



*Presentation in the Symposium on TRIPS Agreement and the National
Judiciary: Geneva, December 12-15, 2011*

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Good afternoon, my distinguished Judges. First of all, I would like to say as other judges that I am so glad to be here for this Symposium. I expect that I can share and exchange my knowledge with all of you. Such information will be invaluable when I go back and work in my country. I choose to share my experience with you about IP cases management. The title of my presentation is “IP Cases Management and the Birth of the Court of Appeal for Specialized Cases”. I will talk about 2 specialized courts in Thailand, namely; the Central Intellectual Property and International Trade Court and the Court of Appeal for Specialized Cases.

As you have heard about the implication and impact of the TRIPS Agreement from my colleague, you can see how importance of TRIPS Agreement for IP cases in Thailand. In the past, IP cases

were regarded as ordinary civil and criminal cases. As a result, they were tried in the civil and criminal courts respectively. There were many problems about IP cases at that time such as time consuming and obscured judgments. The society did not quite understand why a song in a cassette tape could not play in public. It made IP cases spent a lot of time, and the judgments were rendered with confusion.

Twenty years ago, we looked at the problems and the causes of these problems. Under TRIPS Agreement, we had to do something to get the better result. We set our aims that IP cases should be acceptable, speedy and complying with the international ideas. Acceptable meant that IP cases should be adjudicated in the appropriated procedure. Speedy was easy to understand. All of us know that justice delays is justice denies. Lastly, IP cases should be accepted in the international level too.

We thought that having the specialized court for IP cases should be the best answer. Therefore, the Central Intellectual Property and International Trade Court was set up in 1996 by the Act for the Establishment of and Procedure for Intellectual Property and International Trade Court B.E.2539. It was claimed as the first specialized court for IP cases in the world. As you can see from my leaflet page 6, for examples, Section 30 empowers the Court to issue the Rules of the Court in order to speed up the cases. Section 38 indicates that judgments of this Court would be appealed directly to the Intellectual Property and International Trade Division in the Supreme Court. We realized that problems concerning intellectual property were significant for both domestic and international areas and should be dealt with by judges who knew well in IP laws. We wished that this change of IP management would be our best way.

Unfortunately, there were hidden problems that we did not aware for this new system. Firstly, IP cases all over the country were filed to this Court. There were not enough judges to deal with such IP cases. Secondly, we did not prepare the Supreme Court to handle IP cases appealing directly from this new Court. We also forgot that the Supreme Court justices were our target group who should have knowledge about IP laws. A lot of cases were therefore waited for the final judgments in the Intellectual Property and International Trade Division in the Supreme Court as the same old problem. We found that the crucial problem was the lack of the judges who knew well in IP laws. Since Thai judges were career judges, they were promoted mainly by seniority. The Central Intellectual Property and International Trade Court was regarded as the Court of First Instance. Judges who work in the Central Intellectual Property and International Trade Court must be promoted to other Courts of Appeal before reaching the Supreme Court. Therefore, they could not use their IP knowledge during such period of time. The so called “fast track” system was partly disagreed because the IP criminal cases would be tried only in 2 tiers while the other criminal ones could be tried in 3 tiers.

From such experience, the Court of Appeal for Specialized Cases was inaugurated by the Establishment of the Court of Appeal for Specialized Cases Act B.E. 2558 (2015). It was the main policy of the Court of Justice in managing the above issues. This new Court includes 5 Divisions namely the Intellectual Property and International Trade Division, the Tax Division, the Labor Division, the Bankruptcy Division and the Juvenile and Family Division. Each Division deals with cases appealed from the Specialized Courts such as the Central Intellectual Property and International Trade Court.

You can see from my leaflet pages 8 and 9 about the types of cases of our Division. There is the President who is the head of this Court. There are also 5 Vice Presidents who are in charge with other Divisions.

From now, Judges with IP knowledge can be promoted to this Court. Although the Court of Appeal for Specialized Cases was added into the Court Structure, some procedures have been changed, in order not to delay the cases. The IP civil cases will be final at this level. Permission must be granted for appealing the cases to the Supreme Court. Until now, there is no case receiving the permission from the Supreme Court. This will help the Supreme Court not to deal with unnecessary IP cases. On the other hand, the IP criminal cases will be tried in 3 tiers, like other criminal cases. It is expected again that IP cases will be managed properly, speedy and complying with the international ideas.

Looking at my leaflet, the statistics show that the IP cases were a bit speedy. For the first page of the tables, there are 2 types of cases namely civil and criminal cases. However, in civil cases, there are also international trade cases too. So, you can look at the second page of the tables. Then, you can see the number of cases coming to the court until this October. For the IP criminal cases, there is 1 case accomplished but it could finish within 3 months. The other cases are in process and they are in the court not over than 6 months. For the IP civil cases, there are 7 cases accomplished and they finished within 6 months. The waiting cases are 18 cases and most of them are not over than 3 months. The judgments of this Court seem to be acceptable for both in quantity and quality. It proves that the management of IP cases comes to the right way. It is finally expected

that IP cases will be satisfied by both the domestic and the other countries as a whole.

Finally, I would like to add some more issues to support IP cases management. I made my research some years ago. It is about the roles of research justices in the Supreme Courts of Japan and Thailand. But there are a few issues that I put in this research. There is an interesting book named “The Two Cultures”. This book was written by C.P. Snow. Lord Charles Percy Snow. He talked about the difference between the scientists and the literary intellectuals. Different background could bring to different points of view. Their attitudes were so different that, even on the level of emotion, they could not find much common ground. Although the book was written about this issue for sometimes ago, it can be used to describe the situation today. We have heard yesterday and this morning about the issues of patentability and the exhaustion of patent right. Of course, they are surely the complicated issues. Some of us may have problems when dealing with patent cases which full of technology that we are not quite familiar. On the other hand, the inventors may also have a lot of questions in their minds when reading our judgments. Nowadays, we can find this problem in copyright or trade mark cases as well. It indicates that when we talk about the judges with IP knowledge, we merely talk about the knowledge of IP laws. We have to find our own way to help the judges to carry on their jobs. That is why there are Associate Judges in the Central Intellectual Property and International Trade Court.

In addition, we know from the beginning that our litigations are more or less relied upon the TRIPS Agreement. It can be guessed that IP laws in our countries rather similar to each other. However, the number of IP cases is still high in many countries. The problem is

not mainly about the laws anymore. We should concentrate on the law enforcement as well. Nevertheless, if law enforcement should be improved, it should be done properly. I concluded my research that harmonization is a good word but it should be done with harmony.

Thank you very much for listening to my presentation!

