even during the Thai financial crisis of 1997. The secret of this success in both good and bad economic climates domestically and abroad is based on its ability to keep customers' trade secrets. Dr. Sunee Sriorathaikul, President of Beauty Gems and associate judge of the Intellectual Property and International Trade Court of Thailand, has revealed that it was essential to safeguard not only the company's intellectual property rights but also those of its customers. She is convinced that the fact that the company did its best to protect customers' trade secrets was a key factor in establishing the reputation of Beauty Gems. She admitted that the Company supplies world-famous jewelry houses and international brands but declined to mention any names. According to her, when the Company is commissioned to create a jewelry product for a customer, it will never reveal the identity of the buyer in order to gain publicity. As jewelry products depend very much on design as well as craftsmanship, it is the policy of Beauty Gems never to disclose the designs made for or by the customers either directly or indirectly. Dr. Sunee said that since Beauty Gems attaches great importance to its own designs, it has attached even greater importance to designs made by clients. Beauty Gems recognizes the copyright protection of designs made by the clients. It understands that a new product line for any client must be kept secret and not disclosed before the client launches that particular line in his desired market. Dr. Sunee also said that a new product line was deemed by Beauty Gems to be a trade secret before it was officially launched. According to Dr. Sunee, Beauty Gems also looks at this policy of keeping clients' designs confidential as not only necessary to protect intellectual property rights, but also as part of its code of honor. Throughout its 40 years of business, Beauty Gems has never made an overrun of any design entrusted to it by the client or created by it for the client since such an act would not only infringe intellectual property in the form of design but also the betray trust. The honesty of the company and its fierce determination to protect the interests of the clients have been strongly reciprocated by their loyalty. Many orders are repeats by long-time customers. Word of mouth has spread information on the honesty, loyalty and integrity of Beauty Gems. (This has in some small way helped to deflect and soften the blow of a bad image in the Thai gem and jewelry business caused by certain unscrupulous local traders and merchants who prey on gullible foreign customers.)

It can therefore be seen that the commercialization of intellectual property products in the case of Beauty Gems is carried out in a novel way in the sense that it is the producer who protects the perceived trade secrets of the clients. There is a moral to be drawn from this and that is protecting someone else's intellectual property could be more rewarding than protecting one's

own. Export sales of around 5330 million Bahts in 2004 offer concrete evidence of such a practice.

Beauty Gems has also been attaching much importance to its own intellectual property works particularly trademarks, designs, and copyright. Mr. Surasit Sriorathaikul, the Managing Director, stated that during the period 1999 to 2005 the company filed for protection of trademarks and designs and notified the Department of Intellectual Property of its copyright works. Beauty Gems manufactures its gem and jewelry products in its four factories without forming partnerships or seeking licensing from others. Products for sale under its own brand or trademarks are designed in-house. In rating the importance of IP, Mr. Surasit singled out patents, new designs and technology to enhance the corporate image of the company as very important. This is backed by the adoption of a state-of-the-art microscope technology for the employees to enable them to carry out quality control of finished products with the least risk to their eyesight.. He concurred that owning a patent or other IPR would make it easier to attract a financier. He rated the role of IPR as important. The same degree of importance was attached to the importance of product improvement and new design over price competition, the function of IPR in eliminating potential competitors as well as preventing imitation, capitalizing on investment through selling or licensing IPR to others, and the role of strategic patenting in protection from prosecution for patent infringement.

Beauty Gems has been using its own financial resources and commercial bank loans to fund commercialization of its IP products. This is done without any Government support, incentives, or grants in any form, be they grants for commercialization of R&D, grants for developing prototypes or pilot plants, tax exemption, grants for patent applications.

Promotion of Innovation and Creativity

R&D has always occupied a special place in the corporate culture of Beauty Gems as it thrives on creativity. It cooperates with universities and higher education institutions as well as Government research institutes. Beauty Gems believes that the money spent on R&D is well spent as can be seen from its sponsorship of the Office of Thailand Research Fund without receiving any special privileges or tax exemption from the Government.

In its R&D efforts, Beauty Gems makes use of patent information and deems it highly important. This has a bearing on the technology and equipment employed as well as the process used in the selection of raw materials and the manufacturing of finished products.

The R&D capability stems from the knowledge and skills existing within the organization. So it is understandable that Beauty Gems has placed emphasis on in-house training to pass on the skills and craftsmanship of one generation of employees to another. This has helped to ensure the continuing presence of a highly-talented work force with superb work ethics, be they designers, administrators, or customer service representatives.

Beauty Gems does not stop at training its own employees. It has helped to develop human resources in the Thai gem and jewelry industry as a whole by providing "introduction to craftsmanship" courses under bilateral cooperation schemes with Government agencies such as the Department of Vocational Education, Ministry of Education, the Golden Jubilee Royal Goldsmith College, Bangkok, Bangkok Arts and Craft College, Thonburi Vocational College,

Kanchanapisek Technical College Mahanakorn, and other schools offering programs in silversmithing under the royal patronage of H.R.H. Princess Maha Chakri Sirindhorn.

It has also cooperated with the universities in providing textbooks for students such as gemology textbooks for Srinakharinwirot University Prasanmit Campus.

Beauty Gems, fully aware that education must be an ongoing process, has encouraged and assigned employees to attend training courses to increase their efficiency and productivity at the Institute of Supporting Technology and Thailand Productivity Institute of Supporting Technology and the Thailand Productivity Institute. This is supplemented by training programs organized by international experts and specialists.

The Company has introduced an incentive system by providing cash rewards, job promotion and special awards as well as recognition. The Company's management is committed to give credit where credit is due.

Another way of promoting innovation and creativity in the group is encouraging employees to take part in design and production contests.

This dedication to achieving excellence through the promotion of creativity has paid dividends in the production of unique works of art such as the model of the Royal Barge "Suphannahong" (Golden Swan) decorated with precious stones and a golden swan figurehead. It took 40 skilled craftsmen 10 months to finish the work which has been exhibited all over the world.

Another important project by Beauty Gems was the Royal Barge Naraisongsuban which was created to pay the most humble respect to His Majesty the King Bhumipol at the Golden Jubilee Celebrations for His Majesty's accession to the throne. This model of the Royal Barge Naraisongsuban was painstakingly made with gold and precious stones.

In addition, Beauty Gems has educated its work force on the importance of IPR through designated IP personnel. This is intended to supplement the fruits of their creativity by making employees aware of the legal protection available.

Conclusions

1. The major asset of Beauty Gems is its human resources capable of ensuring quality and timely delivery.
2. Employee training programs are crucial for the sustainable success of the company in order to pass its know-how and expertise on from one generation to the next.
3. Management standards have to be on a par with or better than international ones.
4. There is a need for perfection in the whole production process from sourcing raw materials to turning out the finished products.

5. Creative designs are a must in meeting the requirements and tastes of the domestic and overseas markets.
6. Honesty and loyalty to customers contributes much to the good reputation of the company and helps to maintain customer loyalty.
7. Discretion is a virtue that has to be practised at all costs as improper disclosure could be highly damaging to customers.
8. There should be a new adage that protecting the customers' IPR could be more rewarding to the manufacturer than protecting his own.
9. The work force should be educated on the importance of IPR and the need to protect and enforce them.
10. There is a need to improve the overall standard and efficiency of the gem and jewelry industry as a whole since it will provide a positive environment for every manufacturer and trader in the industry to improve its practices.
11. To promote innovation and creativity, there is a need to put a system of incentives in place in the form of cash rewards, prizes, and recognition as well as participation in design contests.
12. Education is a pre-requisite of maintaining and promoting innovation and creativity so there is a need for cooperation with educational institutions involving the gem and jewelry industry.
13. To be successful, it is imperative for the company to have a satisfied and happy work force which takes pride in its work in order to deliver the products and services that will ensure customer satisfaction.
14. To cope with increasing competition worldwide, it is imperative to emphasize quality, quality, and quality. This is possible with making IPR protection and exploitation part of the working environment.

PART I (A)

Listing of Manuals, Guidelines and Directories
in the Area of
Intellectual Property (IP) Portfolio Management

COUNTRY: VIETNAM

No.	English Title + Brief Description of its Contents in less than 50 words	Year of Publication	Agency Responsible and Address	Contacts (Tel/Fax/email)
A. PATENT AND INVENTION RELATED				
1.	<p>Patent Protection – Handbook for Business persons</p> <p><u>Chapter 1</u>: General Introduction about the protection system for patent rights.</p> <p><u>Chapter 2</u>: Registration for patent protection: Established method of patent rights</p> <p><u>Chapter 3</u>: Registration for patent protection (establishment of patent right) in foreign countries</p> <p><u>Chapter 4</u>: Transfer the right to use patents (patent licensing)</p> <p><u>Chapter 5</u>: The enforcement of patent rights</p> <p><u>Chapter 6</u>: Protection of utility solutions in Vietnam</p> <p><u>Chapter 7</u>: Information and materials about patents</p> <p><u>Chapter 8</u>: Supporting activities for the inventors</p>	2002	Sponsored by Japan Patent Office (JPO), Produced by Asia Pacific Industrial Property Center (APIC) of Japan Institute of Invention and Innovation (JIII), Under the editorship on National Office of Industrial Property of Vietnam (NOIP) - 386 Nguyen Trai Road, Thanh Xuan district, Hanoi, Vietnam	<p>National Office of Intellectual Property of Vietnam (NOIP)</p> <p>Tel: 84 4 8583069 Fax: 84 4 5588449</p> <p>Email: noip@fpt.vn</p>
2.	Encouragement of Inventor	2001	Japan Patent Office, Asia-Pacific Industrial Property Center (JIII) and National Office of Intellectual Property in Vietnam (NOIP) - 386 Nguyen Trai Road, Thanh Xuan district, Hanoi, Vietnam	<p>National Office of Intellectual Property of Vietnam (NOIP)</p> <p>Tel: 84 4 8583069 Fax: 84 4 5588449</p> <p>Email: noip@fpt.vn</p>

3.	Practical Procedures for Prosecuting Software Patent	2000	Japan Patent Office, Asia-Pacific Industrial Property Center (JIPI) and National Office of Intellectual Property in Vietnam (NOIP) - 386 Nguyen Trai Road, Thanh Xuan district, Hanoi, Vietnam	National Office of Intellectual Property of Vietnam (NOIP) Tel: 84 4 8583069 Fax: 84 4 5588449 Email: noip@fpt.vn
4.	Writing Patent Specifications	2000	Japan Patent Office, Asia-Pacific Industrial Property Center (JIPI) and National Office of Intellectual Property in Vietnam (NOIP) - 386 Nguyen Trai Road, Thanh Xuan district, Hanoi, Vietnam	National Office of Intellectual Property of Vietnam (NOIP) Tel: 84 4 8583069 Fax: 84 4 5588449 Email: noip@fpt.vn
5.	Legal handbook in Intellectual Property and Technology transfer (for Business, Business persons) <u>Part 1</u> : Questions and answers relating Intellectual Property law and technology transfer (including patents) <u>Part 2</u> : Explaining basic legal terms in the above fields <u>Part 3</u> : The main legal documents in IP and technology transfer.	7/2004	National Political Publisher House 24 Quang Trung street, Hoan Kiem district, Hanoi, Vietnam	Tel: 84 4 9422008 Fax: 84 4 9421881 Email: nxbctqg@hn.vnn.vn Website: www.nxbctqg.org.vn

6.	<p>Protection of Intellectual Property – Problems for academic discussion and fact</p> <p>Its main contents: 1. Assess the real situation of protection and enforcement of IP in Vietnam (including patents)</p> <p>2. Petition to improve the legal regulations relating to IP</p>	12/2004	Legal Sciences Institute – Ministry of Justice and National Political Publisher House	<p>24 Quang Trung street, Hoan Kiem district, Hanoi, Vietnam</p> <p>Tel: 84 4 9422008</p> <p>Fax: 84 4 9421881</p> <p>Email: nxbctqg@hn.vnn.vn</p> <p>Website: www.nxbctqg.org.vn</p>
7.	<p>Information about Intellectual Property</p> <p>Its contents include information about copyright, industrial property and technology transfer.</p>	2004	Labour – Social Publisher House 41B, Ly Thai To street, Hoan Kiem district, Hanoi, Vietnam	<p>Tel: 84 4 9346024</p> <p>Fax: 84 4 9348283</p>
B.	INDUSTRIAL DESIGN RELATED			
1.	<p>From Filing to Registration of Design</p>	2001	Japan Patent Office, Asia-Pacific Industrial Property Center (JIII) and National Office of Intellectual Property in Vietnam (NOIP) - 386 Nguyen Trai Road, Thanh Xuan district, Hanoi, Vietnam	<p>National Office of Intellectual Property of Vietnam (NOIP)</p> <p>Tel: 84 4 8583069</p> <p>Fax: 84 4 5588449</p> <p>Email: noip@fpt.vn</p>

2.	Out line of the Japanese Design Law	2001	Japan Patent Office, Asia-Pacific Industrial Property Center (JIPI) and National Office of Intellectual Property in Vietnam (NOIP)	National Office of Intellectual Property of Vietnam (NOIP) Tel: 84 4 8583069 Fax: 84 4 5588449 Email: noip@fpt.vn
3.	Legal regulations about Industrial Property	2001	National Political Publisher House 24 Quang Trung street, Hoan Kiem district, Hanoi, Vietnam	Tel: 84 4 9422008 Fax: 84 4 9421881 Email: nxbctqg@hn.vn.vn Website: www.nxbctqg.org.vn
4.	Overview of Intellectual Property (Document for Management agencies)	2004	Asia-Pacific Economic Cooperation; Australian Government and National Office of Intellectual Property of Vietnam - 386 Nguyen Trai Road, Thanh Xuan district, Hanoi, Vietnam	National Office of Intellectual Property of Vietnam (NOIP) Tel: 84 4 8583069 Fax: 84 4 5588449 Email: noip@fpt.vn
5.	142 Questions and Answers about Industrial Property	2004	Labour – Social Publisher House 41B, Ly Thai To street, Hoan Kiem district, Hanoi, Vietnam	Tel: 84 4 9346024 Fax: 84 4 9348283

C. TRADEMARK RELATED				
1.	Legal regulations about Intellectual Property	2005	Labour – Social Publisher House 41B, Ly Thai To street, Hoan Kiem district, Hanoi, Vietnam	Tel: 84 4 9346024 Fax: 84 4 9348283
2.	Intellectual Property Rights Trademarks of Vietnamese Products This publication supplies knowledge, information, legal regulations, criteria about Intellectual Property for the Vietnamese community and the introduction of Vietnamese trade names on the world market at the same time.	2004	Industrial Review of Ministry of Industry in Vietnam and Youth Publisher House	
3.	Procedures from Filing to Registration of Trademark Application	2000	Japan Patent Office, Asia-Pacific Industrial Property Center (JIII) and National Office of Intellectual Property in Vietnam (NOIP) - 386 Nguyen Trai Road, Thanh Xuan district, Hanoi, Vietnam	National Office of Intellectual Property of Vietnam (NOIP) Tel: 84 4 8583069 Fax: 84 4 5588449 Email: noip@fpt.vn

4.	Protection of Well-known and Famous Trademark	2000	Japan Patent Office, Asia-Pacific Industrial Property Center (JIPI) and National Office of Intellectual Property in Vietnam (NOIP)	National Office of Intellectual Property of Vietnam (NOIP) Tel: 84 4 8583069 Fax: 84 4 5588449 Email: noip@fpt.vn
5.	Trademark Disputes and their Handling	2001	Japan Patent Office, Asia-Pacific Industrial Property Center (JIPI) and National Office of Intellectual Property in Vietnam (NOIP) - 386 Nguyen Trai Road, Thanh Xuan district, Hanoi, Vietnam	National Office of Intellectual Property of Vietnam (NOIP) Tel: 84 4 8583069 Fax: 84 4 5588449 Email: noip@fpt.vn
D. COPYRIGHT RELATED				
1.	Legal regulations in Vietnam concerning copyright Its contents include the system of legal regulations in force on copyright	9/2002	National Office of Copyright 151 Hoang Hoa Tham street, Ba Dinh District, Hanoi, Vietnam	Tel: 84 4 8234 304 Fax: 84 4 8432630 Email: cbqgtg@hn.vnn.vn

2.	<p>Conventions and Treaties on Copyright</p> <p>This book include eight conventions and treaties such as the Berne Convention for the Protection of Literary and Artistic Works; the Rome Convention, 1961 the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, the WIPO Copyright Treaty (WCT); the WIPO Performances and Phonograms Treaty (WPPT) etc.</p>	12/2000	National Office of Copyright 151 Hoang Hoa Tham street, Ba Dinh District, Hanoi, Vietnam	Tel: 84 4 8234 304 Fax: 84 4 8432630 Email: cbqtg@hn.vnn.vn
3.	<p>Information about Intellectual Property</p> <p>One of four parts of this book is about legal regulations on copyright.</p>	2004	Labour – Social Publisher House 41B, Ly Thai To street, Hoan Kiem district, Hanoi, Vietnam	Tel: 84 4 9346024 Fax: 84 4 9348283
4.	<p>Yearbook of registration for copyright 1986-1996; 1996-2002; 2002-2003; 2003-2004</p>		National Office of Copyright 151 Hoang Hoa Tham street, Ba Dinh District, Hanoi, Vietnam	Tel: 84 4 8234 304 Fax: 84 4 8432630 Email: cbqtg@hn.vnn.vn
5.	<p>International Treaties on copyright and related rights</p> <p>Including The Berne Convention, the Geneva Convention, the Rome Convention, the Brussels Convention, the TRIPS Agreement.</p>	4/2004	National Office of Copyright 151 Hoang Hoa Tham street, Ba Dinh District, Hanoi, Vietnam	Tel: 84 4 8234 304 Fax: 84 4 8432630 Email: cbqtg@hn.vnn.vn

E. BUSINESS RELATED				
1.	The methods of determining intangible property value	2005	Science and Technology Publisher House 70, Tran Hung Dao street, Hoan Kiem district, Hanoi, Vietnam	Tel: 84 4 9424786 84 4 9423172 Fax: 84 4 8220658
2.	Agreement between the Socialist republic of Vietnam and the United States of America on trade relations	2002	National Political Publisher House 24 Quang Trung street, Hoan Kiem district, Hanoi, Vietnam	Tel: 84 4 9422008 Fax: 84 4 9421881 Email: nxbctqg@hn.vnn.vn Website: www.nxbctqg.org.vn
F. FINANCIAL GRANTS				
	Nil			

PART I (B)

General Overviews of Items (A) – (F)

A. COMMERCIALIZATION OF INVENTIONS IN VIETNAM

The commercialization of inventions is a process for making objects such as goods which can be developed in business in different ways, directly or indirectly, or manufactured and sold containing protected objects.

The enterprises should consider certain conditions before filing applications for inventions or utility solutions, such as will they create good market conditions. If after carefully considering the necessary conditions, the decision to file will be beneficial. On the contrary, the exposure of technical solutions may damage the manufacturers due to free exploitation without any royalties or expenses being paid. The conditions necessary are: the value of the commercial aspects of a solution (in which field the solution can be applied, the size of the market, current events in the applied field); technical status: whether novel, a replacement for a different invention; its licensable ability: and whether the solution is attractive to other organizations.

Based upon Vietnam's legal rules regarding industrial property transfer and technology transfer, there are some kinds of agreement for commercializing inventions. The popular modes of commercialization are assignments, licenses, grants, joint ventures and technology transfer. In each case, the owner of an invention can select or accept the most suitable and profitable manner.

- Under an assignment, IP (industrial property) objects are usually sold independently.. For objects such as inventions, these are usually assigned independently. In some circumstance, the seller can be restricted by certain conditions in the agreement to ensure the exploitation for a given term.
- The license is very popular. The owner gives permission to a third party to develop an invention under specified terms, in specified territories and with specified rights and obligations. The licensee has the right to use or exploit objects and an obligation to pay the licensor a specific amount of money. The licensor will retain the ownership of inventions, as well as the right of examining product quality, price and markets.
- A grant of using a mode of business: the owner of a mode of business may authorize others to use such mode for profit. Generally, according to this kind of agreement, the grantee can not only use the business mode but also the related IP objects as inventions. The grantor assigns marketing methods, assistance in business activity and control of business qualification to the grantee. The grantor must agree not to provide any persons with the business mode in the same local market, the grantee must undertake only to sell the grantor's products and pay a specified amount or an amount based on turnover.

- Joint-ventures: this is an agreement between parties, aiming at a general goal of mutual benefit and risk. The parties buy stock and manage business based on joint-venture contracts. Shares can be purchased with IP value – a specific amount of money. A joint-venture contract is usually attached to a technology transfer agreement. In a case where transfer technology is the protected ID object, the parties have to apply the procedures of such ID rights. A joint-venture is an effective kind of commercialization, not only of inventions but also other ID objects in developing countries.
- Technology transfer is a disseminated mode of commercialization of technology and ID objects. For technology which is patented and protected, the transferor has to grant the use of such technology. The value of technology not only includes interest of technical solution content but also technology usage rights value. Technology transfer frequently refers to production, marketing and consumption. Therefore, ID objects such as inventions are licensed for the transfer of technology.

For developing countries in general, and Vietnam in particular, to obtain investment and to approach modern production technology, management is always the best solution to narrow the gap with developed countries. Hence, an open legal system sufficient to control and, more importantly, to encourage technology transfer activities is necessary. To understand the importance of this issue for the development of the economy and society, Vietnamese state authorities have promulgated a sufficiently adequate legal system regarding technology transfer. The newest legal document is Decree No. 11/2005/ND-CP dated February 17, 2005 setting out in detail the terms of technology transfer with some new points: to extend the right of agreement for parties to the content of the technology contract; to respect the freedom of agreement guidelines of parties via exclusion regulation on restrictive agreements. The transferee has the right to improve or develop the transfer technology without notification to the transferor unless another agreement; the mechanism of evaluation and approval of technology transfer contract is superseded by a mechanism of registration.

B. PROFIT FROM ORIGINAL INDUSTRIAL DESIGNS IN VIETNAM

The Vietnamese legal system for the protection of industrial design is quite sufficient and includes Civil Code (1995); Decree No. 63/CP dated October 24 containing detailed regulations concerning industrial property, amended and supplemented by Decree No.06/2001/ND-CP dated February 1, 2001 and Circular No. 29/2003/TT-BKHHCN dated November 5, 2003 by the Ministry of Science and Technology which guides the implementation of industrial property rights over industrial designs. Article 784 of the Civil Code states: “An industrial design is the outer appearance of a product represented by lines, form, and colors or the combination of such elements, which has new characteristics to the world and may serve as a model for the manufacture of industrial products or handicrafts”. An owner of an industrial design has the exclusive right to use, transfer the right to use, or to demand the competent state authority to compel the person who has infringed his/her rights to cease such acts of infringement and pay compensation for damage.

With the integration of Vietnam into the rest of the world, the effective and sensible protection of industrial designs will encourage designers to create beautiful products, to meet consumer demand and to help promote industry, handicrafts etc. and ensure competition, withdrawing capital for design development and profit. Through protection, the competitive advance will motivate the creators of other industrial designs in order to make the law realistic.

In recent years, according to data from the NOIP (National Office of Intellectual Property) the number of industrial designs in Vietnam is decreasing:

- ◆ 2000 : 1203
- ◆ 2001 : 1052
- ◆ 2002 : 836
- ◆ 2003 : 680
- ◆ 2004 : 650

The reasons are: that the effectiveness of protection is poor and many enterprises still do not realize the importance and necessity of industrial design registration. (a Vietnamese phenomenon).

In fact, many enterprises have now recognized the problem. Yet, they still have to face two big hurdles: poor financial ability (research and marketing) and the cumbersome and overlapping enforcement authorities. In the field of motorcycle design in particular, few Vietnamese enterprises create their own designs, using instead the designs of Japan companies (Honda, Suzuki, Yamaha). To set up a specialized design department is beyond their capabilities.

C. CONTRIBUTION OF TRADEMARKS TO BUSINESS DEVELOPMENT IN VIETNAM

The registration and protection of ID (industrial property) rights in Vietnam has become more important with its integration into the world economy and the developing market economy. The effective protection of ID rights in general and trademarks in particular will encourage production, ensure fair competition and protect against counterfeiting as well as protecting the rights and interests of manufacturers and consumers. The effective protection of trademarks and other ID objects is obligatory to enable Vietnam to join the WTO.

The first legal document regarding protection of trademarks was the Trademark Regulation in 1982 issued by a Ministerial Committee (which is now the Government). In 1989, trademark protection was enhanced by the Ordinance of Trademark Protection. At the end of 1995, together with other ID objects, the rule of trademark protection was controlled by the foremost legal document - the Civil Code of the Socialist Republic of Vietnam, enacted by the National Assembly. In this Code, the protection of trademarks and other ID objects is stipulated in Chapter II, Part VI of Civil Code. The Government

then promulgated Decree No. 63/CP dated October 24, 1996 stipulating in detail ID procedures in the Civil Code.

The following is a summary of trademark registration and protection in Vietnam according to the present Civil Code:

- Protected trademarks: signs which are created by shapes, combined with words to distinguish goods from similar goods of different enterprises. Not all the words and or shapes are protected, only those signs which are distinctive and are not identical or not similar to trademarks previously filed for the same products.
- The right to apply for a protected trademark: Natural or legal persons or other entities legally engaged in services shall have the right to apply for protection for a trademark to be used on their products.

Natural or legal persons from member countries of the Paris Convention or countries that have signed an agreement on mutual protection with Vietnam or that have accepted the principle of reciprocity with regard to the protection of industrial property, may file an application for protection and related procedures as follows:

- ◆ If they are foreign natural persons resident in Vietnam or foreign legal persons having a legal representative or a real and effective industrial or commercial establishment in Vietnam they may, directly or through an official industrial property agent, carry out the filing of an application for protection of title and related procedures;
- ◆ If they are foreign natural persons not resident in Vietnam or foreign legal persons without a legal representative or a real and effective industrial commercial establishment in Vietnam, they may carry out the filing of an application for protection of title and related procedures only through an official industrial property agent.
- Procedure of right of establishment: the applicant must file this at the NOIP (National Office of Intellectual Property), a sub-division of MOST (the Ministry of Science and Technology). The application is accompanied by samples and the requisite registration fee. The application will be examined to discover whether it is protected or not. If it satisfies this qualification, the applicant will be granted a certificate for a term of 10 years from the filing date, which can be renewed every 10 years.
- Protection of trademarks: in the protection period, the trademark owner has exclusive rights, including: exclusively using the trademark in business for registered products; assignment and licensing agreements and can request the competent state authorities to settle any infringement and/or unfair competition regarding ID rights.

Currently, Vietnam is a signatory to the Madrid Agreement and, besides filing directly at NOIP, foreigners who are citizens of other signatory countries can apply in Vietnam via WIPO. Trademarks registered through the Madrid Agreement are treated similarly to those filed at NOIP.

Currently, the NOIP receives 17,500 trademark applications each year from Vietnamese enterprises as well as from over 100 other countries. In recent years, the number of applications from domestic companies has increased (in 2003 an increase of 40% compared with 2002; 2004 an increase of 20% compared with 2003).

Up to now there are more than 110,000 protected trademarks in Vietnam. Of these 25% are Vietnamese enterprises and 75% foreign.

Through market research of Vietnamese consumers, we have found that, though Vietnam is one of the poorest countries in the world, with a GDP of USD400 per head, consumers purchase stylish goods. Many well-known trademarks such as: Rado, Electrolux, Sony are successful in this market. However, few domestic enterprises realize the importance of trademarks.

According to research in 500 enterprises, the building of a brand name ranks as a secondary concern after the promotion of product consumption: 4.2% consider a brand name as a competitive weapon, for 5.4%: a brand name is the property of enterprises. Only 30% of enterprises know that brand names will keep prices higher and be a source of pride to consumers. Most enterprises do not recognize the important contribution of brand names to the value of a product. The lack of consideration for intangible assets, such as brand names, together with an unclear idea of the target market, potential customers and lack of confidence in value added due to brand names, hinders investment for building and development of a brand name. Based upon the above investigation:

Regarding human resources, there are only 16% enterprises which have a specialized marketing section. In 80% enterprises there is no brand manager.

Regarding budget, there are 74% enterprises which invest in building and development of their brand name. With a turnover of less than 5%, 20% of enterprises don't pay for this to be done. The majority of Vietnamese enterprises only care about production and consumption and are not interested in carrying out market research, building a business strategy and promoting their brand in order to seek a competitive edge. Or they make no investment in the building of their brand names.

The main reason is that more than 90% of Vietnamese enterprises are small and medium-sized with restricted potential. Therefore, they need assistance from the Government on many aspects of their business:

The main difficulties are: Capital and finance (23%), counterfeit and copyright violation (19%), policy mechanism (14%), human resources (11.8%), building strategy and carrying it out (8%), administrative procedures (7.2%), service prices (6.3%).

Regarding state policy: the regulation at the law on company tax on spending for marketing, advertising and promotion, not exceeding 7% of the total expenses is a big constraint. The lack of acknowledgement of promotion, building brand names as a long term investment, spending restraints on building brand names, ensures that the enterprises will be unable to build a competitive capacity in the future.

D. CONTRIBUTION OF COPYRIGHT IN VIETNAM

Together with the development of the country, Vietnamese society has been concerned with IP rights in general and copyright in particular. When talking about literary, artistic or scientific works, people do not usually consider the position of the author. They think that with a creative work the rights and interest the author will receive is a mechanism of the establishment of those rights and interest and it is more important to protect the rights and interests of authors if they are infringed. As Vietnam is a signatory to the Berne Convention (October 26, 2004) the copyright issue seems to attract much attention.

Article 750 of the Civil Code stipulates that: The author's rights include his/her personal (moral) rights with regard to the work created by him/herself. Article 754: Copyright shall come into effect from the moment when a work is created. However, the real situation of copyright registration activity shows that the establishment of works is extremely important for authors. This is shown via the proven value of a copyright certificate granted by the Vietnam Copyright Office in the event of dispute to determine who is the rightful owner.

From the practicalities of state management on culture and information, the fields where copyright is seriously infringed are publishing; production of videos, cassettes and disks and works of art. These infringements directly affect the rights and interests of the author.

Copyright infringement is a global issue. In Vietnam, due to IP rights in general and copyright in particular there are new legal problems in that the infringers themselves do not know which of their actions violates the law. In many cases, the infringers consider their action as normal. These include publishing, production of videos, cassettes or disks without the permission of the author or payment of royalties at the most basic level and outright theft of stage and music programs on a higher level.

The reasons for copyright infringement are that the protection of copyright is complicated as is the implementation process. This concept is still limited, even among those possessing the related rights and obligations. Meanwhile, due to economic targets, few individuals and organizations enforce legal rules, regardless of ethics and in their pursuit of profits, they violate the legitimate rights and interests of others.

For art and cultural activities, there are many copyright regulations but there is a lack of a legal basis in management and inspection to settle infringement when dealing with specific case.

The legal system of copyright and the enforcement apparatus are not synchronized. Management offices pay attention to building and perfecting copyright regulations but do not yet care about training or improving the quality of the enforcement apparatus to guarantee that these regulations are implemented effectively. The cadres and civil-servants in the management offices who are in charge of copyright at all levels do not have to complete their tasks. There is no cooperation among related agencies, especially between cultural and information agencies and customs and market control. Moreover, sanctions are unclear.

A positive factor for protection of legitimate rights and interests of authors is a system of collective management organizations. Currently, there are three models: the Vietnam Centre for Music Copyright Protection; the Vietnam Centre for Literary Copyright; the Vietnam Record Industry Association. However at present there are no mechanisms to oversee these activities (without collective management regulations).

In short, the legal aspect of copyright is quite a new issue for Vietnam. Nevertheless, the pressure of international public opinion, especially when Vietnam accepts the terms of the Berne Convention means that the main issue is to build a sufficiently effective legal system and, most importantly, an effective system of enforcement.

E. VALUATION AND ASSESSMENT OF IP RIGHTS IN BUSINESS ENTERPRISES IN VIETNAM

The valuation and assessment of IP rights is highly necessary for making the right decisions in every business situation. The most popular targets for valuation and assessment of IP rights are:

- ◆ Dealing with IP rights
- ◆ Defining the rate of copyright royalties
- ◆ Financial reporting
- ◆ Tax calculation and claiming for damages

In many cases, dealing with a trademark or a patent which has been protected or granted a certificate will reduce costs if compared with the implementation of design, usage or research from the outset. Therefore the exact valuation and assessment of IP rights of an enterprise is very important for making an accurate decision about investment strategy and aiming at optimizing capital utilization.

Instead of buying or investing in a trademark or patent from the outset, enterprises may pay a sum of money to license IP rights at a pre-determined time. To decide on a reasonable fee, an enterprise should analyze its current and potential value for such IP objects for both licensor and licensee.

Few of the present systems consider carrying out an audit of the value of IP rights. However, the economic value of IP rights is extremely important as sometimes they are major assets, taken into consideration in business transactions. Many enterprises have

to spend a lot of money on research and marketing projects to register a patent or trademark. The investment of intangible assets takes longer than investment of tangible assets. In many cases, a financial report based on traditional principles does not show the situation and economic development prospects of the company, which is necessary for both the owner as well as the potential investor and for financial companies to decide on the value of the enterprise's IP rights. For tax calculations and claims for damages before a court of law, in some cases the person concerned needs to supply professional opinions regarding the sum of money paid or to pay according to the IP rights value. Current principles are not enough to apply to practical situations and the competent state authorities do not have the ability to assess precisely the value of IP rights for each enterprise. Companies should present ideas for valuation and assessment based upon accepted methods in order to convince the competent authorities.

The economic value of assets usually depends on interest rates compared with investment expenses. For IP rights, the economic value is mainly affected by legal protection status, participation in the market and financial elements.

Without legal protection for the owners, IP objects will be worth nothing. Otherwise why do we have to buy or license technology (an invention or utility solution) if we can use it free; and why do we have to buy or license a trademark if we can use it without violating anybody's rights? Hence, a sufficient IPR mechanism is a basic need for the creation of the value of IP rights.

Participation in the market is an important requirement for a trademark which gains in economic value. Trademarks are only able to inform consumers about the origin and characteristics of goods especially when it is well-established in the market. A prestigious trademark will attract consumers to buy products of a well-known manufacturer over products which may be better but which bear a new trademark that is unknown in the market. The use of prestigious trademarks will enhance consumption and gain the confidence of consumers. This will increase turnover and interest for the producer. Although a trademark is legally protected if it is unused, that trademark has no value. Consequently, the value of a trademark expresses the prestige of an enterprise and of the products and services bearing that trademark.

The capacity which enters into business and the participation of technology and technology products is a very important requirement for the creation of the value of technology. The patented solution itself does not have an economic value without other conditions such as: capital, technical and other resources to ensure application of the solutions.

The assessment of risks relating to the interest potential or income of the use and exploitation of IP rights significantly affects their value. Inflation rates, capital expenses, interest rates are important factors in influencing the economic value of IP rights. If a protected IP object is on the market but not making a profit due to a reduced outlay in the production and marketing process that object only has a limited value

In the future, the demand for valuation and assessment of IP rights in Vietnam will rise for the following reasons:

- The globalization of trade activities and international investment forces, requiring greater Vietnamese integration into the general development of the region and the world as a whole.
- Foreign investment activity is developing with many different kinds of investment, attracting domestic enterprises into business transactions with new and complicated issues, among them IP rights.
- Technology transfer is developing strongly due to demand for raising production capacity and improving products.
- Investment for technological development serves industrialization, with special importance attached to modernization. The budget for research projects occupies an important place in the technological development structure; management mechanisms and the implementation of programs.
- Business activities in the private sector have created competition. Demand for capital, joint ventures, mergers and acquisitions are increasing because of the requirements of competition and development in business activities.

F. ACCESS TO CAPITAL BASED ON IP ASSETS-FINANCIAL SCHEMES (LOANS, GRANTS) BY GOVERNMENT INSTITUTIONS AND PRIVATE CAPITAL IN VIETNAM

In the market economy, an enterprise is also a valuable type of asset. The value of an enterprise includes: its tangible and intangible assets. The tangible value of an enterprise is the value of its assets such as workshops, equipment, machinery, etc. The intangible value comprises IP assets, company prestige, business location, skills of management and personnel.

In the earlier central plan mechanism, we were only aware of tangible values and were not concerned with intangible values. Moreover, much tangible property is outdated; therefore its value is often low. According to statistical data in 1990, the total tangible value of 6000 SOEs (state owned enterprises) was equal to one large business in a developed country. To date, much damage has been caused because intangible values have been unrecognized, especially in the following ways:

- ◆ Losing intangible capital due to selling SOEs to other domestic and foreign economic sectors.
- ◆ Diminishing the capital contributed by the Vietnamese partner in a joint venture with foreigners due to not taking into account the intangible value of an enterprise.

In a joint venture, each of the parties contributes something of value to a newly-formed entity, one designed to oversee the new business endeavor. Such an arrangement allows

several parties access to pooled capital, technical, management and intellectual property resources. Because of the intangible nature of IP assets, it is especially important that the methods for identifying, transferring and retaining IP rights are clearly spelled out in any agreement between the parties

Normally, Vietnamese partners contribute land as soon as the project starts. Recently, the price of land has dropped, so the capital contribution of Vietnamese partners has also dropped.

While assessing the contribution of capital to joint ventures, Vietnamese enterprises usually consider tangible assets such as land and equipment and do not pay attention to intangible assets such as IP rights. However they should be concerned as the value of intangible assets can be very high.

Because of the high value of IP assets, foreign enterprises always express concern for protection and development of such assets. In joint ventures, trademark prices usually represent a major part of the value. There are many enterprises which participate in joint ventures only by contributing their trademark. In Vietnam, a few joint ventures such as Viet Ha Brewery Company have determined the value of a trademark, with their calculation of the value of the trademark 'Halida' in the sum of USD 550,000; P/S (toothpaste) at a value of USD 5.3 million, Sai Gon beer at USD 9.5 million. However, such enterprises are very few. Therefore, it is a pressing issue to find a suitable method to calculate intangible assets in general, and IP assets in particular must be the first consideration in the context of globalization, commercialization and the position of Vietnam as a member of the WTO in the near future.

In the protection and development of intangible assets, IP activity plays an important role as this activity contributes to the development of science, technology and modernization and industrialization of the national economy. The real situation of IP activity in Vietnam proves that if any enterprise knows how to organize IP activity effectively its competitive capacity will increase. The utilization of IP assets offers opportunities to enterprises to develop quickly.

PART II (B) : SUCCESS STORIES

Case Study 1

<i>General Information</i>	
COUNTRY: VIETNAM	
COMPANY NAME: VANDIEN FUSED MAGNESIUM PHOSPHATE FERTILIZER COMPANY	
CONTACT ADDRESS	
Contact Person	: Bui Quang Lanh
Designation	: General Director
Business Address	: Vandien Town – Thanhtri District – Hanoi
Tel No.	: 84 4 6884489
Fax No.	: 84 4 6884277
E-mail	: vafco@vnn.vn
Home Page (if any)	:

Description of Success Story No. 1 :

1. Title:

APPLICATION OF SCIENCE AND TECHNOLOGY IN MANUFACTURING TO PROMOTE EFFICIENCY IN BUSINESS AND MANUFACTURING AND PROTECT THE ENVIRONMENT

2. Type of IP concerned

Over the last 10 years, the Van Dien Thermophosphate Company has studied and applied hundreds of scientific solutions in business and manufacturing; among which six solutions have been granted patents for invention and patents for utility solutions which have resulted in the WIPO Award presented to the company in 2002 by the World Intellectual Property Organization; namely:

- Patent for Invention No. 1991 dated April 12, 2001
- Patent for Utility Solution No. 265 dated August 9, 2001
- Patent for Utility Solution No. HI-0030 dated January 11, 1991
- Patent for Utility Solution No. HI-0031 dated January 11, 1991

- Patent for Utility Solution No. HI-0089 dated October 17, 1992
- Patent for Utility Solution No. HI-0167 idated August 30, 1996
- Certificate of Trademark Registration No. 57821 dated October 6, 2004

3. Background

Van Dien Thermophosphate Company (formerly Van Dien Phosphate Factory) is a state enterprise which was established in 1960 with the help of China and which officially started manufacturing thermophosphate fertilizer (FMP) for agriculture in 1963. The equipment used to manufacture thermophosphate fertilizer is a blast furnace, which is also called a high furnace.

The whole primary production line was installed by China including two blast furnaces with an output capacity of 10,000 tons per year.

The material used for manufacturing is apatite type 2 in the form of clots (Lao Cai apatite ore), whose P₂O₅ content is between 22% and 24% and secpentin (Thanh Hoa secpentin ore) with a particle size of 25 ÷80 mm.

The fuel used to manufacture thermophosphate fertilizer with 15-17% P₂O₅ was imported coking coal with a particle size of 25-100 mm. According to the design, the consumption norm of coking coal is 0.36 ton/TSP, the consumption norm of electricity is 107 Kwh/ton BTP. As the blast furnace could only use only ore clots with a particle size of 25-80 mm, particle sizes below 30 mm were eliminated.

During the 1970s–1980s, in order to promote agricultural development, the state had a policy of developing the production of domestic fertilizer. The output production capacity of thermophosphate fertilizer in this period increased from 20,000 tons per year to 40,000 tons per year.

The Chinese technology was applied to the newly-constructed production line with imported coking coal as the fuel. To produce 40,000 tons of thermophosphate fertilizer, 36,000 tons of coking coal were needed. During the 1970s-1908s, a ton of coking coal cost 120 US\$ (the current price is US\$ 300-400 a ton). Up to 1975, due to the lack of dollars, the construction of an expanded production line and blast furnace not only in the Van Dien phosphate fertilizer factory but also in other parts of the country had to be postponed. The production target for 1970-1980 was 40,000 tons per year, however, in 1979, only 10,000 tons were produced, meeting 2,5% of the production target. The thermophosphate fertilizer industry was in danger of coming to a halt. Moreover, it was a handicap for the thermophosphate fertilizer industry that during the subsidization period, although transportation and production were susidized and the farmers using fertilizers were supported by the state, thermophosphate fertilizer products were very hard to obtain. As a result, the area fertilized was small and the potential market for thermophosphate fertilizer was enormous.

The material used to produce thermophosphate fertilizer is apatite ore type 2 and high-content secpentin ore. The size of the material particles required was 25-80mm but the imported apatite and secpentin ore contained particles of 0-250 mm. The particles below 25mm made up only 25%. During the process of breaking and screening the 0-250mm particles to obtain the 25-80mm particles, the proportion of shattered particles increased to 5-10%. Therefore, for one ton of imported raw material, only 65-70% could be used with the eliminated smooth ore accounting for 30-35%. During 30 years of production, many solutions to this problem were proposed, but none was successful. This became urgent for the thermophosphate fertilizer industry because if the waste could not be used, both the interior and exterior environment would be polluted, the consumption norm would be high leading to high prices and damage to natural resources, etc.

In such a difficult climate and in order to save itself and contribute to the development of the national thermophosphate fertilizer industry, making use of the rich material and fuel resources as well as the solid waste, to reduce prices and increase the quality of its products, the Van Dien Thermophosphate Company has had to use science and technology to concentrate especially on the following:

- ◆ Studying new scientific and technological solutions, applying them in manufacturing using domestic materials and fuel resources; reducing prices, increasing product and environment quality; meeting the requirements of domestic and export markets.
- ◆ Expanding the domestic market and promoting the expansion of the export market.
- ◆ Managing and training staff and officers so as to enhance knowledge, and skills among managers, technical officers, technical workers, etc. to meet the requirements of applying the new technology and the production requirements for the markets, especially in the process of intergration of all regions of the country.

The remit of science and technology research focused on the following fields:

- ◆ Studying the use of domestic antraxit coal instead of imported coking coal in order to use 100% locally-produced material and fuel for the manufacture of agricultural fertilizer.
- ◆ Studying how to improve the performance of blast furnaces to correspond to the domestic antraxit coal in order to raise productivity, reduce the consumption of material and power and other expenses.
- ◆ Studying how to use under-sized materials in manufacturing in order to reduce consumption, reduce environmental pollution and make full use of the country's natural resources.
- ◆ Studying how to improve product quality in order to meet domestic and export demand.
- ◆ Studying technology for processing solid waste, waste water and waste air to meet the criteria of environmental hygiene.

- ◆ Cooperating with agricultural scientists to study and produce specific fertilizers for certain kind of plants or for a certain period of development; training farmers in the right way to use fertilizers which would reduce costs but increase productivity and plant quality.

Development and Use of IP in Business Strategy

Many technical solutions applied in the business of manufacture have solved many problems in manufacturing melt phosphate fertilizer in our company as well our country. This has played a decisive role in the existence and development of Vietnam's phosphate fertilizer industry for several years and will continue in the long-term. Our aim is:

- ◆ To use 100% domestic antraxit coal instead of imported materials for manufacturing phosphate fertilizer.
- ◆ To improve the capacity of the kiln to suit the technology for manufacturing phosphate fertilizer from domestic antraxit coal. Thanks to these measures, productivity has increased by 600%. The norm for coal loss at the mouth of the kiln has been reduced by 67.7%, from 0.62 to 0.22 tons per total of semi-manufactured product. The norm for lost electricity in operating the kiln has reduced by 67%, from 145 to 45 kWh of the total product. At present the company's capacity has increased 8.6 times compared with 1989. The norms for coal loss and electricity wastage are now lower than those in Japan and China. After a decade of applying these solutions, we have saved 407.000 tons of coal and 61.000.000 kWh electric power, amounting to 253 billion Vietnamese Dongs. It means that billions of Vietnamese Dongs are saved every year in comparison with the past.
- ◆ To increase the quality of the phosphate fertilizer product and to meet all requirements for domestic use and export. Up to now, the apatite ore type 2 has enabled the manufacture of phosphates with 13.5%-15% effective P_2O_5 ; After applying the above solutions, the quality of the product has reached a level of 15%-17% effective P_2O_5 , 17.5-18.5% effective P_2O_5 and over 19% effective P_2O_5 . This fertilizer is now exported to other countries such as Australia, Japan, Malaysia, Taiwan as well as being used on the domestic market.
- ◆ The solutions in environmental treatment.
 - a. Solid waste treatment: Our technology can comprehensively treat solid waste (small-sized ore); convert 100% solid waste into material for manufacturing phosphate fertilizer, reduce pollution, reduce the norm for coal loss from 1.6 to 1.25 tons using 21.8% less. In 10 years, the company has saved 287.000 tons of fine ore with a saving of 51 billion Vietnamese Dongs.
 - b. Waste water treatment: to meet the requirements for acceptable quality and recycling of industrial waste water; the amount of recycled waste water is $600m^3/h$ ($4,800,000m^3/year$) and there is no longer a need for the three pumps normally used

to draw underground water, thus recovering over 2,000 tons of fertilizer, with the total cost reduction amounting to 7 billion VN Dong a year. The most important thing is the recycling of waste water, minimizing the flow and saving underground water resources.

- c. Exhaust gas treatment: All of the production lines in the company have an exhaust gas treatment system to meet the requirements for exhaust gas quality. We have also carried out much research to find solutions to reduce the amount of exhaust gases.

These solutions have resulted in an improving environment all around the company. From a company with a polluted environment inside and outside it has become the Blue-Clean-Nice company with an improving environment. In 2002, the company had the honor of receiving a certificate of merit awarded by The Ministry of Science, Technology and the Environment for its achievement in protecting the environment and winning “the 2002 environment protection prize”.

- ◆ Solutions for anti-corrosion of the transfer lines of the equipment: In the production of fertilizer, the level of chemical and mechanical corrosion is very high and all equipment had to be replaced each year. The company was able to find many solutions and apply them to its production. Up to now, most of the equipment is still used but does not need to be replaced, saving billions of VN Dongs per year.
- ◆ Solutions for developing and expanding the fertilizer market. In the atmosphere of a centralized economy, the amount of Van Dien fertilizer produced is small, so the market is narrow and most people are not familiar with the product. This is a disadvantage for a production company and Van Dien attaches special importance to the combination of “Government, company, scientists and farmers” as a key to its development.

In recent years, it has collaborated closely with agricultural scientists to find specialized fertilizers to be used for specific plants in each growing phase. Simultaneously, farmers have been trained in how to use fertilizer to good effect. Annually, the company spends billions of VN Dongs on training for between 100,000 and 120,000 farmers.

By applying technical solutions to the production process and environmental protection, the company has been shown appreciation by the Hanoi people’s committee as a company with a good record in protecting the environment.

In our business, the effect of the technical solutions applied is very good. This has been the key to deciding the viability and the steady development of our company in the past and for the future. The product offers high quality, an acceptable price, high adaptability for plants in all regions. Therefore, in recent years, in spite of facing many difficulties, the company is still developing. In 1989, the yield was 27,000 tons; in 2001: 128,000 tons; in 2004: 308 tons. Also, the profits and the number of workers have increased. Van Dien’s contribution to the national budget has also increased and the living standards of the workers have been considerably enhanced.

Van Dien fertilizer not only meets all the increased requirements of the domestic market, but also of foreign markets such as Australia, Japan, Malaysia and Taiwan. The quality and design of the product have been well accepted. In return for the export of one ton of the products, the company makes a profit 5 to 10 times higher in comparison with delivery to the domestic market.

In particular, Van Dien melt phosphate fertilizer has a high potential in the south and western plateau region. If in 2001, the demand was only 41,000 tons, in 2005 it was over 110,000 tons (approximately 90,000 tons in the first six months). Consumption in these markets increases annually from 20 to 30%.

All these achievements help to lower product costs, brighten the image of the company and create a highly-competitive advantage as the high quality of its product, which meets the requirement of the consumer, ensures that the company develops daily. Yield and profits are increased with the improved environment. Concretely, in 1989, the yield was 27,000 tons of fertilizer for a profit of 17 millions VN Dongs. In 2004 the yield was 308 tons (multiplied by 11.5); the profit was 15.2 billions VN Dongs (multiplied by 895).

Impact on Productivity (*e.g. how IP has contributed towards market dominance, company image, sales, quality, productivity and profits*)

The company's productivity has increased up to 600% thanks to the application of new technologies and the grant of patents, thus, creating great economic efficiency and helping the company reach the advanced standards required in the world's markets. The Van Dien Phosphate Company therefore does not need to request more state capital for investment. From the research stage to the stage of application of manufacture, the company only utilizes its own capital. It is also able to complete the work rapidly and the effectiveness of capital and profits is high.

The research work for innovating blast-furnaces using 100% antraxit coal helped the company to receive the State Award in the Field of Science and Technology of 2000; the first prize of the VIFOTEC Award in the fields of machinery and automobiles in 1998.

The Company also received an award from the World Intellectual Property Organization (WIPO) in 2002.

A patent for application of invention has brought great benefits to the standing and the development of the Van Dien Phosphate Company and the manufacturing of phosphate in Vietnam as well.

♦ **Lessons and the direction of science and technology in the period from 2006 to 2010**

i. Lessons:

- a. Attach importance to the study and application of new scientific and technological solutions in manufacturing – this should be the first priority.

Nowadays, Vietnam is in the process of integration and competition among products is severe, so in order to improve competitiveness, quality must be high to meet customer demand and the price must be low. This can only be achieved by studying and applying new scientific and technological solutions.

- b. Be well aware of party and state policies. Make use of support from other branches and trading partners.
- c. Coordinate closely with agricultural and industrial scientists, help to develop their knowledge to solve the company's difficulties and at the same time, develop the company's strength.
- d. Train and re-train staff in order to improve their knowledge, management and professional skills and help them understand new technologies and develop their creativity.

ii. *Direction of science and technology development in the period from 2006-2010:*

Starting in 2006, our country will be entirely integrated and market competition will be more severe. The Van Dien Thermophosphate Company will continue to develop solutions in science and technology, marketing and training in order to manufacture highly-competitive products not only for the domestic market but also the global market. The development of thermophosphate and NPK products from thermophosphate is a source of strength for Vietnam due to the following reasons:

- We can use 100% domestic material and fuel to manufacture high-quality products to meet domestic and export demand.
- The company has scientific solutions which have been granted patents for invention and patents for utility solutions and can be applied in manufacturing thermophosphate products with domestic material and fuel, with a higher rate of productivity but lower consumption of fuel and power than Japan, China.
- As regards the soil, 80% of Vietnam's soil is a mixture of acid, swampy infertile and mountainous infertile soil, in which plants not only need phosphorus, protein, potassium but also Ca, Mg, SiO₂ and other microelements. It is, therefore, sensible to use thermophosphate fertilizer and NPK made from thermophosphate.

Countries such as Japan, China, Australia, India, Malaysia, etc. still use large amounts of thermophosphate. In Japan, only nine million tons of rice is produced a year but annual consumption of thermophosphate fertilizer is 20,000 tons.

Based on the particular traits of thermophosphate products and Vietnamese soil as well as the demands of neighboring countries and in the rest of the world, if we can carry out

successful research in science and technology, combining the four professions and guide farmers in the use of fertilizers in an effective way and promote export, the Vietnamese thermophosphate industry will become highly developed with an output of millions of tons annually.

i. Some information about the inventor

The chemical engineer with great energy

Two great honors have come to Bui Quang Lanh, the diligent and eager-for-knowledge chemical engineer: He has been awarded the State Prize for the project “improving blast furnaces, manufacturing thermophosphat fertilizers with domestic anthracite coal” by President Tran Duc Luong; and at the same time, has received the 2000 Emulative Warrior award for his contribution to science and technology achievements in Vietnam.

Bui Quang Lanh was born on October 19, 1949 in Kien Xuong, Thai Binh, to a traditional family, in a poor, crowded environment that was however rich in discipline and Confucian traditions. Lanh is the eldest of nine children, so the burden of the family seemed to fall upon him, especially after his father (his greatest moral support) died leaving his mother and small brothers and sisters. Sometimes, he seemed unable to overcome his difficulties, but thanks to his own energy and intelligence together with the efforts of the whole family, Bui Quang Lanh finally overcame all the obstacles to become the Director of the Van Dien Thermophosphate Company. His brothers and sisters all received good educations and became engineers, doctors and useful members of society.

Following his successful graduation from the thirteenth course (1968-1973) of the Faculty of Industrial Chemistry and Equipment, University of Technology in 1973, in 1974 Bui Quang Lanh decided to work for the Van Dien Thermophosphate Company (in the suburbs of Hanoi) after refusing many other “good” offers, as he desired to apply what he had learnt in real life situations and produce good agricultural materials for 80% of the farmers in the country, including the poor area of Thai Binh, his homeland.

As Lanh recalled, when he started to work at the Van Dien Phosphate Fertilizer Company it was in trouble: Half of the factory (including 2 blast furnaces) had been inoperative for six months because the waste processing system was not suitable and the use of chemicals had eroded the machinery. Scientific officers at the company had tried their best to find solutions but had been unsuccessful. Quite by chance, Tran Kiem, the director at that time, bravely assigned to the young engineer Bui Quang Lanh the task of solving the blast furnace break-down problems, and at the outset, he knew that he had to carry out the task with dedication and determination.

Thanks to his knowledge and enthusiasm as well as experience gained from the successes and failures of the company’s technical officers, Bui Quang Lanh quickly found the cause and suggested three different ways of solving the problem, surprising many people. The Director, Tran Kiem was very happy, and his belief in Lanh grew. He decided to give Lanh and his colleagues the task of studying and designing methods of applying domestic technology to the improvement of Chinese air waste processing

for four blast furnaces rather than two. The method that Bui Quang Lanh and his group had chosen was soon approved by the Technical Council of the General Chemical Department although many people were still dubious of the success of the project. However, after only 15 days of design and one month of work, the air waste processing line worked well giving an increase in air waste of 200%, which enabled all four furnaces to continue working and prevented the factory from the danger of closure. It was due to that success that Bui Quang Lanh's project was greatly appreciated by not only the factory's management committee but also the General Chemical Department and he was given the honourable title "National Creative Youth"

At the end of the 1970s and the beginning of the 1980s, Vietnam's relations with China became so strained that China stopped giving material support and the Company had to import 25-80mm coking coal, which was very expensive whereas the policy of the chemical industry was to expand production and increase the thermophosphate fertilizer output from 40,000 tons per year to 400,000 tons per year. The norm for the Van Dien Thermophosphate Fertilizer Company was only 10,000 ton per year. Generally speaking, the thermophosphate fertilizer industry was in great difficulty at that time. The construction of blast furnaces at Ninh Binh Factory and Supe Lam Thao Factory had to be suspended. The Van Dien Thermophosphate Fertilizer Company itself would have had to stop production if it had not renovated its technology and use of domestic material.

Under such circumstances, Bui Quanh Lanh was once again asked to study the use of domestic materials, anthracite coal instead of coking coal and, at the same time, improve blast furnace measures to be suitable for the new material. "Adversity brings wisdom" and after many days pondering on renovating the technology and replacing the material, Lanh and his partners finally succeeded in designing suitable blast furnace measures for the production of thermophosphate fertilizer with anthracite coal. This solution was granted a patent for invention and was immediately put into production. As a result, all three furnaces were improved and ran completely on anthracite coal, the output capacity becoming eight times as high as it had been before. Coal consumption was reduced to 67%, but, more importantly, the quality of thermophosphate fertilizer was much higher. Moreover, formerly, when coking coal was used, the useable ore only accounted for 65-70%; the rest was useless smooth ore, which was piled at the company's dumping ground causing environmental pollution, wasting natural resources and keeping prices high. Bui Quang Lanh and his partners successfully devised and applied a method of creating inorganic adhesive to curdle the smooth ore waste to make it suitable for blast furnaces. The smooth ore was made full use of and resulted in more products for the company. This is a utility solution which was granted a patent, and it has enabled the company to make use of nearly 300 thousand tons of smooth ore with the saving of tens of billions of VND.

In May, 2002, the Vietnam Chemistry Corporation appointed engineer Bui Quang Lanh to be the director of the Van Dien Thermophosphate Fertilizer Company. In the same year, he was entrusted with the responsibility of the secretary ship of the party committee. In his new position, over the past year, he has, together with the managing board of the company, proposed new policies, novel methods of marketing and production as well as training, science and technology programs, etc., in which quality and price are standards the company has always maintained and improved to produce

thermophosphate fertilizer to the best advantage of farmers. In order to offer good products, apart from perfecting technology, the company has paid attention to improving staff skills and consciousness of their responsibilities in each sector. On each package of fertilizer, the production date, production shift and the name of the packager are all clearly written. Furthermore, in 2003, the company arranged for 400 workers to take part in a market survey. On general questions about the market economy, customers, direction for development or general questions such as: “How many kinds of fertilizer does the company produce?” or: “How to differentiate and use each kind of fertilizer”; “the price of each type of fertilizer”, etc., the workers all gave correct answers. The competition was of great significance. It not only helped to improve scientific and economic knowledge but also created opportunities for the workers to become aware of the usefulness of their work and their products to society, the company and themselves, resulting in a greater sense of responsibility. Thanks to these factors, the products of the Van Dien Thermophosphate Fertilizer Company received a warranty that few other countries can boast; not only after the goods are delivered but also throughout the crop-growing season.

Case Study 2

<i>GENERAL INFORMATION</i>	
COUNTRY: VIETNAM	
COMPANY NAME: KYMDAN-SAIGON RUBBER JOINT-STOCK COMPANY	
CONTACT ADDRESS	
Contact Person	: Nguyen Huu Tri
Designation	: President
Business Address	: 28 Binh Thoi – 14 Precinct – 11 District – Hochiminh City – Vietnam
Tel No.	: 84 8 8657158
Fax No.	: 84 8 8657419
E-mail	:
Home Page (if any)	:

Description of Success Story

1. **Title:**
KYMDAN – 50 YEAR JOURNEY TO BRING ABOUT A STRONG BRAND
2. **Type of IP concerned** (e.g. TM, ID, Patent, etc.)

Important milestones:

- At 15:00 on March 19, 1954: the first KYMDAN white mattress was produced measuring 1 x 2 x 0,5m. During the manufacturing process the mattress mold was heated by soaking it in a huge container of boiling water heated by rice husks.
- 1960 saw the beginning of a new stage of expansion into foreign markets with the exhibition of KYMDAN mattresses at the Vietnam Products Exhibition in Japan. At that time, Mr. Nguyen Van Dan, founder of the KYMDAN Company, attended the exhibition in his role as the supervisor of Vietnamese products.
- On September 26, 1962 a license was granted for patent No. 831 for enhanced ventilation features.
- On February 10, 1984 patent No. 2559364 was granted by France.
- In 1993 the company received a certificate (awarded annually) for environmentally-friendly products by the Committee of Environmental protection of the Federal Republic of Germany and for anti-flammability, enabling the product to be distributed throughout Europe.
- In 1999 trademark protection registration abroad began. At present the company has had certificates granted in more than 74 countries and territories.
- In 2003 an ISO 9001:2000 certificate was granted by AJA, UKAS, QUACERT.
- In 2003 The People's Committee of Ho Chi Minh City chose KYMDAN as the city's key industrial manufacturer.
- In 2004 the company received an award from the World Intellectual Property Organization (WIPO) for creative companies which are highly-appreciated in the world's market.



What KYMDAN has achieved now is not enough. Protection of its achievements through the IP system is the area now receiving attention. Up to now, KYMDAN has protection for 21 trademarks, with 24 patents certificates granted and 22 industrial property objects already registered. The number of protection registrations is increasing with new ideas and innovations contributed by its staff.

3. **Background** (historical conceptualization of the concerned technology, product, business etc.)

A protected trademark will increase the possibility of a customer preferring a product only if the business knows how to create a strong brand; making products with a special position in the market widely advertised and preferred by customers. This always has to be based on the quality of the products and services offered.

One of the Vietnamese businesses which has already achieved both trademark success and recognition is: the Saigon - KYMDAN rubber joint-stock company, which has been a strong brand for almost five decades. The business also received a creativity award from the Award Council of the World Intellectual Property Organization (WIPO) in 2003.

It is fair to say that KYMDAN's history began at 15:00 on March 19, 1954, when the first mattress was produced. During the production process, the mattress mold was heated by soaking it in a large container of boiling water heated by rice husks. This event not only marked the establishment of a business but it was also an obvious step forward for Vietnamese industry in a period when almost all advances in science and technology came from abroad.

Mr. Nguyen Van Dan - the founder of KYMDAN mattresses was at that time a technical specialist at the French Labbe rubber company in Vietnam. He introduced the idea of producing mattresses from natural latex materials because these materials were easily available in the country. The first mattresses were produced in ready-made



molds and that established the basis for further research and improvement to create KYMDAN's present product lines. That success nurtured Mr. Dan's ambition of creating a "multi-industry mousse technology", which is why he chose the name "KYMDAN" for his products (KYMDAN was abbreviated from multi-field mousse technology).

KYMDAN can also be understood as "Dan's mousse technology" because at that time it was something new in the natural products industry, a separate specific technology that was so far unknown.

Within less than a decade from its foundation, KYMDAN's mattresses have conquered world markets starting with an exhibition of products sponsored by the Government of the Republic of Vietnam in Japan in 1960. This was not only a "phenomenon" but it was also a matter of pride for the whole new-born industrial and manufacturing sectors at that time.

Although KYMDAN mattresses sold widely inside and outside the country, the goal of improving the product and its quality was constantly pursued. Research to increase the ventilation features, to give the mattresses the structure of an open beehive and to increase the surface contact, was carried out. In 1962, the Saigon regime granted a patent for Mr. Dan for the mattress enhancement necessary to achieve the ventilation feature.

After Vietnam's unification on April 30, 1975, because of social unrest, KYMDAN's mattress production was temporarily stopped but the research and product improvements already established to increase functionality, comfort and safety for consumers were still being maintained. On February 2, 1984, Mr. Dan was granted patent certificate No. 2559364 for products of high quality that satisfy international standards.

Concern about consumers' health is always a priority, working on the principle of providing only the safest products to customers. Right after its establishment, KYMDAN carried out important research on safety and this continued. After the patent granted in 1984 by France for products which complied with international standards, each year from 1993 KYMDAN's workplace has been examined by the Environment Institute ECO of the Federal Republic of Germany and found to have satisfactory standards of environmental safety and anti-flammability.



Standards ISO 9001:2000 and SA 8000 that KYMDAN received in 2003 marked the continuation of effective production and management methods, which demonstrated the responsibility of the business towards its employees. This is a factor that has contributed to KYMDAN's success.

In 2004, KYMDAN celebrated its 50th anniversary, an event marked with much pride and joy by the staff and employees of KYMDAN and where the World Intellectual Property Organization (WIPO) presented to KYMDAN an award for businesses that use initiative and creativity in applying intellectual property solutions in their production and market development strategy. The WIPO Award is the recognition of the right strategy that KYMDAN has followed and continues to follow in its development process.

4. Development and Use of IP in Business Strategy (Please explain the technology etc. used, elaborate on its development and how the IP concerned is being applied in the business strategy)

Throughout its history, it is clear that: KYMDAN has become established through creativity and constant development of that creativity. This can be considered a distinct corporate culture. At KYMDAN, employees are encouraged to suggest ideas to managers whether large or small that could be realized to increase operational efficiency.



The encouragement of creative thinking is a real advantage that KYMDAN currently possesses. From operational managers to high-level managers, employees can always openly discuss issues of innovation and new ideas. Innovation and creativity are always highly valued and their application is seriously considered. Therefore, employees of the company never hesitate to make their contribution, no matter whether the idea is big or

small, or whether it's worthwhile to propose. That's why in 2003 and 2004 there has been on average more than one initiative every day put forward for improving performance and, of those ideas, half have been applied. For initiatives that lead to successful applications, the KYMDAN Company has a policy of rewarding both material and spiritual aspects as an encouragement to other employees.

This is an effective utilization of the intellectual potential of each employee for promoting development and the use of innovation as a tool for improving operational efficiency. KYMDAN always considers the creativity of every employee in the organization as an invaluable asset and would consider it a great mistake to waste such an asset.

At the present time, when science and technology are developing at a faster and faster pace, any businesses that rest on their laurels will lose ground. With special know-how and novel technology that no-one else in the world has adopted, KYMDAN cannot rely on technology transfer from other, more advanced countries. Technology transfer can shorten the period for applying modern science and technology, but it cannot help Vietnamese businesses to compete with their competitors. Therefore, "improving by internal force" is a principle that KYMDAN follows and a good example of this is the construction of a modern laboratory to research product innovation and to improve the quality and features of products, thus creating more benefits to customers. With its dynamic staff of young technical specialists who have been professionally trained, a range of products has been researched and successfully brought into production. KYMDAN's ambition is to transform its laboratory into the training center for the leading specialists of the future in the Vietnamese rubber industry.

Activities to exploit creative potential and the intellectual property system are not limited to operating a production system, but are also improving efficiency, researching new products and improving current products. In the age of globalization, when businesses have to operate in world markets, the building of a strong global brand requires appropriate investment and in this respect, intellectual property issues play an increasingly important role.

The contribution of ideas by members of the organization to build a strong brand and develop KYMDAN's markets is also applied to operating systems. Any ideas on promoting product consumption, development and control of distribution systems, brand image promotion based on established positions, etc. are always highly regarded and seriously considered for application. KYMDAN has become a leading brand and is now the biggest producer of mattresses in Vietnam.

With the strategy of using the domestic market as the starting point for expanding into export markets in a flexible but stable manner, KYMDAN's products are not only available in developed countries such as France, Germany, Australia through their representation there, but are also exported to other countries such as Japan, the U.S.A and China. For Vietnam it's the product quality, together with customer preference that has created favorable conditions for a continually-expanding distribution system with 350 branches at present in the country.

Due to its reputation for a safe, natural and healthy product KYMDAN can compete in any market. To date, it has registered for trademark protection in 74 countries and territories in the world and this list is growing, together with the promotion of exports.

5. **Impact on Productivity** (e.g. how IP has contributed towards market dominance, company image, sales, quality, productivity and profits)



KYMDAN's rubber mattresses have been available since 1954. In 1961, the KYMDAN mattress was officially granted an industrial property right. In 1984, the Patent Office of France granted a patent certificate to Mr. Nguyen Van Dan for improvements that help draw body heat from the mattress. Today, after 50 years of trading and development, the KYMDAN rubber mattress has proved to be a strong brand, not only in Vietnam but also abroad. Australian hospitals choose KYMDAN mattresses as they have a level of elasticity suitable for their patients; KYMDAN's salon mattresses are preferred by German consumers for their high durability; French customers love KYMDAN mattress products because they are made from natural rubber and safety can be guaranteed because they don't contain harmful chemicals and are also inflammable. China is also an important market for KYMDAN rubber mattresses, for the competitive nature and durability of its products.

To date, KYMDAN's turnover has reached one billion Dongs a day (including its three stores opened in France, Germany, and Australia); and on several occasions, the company has had to refuse large orders from foreign customers because its product capacity hasn't been able to fulfill them.

So what has brought success to KYMDAN's rubber mattresses? According to many entrepreneurs from Saigon, this can be attributed to the spirit of creativity and entrepreneurship in the last century. Mr. Nguyen Van Dan founded he company when there were no similar products around, even from abroad, and this could be considered the first step of the Vietnamese people in the process of economic rehabilitation.

In other (biological) aspects, according to Prof. Dr. Nguyen Khanh Du, President of the Board of Thorax – Heart Surgery in Ho Chi Minh City, KYMDAN rubber mattresses ensure the rigidity necessary for patients receiving long-term hospital treatment, especially patients with spinal problems and children whose spinal columns are growing. This point of view is shared by many spinal experts from Australia where the products are sold to hospitals. Thus, if this rubber mattress is suitable for people who are sick, it's also the right choice for healthy people.

Ms. Nguyen Thi Minh Ly, of the Center of Quacert (Directorate for Standards and the reasons that KYMDAN was the fact that managers to learn more about the



Department of Certification Standard Certification Quality) thinks that one of became a successful brand have helped their employees country's legal regulations,

as well as international agreements relating to labor matters such as child labor, coercive labor, safety conditions, working hours, discrimination in the labor market, sexual equality, wages, discipline etc.

A survey by Quacert has shown that every year, the company's employees receive assistance in the sum of 2 to 10 million Dongs for a marriage or for sickness benefit, and if the company's employees retire early because of death or difficult circumstances, the company will pay funeral costs and give preference to the children of these employees when they apply to work in the company. The company is also planning to build an apartment compound for its staff, granting free apartments to senior employees who are in need of housing.

Mr. Nguyen Huu Tri, who has followed in the footsteps of Mr. Dan, is of the opinion that in a company with a reputable brand, employees must know that not only will they be able to take care of themselves and their families, but they will also be able to support their parents as well as affording modern conveniences, and helping to improve their spiritual lives. Therefore, the average monthly salaries of employees are currently 3.3 million Dongs.



A strong brand has the power to increase revenues and profits, encourage customer loyalty and reduce repercussions from the actions of competitors. A brand name is not just an important factor in production and trading, it's also a culture. Brand names tend to be associated not only with a specific product but also a country. KYMDAN's 50-year journey clearly illustrates the successful building of Vietnamese brands and the protection of Vietnamese products in the integration process into the world's economy.

6. Conclusion

In a world where human beings are bombarded with information every day about natural disasters, our polluted environment and the effect on people's health, caring about safety is something that receives much attention. When deciding to buy a product, customers not only ask whether it has an effect on their health but also whether it has an effect on the environment and public well-being. Movements are afoot to reject the use of synthetic plastics which do not disintegrate, and the existence of the non-profit volunteer groups who try to prevent oil spillage disasters are clear indicators of a burgeoning ideology about the responsibility of all human beings, putting pressure on producers to be more responsible for what they do.

Looking back, it can be said that from the beginning KYMDAN has been conscious of building a product, a brand name in which safety is always a priority. The certificates, patents, inventions in this field are an obvious testimony to KYMDAN's activities: a product has to provide customers with a sense of safety. This is the basis for the company's future development.

Apart from unmatched durability, and an average life span of 20 years, it has been seen from 1954 to the present day that other features of a safe product which come from 100% natural rubber, are constantly researched and brought into production: features that conform to standards of environmental protection, prevention of any harmful

effects to consumers, inflammable, insect-resistant, etc. are specific achievements in utilizing the intellect and sense of creativity to research and apply such measures. Together with its responsibility to customers as well as to the public and society, KYMDAN constantly enhances its positive image, reinforcing customer loyalty towards the company. This is a value that strengthens the belief of consumers in the products and the brand name KYMDAN, creating a basis for promoting sales and increasing market share.

The fact of KYMDAN receiving numerous certificates for quality standards, patents, inventions and recently the 2004 WIPO Award demonstrates its policy in the use of intellectual property, as well as the ideas contributed by its staff. This is a cause of pride not only for the management but also the entire workforce of a reputable company in domestic and foreign markets. It is enormously important to encourage staff members to promote a culture of contributing to its activities.

The WIPO Award has helped KYMDAN to strengthen the belief of its customers in its brand name which has already been well-established in the market for over half a century. More than ever, KYMDAN is conscious of the values it possesses and will put greater efforts into protecting these values by promoting its achievements and utilizing intellectual property which have made the company what it is today.