

Agricultural Intellectual Property Protection in Thailand

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Abstract

Technology creation is a key element determining a country's position in the competitive global arena. In Thailand, the intellectual property protection has been viewed as a tool for developed countries to gain business advantage over less developed countries. However, legislation with a section that provides protection for intellectual property (IP) was introduced in Thailand more than a century ago. Realizing that the country would develop further through innovation, the country has continuously issued and revised IP laws. Agriculture is the main pillar of Thailand's economic system. Currently, the rights on intellectual property related to agriculture can be exclusively and legally gained and protected in various forms; i.e. patent, petty patent, trade secret, trade mark, geographic indicator, plant variety protection as well as copyright. IP infringer can face both criminal and civil lawsuits. To accelerate the court cases, the Central Intellectual Property and International Trade Court (CIPITC), a specialized court, was established in 1997 to handle all of IP infringements (criminal prosecution, civil enforcement, border measures, anti-counterfeiting online). To avoid the legal action against a small farmer, large commercial enterprises use additional business strategies to maximize the protection measure of their agriculture's intellectual property.

Keywords: Patent, petty patent, trade mark, geographic indicator, plant variety protection, trade secret

INTRODUCTION

Thailand is a country that relies heavily on agriculture for centuries. Presently, approximately 40% of its total population are working directly or indirectly in the agriculture sector. The sector generates about 10% of the country's gross domestic product. About 25% of Thailand's total export value comes from agricultural exports. In 2016, it is expected that the country's agricultural economy will raise 1.8 – 2.8 percent (Nations Encyclopedia 2016). With the current

competition in the world market, Thailand has to utilize and develop novel technologies for the agriculture system to stay ahead in the competition. Although creativity that leads to valuable invention is a difficult task, harvesting the financial returns from such innovation is more difficult. Protection of intellectual property and the creation of ideas are thus becoming important tools to encourage inventors to create useful innovations for agricultural use. Legal protection would provide exclusivity of production and marketing to inventors and their assignee. An efficient system is highly desirable for both local and overseas inventors, either as individuals or enterprises.

INTELLECTUAL PROPERTY RIGHTS PROTECTION IN THAILAND

In principle, intellectual property laws exclude the public to exercise some form of rights in exchange of getting idea creations or novel products to the market. The laws must stimulate innovation, enrich public knowledge, promote technical advancement, as well as ensure fair competition while providing sufficient balance; the right between owners' rights and the public interest (The European ASEAN Business Centre in Thailand 2013). The international protection scheme of intellectual property has been an issue in negotiations between developed and developing countries. Protection of intellectual property rights (IPR) in agricultural biotechnology is the latest manifestation of the dispute with both developed and developing countries accusing each other of bio-piracy (Kerr *et al.* 1991).

For IPR protection legislation system in Thailand, sections of Criminal Law were passed in 1909 to establish protection scheme for trademark owners in regard to offences relating to trademark counterfeiting and trademark imitation. However, the sections stated only guilt and punishments relating to such infringements, but showed no declaration of the civil rights of trademark owner. The country became a member of the Berne Convention for the Protection of Literary and Artistic Works on July 17, 1931. Later, a specialized legislation on IPR protection, the Official Trademark & Commercial Trademark Act 1941, was first launched in the country in 1941 (ASEAN Intellectual Property Association 2016).

Due to economic pressure from developed countries for the past four decades, especially after the Trade Related Aspects of Intellectual Property (TRIPs) agreement, the IPR protection legislation system in Thailand has developed to cover most categories of intellectual properties based on International Model Laws. However, IPR protection has been viewed, by most people in Thailand, as a tool for developed countries to gain business advantage over less developed countries. The Thai legal system aims to protect the interest of the rights holder by attempting to prevent the infringers at the production level; however in practice, most of the confiscations have been executed at the market level (Thailand Court 2016). Thus, developed countries view the country as providing insufficient protection of the right holders. Recently, Thailand has issued and revised laws to protect all IPR categories in hope of the country developing faster with innovation. Under the current government administration, business on creativity gains an attention as a key element for the country to overcome the middle-income trap.

There are a number of conventions and treaties of the World Intellectual Property Organization (WIPO) and the World Trade Organization and the United Nation that Thailand has been a member party:

A. Major Conventions and Treaties

1. Patent Cooperation Treaty (December 24, 2009)
2. Paris Convention for the Protection of Industrial Property (August 2, 2008)
3. Convention Establishing the World Intellectual Property Organization (December 25, 1989)
4. Berne Convention for the Protection of Literary and Artistic Works (July 17, 1931)

B. IP-related Multilateral Treaties

1. United Nations Convention on the Law of the Sea (June 14, 2011)
2. Convention on the Rights of Persons with Disabilities (August 28, 2008)
3. Cartagena Protocol on Biosafety to the Convention on Biological Diversity (February 8, 2006)
4. International Plant Protection Convention (October 2, 2005)
5. Stockholm Convention on Persistent Organic Pollutants (May 1, 2005)
6. WHO Framework Convention on Tobacco Control (February 27, 2005)
7. Kyoto Protocol to the United Nations Framework Convention on Climate Change (February 16, 2005)
8. Convention on Biological Diversity (January 29, 2004)
9. International Covenant on Economic, Social and Cultural Rights (December 5, 1999)
10. United Nations Framework Convention on Climate Change (March 28, 1995)
11. Agreement establishing the World Trade Organization (WTO) (January 1, 1995)
12. World Trade Organization (WTO) - Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) (1994) (January 1, 1995)
13. Convention concerning the Protection of the World Cultural and Natural Heritage (December 17, 1987)
14. Convention for the Protection of Cultural Property in the Event of Armed Conflict (August 2, 1958)

15. Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict (August 2, 1958)
16. Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (June 29, 1955)
17. Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (June 29, 1955)
18. Convention (IV) relative to the Protection of Civilian Persons in Time of War (June 29, 1955)
19. Agreement on the Importation of Educational, Scientific and Cultural Materials (September 18, 1951)
20. Convention and Statute on Freedom of Transit (February 27, 1923)

C. IP Regional Treaties

1. ASEAN Framework Agreement on Intellectual Property Cooperation

Regional Economic Integration Treaties

1. ASEAN Trade in Goods Agreement (May 17, 2010)
2. Agreement establishing the ASEAN-Australia-New Zealand Free Trade Area (March 12, 2010) Framework Agreement on the BIMST-EC Free Trade Area and its Protocol and the Declaration establishing the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (February 8, 2004)
3. Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (January 28, 1992)
4. Global System of Trade Preferences among Developing Countries (March 7, 1990)
5. Agreement on Promotion and Protection of Investment in ASEAN (August 2, 1988)

D. IP-relevant Bilateral Treaties

1. Agreement on Comprehensive Economic Partnership among Japan and Member States of the Association of Southeast Asian Nations (June 1, 2009)
2. Agreement between Japan and the Kingdom of Thailand for an Economic Partnership (November 1, 2007)

3. Closer Economic Partnership Agreement between Thailand and New Zealand (July 1, 2005)
4. Free Trade Agreement between Thailand and Australia (January 1, 2005)
5. Agreement between the Government of the Kingdom of Thailand and the Government of the Argentine Republic for the Promotion and Reciprocal Protection of Investments (March 7, 2002)
6. Agreement between the Government of Canada and the Government of the Kingdom of Thailand for the Promotion and Protection of Investments (September 24, 1998)

At present, Intellectual Property in the country is protected by the IP Laws which are listed below:

1. The Trademark Act
2. The Copyright Act B.E.2537 (A.D.1994)
3. The Patent Act
4. The Plant Varieties Protection Act
5. The Protection and Promotion of Traditional Thai Medicine Wisdom Act
6. The Protection of Layout-Designs of Integrated Circuits Act
7. The Trade Secret Act
8. The Geographical Indications Act
9. The Optical Disc Production Act
10. The Film and Video Act
11. The Criminal Code Section 271-275
12. The Establishment of and Procedure for Intellectual Property and International Trade Court Act
13. The Customs Act
14. The Competition Act
15. The Consumer Protection Act
16. The Export and Import Of Goods Act
17. The Industrial Products Standards Act
18. The Law on Ancient Monuments, Antiques, Objects of Art and National Museums

At present, Thailand is still not a member of any of the three major international agreements related to IPR; namely International Convention for the Protection of New Varieties of Plants (UPOV convention), Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, or Budapest Treaty and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).

PROTECTION OF AGRICULTURE-RELATED INTELLECTUAL PROPERTY

Changing the view on intellectual property rights protection as a tool for developed countries to take advantage over Thailand, the government realizes that there are great opportunities to be gained as a global market-share of agricultural produce and products with an appropriate use of intellectual properties. Currently, there are several forms of IPR that can be applied to agriculture-related intellectual properties.

1. Trademarks: trademark, service marks, certification marks and collective marks that are used in connection with merchandises to gain goodwill and reputation for merchandises or their producers. Agriculture merchandises with specific names, symbols, or colors can distinguish from those sold by others. Thus, plant cultivars or product brand can be protected as a trademark. Since the right over trademark is territorial, owners have to register the trademark in their potential markets. Trademarks can be renewed for a period that they are being actively used in commerce. In order to be eligible for registration in Thailand, a trademark must fall in the following criteria (Thailand Court. 2016):
 - a. Must be letters, words, phases, numerals, pictures, devices, logos, images, figures, symbols, signature, group of colors, shape or a three-dimensional object, or a combination thereof.
 - b. Must be used in connection with merchandises distinguished for the mark owner.
 - c. Must be unique; i.e. not same or similar to another registered mark.
 - d. Must be sufficiently distinctive for the public to differentiate the merchandise using the trademark from other merchandises.

Trademark Act B.E. 2534 (1991)

As Amended by the Trademark Act (No. 2) B.E. 2543 (2000)

Section 4(2) In this Act:-

“mark” means a photograph, drawing, device, brand, name, word, letter, manual, signature, combinations of colors, shape or configuration of an object or any one or combination thereof;

“trademark” means a mark used or proposed to be used on or in connection with goods to distinguish the goods with which the trademark of the owner of such trademark is used from goods under another person’s trademark;

“service mark” means a mark used or proposed to be used on or in connection with services to distinguish the services using the service mark of the owner of such service mark from services under another person’s service mark;

“certification mark” means a mark used or proposed to be used by the owner thereof on or in connection with goods or services of another person to certify the origin, composition, method of production, quality or other characteristics of such goods or to certify as to the nature, quality, type or other characteristics of such services;

“collective mark” means a trademark or service mark used or proposed to be used by companies or enterprises of the same group or by members of an association, cooperative, union, confederation, group of persons or any other state or private organization;

Source: Anonymous b. N.D.

Trademark Act B.E. 2534 (1991)

As Amended by the Trademark Act (No. 2) B.E. 2543 (2000)Chapter II

Section 7(1) A distinctive trademark is one which enables the public or users to distinguish the goods with which the trademark is used from other goods.

A trademark having or consisting of any one of the following essential characteristics shall be deemed distinctive:-

- (1) a personal name, a surname not being such according to its ordinary signification, a name of juristic person or tradename represented in a special manner;
- (2) a word or words having no direct reference to the character or quality of the goods and not being a geographical name prescribed by the Minister in the Ministerial Notifications;
- (3) a combination of colors represented in a special manner, stylized letters, numerals or invented word;
- (4) the signature of the applicant for registration or some predecessor in his business or the signature of another person with his or her permission;
- (5) a representation of the applicant or of another person with his or her permission or of a dead person with the permission of his or her ascendants, descendants and spouse, if any;
- (6) an invented device.

Names and words not having the characteristics under (1) or (2) if used as trademarks with goods which have been widely sold or advertised in accordance with the rules prescribed by the Minister by notification and if it is proved that the rules have been duly met shall be deemed distinctive.

Source: Anonymous a. N.D.

2. Patents and petty patents. Thailand has three types of patent protection for inventions (ASEAN Intellectual Property Association 2016):
 - a. Provide a 20-year term for invention patent protection from the filing date. This patent can be issued to both product and process that is novel, involves an inventive step if it is not obvious to a person ordinarily skilled in the art and have industrial application. New farm tools, machineries, instruments, methods, systems, compounds, formulations as well as novel agriculture protocol/processes with an inventive step may be filed for patent protection. Large enterprises normally enjoy this kind of protection due to their research capacities.
 - b. Provide a 10-year term for design patent protection from the filing date. This patent can be issued to a design which is new and industrially applicable. Ornamental aspects or aesthetics of an article including features pertaining to the shape, configuration or pattern are eligible for this type of protection. This kind of patent is used for agriculture product design, including the design of ornamental pot plants.

Thailand Patent Act B.E. 2522 (1979)

Chapter II

Patent for Inventions

5. Subject to Section 9, a patent may be granted only for an invention in respect of which the following conditions are satisfied:

- (1) the invention is new;
- (2) it involves an inventive step; and
- (3) it is capable of industrial application.

7. An invention shall be taken to involve an inventive step if it is not obvious to a person ordinary skilled in the art.

8. An invention shall be taken to be capable of industrial application if it can be made or used in any kind of industry, including handicrafts, agriculture and commerce.

Chapter III

Patents for Designs

56. A patent may be granted under this Act for a new design for industry, including handicrafts.

Source: Anonymous b. N.D.

- c. Provide a six-year term for petty patent protection, plus two allowable extensions of two years each. This patent (also called utility models in other countries) can be issued to both product and process that is new and industrially applicable, but it may not have an inventive step. Petty patents are popular in Thailand especially among those who do not require a protection exceeding 10 years. New farm tools, machineries and equipment outside the claims of the present patents but without an inventive step may be filed for patent protection. Medium and small enterprises normally enjoy this kind of protection due to the short procedure (usually granted within one year and a half from date of filing), low application cost as well as limitation on their research capacities.

Thailand Patent Act B.E. 2522 (1979)

Chapter IIIbis

Petty Patents

65bis. A petty patent may be granted for an invention in respect of which the following conditions are satisfied:

- (1) the invention is new;
- (2) it is capable of industrial application.

Source: Anonymous b. N.D.

It should be noted that the following agriculture-related inventions are not protectable:

- i. natural form of microorganisms and their components comprise animals and/or plants, or extracts from animals or plants;
 - ii. computer programs which must be protected by copyright;
 - iii. processes of diagnosis, treatment, or remedy used in curing animal diseases;
 - iv. inventions which may harm public order or morality, public health, or welfare.
3. Copyrights: Literary works, artistic works, and computer software. The right grants ownership to creators of original works of physical expressions of ideas. Thus, agriculture-related computer programs for irrigation as well as greenhouse control, for example, can be protected under copyright law. Since Thailand has been a party to the Berne Convention for

the protection of literary and artistic works, the foreign works with copyright then enjoy similar protection to those domestic works.

4. Geographical indication (GI): name, symbol, or any other things used to call, or used instead of, geographic origin, and which indicates that the merchandises originated in the said geographic origin are of specific quality, reputation, or characteristics of the said geographic origin. In Thailand, a registered geographical indication is a powerful right, which benefits a region or a community. Agriculture produces and products from certain locality with unique characteristics or quality start to get recognized by consumers from their geographical indication for their high level of quality. GI should not have one or more of the following features:
 - a. Be a generic name with which the geographical indication applies.
 - b. Breach the public order, morality or public policy.

GI owners have an exclusive right in the use of their GI as trademarks even for dissimilar merchandises.

Thailand Protection of Geographical Indications Act B.E. 2546 (2003)

Section 3. In this Act:

“Geographical Indication” means name, symbol or any other thing which is used for calling or representing a geographical origin and can identify the goods originating from such geographical origin where the quality, reputation or other characteristic of the goods is attributable to the geographical origin.

Section 5. A geographical indication which may be applied to register for any goods must not be composed of any of the following prohibited features:

- (1) Being a generic name of the goods that are to use such geographical indication.
- (2) Being a geographical indication which is contrary to public order or good morals or public policy.

Section 6. For a geographical indication of foreign country to enjoy the protection under this Act, there must be explicit evidence that such geographical indication is protected under the law of such country and has been used continuously until the date of filing an application for registration in Thailand.

Source: Anonymous e. N.D.

5. Trade secrets, also referred to as "confidential information". In Thailand, a trade secret which is eligible for legal protection must (Arammuang 2014):
 - a. not be publicly known or not yet be accessible by persons who are normally connected with the information.
 - b. possess a commercial value derived from its secrecy.
 - c. have been taken appropriate measures by the controller to maintain the secrecy. This includes non-disclosure and non-use clauses in all agreements governing the use of such trade secrets. Trade secrets can be categorized into two types:
 - i. Industrial secrets. Trade information related to technical matters of production.
 - ii. Commercial secrets. Trade information related to commercialization.

In Thailand, producers with special formulation of organic agrochemicals can enjoy this kind of IPR protection.

Thailand Trade Secrets Act B.E. 2545 (2002)

3. Under this Act:

“Trade Secrets” means trade information not yet publicly known or not yet accessible by persons who are normally connected with the information. The commercial values of which derive from its secrecy and that the controller of the trade secrets has taken appropriate measures to maintain the secrecy.

“Trade information” means any medium that conveys the meaning of a statement, facts, or other information irrespective of its method and forms. It shall also include formulas, patterns, compilations or assembled works, programs, methods, techniques, or processes.

“Agricultural Chemical Product” means any chemical product used for agricultural purposes including chemical products used in sterilizing or repelling of insects animals or plants that may cause damage to agriculture.

Acts not Considered Infringement

7. Any of the following acts against trade secrets shall not be considered an infringement:

(1) Disclosure or use of trade secrets by a person who has obtained the trade secrets through a transaction without knowing or having reasonable cause to know that the other party to the transaction obtained the trade secrets through the infringement thereof.

(2) Disclosure or use of trade secrets by state agency which is responsible for their maintenance in the following circumstances:

(a) When it is necessary for the protection of public health or safety; or,

(b) When it is necessary for the benefit of other public interests with no commercial purpose. In such case, the state agency which is responsible for the maintenance of trade secrets, or other state agency or person concerned who has access to the trade secrets has taken reasonable steps for the protection of the trade secrets from being used in unfair trading activities.

(3) Independent discovery i.e. discovery of a trade secret belonging to others by the researcher’s own method of invention or development through his own expertise; or,

(4) Reverse engineering i.e. discovery of a trade secret belonging to others by means of evaluation and analysis of a widely-known product with the intention to discover the method by which such product is invented, manufactured or developed, provided that the product was obtained in good faith by the person who conducted the evaluation and analysis.

The act under (4) cannot be raised as a justification if the person who conducted reverse engineering expressly agreed otherwise with the owner of trade secrets or seller of the product.

Source: Anonymous d. N.D.

6. Plant variety protection. A *sui generis* system for plant variety protection, which is suitable for Thai agriculture environment, has been enforced since 1999. The rights on both new and local variety can be protected under the principle of the 1978 UPOV convention and the Convention on Biological Diversity. The legislation aims to ensure small breeders that their work on new cultivars will get a sensible return of investment. Also, it is a tool to encourage villagers, who guard the local cultivars, to pursue growing the plants. For plant cultivars used for production of export produce, the breeders are advised to apply for protection of their rights in the market countries.

Thailand Plant Varieties Protection Act B.E. 2542 (1999)

3. In this Act,

“plant” means a living organism in the kingdoms of plants and shall include mushroom and seaweed but exclude other micro-organisms;

“plant variety” means a plant grouping of similar or identical genetic and botanical characteristics, with particular features which are uniform, stable and distinct from other grouping in the same species of plant and shall include trees the propagation of which is conducive to the plant grouping of the aforesaid features;

“local domestic plant variety” means a plant variety which exists only in a particular locality within the Kingdom and has never been registered as a new plant variety and which is registered as a local domestic plant variety under this Act;

“wild plant variety” means a plant variety which currently exists or used to exist in the natural habitat and has not been commonly cultivated;

“general domestic plant variety” means a plant variety originating or existing in the country and commonly exploited and shall include a plant variety which is not a new plant variety, a local domestic plant variety or a wild plant variety;

12. A plant variety capable of registration as a new plant variety under this Act shall be of the following descriptions:

(1) being a plant variety the propagating material of which has not been exploited, whether by means of sale or distribution in any manner whatsoever, in or outside the Kingdom by the breeder or with the breeder’s consent for more than one year prior to the date of filing the application;

(2) being distinct from other plant varieties existing on the date of filing the application, provided that such distinctness is related to the feature beneficial to the cultivation, consumption, pharmacy, production or transformation, including the distinctness from the following plant varieties:

(a) plant varieties already registered and protected, whether in or outside the Kingdom, prior to the date of filing the application;

(b) plant varieties in respect of which application for registration has been made in the Kingdom and which will subsequently have been registered.

Source: Anonymous c. N.D.

ADDITIONAL MEASURES IMPOSED BY IPR OWNERS

As shown above, many intellectual properties can get multiple protection. For example, machineries can be protected using trade mark as well as patent for both invention and design. Local machinery inventors, tend to get petty patent; while large machinery enterprises prefer patents. Plant breeders can use both trade mark and plant variety protection to fully protect their rights. Local communities are able to deploy geographical indication and trade secret protection, while the members can put additional trade mark to ensure maximum protection. On the other hand, some intellectual properties; such as greenhouses/irrigation control computer programs can only get a single protection of copyright. Besides legal protection, large commercial enterprises may impose some additional strategic actions, which can prevent others to violate their rights, to maximize the protection on their agriculture intellectual property. Single cross cultivars as well as male-sterile cultivars, which farmers cannot keep the seeds for next planting, are normally introduced to the market. A thing which is the major concern of larger enterprises is that prosecuting IPRs infringers who are small farm holders, may get a negative view from the public.

ENFORCEMENT OF IPRS

Due to the slow results of courts' process on the prosecution, the Central Intellectual Property and International Trade Court (CIPITC), a specialized court, was established in 1997 to adjudicate all of IPR-related lawsuits (criminal prosecution, civil enforcement, border measures, anti-counterfeiting online) ensuring an effective procedure.

Criminal prosecution has been the most popular type of action used by IPR holders in Thailand. The preferred course of action in case of infringement is a criminal action involving a police raid and subsequent criminal prosecution. The attractiveness of criminal prosecution are; a) faster, cheaper than a civil suit in most cases, and b) helping to secure evidence of infringement for future civil action. However, a number of shortcomings are; a) evidence of infringement must be prepared and submitted when filing complaint and in order to obtain search/arrest warrant, b) reported cases of corruption of enforcement officers, c) insufficient trained enforcement authorities, d) small fines and lack of deterrence, e) lack of landlord liability.

Some IPR holders' owners may utilize the provisions of the Civil and Commercial Code which provides that "a person who, willfully or negligently, unlawfully injures the life, body, health, liberty, property or any right of another person, is said to commit a wrongful act and is bound to make compensation therefor". However, there are few civil actions related to IPR infringement in Thailand since civil cases are usually more costly and lengthy for the litigation; require a very high burden of proof and that ultimately the assets of the defendants (i.e. IPR infringers) are difficult to assess or to seize. On the positive side, civil actions can be useful in, a) possibility to obtain permanent injunction against the offender and monetary compensation for damages caused by the infringement, and b) possibility to request preliminary injunction which

is helpful to add pressure on the defendant. On the other hand, civil enforcement has a few drawbacks of, a) taking lengthier and costlier procedure, b) necessity to provide strong evidence of infringement and commercial prejudice, and c) difficulty to enforce the CIPITC decision when the defendant has insufficient assets or declares bankruptcy.

In addition to criminal or civil action, IPR holders can also prevent the import or export of the infringing merchandizes using the Thai Customs Act.

GOVERNMENT ENFORCEMENT

Thailand has been on the Priority Watch List (PWL), a list which identifies countries that provide inadequate and ineffective protection of intellectual property rights or unfair and inequitable market access to U.S. persons that rely on intellectual property rights, of the U.S. Trade Representative Special 301 Report, since 2007. This forces the Thai government to take steps to demonstrate a firm commitment, sustained efforts, and significant successes in protection and enforcement of IPR. The Department of Intellectual Property (DIP) set up the National Intellectual Property Center for Enforcement (NICE) to promote cooperation among the 25 government agencies, from the DIP, the Royal Thai Police, the Department of Special Investigation, the Office of the Attorney General, the Department of Agriculture, the Customs Department, the Ministry of Information and Communication Technology, and the Consumer Protection Board, responsible for enforcing IP rights. It was modeled after the U.S. National Intellectual Property Rights Coordination Center (U.S. IPR Center). NICE also keeps track of infringement cases, court decisions, and individuals who have repeated offenses. Raids are a common occurrence in Thailand. About five thousand IPR criminal cases, most of them are non-agricultural IPR cases, are brought to the Thai Courts every year. The CIPITC issues tough penalties to deter rights violation resulting in imprisonment. Since the IPR holders ought to place charges on the infringers, they must actively monitor the places where piracy occurs. Sometimes it is the best decision to not do anything since publicity can damage the brand image.”

CONCLUSION

In Thailand, the exclusive right on agriculture-related intellectual property can be legally gained and protected in various forms. IP infringers can face both criminal and civil lawsuits. In addition to filing lawsuits, large commercial enterprises deploy additional measures to maximize the effective protection on their agricultural intellectual property.

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