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# Intellectual Property Rights in ASEAN: Developments and Challenges

Cases Studies in Singapore, Malaysia, Indonesia, Thailand and the  
Philippines

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# Executive Summary

Intellectual Property standards are viewed as essential to the success of the economy. They provide the foundation for stimulating innovation and enhancing competitiveness. States with the strongest IP systems stand to reap the greatest economic rewards.

This paper uses IPRI 2017 indicators to measure the Intellectual Property Rights overall level of performance in five ASEAN countries: Singapore, Malaysia, Indonesia, Thailand and the Philippines, which account for the highest combined GDP in the ASEAN community.

IPRI 2017 performance reflects the strength of the countries' patent and trademark frameworks and the measures for tackling counterfeiting and copyright piracy. Singapore has consistently maintained its highest IPRI overall performance in year 2016-2017. Despite the slight increase in IPRI performance in year 2016-2017 for Indonesia, Thailand and Philippines, the IP protections for those countries remain stagnant. Despite the slight decrease in IPRI performance in year 2016-2017, Malaysia still ranks higher than the other former three countries and is placed second following Singapore.

The threats that each ASEAN country is facing has forced each country to improve both their administration and legislative enforcement, including improving cooperation between government agencies and the private sector. This paper presents an analysis of the performance of each of the five countries under IPRI and then considers key developments in each country. The paper concludes with some recommendations.



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# I. Introduction

Innovation and IP intensive activities are increasingly at the heart of Asia's economic growth. Asian economies are investing more into Research and Development (R&D) and Asian corporations are seeing stronger valuations of their intangible assets, including brands and technologies. These innovative companies have relied on a robust IP system to protect and capture value from their investments and this is becoming increasingly important as Asia's economies continue to grow.

The protection of Intellectual Property is an essential component of ensuring this economic development can take place: IP provides the necessary framework and incentives to ensure the constant generation of new ideas. It is no surprise then that ASEAN has identified IP as a fundamental element of the ASEAN Economic Community Blueprint 2025.

The purpose of this paper is to present the state of intellectual property rights in ASEAN, by considering five countries: Singapore, Malaysia, Indonesia, Philippines and Thailand. We start with an assessment of the current levels of IP protection, as assessed by the Intellectual and Property Rights Index (IPRI), followed by an analysis of the threats and challenges of IP protection and conclude with some recommendations for further improvement.

The Intellectual and Property Rights Index (IPRI) was developed to serve as a barometer for the status of property rights across the world. The IPRI 2017 assessment analyses data from year 2010-2017. The IPRI barometer is based on the average Index of three core component Indexes, namely:

1. The Legal and Political Environment (LP) component provides an insight into the strength of governance and institutions of a country. The LP includes judicial independence, rule of law, political stability and control of corruption.
2. The protection of Physical Property Rights (PPR) relates directly to the strength of a country's property rights system. The PPR includes registering property and ease of access to loans.
3. The Intellectual Property Rights (IPR) component evaluates the protection of intellectual property. The IPR includes protection of intellectual property rights, patent protection, and copyright piracy.

## II. Status of Intellectual Property Rights in Asean

ASEAN has set goals for future performances in intellectual property through the strategic goals of the ASEAN Action Plan 2016-2025. There are four strategic goals:

- STRATEGIC GOAL 1: A more robust ASEAN IP System is developed by strengthening IP Offices and building IP infrastructures in the region;
- STRATEGIC GOAL 2: Regional IP Platforms and infrastructures are developed to contribute to enhancing the ASEAN Economic Community;
- STRATEGIC GOAL 3: An expanded and inclusive ASEAN IP Ecosystem is developed; and
- STRATEGIC GOAL 4: Regional mechanisms to promote asset creation and commercialization, particularly geographical indications and traditional knowledge are enhanced.

In order to recognize when the goals have been achieved, it is important to know if the changes made result in the improvements sought. IPRI 2017 reveals a number of IPR trends in LP, PPR and IPR that emerged over the past year. In a difficult global environment, ASEAN countries continue to make a conscious policy decision to invest in stronger IP, despite different levels of economic development.

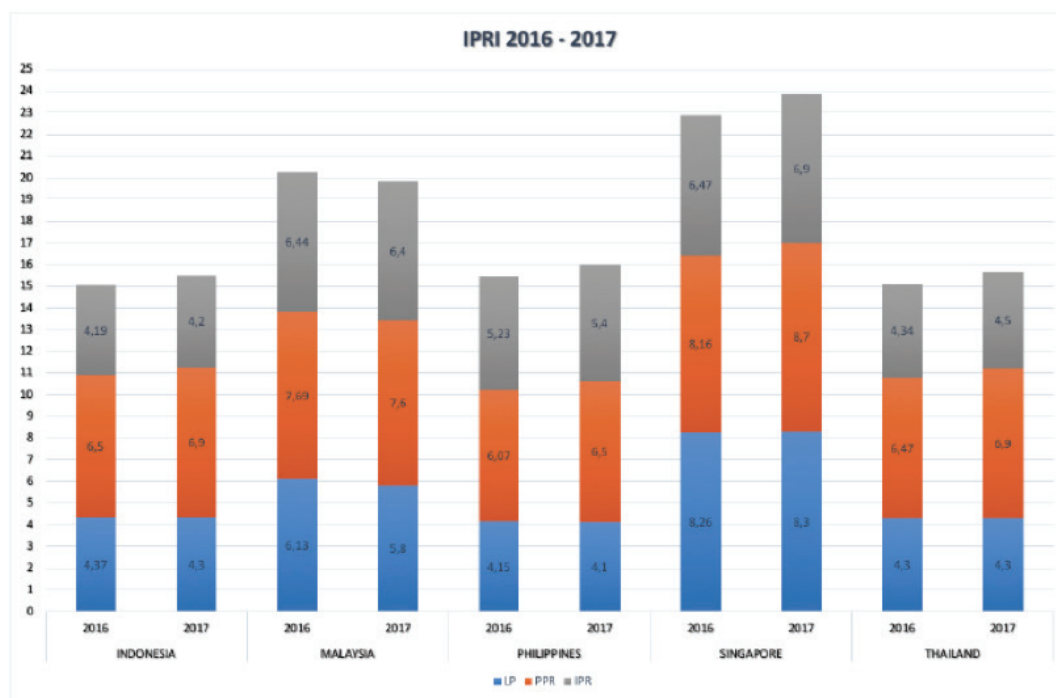
The current status of property rights will be shown by IPRI indicators. The overall grading scale of the IPRI ranges from [0-10], where 10 is the highest value for a property rights system and 0 is the lowest value for a property rights system within a country.

**Table 1 IPRI and its Components Scores by Country Based on World Ranks**

Country	Rank	IPRI	LP	PPR	IPR
Singapore	7	8.3585	8.3002	8.7039	8.0713
Malaysia	32	6.6102	5.8082	7.5945	6.4278
Philippines	64	5.3309	4.1370	6.4766	5.3792
Thailand	66	5.2150	4.3232	6.8654	4.4565
Indonesia	68	5.1666	4.3394	6.9236	4.2368

In 2017, the IPRI scores reveal a general improvement in all countries except Malaysia. Based on Table 1, the 2017 IPRI highest and the lowest scores within the ASEAN countries are 8.3585 (Singapore) and 5.1666 (Indonesia), respectively.

Table. 2 IPRI performance 2016-2017

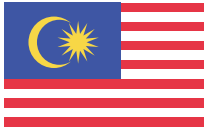


By comparing the current status of property rights of 2016 with 2017, we find:

- LP: the average improvement was -0.0604 points. The highest LP improvements came from Singapore (0.0402 points). The highest decrease came from Malaysia (-0.3218 points).
- PPR: the average improvement was 0.3348 points. The highest PPR improvement came from Indonesia (0.4066 points). The highest decrease came from Malaysia (-0.0955 points).
- IPR: the average IPRI score was 0.08232 points. The most significant increases in the IPR component were reported by the Philippines (0.1492 points) while the largest decreases were incurred by Malaysia (-0.0122 points).



Singapore has increased its IPR score from 7.96 in year 2016 to 8.1 in year 2017. Singapore also leads in all three IPRI components among the ASEAN countries and has increased its overall score from 8.13 in year 2016 to 8.4 in year 2017. This increase reflects a relatively mixed performance of the three IPRI components.



Malaysia's IPR score has slightly decreased from 6.44 in year 2016 to 6.4 in year 2017. Malaysia's overall score has also decreased from 6.75 in year 2016 to 6.6 in year 2017. Despite this decrease, Malaysian officials have augmented their resources to combat online piracy and have sustained their efforts to deny access to piracy websites, taking down infringing content on domestic sites, and conducting raids and arrests of Malaysians either operating or posting links to sites with pirated content.



Indonesia's IPR score has slightly increased from 4.19 in year 2016 to 4.2 in year 2017 and its overall score has increased from 5.02 in year 2016 to 5.2 in year 2017. Despite the increase in the overall score, the performance reflects a relatively weak performance among the ASEAN countries.



Thailand's overall score has increased from 5.04 to 5.2, which is the lowest overall score among the ASEAN countries. The slight improvement in Thailand's score is attributed to its commitment to measures for combating counterfeiting and physical piracy.



Finally, the overall IPRI in the Philippines has increased from 5.15 to 5.3. IPRI of LP, PPR, and IPR are 4.1, 6.5 and 5.4, respectively.

IP improvements are being sought against a backdrop of sluggish global economic growth within an era of technological disruption that is radically changing the consumption patterns and has emerged as an increasingly important strategic asset for business.

This paper will continue focusing on discussing the IPR as it has been perceived as essential to the success of the economy and also provides the living and growing roots that stimulate innovation and bolster growth within the ASEAN countries.

## III. Threats and Challenges

IPR is essential for fostering innovation and is therefore critical to economic growth. A secure framework for patents, trademarks and copyrights ensure the necessary incentives are in place for creative thinking. They ensure that legitimate innovators can profit fairly from their creations, promoting competition and greater variety and quality of products for the consumer.

Threats and challenges to IP protection and enforcement in ASEAN countries in general include patent and trademark counterfeiting and copyright piracy. These threats cause significant financial losses for right holders and legitimate businesses. IP infringement can also pose risks to the general public: inferior, counterfeit food and medicines, for example, can present health risks to consumers. In addition, IP infringing activities can also be a source of funding for organized criminal networks, and therefore present a wider threat to society.

There are multiple reports of weaknesses in the enforcement of IPR across ASEAN, demonstrated by the varied performance in the IPRI. This paper identifies several key issues relating to the improvement and future development of IP frameworks in ASEAN, by considering the main issues of each of the five relevant countries in turn.



Singapore has been cultivating a robust IP environment, as developments to IP including counterfeiting and brand restrictions, have not only strengthened Singapore's economy, it is important to take these threats seriously.



Singapore has not been spared by counterfeiters. As the authority responsible for border enforcement of IP rights, Singapore Customs detains tens of thousands of counterfeit goods each year, including luxury bags, shoes, and other fashion items, toys, perfumes, mobile phones, and accessories.



Singapore has been facing the challenge of relatively high levels of illegal downloading. Singapore has developed some legal measures that provide necessary exclusive rights preventing infringement of copyrights and related rights (including Web hosting, streaming and linking) and availability of frameworks that promote cooperative action against online piracy. This has led to an amendment to the Copyright Act, which provides rights holders with an avenue to apply directly to the High Court for an injunction "requiring the network service provider to take reasonable steps to disable access to the infringing online location"<sup>1</sup>.



Unlike the illegal threat of counterfeiting, another threat to IP relates to government regulation, including restrictions on the use of trademarks and brands. Trademarks and brands provide the consumer with reliable information about a product, enabling them to make more informed decisions. Plain packaging regulations are justified on public health grounds but create a number of issues from an IPR perspective. If the brands are eroded, then the consumers are not able to differentiate between inferior products and those with a reputation for reliability, which creates an environment in which companies compete on price, not quality. Plain packaging is also easier for counterfeiters to copy and can therefore increase the illicit trade in tobacco products. Arguably, brand restriction also set an unfortunate precedent, opening the door for IP rights to be weakened in other industries.

## Some of the developments

Counterfeit Goods



Illegal Download



<sup>1</sup> Singapore High Court exercised under section 193DDA of the Copyright Act

demonstrated by its consistently high IPRI scores. Yet, international threats are not abated. With IP-related industries making valuable contributions to the economy seriously.

Developments Singapore is facing:

Plain  
Packaging



PORE

Patent  
Analytics



The Intellectual Property Office of Singapore (IPOS) is proposing to bring together the government agencies and private sector to enable better IP commercialisation outcomes. This includes efforts by IPOS to build expertise in technology foresighting and patent analytics.



IPOS also has started to expand its collaboration with institutes of higher learning. Their intention is to

- build a pipeline of IP experts with an understanding of law, technology and business, who can help companies unlock their intangible assets and get the right IP strategy in place;
- Change the general mind set towards IP - it is not just a legal right that should be enforced and respected, but also a business strategy; and
- Bring together financiers, IP professionals, lawyers and other experts to create that flow in the innovation cycle.



IPOS will also work closely with MinLaw on ensuring IP dispute resolution is cost effective. Therefore, the value of IP protection shall be anchored in the ability of companies to effectively and efficiently enforce their IP rights.



Malaysia has significantly strengthened its national IP environment through copyright reforms and continued efforts in the realm of enforcement. While Malaysia's IP environment has improved, key issues remain, including counterfeit goods in Malaysia, high rates of piracy over the Internet, and continued



Malaysia has some concerns on pharmaceutical-related patent enforcement and resolution mechanisms, patent term restoration for pharmaceutical products, regulatory data protection terms, and effective border measures. According to the US Trade Representative (USTR), the pharmaceutical industry has “expressed concerns that weaknesses in the system of protecting drug-related data stood as a disincentive to the development of innovative medicines and could undermine public health objectives to improve patient outcomes.” As a result, the National Pharmaceutical Regulatory Agency (NPRA)<sup>2</sup> has implemented the pharmaceutical data exclusivity clause<sup>3</sup>.



Malaysia officials have invested in greater resources to combat online piracy. The Malaysian authorities are actively taking down IP infringing content and conducting raids and arrests of Malaysians either operating or posting links to sites with pirated content.



Malaysia has introduced IP enforcement coordination mechanisms and agreements to enhance interagency cooperation. In deterring and preventing networks that distribute counterfeit and infringing goods, the progress is shown by an interagency Special Anti-Piracy Task Force.



Malaysia has yet to accede to the WIPO Budapest Treaty on the International Recognition of the Deposit of Microorganisms for Purposes of Patent Procedures.

## Some of the developments

Counterfeit Goods



# MALAYSIA

Online Piracy



<sup>2</sup> "Malaysia - Market Challenges | Export.gov." <https://www.export.gov/article?id=Malaysia-Market-Challenges>

<sup>3</sup> Trans-Pacific Partnership (TPP) is a trade agreement between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam, and United States signed on 4 February 2016

ment since 2011 specifically as it relates to the life sciences. In particular, enforcement of IP rights have resulted in a continuous improvement in the relatively widespread availability of pirated and counterfeit products in and problems with book piracy.

Challenges Malaysia is facing:

TPP strengthen  
IP environment



Pharmaceutical-  
related Patent



Malaysia was one of the countries signing the Trans Pacific Partnership Agreement (TPP) and it is currently ratifying the treaty and drafting implementing legislation. The provisions within TPP should further strengthen Malaysia's IP environment:

- Article 18.53 of TPP provides the choice between two clear mechanisms of either premarketing notification and/or linkage between the market approval of a follow-on biopharmaceutical product and the exclusivity status of the reference product that provides the opportunity for Malaysia to fulfill the gaps in its national IP environment particularly the case for patents and biopharmaceutical IP rights.
- Article 18.48 of TPP states that contracting parties to the treaty "shall make available an adjustment of the patent term to compensate the patent owner for unreasonable curtailment of the effective patent term as a result of the marketing approval process". Although it began with the administrative delay for patent term restoration for biopharmaceutical products, since 2011 Malaysia has had in place a 5-year term of protection.
- Article 18.5 of TPP provides a 5-year term of RDP for new chemical entities and an 8-year term for biologics, with the term of protection to begin from "the date of marketing approval of the new pharmaceutical product in the territory of the Party". Specifically, for Malaysia, in the territory of the Party shall be replaced to "in Malaysia".



Malaysia has also developed specialized IP enforcement units, including the Special Internet Forensics Unit (SIFU) in Malaysia's Ministry of Domestic trade, Cooperatives, and Consumerism responsible for IP enforcement that have also been proven to be important catalysts in the fight against counterfeiting and piracy.



Indonesia has a multitude of reasons for its low IP protection on its islands, which has made it challenging to control its borders and address some of other challenges, including significant price difference between countries and various mechanisms. However, some significant steps are being taken to improve IP protection.



Indonesia's new Law No. 13 of year 2016 Regarding Patent<sup>4</sup> has been effective since 26 August 2016 and includes a number of provisions which pose a threat to fair IP protection. Article 4 inserts the exclusion from invention for discoveries of new use for any existing and/or known products and new form of existing compound that shows no meaningful improved efficacy and changes of chemical structure of the existing compound.

- Article 167 allows for parallel importation of follow-on products under patent protection in Indonesia but approved for consumption in other markets. The law explains that this importation is to target the cost of medicines, particularly where prices in Indonesia are judged to be higher than the international market.



Article 20 of the new patent law mandates that all patent right holders "make" the patented product or process within Indonesia. Highly complex and often very common products from electronics to biopharmaceuticals might not be capable of or economically viable to be produced in Indonesia. Some products have only a handful of production sites worldwide and small companies simply cannot afford to make products everywhere. In response to these protests, a draft Presidential Regulation providing clarity on Article 20 of the Patent Law is being prepared to ameliorate the drastic consequences of non-compliance with Article 20. The draft regulation allows for patent holders to apply for postponement of putting their patent to use where they are incapable of doing so or it is not economically viable. The IP Office is still receiving feedbacks on the detailed implementation of the draft regulations.

Some of the developments in IP protection in Indonesia are facing

Threat to fair IP protection



INDONESIA



Make patented product locally



<sup>4</sup> IP Law in Indonesia <http://www.wipo.int/wipolex/en/profile.jsp?code=ID>

on performance. Indonesia geographically consists of more than 17,000 islands and prevent any potential IPR infringement. Indonesia also faces a number of challenges between legal products and illegal products and ineffective enforcement. The following measures to strengthen Indonesia's IP environment.

Measures Indonesia is

taking:

Increased Penalties



INDONESIA



Effective investigative procedure



Indonesia also enacted a new Law on Trademarks in November 2016<sup>2</sup> that includes some promising provisions:

- shortened and simplified examinations to reduce Indonesia's significant trademark application backlog.
- new protections for non-traditional marks, including 3-D, sound, and holographic marks
- increased penalties and maximum fines, including up to 10 years in prison and approximately USD \$155,000 in certain cases
- mechanism for Indonesia to accede to the Madrid Protocol.



To ensure effective enforcement of IPR in Indonesia, the Directorate of Investigation was established. As a result, not only the Police Investigators, but also the Civil Servant's Investigators from DGIPR have authority to investigate in IPR. The process of the investigation under the Directorate of Investigation is more focused due to the uniformity of the whole system and the investigative procedure, data collecting and administration.



Indonesia's Government Regulation No. 20 of 2017 on Control of Import and Export of Goods Resulting from Intellectual Property Infringement enables customs recordation. An application for trademark or copyright recordal can be submitted to the Directorate General of Customs and Excise (DGCE) by a trademark or copyright owner with valid Indonesian registrations. Based on this customs recordation information, customs officers are entitled to restrain any suspected IP-infringing goods and send a notification to the trademark or copyright owner.

<sup>2</sup> Law in Indonesia <http://www.wipo.int/wipolex/en/profile.jsp?code=ID>



Thailand holds the second lowest rank in IPRI Performance, requires amendments to the Computer Crime Act of 2007 and the S legal system to address problems related to the increased co can reduce the number of IP violations in Thailand.



Thailand suffers from a long backlog of, on average, 5 to 9 years for a patent to be granted, particularly for life sciences inventions and patents submitted through the PCT route.



To address this, a proposed patent amendment would replace the pre-grant opposition system with a time-limited post-grant system, and would shorten the time to request substantive examination from 5 to 3 years, however, it does not address key challenges about patentability criteria in relation to life sciences patents.



A new Specialized Appeals Court was established in 2016 in an effort to reduce the backlog and strengthen civil proceedings in the lower court. The Specialized Court of Appeals began in October 2016 and will have the jurisdiction to handle—among other issues—intellectual property cases which have been appealed from the lower courts. It will help to lessen the burden of the Supreme Court, as originally these specialized cases could be appealed from the lower court directly to the Supreme Court.



The Tobacco Consumption and Control Act under consideration by the Council of State, proposes removing all branding from cigarette packages, save the brand name in small print. The introduction of such a measure applied to any industry would significantly restrict the use of brands, trademark, trade dress on retail packaging. The counterfeit tobacco goods have already been a serious problem in Thailand and this risks exacerbating the issue.

Some of the developments

Online Piracy



Backlog of granting patent



reflecting an insufficient enforcement system for intellectual property. The specialized Court of Appeals reflects a renewed commitment by the Thai government to combat the rampant piracy and exploitation of online content. Hopefully this mechanism

Challenges Thailand is facing:

Counterfeit  
Tobacco goods



The Thai Securities and Exchange Commission was reportedly the first ASEAN public body to implement software asset management practices. Amendments to the Computer Crime Act of 2007 were enacted by the National Legislative Assembly, including a provision to empower officials to request the courts to block websites that contain IPR infringing content. The amendment entered into force on 24 May 2017. Officials can now petition the courts to block computer data that infringes on IP rights. If the petition is granted, the authorities can take steps to enforce the block and compel the internet service providers to support this action.



The Trademark Act has been amended to be in line with the Madrid Protocol. These amendments clarify some procedural aspects and potentially shorten prosecution time. In addition, the amendments broaden the scope of protection by allowing multiple -class filing and registration of sound marks and extending the search of similar and identical trademarks to all classes. Most importantly, the amendments also criminalize refiling (that is passing off unauthorized content as legitimate using original, branded packaging).

AND

Shorten substantive  
examination time



The Department of Intellectual Property (DIP) recently introduced an intellectual property roadmap that calls for intensifying efforts to combat piracy. Cooperation and coordination among national government agencies involved in IP issues in Thailand has been supported by the establishment of an interagency National Committee on Intellectual Property and a subcommittee on enforcement against IP infringement, led by the Prime Minister and a Deputy Prime Minister, respectively.



The Philippines IP protection framework has been strengthened. Weak enforcement continues to be an issue. IP infringement is a priority for the authorities and judiciary than other issues.



There is no explicit patent opposition mechanism in the Philippines. The third party must observe the system. The Community Review Process allows a selected list of third parties (including government, industry, universities, and other key stakeholders) to provide observations during the examination process.



E-Commerce Act section 33 provides for criminal penalties for unauthorized access in a computer system or ICT system. These penalties cover the “unauthorized copying, use and sharing of protected material, electronic signature or legally protected sound recordings through the internet”.



The E-Commerce Act and IP Code<sup>6</sup> provide a wide safe harbor for ISPs, limiting their role in combating infringement. ISPs are only required to block access to content if there is a court order.



Amendments to the IP Code define circumvention of technological measures as infringement and allow for double damages to be sought. It includes electronic rights management information but does not specify access control Technological Protection Measures (TPM).



IP infringement cases can be decided by courts or administrative IP tribunals within IPOPHL which generates some confusion about the validity of similar cases before both IPOPHL and judicial courts, leading to uncertainty and additional costs. The evidence suggest that many claimants choose out-of-court settlements rather than filing a lawsuit that may take years to resolve in the Philippine courts.

Some of the developments

Counterfeit Goods



PHILIPPINES

E-Commerce Act section 33



<sup>6</sup>The E-Commerce Act and IP Code Philippine [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=225418](http://www.wipo.int/wipolex/en/text.jsp?file_id=225418)

ened in recent years, placing it above Thailand and Indonesia. However, is not considered to be a serious crime and is therefore often a lower

Issues Philippines is facing:

Issues brought  
e-commerce and digital  
platform related



IPOPHL successfully engages in other enforcement activities in partnership with right holders, including sending warning notices to suspected infringers, conducting inspections and raids, and collecting evidence.



The Philippines has determined to make continuous improvement in fighting against counterfeiting as the biggest issue being faced that has not been eradicated. The IP Office of the Philippines has jurisdiction to resolve certain disputes concerning alleged infringement and licensing through its Arbitration and Mediation Center.



IPOPHL will push for the amendment of existing Philippine Laws to address issues brought about by e-commerce and digital platforms and for the inclusion of secondary liability for landlords' online intermediaries in case of trademark violations.



IPOPHL's PH Action Plan sets out seven major initiatives, including the strengthening of NCIPR and IPOHL's institutional arrangement for IPR with the Bureau of Immigration to help in penalizing/deporting aliens violating IPR and the Bureau of Internal Revenue to run after IPR violators with tax evasion cases. This PH Action Plan is to ensure rapid resolution of IP cases through continuing the capacity building program for judges, prosecutors and attorneys to keep them abreast of development in IP laws, rules and regulations.

PHILIPPINES

Strengthening of  
NCIPR and IPOHL



## V. Conclusion and Recommendations

Based on the developments identified in the five countries, we can recognise several emerging issues:

- The **scale of counterfeiting remains very high**. Fake products have been continuously produced and marketed globally. There has been a continuous combat against this illegal trade in legitimate goods. The consumers have been endangered due to the high exposure to inferior products in the market.
- **Online piracy has been a growing problem** as the access to the internet has widened. Illegal downloads of many media contents, either for private use or for reselling, have become open to the public. The appreciation to the creator, the performer, the writer and the producer is decreasing despite the high costs borne by the rights holder.
- The **capacity of IP agencies needs to be strengthened** to develop a conducive IP environment, raise public awareness on IP issues and provide the right skills to identify and support the innovation that contributes to economic growth. It has been the goal of the IP agencies to increase the number of applications in patent, industrial design, trademark and copyright. However, the timeframe for granting those IP applications have not been effective yet. In some ASEAN countries, such as Indonesia and Thailand, there have been backlog of applications including delays of 5 to 9 years for patents in Thailand. Some inefficiencies of bureaucracy have created the deceleration to IP support.
- **Business and entrepreneurs also have to contribute** to efforts to improve the environment for IP, including by ensuring that a plan for protecting their IP is a crucial component of their business strategy.
- IP protection, especially IP in the form of trademark, provides consumers with the quality of a product. In the case of **plain packaging**, it makes it difficult for the right holders, retailers and consumers to interact effectively. In these cases, the Government has taken control of marketing factors, such as price, product, place and promotion. As a result, non-price competition may be substituted by price competition only and counterfeiting may increase. The plain packaging movement is growing not only on the issue of tobacco but also some issues on sugar, alcohol, children's toys, computer games, fast food, etc. which poses significant risks to business models, and intellectual property rights.
- Certain **legislative measures by government constrain the uses of IP**. For example, Indonesia passed legislation that requires patent holders to produce the patented product in Indonesia. Although the Indonesian Government had some positive reasons for exercising this legislation, the implementation of this legislation will discourage the business and entrepreneur due to the high cost implementation. Many businesses and entrepreneurs perceive that the Government should instead focus on creating the best possible environment for innovation and to encourage the development and production of patented products.

# Proposed Recommendations



Adopt best practice on customs including investment in capacity at border and customs operations including use of latest technology



Establish formal mechanisms for greater cooperation with the private sector, including introduction of customs recordal systems where those do not exist



Introduce effective legislation to require Internet Service Providers to remove IP-infringing content from the internet as fast as possible



Improve IP enforcement agency capacity to reduce backlogs and increase efficiency of process for recognising legitimate intellectual property



Businesses and entrepreneurs should put the protection of their intellectual property at the heart of their business strategy



Government regulations should focus on promoting and enforcing intellectual property rights and avoid policies that undermine them such as plain packaging



Ensure legislation maximises the scope for new IP, removing any unnecessary constraints and implementing new initiatives in IP filing funds, IP management system, enhancement of IP policy and amendment of IP Acts.

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