Webinar: The Impact of the pandemic on Brand Protection and IP in China and South-East Asia

Live At 10:00 (CEST) - 16:00 (CNT) - 15:00 (ICT)
24 June 2020
Welcome to the Webinar

Moderator:

Nora Bihari
Project Manager
South-East Asia IPR SME Helpdesk
<table>
<thead>
<tr>
<th>TIME</th>
<th>OVERVIEW</th>
<th>SPEAKER(s)</th>
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<tr>
<td>10:00 – 10:10</td>
<td>Introduction to the China and South-East Asia IPR SME Helpdesks and their Core Services</td>
<td>Marta Bettinazzi, SEA IPR SME Helpdesk</td>
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<td>10:10 – 10:45</td>
<td>The Impact of the pandemic on Brand Protection and IP in China and South-East Asia</td>
<td>Simon Cheetham, China &amp; SEA IPR SME Helpdesk</td>
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<td>10:45 – 11:00</td>
<td>Q&amp;A session</td>
<td>Both speakers</td>
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<td>11:00</td>
<td>Closing</td>
<td>Marta Bettinazzi, SEA IPR SME Helpdesk</td>
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International IPR support for EU SMEs
Core Services – What We Offer

Enquiry Helpline

Webinars and E-learning modules

Website & Blog Newsletter, E-Bulletin

Training Workshops

Guides and factsheets

Mr. Simon Cheetham is the Team Leader of the China IPR SME Helpdesk and External Expert of the South-east Asia IPR SME Helpdesk. He is a China IPR Enforcement expert with over 30 years' experience in commercial investigations, due diligence and IPR enforcement in China and internationally.

He is the Managing Director of ERINYES INTERNATIONAL LTD, a firm he founded to capitalise on his extensive experience of international investigations, loss prevention and enforcement work. He manages and directs the operations of the Company from Europe to the Far East.

He has lectured frequently around the world on security issues and IPR and has written articles and papers on a variety of related topics, including a chapter in 'Intellectual Property Law and Practice in the People's Republic of China' published by Kluwer Law International B.V.
The Impact of the pandemic on Brand Protection and IP in China and South-East Asia

Simon Cheetham
External Expert, South-East Asia IPR SME Helpdesk
Director, Erinyes International Ltd.
24 June 2020
Setting the scene SE Asia & China – do we see the full picture

Lead up to pandemic – outline changes in laws & infrastructure 2019-2020

The shut down & measures to get re-started

New trends (bad faith via copyright), cybersecurity

What it’s like on the ground

Take-aways
An Overview of Rights issues – in SE Asia

Trademark issues account for most enquiries at the Helpdesk

Invention patents & general IP strategy questions also common

Input also from panel of experts

An Overview of Rights issues – in China

Trademark issues account for most enquiries at the Helpdesk

General IP strategy, copyright & patent questions also common

Input also from panel of experts
Setting the scene

**South-east Asia**

- 600 million+ consumers
- fastest growing population of internet users
- ASEAN Economic Community (AEC)
- revised Trans-Pacific Partnership (TPP)

**China**

- Population around 1.4 billion in 2019
- world’s largest exporter
- uninterrupted trade surpluses since 1993
- China – ASEAN FTA in 2010
Poll Question 1

Question: Do you already do business in SE Asia or China?

A. Yes in SE Asia  
B. Yes in China  
C. Yes in both SE Asia & China  
D. Not yet
Pre-pandemic Changes

- Reorganisation in 2019 BruIPO now under Attorney General’s Chambers.
- Cambodia 1st Asian country to validate European patents.
- Indonesia online IP filing system introduced on 17 August 2019.
- Myanmar new IP laws not yet implemented, changing to first to file for trademarks.
- Philippines IPO published national IP strategy in December 2019.
- Singapore changes in line with EU–Singapore Free Trade Agreement (EUSFTA).
- Thailand amended copyright law effective March 2019.
Pre-pandemic Changes

- Big changes announced during China’s Two Sessions Meeting (March 2018)
  - Restructuring of IP registration, management & enforcement governing bodies in China
  - State Market Supervision Administration (SMSA):
    State Intellectual Property Office (SIPO)
    State Administration of Industry and Commerce’s Function of Trade mark Management (CTMO)
    General Administration of Quality Supervision, Inspection and Quarantine’s Function of “Place of Origin” Label Management (AQSIQ)
- Copyright remain with National Copyright Administration of China (NCAC)
- Trade secrets (SAIC) and plant variety protection (Ministry of Agriculture and State Forestry Administration) absent from the proposal.
Pre-pandemic Changes

- **Patents**
  - Amended Patent Examination Guidelines – 1 November 2019
  - New AI-Related Revisions effective 1 February 2020

- **Trade Secrets**
  - New Foreign Investment Law effective 1 January 2020
  - Anti-Unfair Competition Law effective 23 April 2019

- **Geographical Indications**
  - US-China Phase I Trade Agreement
    - Safeguards for generic terms
    - Option for US to oppose GIs
Pre-pandemic Changes

- **Trademarks**

  - Anti-unfair Competition Law, which came into force on 23 April 2019
  - Impact of new Trademark Law effective 1 November 2019
  - Malicious trade mark registration
    - invalidate or oppose hostile marks based on the grounds of abnormal filing
    - more interventions by companies in the registration process
Poll Question 2

Question: Has the pandemic changed your IP strategy for SE Asia or China?

A. Yes
B. No
C. Not yet but may do
Lead up to pandemic -

- growing awareness of IPR
- steady upgrading of IPR regimes
- IPR increasingly seen as key to innovation
- moving towards the online market
- an increase in counterfeit products
- cyber-theft of trade secrets
- technology transfer issues in some markets
- bad faith brand registrations
Shut-down & Measures to Re-start in SE Asia

- Brunei IPO will only accept documents, filing submissions and payments.
- Cambodia expands e-filing of Trademarks
- Indonesia - online channels for IP matters
- Laos easing business resumption conditions
- Malaysian IPO limited opening
- Myanmar 50% staff at gov offices
- Philippines IPO operating now & courts accessible for docs
- Singapore IPO online access only
- Thailand IPO receiving applications
- Vietnam IPO open for applications
Shut-down & Measures to Re-start in China

- **Covid-19: 10 Measures to Support Business Resumption include:**
  1. Promotion of online services provided by national authorities
  2. Simplification & streamlining of regular procedures
  3. Immediate address of urgent issues
  4. Reduction of costs and burdens
  5. Provision of technical assistance & support

- CNIPA priority patent / trademark registration for coronavirus fighting products
- Fast-track registration of patents / trademarks for new business projects for companies resuming work & production

Cyber-security issues

Trademark infringers using copyright

Often via e-commerce platforms
Difficult to remove a copyright registration
Court decision mandatory
What’s it like on the ground
Is it time to diversify?

- **Changes / opportunities in the supply chain: is covid-19 a sign for companies to diversify?**
  - Will changing suppliers affect your IP?
  - Diversifying should not mean diluting IP
- **how to get your IP portfolio ready?**
  - Identify IP & link to business plans
  - Prioritize & cover online IP
  - Check local rules & register
- **the new “normal” (virtual trade fairs)**
Use the system:
Register, register, register
Include local language trademarks & copyright
Growing impact of cyber security
Thanks for your attention

Questions?

# SEA Helpdesk – Upcoming Webinar

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<tr>
<td>Fri 3 July</td>
<td><strong>Webinar: Counterfeiting and Brand Protection during COVID-19 in Myanmar</strong></td>
<td>Yuwadee Thean-ngarm Tilleke &amp; Gibbins in Myanmar</td>
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Thank you for your attention!
Stay connected!