

## New Threshold for IP Cases to Be Deemed Special Cases under Jurisdiction of Thailand's DSI

On 5<sup>th</sup> February 2019, the Announcement of the Special Cases Board on Criteria for Offenses To Be Deemed Special Cases under the Jurisdiction of the Department of Special Investigation (“**DSI**”) No. 7 B.E. 2562 (A.D. 2019) (“**Announcement**”) was published in the Royal Gazette. The Announcement has become effective on and from 6<sup>th</sup> February 2019.

Under the Announcement, the new conditions and criteria have been established for the criminal offenses to be deemed special cases under the jurisdiction of the DSI. These new conditions and criteria include a new financial threshold for trademark, copyright and patent infringement cases to be handled by the DSI.

Previously, the Board only set the requirement that for an IP case to be under the jurisdiction of the DSI, it must be brought under one of the provisions specified in the Announcement of the Special Cases Board No. 4 B.E. 2554 (A.D. 2011) with consideration on merits by the Special Cases Board and with the approval from the Director-General of the DSI but there had never been a financial threshold for the IP infringement cases to be handled by the DSI.

According to this new Announcement, the DSI is empowered to accept and act on complaints for IP criminal cases only if an alleged offender operates, or is reasonably believe to operate, a facility for manufacturing, selling, purchasing and/or storing or importing into Thailand goods which are possessed for use in offense, acquired from the offense or the possession of which is an offense, provided that the total market value of such articles or the amount of damages reasonably expected to be incurred for the offenses exceeds THB10 million.

If there is any dispute whether any case meets the criteria and conditions to be deemed a special case under the jurisdiction of the DSI or not, such dispute will be resolved and determined by the Special Cases Board.

The pending cases which are currently under investigations and executions by the DSI or under consideration of the DSI before the effective date of this new Announcement will continue to be handled by DSI as special cases until the cases are final despite the fact that some of them may not meet the criteria under this new Announcement.

Under this new Announcement, if IP owners cannot sufficiently prove that their cases meet the new criteria and conditions, they will need to pursue their cases through the police instead of the DSI.



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