Intellectual Property Law in Southeast Asia: Recent Legislative and Institutional Developments

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Abstract

Over the last two to three decades, the countries belonging to the Association of Southeast Asian Nations (ASEAN) have all had to revise their intellectual property systems. These revisions resulted at first from bilateral pressure of major trading partners such as the US and the EU, then from the WTO-TRIPS Agreement and more recently again from bilateral Free Trade Agreements, especially with the US. To observe the developments in ASEAN over this period is interesting, because this group of countries covers developed (Singapore), developing as well as least developed countries. All countries had to face the difficult issue of reforming outdated intellectual property laws from the colonial era in a very short time. But while most countries were at a quite similar level in the early 1980s, significant differences in the importance attached to intellectual property law have emerged in recent years.

This paper will briefly sketch the legislative developments, but will move on from there to examine two issues: the acceptance (or lack of it) of intellectual property principles at the grassroots level and the institutional framework for the further development of the intellectual property system. ASEAN governments have faced difficulties in familiarising large parts of the population with intellectual property law. Nevertheless, the acceptance of this field of law has been uneven and one has to carefully distinguish between various parts of the IP system in this regard.

As far as the institutional framework is concerned, the reforms have often created highly sophisticated showcase laws that remain embedded in otherwise little developed general legal systems. This concerns for example procedural rules, the general court system, the intellectual property administration and parts of the enforcement structure.

What role does the IP system play under these circumstances? Does it fulfil hopes for technology development and the inflow of foreign investment? Is there a trickle down effect resulting in the fostering of innovation at local and national level or do the new laws and international conventions help little in achieving improvements on the ground.

The paper will attempt to answer these questions by providing examples from this highly diverse group of countries for law reform and implementation at various levels of economic development.

1. Introduction

IP developments in ASEAN countries have attracted less attention over the last two decades than those of their more powerful and commercially attractive neighbours China, Japan and India. This is in spite of a rather long history of intellectual property principles in the region resulting from colonisation. The first intellectual property decree in the Philippines, for example, was introduced by the Spanish colonial power as early as 1833. Today, the region offers interesting insights into the relationship between intellectual property law and various stages of economic development. In spite of the Asian crisis of 1997, some ASEAN countries are undertaking serious efforts to establish themselves as players in the intellectual property field rather than remaining mere recipients of principles and policies developed elsewhere. This paper is intended as a follow up to a survey article written for the European Intellectual Property Review in the early 1990s[1]. It will present most recent legislative developments in intellectual property law and the difficulties in creating an institutional framework for the new laws. Some broader trends visible in the region will be identified towards the end of the paper.

2. Two Decades of Change

Several features have contributed to the rapid change in the ASEAN intellectual property landscape of the past few years. First, ASEAN was still much smaller in the early 1990s than it is now. Vietnam, Cambodia, Laos and Myanmar were not yet members. Since the enlargement of the mid-1990s, ASEAN has become a two-tier, less politically and economically unified organisation and it has become common to speak of the "old ASEAN six" (Indonesia, Malaysia, the Philippines, Thailand, Singapore and Brunei) and the "new ASEAN four"[2]. The enlargement can be seen as one of the reasons that attempts to harmonise intellectual property laws within ASEAN have been difficult and not made as much progress as some would have hoped for. The harmonisation attempts will be discussed further at the end of this paper.

Secondly, it is interesting to observe that some countries that had only a very basic legislation in the late 1980s have made significant progress in establishing an IP system (for example Singapore and Malaysia) whereas others that had a more complete set of intellectual property laws have slowed down somewhat. Finally, the various IP systems of ASEAN countries looked more similar to each other in 1990 than they do now. While all countries in the early 1990s were struggling with similar problems to implement IP laws quickly, we now have an ASEAN grouping with countries at quite different levels of IP development, where the issues and problems in Singapore are very different from those facing Laos and Cambodia. In the late 1980s and early 1990s, all countries that were members of ASEAN at the time had come under simultaneous pressures of the United States and European Union to introduce modern intellectual property systems and to reform their colonial legislation. Apart from the ASEAN enlargement, the more diverse ASEAN intellectual property landscape of recent years has of course to do with the TRIPS Agreement and the reaction of various countries to it and more recently with the Free Trade Agreements

concluded by the US and others with countries of the region, which have targeted those economies that are regarded as more successful.

3. Legislative and institutional reforms in individual countries

In this part, a brief outline of the major changes in national intellectual property systems of the region will follow. Until the second half of the 1980s, **Singapore** had no intellectual property system of its own and it relied on the re-registration of intellectual property rights protected in the UK. It established a set of intellectual property laws between 1987 and 2000 comprising copyright, trade mark and design acts and an act protecting the layout-designs of integrated circuits[3]. Different from other countries in the region, but perhaps typically for Singapore, the country has also managed to enforce the new rights effectively. IP is now also an important part of legal education and an IP Academy for research and training has been founded to assist with this task and to provide further training for the profession, the IP administration and interested members of the public.

The legislation in **Malaysia** is also complete and largely TRIPS compliant[4]. The IP administration in the country has improved considerably since the IP Office has been incorporated as a statutory body in 2003, although it remains under the directions and supervision of the Minister of Domestic Trade and Consumer Affairs[5]. Problems remain in the enforcement sector and with the judiciary. Statistics show that the Malaysian courts are overloaded and backlogged[6]. As in other countries of the region, discussions are underway to form a specialised IP court to solve the problem. And while a lot of efforts have been made to enforce intellectual property rights, Malaysia is still struggling with its reputation as the world's most significant producer/exporter of pirated optical disk entertainment software[7]. Malaysia has strong ambitions in the fields of information technology and biotechnology. The multimedia super corridor in Cyberjaya on the outskirts of Kuala Lumpur, which provides favourable conditions and tax advantages for IT companies, is well known. The newest pet project of the government is biovalley, a similar project to Cyberjaya in the field of biotechnology, which is supposed to become operative in 2006.

The Philippines is the country with the longest tradition of intellectual property protection in the region, reaching back to decrees introduced by the Spanish colonial power in the early 19th century[8]. After a period of IP protection via Presidential decrees during the Marcos regime, the Philippines was the first country in Southeast Asia to adopt a comprehensive intellectual property code following WIPO models in 1995. The Code covers patents, utility models, trade marks, copyright and industrial designs. Perhaps because of this comprehensive code, the country has been slower than some of its ASEAN partners in adopting more specialised laws outside of the IP Code structure, but currently a Plant Varieties Act and a Layout-Design of Integrated Circuits Act are in preparation.

Thailand is a country where intellectual property has generated much controversy. In the late 1980s, the debate about controversial changes to the Copyright Act to strengthen the position of rights holders even led to dissolution of parliament and the calling of new elections. The discussion subsequently shifted to patents and

pharmaceuticals during the 1990s. In view of the AIDS crisis in Thailand, the government was much criticised for failing to use existing compulsory licensing mechanisms for pharmaceuticals because it feared a negative impact on foreign investment[9]. More recently, Thailand has made headlines by establishing the region's first specialised court for intellectual property and international trade law in 1996[10]. Interestingly, and as a significant diversion from the country's civil law tradition, the court has been allowed to draft its own rules of court rather than to effect changes through an amendment of the civil and criminal procedural codes. Classical common law remedies such as Anton Piller orders and interlocutory injunctions drafted along the lines of the *American Cyanamid* decision of the House of Lords in the UK have been added to the repertoire of the Central Intellectual Property and International Trade Court, as the specialised court is called.

Indonesia completed the main parts of its intellectual property legislation during the 1990s and introduced a complete new set of laws between 2000 and 2002 to become TRIPS compliant[11]. As so many other areas, intellectual property development here has also been affected by the political and economic upheavals the country has been going through since the late 1990s. On the one hand, piracy rates have been on the rise again due to increased poverty and the ease with which money can be made from pirated products. On the other hand, the greater political openness and diversity has also meant that the task force approach of the past, where intellectual property reforms could be pushed through easily without worrying about opposition, is no longer that easy. As in the past, the implementation of the laws remains to be hindered by a large number of implementing decrees that often take years to be issued[12]. Political liberalisation in Indonesia has also meant decentralisation, also in the intellectual property field. The government has introduced the long promised branch agencies of the intellectual property office by authorising local branch offices of the Ministry of Justice to receive applications for the registration of intellectual property rights. Available since 2001, the submission of applications at such branch offices has been particularly popular with trade mark owners[13].

With the most recent changes to the Indonesian intellectual property legislation, almost all intellectual property cases are now being decided at first instance by the Commercial Courts and no longer by the District Courts. The Commercial Courts are not completely specialised on intellectual property matters, but they cover also bankruptcy cases. The Commercial Court has received mixed reviews in the media for its decisions in intellectual property cases[14]. Overall, however, IP practitioners in Jakarta are reasonably content with its performance. From my own survey of cases decided in the first one or two years of the jurisdiction of the court, I found that, with a few notable exceptions, its decisions were largely consistent and certainly much speedier than in previous years[15]. There is a similar development regarding appeal cases at the Supreme Court level. Here cases in the past took many years to reach a decision[16], whereas now they take on average four to five months. As in the other countries, Indonesia has introduced more specialised intellectual property legislation for plant varieties, layout-designs of integrated circuits and trade secrets.

Brunei as the last of the "old ASEAN six" is a small and oil-rich country and obviously not a major player in intellectual property matters. It replaced the colonial laws providing for local re-registration of UK rights during 1999 and 2000 with a new

Trade Marks Act and Orders on Patents, Copyright, Industrial Designs and Layout-Designs of Integrated Circuits.

If we then turn from the more developed ASEAN Six to the new members of the ASEAN Four, the picture is more similar to that presented by some of the old ASEAN members some 15 years ago. **Vietnam** has the most advanced system of the newcomers. It began to move away from socialist style inventor certificates in 1995, when it took the unusual step of incorporating framework legislation on intellectual property rights into its new Civil Code. Part 6 of the Civil Code has chapters on copyright, industrial property and on technology transfer. However, the legislation is really a skeletal framework only. For details, one has to look further to a large number of implementing decrees. The decrees are not always consistent, sometimes they contradict each other and at other times they overlap leading to uncertainties in the application of the law. Therefore, the government has prepared a comprehensive legislation in the form of an intellectual property code. The Vietnamese National Assembly passed the new Intellectual Property Law at the end of 2005 and it will come into force in July 2006[17]. Vietnam also acceded to the Berne Convention at the end of 2004, thereby completing the international protection of intellectual property rights in the country.

The scope of the new legislation is extraordinarily wide[18]. In 261 articles, it covers not only the classical areas of intellectual property such as copyright (Part Two of the Law), trade marks, industrial designs and patents, but also business secrets and plant varieties. While plant variety protection is outlined in a separate part of the law, perhaps one of the most difficult parts of the law is Part Three, which deals with all "industrial property rights" together. In the process, the discussion of the law constantly shifts from one subject matter to the next, making it a difficult legislation to read and to apply. These various subject matter parts are framed by a Part One with General Provisions and a Part Five on Enforcement of Intellectual Property Rights, which applies to all the other parts of the law. The general first part also includes broadly worded exceptions to intellectual property protection, such as refusing protection where IP rights are "contrary to social interests" (Article 8(3)) and allowing compulsory licences to ensure "other interests of the nation and society" (Article 9(2)). The new IP law will also bring changes to Vietnam's IP enforcement structure, which is currently largely a system of administrative enforcement.

It is interesting to note that Vietnam and Laos are not yet members of the WTO, but Cambodia and Myanmar are already members. To become TRIPS compliant, **Cambodia** has enacted a complete set of intellectual property laws in 2002 and 2003. In 2002, it adopted a Law concerning Marks, Trade Names and Acts of Unfair Competition and in 2003 a Law on Patents, Utility Model Certificates and Industrial Designs as well as a Law on Copyright and Related Rights[19] According to press reports and WIPO documents, **Myanmar** is about to enact a comprehensive National Law on Intellectual Property Rights, for which WIPO has provided advice and technical assistance[20]. The new law will replace the Copyright Act of 1911 and a basic registration system for trade marks under Direction 13 of the Registration Act.[21] **Laos currently** has in place two decrees of the Prime Minister on the protection of trade marks and patents. Responsible for intellectual property matters in Laos is the intellectual property division of the Science, Technology and Environment Agency

(STEA). A comprehensive new law covering all areas of intellectual property is in preparation.

4. Broader trends in intellectual property protection in ASEAN

From the previous survey, some broader trends can be identified:

First, at least on paper, TRIPS and the other international agreements have led to a shift in intellectual property law from "rule by decree" to "rule of law". With low numbers of domestic applications, the importance of foreign investment and rising licensing fees, intellectual property and technology transfer law of course affects the development plans of governments in developing countries. A popular way to deal with this was to introduce only as much protection as was absolutely necessary in the form of government regulations that did not need the approval of parliament and did not attract much public discussion. They left a lot of discretion to the government bureaucrats implementing the regulations and they could easily be amended or changed. Under these circumstances, the transparency of the various national systems was low. With the current situation, it is not so much that the preferences of the governments in keeping the system obscure have changed. However, the TRIPS obligation to increase transparency of the systems has had the result that legislation and court decisions are now made publicly available[22], generating much more debate in public. Importantly, various NGOs and local private sector lobby groups have entered the arena, so that intellectual property protection is no longer an exclusive discussion between foreign rights holders and development oriented governments.

Secondly, it is obviously difficult and a time consuming process for developing countries with insufficient administrative resources to create the rather sophisticated administration that an intellectual property rights system requires. This concerns first of all IP offices that are usually part of the government and pay wages that cannot compete with the private sector. Under the circumstances, it is difficult to attract technically qualified personnel. In this sense, the recent incorporation of the Malaysian IP Office is an interesting development. It seems that one important consideration for this step was to provide more financial incentives to examiners, who are now stakeholders in the efficient performance of the office.

There are further concerns about the IP profession and in particular patent attorneys. In those countries with more developed IP systems, specialised training programs for the profession are now becoming available. Indonesia introduced a new registration system for intellectual property consultants in January 2005, under which patent agents registered under the previous system could re-register until June 2005. The registration requirement extends now to all parts of the IP system, which are administered by the Directorate General of Intellectual Property Rights[23]. Applicants must pass an English test and follow a training course for intellectual property consultants, which DGIPR has outsourced to the university sector.

As far as university programs on IP in the main curriculum are concerned, there is equally mostly a lack of good undergraduate and postgraduate programs. This in turn leads to a lack of knowledge about IP among practitioners and judges and to a lack of

materials such as teaching materials, commentaries, journals and textbooks. The lack of opportunities for specialisation has been a particular problem in the court system. Thailand's specialised IP court is often seen as a way out of this problem and the establishment of specialised courts is now also being considered by other countries in the region such as Malaysia and Vietnam.

Thirdly, if the judiciary and administration is problematic because of low specialisation and non-competitive salaries, there is an even greater problem with the police and other parts of the enforcement structure. In poor countries often shattered by sectarian violence, the enforcement agencies are often overstretched and have to deal with issues more pressing than IP rights. At the same time, the Asian crisis has thrown many people out of seemingly secure jobs in countries without much social security. Anyone with a tape recorder or a CD burner can produce cheap pirated material for the sale on the local market, so it is hardly surprising that piracy rates have gone up again in recent years. Many private sector organizations and foreign companies have now begun to establish self-help groups rather than to rely on the enforcement agencies. The US government has heeded the call of its music, film and media industry and it has been pressing governments in the region to stop optical disk piracy. The government of Malaysia has taken the call seriously and enacted an Optical Disks Act in 2000. Together with the Trade Descriptions (Original Label) Order of 2002, the Act provides for a licensing system for optical disk manufacturing in Malaysia. Only authorised copies bearing a hologram available from the Enforcement Division of the Ministry of Domestic Trade and Consumer Affairs are legal copies that may be displayed and sold on the Malaysian market. Infringing copies can be easily identified and confiscated by the enforcement authorities. In spite of these efforts, the International Intellectual Property Alliance (IIPA) has criticised the system as too bureaucratic and as not effectively enforced[24]. But even if the success of the legislation in Malaysia is limited in the eyes of international investors, the efforts by the Malaysian government have put pressure on other countries in the region with high optical disk piracy such as Indonesia. IIPA reports now indicate that some optical disk factories have relocated from Malaysia to Indonesia. Indonesia has issued a Government Regulation to combat the problem in 2004, but this decree has been criticised by the IIPA as deficient[25]. Singapore has promised the introduction of the system in the FTA with the United States.

Fourthly, the TRIPS plus agenda that is often part of FTAs with the developed economies needs to be considered. The US, China, Japan and Australia are the most frequent partners in current FTA negotiations with Southeast Asian partners. Of these countries, Australian FTAs or draft FTAs with Southeast Asian countries so far contain only vaguely defined obligations and declarations of goodwill regarding intellectual property rights[26]. As is well known, however, the IP part in US American agreements is very detailed. It is the more sophisticated economies of Southeast Asia that have been targeted as partners for FTAs. In particular the FTA between the US and Singapore is widely regarded as an agreement that might become the blueprint for other agreements in the region. Apart from the extension of the copyright term to 70 years, it contains the familiar anti-circumvention and rights management provisions, as well as stricter liability of internet service providers for putting infringing material online. It further offers patent term extensions in various instances of delays. Particularly important in this context is perhaps the extension following delays of the Health Services Authority in approving a pharmaceutical product.

With TRIPS plus protection now on the agenda in the negotiations with the more advanced economies of the region, while the less developed countries are still struggling to introduce a basic IP system, we will see a further widening of the gap between the "old ASEAN six" and the new "ASEAN Four", although Vietnam might be able to catch up more quickly than the others of that group.

Fifthly and finally, how much progress has been made with the earlier mentioned attempts to harmonise the intellectual property laws of the region? At the height of the Asian economic miracle, the ASEAN governments concluded a Framework Agreement on Intellectual Property Cooperation in 1995. Rather ambitiously, the establishment of a common Patent and a common Trade Mark Office like in Europe was envisaged at the time as one of the ultimate goals. The creation of ASEAN standards and practices was a further goal. The Agreement created the ASEAN Working Group on Intellectual Property Cooperation and two sub-committees on trade marks and patents respectively. The various working groups proposed in two concept papers the adoption of a regional filing system where applicants will be able to file their applications in any ASEAN office acting as a receiving agency and forwarding the application to other designated offices. The working groups succeeded in developing drafts of regional filing forms for trade marks, but progress in the introduction of the system has been slow[27]. Several factors seem to be coming together here: first, the fear of the relatively new offices in the region to loose influence and important sources of income; secondly, for the same reasons the considerable opposition from local practitioners; and thirdly, the argument that a regional system would do not much more than what could be achieved via a multilateral system such as the PCT of which most countries of the region are either members or likely to become members in the near future. The most recently adopted IP Action Plan of ASEAN at the summit in Vientiane confirms some of the ASEAN cooperation goals, but shows altogether a much less ambitious agenda with the focus for the time being on simplifying and harmonising national procedures.

5. Conclusion

While a smaller ASEAN showed countries with very similar levels of intellectual property protection at the beginning of the 1990s, the picture is much less homogenous now. An important reason for this is the enlargement of ASEAN that has added countries classified as least developed such as Laos and Myanmar. In addition, Singapore has achieved developed country status and older members of ASEAN such as Indonesia have been preoccupied with political and social problems, so that the entire ASEAN group has been somewhat drifting apart in intellectual property developments. Not surprisingly, regional harmonisation efforts have not been making much progress under the circumstances.

Legislative reform is proceeding at a fast pace, particularly with the 2006 deadline for TRIPS compliant legislation for the least developed country members and with the attempts of Vietnam to become a member of the WTO in the near future. A comprehensive IP Code including all fields of intellectual property law seems to become a preferred option, but, as the example of Vietnam shows, these kinds of documents need to be carefully drafted.

Finally, the countries of the region are particularly pressurised to set up the institutions supporting the intellectual property system often within a very short time frame. Again, specialisation has been the preferred solution and attempts have been made to separate IP from the general administrative and legal system. Examples for this development are the specialised intellectual property court in Thailand, which has been followed by semi-specialised commercial courts in Indonesia and the Philippines, while other countries are considering the introduction of a more specialised court system. At the administrative level, the IP administration is now in some countries semi-privatised with the aim of increasing efficiency and creating more attractive salary levels.

Because of the diversity of the more recent experiences it seems difficult to come to general conclusions about the overall efficiency of the various systems and the acceptance of the new institutions by the general population. Statistics and the relatively high and increasing number of domestic registrations indicate that parts of the intellectual property system, such as trade marks, designs and copyright, have been fairly well received in the older ASEAN countries, while the field of patents remains foreign-dominated.

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[1] Christoph Antons, 'Intellectual Property Law in ASEAN Countries: A Survey', in: *European Intellectual Property Review* Vol 13 Issue 3, March 1991, pp. 78-84

[2] S.S.C. Tay and J.P. Estanislao, 'The Relevance of ASEAN: Crisis and Change', in: S.S.C. Tay, J.P. Estanislao and H. Soesastro (eds.), *Reinventing ASEAN*, Institute of Southeast Asian Studies, Singapore 2001, pp. 14-16

[3] For details see Ng-Loy Wee Loon, 'Singapore', in: C. Heath (ed.), *Intellectual Property Law in Asia*, Kluwer Law International, London 2003, pp. 291-306.

[4] For details see D. Goon, 'Malaysia, in: C. Heath (ed.), *Intellectual Property Law in Asia* (above note 4), pp. 307-336

[5] See the Intellectual Property Corporation of Malaysia Act 2002.

[6] See the inaugural report of the Superior and Subordinate Courts in Malaysia at http://www.kehakiman.gov.my/buku_laporan.html, accessed on 27 August 2005.

[7] International Intellectual Property Alliance, *2005 Special 301 Report: Malaysia*, at http://www.iipa.com/rbc/2005/2005SPEC301MALAYSIArev.pdf, accessed on 27 August 2005, p. 357.

[8] I.S. Sapalo, *Background Reading Material on the Intellectual Property System of the Philippines*, World Intellectual Property Organization, Geneva 1994; A. F. S. Fider, 'The Philippines', in: C. Heath (ed.), *Intellectual Property Law in Asia* (above note 4), pp. 363-390

[9] J. Kuanpoth, 'Thailand', in: C. Heath (ed.), *Intellectual Property law in Asia* (above note 4), pp. 337-362

[10] V. Ariyanuntaka, 'TRIPS and the Specialised Intellectual Property Court in Thailand', in: *International Review of Industrial Property and Copyright Law*, Vol 30 No 4/1999; A. Morgan, 'Comment: TRIPS to Thailand: The Act for the Establishment of and Procedure for Intellectual Property and International Trade Court', in: *Fordham International Law Journal*, Vol. 23 March 2000.

[11] For details see C. Antons, 'Indonesia', in: C. Heath (ed.), *Intellectual Property Law in Asia* (above note 4), pp. 391-428

[12] C. Antons, 'Harmonisation and Selective Adaptation as Intellectual Property Policies in Asia', in: C. Antons, M. Blakeney and C. Heath, *Intellectual Property Harmonisation Within ASEAN and APEC*, Kluwer Law International, The Hague 2004, pp. 113-114

[13] According to statistics on the website of the Directorate General of Intellectual Property Rights (http://www.dgip.go.id, accessed on 19 August 2005)

[14] T. Mapes, 'Battle to Reclaim a Brand', *Far Eastern Economic Review*, 22 May 2003, pp. 36-37; G. Suryomurcito, 'Intellectual property laws still weak', *The Jakarta Post*, 31 January 2005

[15] C. Antons, 'Specialised Intellectual Property Courts in Southeast Asia', in: A. Kur, S. Luginbühl and E. Waage (eds.), *"…und sie bewegt sich doch!" – Patent Law on the Move, Festschrift für Gert Kolle and Dieter Stauder*, Carl Heymanns Verlag, Cologne-Berlin-Munich 2005, pp. 287-299

[16] See for example the "*Scotch Whisky*" decision of the Supreme Court No. 2564K/pdt/1994 of 29 July 1996, deciding an appeal filed in October 1988 and the "*Scooby Doo*" decision of the Supreme Court No. 3879K/Pdt/1991 of 31 August 1995, deciding an appeal filed in April 1989, both printed in S. Gautama and R. Winata, *Pembaharuan Merek Indonesia (Dalam Rangka WTO, TRIPS)*, PT Citra Aditya Bakti, Bandung 1997

[17] 'Vietnam: Assembly adopts laws on IP and e-transaction', Thai Press Reports, 23 November 2005

[18] For a draft version of the law, which apparently has been adopted with only minor amendments, see the website of the National Office of Intellectual Property at http: www.noip.gov.vn/noip/cms_en.nsf (accessed on 23 January 2006)

[19] Kong Chhung, 'Trademarks and Copyright Protection in Cambodia', *Asia Law – IP Review*, January 2005.

[20] See WIPO Document A/41/17, General Report of the Assemblies of the Member States of WIPO, October 5, 2005; 'Myanmar to enact intellectual property protection law, *People's Daily Online*, 1 September 2005

[21] Khine Khine U, 'Protecting Intellectual Property in Myanmar', *Asia Law – IP Review*, July/August 2003

[22] In Indonesia, publisher PT Tatanusa is publishing all decisions of the most important Commercial Court in Jakarta and all decisions of the Supreme Court in intellectual property matters. Since 2002, five volumes of Commercial Court decisions and four volumes of Supreme Court decisions have been published. In Thailand, summaries of some decisions of the Central Intellectual Property and International Trade Court and of Supreme Court decisions are available via a specialised electronic journal at http://www.geocities.com/cipit_ejournal, accessed on 28 January 2006.

[23] There is a separate registration system for agents handling plant variety cases, which are under the responsibility of the Ministry of Agriculture.

[24] International Intellectual Property Alliance, *2005 Special 301 Report: Malaysia*, at http:// www.iipa.com/rbc/2005/2005SPEC301MALAYSIArev.pdf, accessed on 27 August 2005.

[25] http://www.iipa.com/rbc/2005/2005SPEC301INDONESIA.pdf, accessed on 19 August 2005.

[26] C. Antons, 'Intellectual Property Chapters in Australia's Free Trade Agreements With Countries in the Asia-Pacific Region', paper presented at the Conference 'Recent Developments in and Enforcement of Asian IP Law', Fordham University School of Law and IP Academy Singapore, New York, 30 March 2005

[27] Weerawit Weeraworawit, 'The Harmonisation of Intellectual Property Rights in ASEAN', in: C. Antons, M. Blakeney and C. Heath (eds.), *Intellectual Property Harmonisation Within ASEAN and APEC* (above note 13), pp. 205-215