

A stylized, dark brown map of South-East Asia is centered on the page. The map is composed of many small, irregular polygons, giving it a low-poly or mosaic appearance. Concentric dotted circles are drawn around the map, centered on the Indonesian archipelago. The background of the entire page is a light brown color with a subtle, larger-scale version of the low-poly pattern.

# Annual Work Plan

## Year 2 - 2019

[www.ipkey.eu](http://www.ipkey.eu)



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## Annual Work Plan for 2019

The IP Key South East Asia action was designed to support the Free Trade Agreement (FTA) talks and Intellectual Property Dialogues of the European Union with its South East Asia (SEA) trading partners, by helping countries address specific emerging challenges in the area of IP that also affect EU businesses and stakeholders, and which stem from policy agendas and priorities laid out by the SEA countries.

In this context, IP Key SEA will act at the bilateral level to provide technical expertise to SEA countries in developing IPR rules and regulations that are consistent with international standards and global best practices, establishing systems to facilitate high quality and expeditious processing for the registration of IP rights and their effective enforcement, and will provide support for accession to international agreements that are included in EU FTA chapters.

The Action is focused on seven (7) concrete results, as follows: (1) FTA negotiations supported effectively; (2) IP dialogues supported effectively; (3) FTA implementation supported effectively, (4) Enhanced capacity of IP authorities; (5) Registration practices and tools modernized; (6) Awareness raised on IP protection and enforcement; and (7) Information management system and document repository is established.

To contribute to achieving the results, the AWP2-2019 covers an implementation period of 12 months, from 01 January to 31 December 2019, and consists of 25 activities. The activities were identified through a comprehensive consultation process with European and South East Asia IP stakeholders, various departments and agencies of the European Commission, and the respective government agencies and IP Offices of the South East Asia countries.

The activities included under the AWP 2 were developed in line with priorities on intellectual property rights in Southeast Asia, with a comprehensive coverage of the different IPRs, and adopting a balanced geographical scope. To ensure ownership and acceptance of the partner countries from SEA of the activities and sustainability of results, this AWP2-2019 combines both EU-driven activities and activities that are of mutual interest to both the EU and the SEA partner countries and organisations and institutions in the target countries.



## Abstract of Activities

### ACTIVITY 1

#### **EXCHANGE OF BEST PRACTICES ON ONLINE IPR INFRINGEMENT AND THE RESPONSIBILITY OF INTERMEDIARY SERVICE PROVIDERS**

Despite increasing legislation worldwide, IPR infringement has reached unprecedented levels, facilitated in particular by digital technology that allows low-cost, high quality reproduction in bulk. SEA countries have sought to address this problem through legislation that focuses on copyright and online infringements, including those that deal with the responsibilities of Intermediary Service Providers (ISPs). Where such a legal framework exists, it should also be carefully considered whether the provisions relating to the liability of ISPs sufficiently take into consideration their different roles and technical capabilities in addressing online infringements. In this regard, IP Key SEA will organize activities to enable international experts, private stakeholders, and IP authorities to share their experiences and exchange best practices on establishing and implementing an effective legal framework for addressing online IPR infringements.

### ACTIVITY 2

#### **SUPPORT FOR THE ENHANCEMENT OF PROTECTION AND REGISTRATION SYSTEMS FOR GEOGRAPHICAL INDICATIONS**

Geographical Indications constitute a genuine interest for both producers and consumers as they unlock value by capitalizing on the diversity and quality of products. By denoting origin and quality, GIs have potentially positive implications for generating livelihood and income especially for small local producers. The promotion of rural development, generation of employment opportunities, and the creation of new industries are also among the benefits that have been associated with an effective GI protection system. To maximize these benefits, countries continue to enhance their GI protection systems, and the IP Key SEA project will support such initiatives. Such support includes the provision of technical expertise to collaborate with SEA GI authorities and make recommendations based on international best practices. As the protection of GIs matters economically and culturally, EU supports the efforts of the SEA countries to enhance their GI protection systems so that farmers and producers can take advantage of the opportunities that the protection and familiarity of GI products can bring.



<b>ACTIVITY 3</b>	<b>SUPPORT TO SEA PRODUCERS IN CONFORMING WITH INTERNATIONAL STANDARDS FOR GI PRODUCTS</b>
<p>South East Asian countries continue to recognize the benefits that an effective GI system could provide for local farmers and producers and have sought ways to promote the recognition and commercialization of their GIs locally and abroad. Ensuring that GI products from SEA countries are able to enter international markets, particularly in the EU, requires conformity to prevailing international standards so that their registration and protection could be facilitated. This will also contribute to promoting the <i>sui generis</i> GI protection system. For this purpose, the IP Key SEA project will support the identification and evaluation of SEA GIs that may be entitled for registration in the EU. Showcasing the potential mutual trade benefits of an effective GI protection system, the activity will also establish a platform for pairing complementary EU GI products with SEA GI products.</p>	

<b>ACTIVITY 4</b>	<b>CONFERENCE ON GEOGRAPHICAL INDICATIONS AND THE LISBON AGREEMENT (GENEVA ACT)</b>
<p>An effective GI system in the SEA countries primarily ensures protection for domestic products against imitation and the usurpation of their reputation, while also encouraging international trade in such products on account of the assurance that they are provided adequate protection when exported to the SEA region. On account of the increasing global trade in GIs, international frameworks are also in place to facilitate the recognition and grant of protection of one country's GIs in that of another. IP Key SEA will support the participation of SEA authorities in the conference on GIs and the Lisbon Agreement (Geneva Act) to be organized in the EU to provide information on the features of the new agreement as a way to promote the increased participation of SEA countries in the international framework for the grant of GI protection. A Study Visit on GIs for the officials from SEA countries will then be organized back-to-back with the Conference as a soft advocacy activity to promote the benefits of an effective <i>sui generis</i> GI system to SEA countries, specifically their GI producers and SMEs.</p>	



<b>ACTIVITY 5</b>	<b>SUPPORT THE PREPARATIONS FOR ACCESSION TO THE UPOV CONVENTION AND COLLABORATION WITH THE CPVO AND UPOV</b>
<p>Plant Variety Protection (PVP), which is also known as Plant Breeder’s Right or PBR is an intellectual property right granted to farmers or breeders of new plant varieties. PVP systems in SEA is an area that needs further development, including accession to the International Convention for the Protection of New Varieties of Plants (UPOV Convention, 1991). This activity seeks to promote accession by the SEA countries to the UPOV Convention by improving awareness and understanding among SEA PVP authorities on the benefits and mechanisms for the protection of plant varieties. IP Key SEA will collaborate with the UPOV, CPVO, and other partners in organizing this activity, which will also provide an opportunity for discussions among EU, SEA, and other PVP experts, including PVP and government authorities and stakeholders in SEA countries on the benefits of membership in the UPOV Convention.</p>	

<b>ACTIVITY 6</b>	<b>STUDY VISIT BY SEA PLANT VARIETY AUTHORITIES TO THE CPVO AND TESTING/EXAMINATION OFFICES IN THE EU</b>
<p>The levels of development of the plant variety protection systems in the SEA countries vary in each jurisdiction, and much needs to be done in order to bring these systems of protection closer to international standards for the benefit of stakeholders. There is a need for authorities in SEA countries to gain first-hand a better understanding of the benefits of plant variety protection system to farmers and plant breeders and the best practices applied in operation of effective examination offices. To serve as a platform for the presentation of international best practices in the administration and enforcement of plant variety protection regimes, the activity will entail a study visit to the Community Plant Variety Office (CPVO) and to the office of GEVES (Variety and Seed Study and Control Group) both located in Angers, France, and to the Naktuinbouw or the Netherlands Inspection Service for Horticulture located in Roelofarendsveen, the Netherlands. The activity also supports accession to the UPOV Convention.</p>	





<b>ACTIVITY 7</b>	<b>EXCHANGE OF BEST PRACTICES IN PROMOTING TRANSPARENCY, ACCOUNTABILITY, AND GOOD GOVERNANCE OF COLLECTIVE MANAGEMENT ORGANIZATIONS (CMOs)</b>
<p>The effective enforcement of copyright and related rights is directly related to the efficient operations of Collective Management Organizations (CMOs). Such organizations significantly contribute to promoting the availability of works and other copyright protected subject matter, as well as the transfer of royalties for the use of such works, thereby ensuring that rights holders are able to reap the economic benefits made available to them by the copyright system. In light of this important role of CMOs in a well-functioning copyright system, IP Key SEA will organize activities to promote the exchange of best practices in the operations of such organizations. Representatives from CMOs, copyright owners themselves, and international policy experts will be invited to share their experiences and insights on promoting good practices for CMOs, including in the aspects of transparency, accountability, and good governance. The activity will also promote networking and dialogue between CMOs in order to facilitate cross-border cooperation.</p>	

<b>ACTIVITY 8</b>	<b>SEA TRADEMARKS CONFERENCE</b>
<p>This activity will be a conference for IP authorities in SEA countries covering including well-known trademarks, protection and examination of non-traditional trademarks, the prevention of bad faith registrations, and relationship between trademarks and geographical indications. The conference will also cover EU's practices relating to the examination of sound marks, position marks, motion marks, holograms, three-dimensional marks. Jurisprudence and best practices addressing bad faith trademark registrations and how these negatively impact trademark owners, trends in bad faith filings, and case studies on opposition and invalidation proceedings will also be covered by the conference. A discussion of the use of the EUIPO IT tools and databases will also be included to increase the utilization of such tools, which could contribute to the quality of trademark applications and registrations in the SEA countries.</p>	



<b>ACTIVITY 9</b>	<b>TECHNICAL EXPERTISE AND ASSISTANCE FOR FREE TRADE AGREEMENT NEGOTIATIONS AND IP DIALOGUES</b>
<p>As the IP Key SEA Action is designed to facilitate FTA negotiations and IP Dialogues, the project will provide technical expertise and assistance geared towards strengthening knowledge-based policy making in SEA countries through the conduct of IP studies and other forms of assistance as may be needed. This activity would cover initiatives identified with FTA partner countries in SEA, such as reports, studies, seminars, or meetings, among others, which could be useful in ensuring positive results from the negotiations and dialogues.</p>	

<b>ACTIVITY 10</b>	<b>SEMINAR ON OBTAINING PATENT PROTECTION IN EUROPE AND SEA COUNTRIES</b>
<p>Obtaining patent protection is a crucial aspect of business in the modern global economy, as patent portfolios increasingly become an important indicator of the economic strength and growth potential of a company. For companies owning patents and doing business in Southeast Asia, as well as SEA inventors wishing to create long-term value by either finding investors in the EU or licensing patents at a later date, information about the procedures involved in securing patent protection in both regions is crucial to their business strategy. In this context, EU companies doing business in SEA may need to enhance their knowledge of the respective national patent systems, in order to approach the local markets with adequate confidence. Domestic companies from the SEA countries may also benefit from obtaining information about the EU patent framework, procedures, and practices, as well as how the European Patent Office (EPO) tackles some common issues in light of international best practices. For this purpose, roving seminars will be organized by IP Key SEA in partnership with the EPO and the SEA National IP/Patent Offices in order to share information with EU and SEA businesses, as well as patent professionals and other stakeholders, on these aspects.</p>	



<b>ACTIVITY 11</b>	<b>SUPPORT AND ASSISTANCE FOR THE IMPLEMENTATION OF FREE TRADE AGREEMENTS</b>
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Following the conclusion of Free Trade Agreements, the IP Key SEA Action will provide support and assistance for the implementation of the IPR-related commitments undertaken by the SEA countries. To define specific activities, consultations will be conducted with the relevant government agencies and stakeholders. Indicative activities include studies, seminars, and peer-to-peer meetings that would identify the needs of SEA countries and facilitate the implementation of their FTA commitments.

<b>ACTIVITY 12</b>	<b>WORKSHOP ON THE EXTENSION OF EU PRACTICES IN TRADEMARKS AND INDUSTRIAL DESIGNS TO SEA COUNTRIES</b>
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The exchange or extension of best practices to non-EU IP Offices is expected to give trademark and design stakeholders and businesses a higher level of certainty when their applications in SEA IP Offices are examined. The adoption of these standards and best practices can be pursued through the updating of the *Common Guidelines on Substantive Trademark Examination* already being used and the *Common Guidelines on the Examination and Registration of Industrial Designs* which was adopted recently by SEA IP Offices. These guidelines need to be reviewed and updated to cover the following areas, among others:

- Absolute grounds for refusal for figurative trademarks with purely descriptive words or expressions;
- Scope of protection of trademarks exclusively in black, white and/or shades of grey;
- Relative Grounds – Likelihood of Confusion (Impact of non-distinctive/weak components); and
- Convergence on graphic representations of Designs.

<b>ACTIVITY 13</b>	<b>SUPPORT FOR THE DRAFTING OF TRADEMARK EXAMINATION GUIDELINES FOR VIET NAM</b>
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New regulations on trademark and patent procedures took effect in Viet Nam based on Circular No. 16/2016/TT-BKHCN issued by the Ministry of Science and Technology in January 2018. The regulations provide for important amendments to the procedures and practices to be observed in the examination and registration trademarks, particularly on the international registration of marks and the recognition of well-known trademarks. The activity will entail the provision of technical expertise to





conduct a review of the existing trademark laws and regulations of Viet Nam, including the relevant caselaw or jurisprudence. The activity will include consultation sessions among the technical expert/s and trademark examiners and officials of IP Viet Nam regarding the specific content, examples, and legal provisions to be cited in the guidelines. A review of the existing guidelines may also be undertaken, in order to assess the scope of updating that may be required. Once the guidelines have been adopted, trainings of trademark examiners, IP agents and practitioners, and trademark owners/users, including SMEs, may also be conducted.

**ACTIVITY 14**

**TRAIN-THE-TRAINERS PROGRAMME FOR PATENT EXAMINERS**

Enhancing the quality of patent examination results, shortening turnaround times, and decreasing backlogs have remained as common concerns of IPR stakeholders across SEA countries. As the capacities of patent examiners directly affect their productivity and performance, IP Key will seek to support its SEA partner countries through the adoption of a Train-the-Trainers approach based on establishing a unified “mentorship” program for patent examination. The activity will support the implementation of the EPO-Southeast Asia patent examiner coaching programme, with a view to ensuring the self-sustainability of the initiative as a future train-the-trainers programme of the participating countries. Under this activity, the SEA IPOs are aimed to be better equipped to conduct collective training for their newly recruited patent examiners.

**ACTIVITY 15**

**WORKSHOP ON IPR INFRINGEMENT DETECTION AND INVESTIGATION**

The successful prosecution and enforcement against IPR infringements is only made possible if there is effective detection and investigation of IPR crimes by law enforcement authorities. As new *modi operandi* are adopted by infringers to avoid arrest and prosecution, especially in the digital age, enforcement authorities need to update their skills and capacities on topics such as the use of forensics technology, conducting investigations in the online environment, and the preservation of digital evidence. Cross-border cooperation among law enforcement agencies and the sharing of information on enforcement best practices are likewise important initiatives



that contribute to the international effort to curb IP crimes. To this end, IP Key SEA will organize a workshop for police officers and investigators in SEA countries, where IPR law enforcement experts will share information on the best practices and tools related to IPR infringement detection and investigation.

**ACTIVITY 16**

**NATIONAL ROVING SEMINARS FOR POLICE AUTHORITIES ON IPR ENFORCEMENT**

Due to the surreptitious nature of IPR infringements, the production of IPR infringing goods would most likely be located in cities or provinces outside of the capitals of SEA countries. This effectively minimizes the cost of production, makes available large facilities for stocking and warehousing infringing products, and avoids detection by enforcement authorities unlike in highly inhabited cities. There is therefore a need to capacitate the law enforcement authorities, especially the police and criminal investigators, of the SEA countries located outside the respective capitals. In this regard, IP Key SEA will organize national roving seminars specifically targeted for police and investigators involved in IPR enforcement. This seminar will complement the capacity enhancement and awareness raising exercise for enforcement experts, but with a specific emphasis on provincial level police and investigation officials.

**ACTIVITY 17**

**SEMINAR ON IPR INFRINGEMENT INVOLVING COUNTERFEIT FAST-MOVING CONSUMER GOODS**

Fast-Moving Consumer Goods (FMCG) are categorized as products that are sold quickly or having a short shelf life, either as a result of high consumer demand or because the product deteriorates rapidly. The large quantities of FMCGs sold, low public awareness regarding counterfeiting, and non-deterrent penalties have become incentives for counterfeiters that aim to maximize cumulative profits while minimizing risks. The boom of e-commerce has further aggravated the movement of pirated and counterfeit FMCGs because the ease of online transactions has facilitated the shipment of fake products around the world, including Europe. To address these concerns, IP Key SEA will organize a seminar focused on addressing IPR infringements involving Fast-Moving Consumer Goods. The seminar will aim to emphasize the gravity and prevalence of the global traffic in infringing FMCGs, illustrate the overall impact of such trafficking on the



concerned industries as well as the economy as a whole, and share possible measures and technologies that could be adopted in order to address this problem.

<b>ACTIVITY 18</b>	<b>SEMINAR ON IPR BORDER CONTROL AND CUSTOMS ENFORCEMENT</b>
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The effective enforcement of IP rights is a key component of a well-functioning IP system, which is highly influenced by the level of engagement of local law enforcement authorities, especially customs officials. Access by rights holders to administrative remedies related to border control measures which authorize authorities to cause the detention of goods and products infringing specific IP rights is an important trade issue. These remedies are critical for IP rights holders to be able to enforce their rights at the borders, while at the same time facilitating international trade in legitimate products and goods. In view of the issues, IP Key SEA will continue to assist SEA countries in their initiatives for improving the capacities of their customs authorities. A workshop will be organized to discuss customs-related topics affecting IPRs, showcasing best practices in addressing the continuously evolving trends and *modi operandi* related to the cross-border trafficking of IP infringing goods, and introducing IT tools developed in order to facilitate IPR enforcement at the borders.

<b>ACTIVITY 19</b>	<b>SEMINAR FOR INDONESIAN JUDGES</b>
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This activity builds upon the Roundtable for Southeast Asian judges carried out in July 2018 under the IP Key SEA AWP1-2018. The seminar for judges in Indonesia will be organized to enhance the capacity and knowledge of the country’s commercial court judges tasked to handle IP cases. The seminar is expected to help them in the effective and expeditious adjudication of IPR cases. Topics for discussion may include: (1) special IP rules of procedure; (2) court organization, management, and efficiency measures; (3) backlog management; (4) sharing of EU decisions on IPR cases that may be interest to commercial court judges based on the type of cases filed in Indonesian courts. The activity is also aimed at encouraging the participants, who are critical actors in the effective enforcement and resolution of IP disputes in Indonesia, to continue to improve and expedite judicial enforcement for the benefit of rights holders



and to contribute to the continued enhancement of the IP regime in Indonesia.

<b>ACTIVITY 20</b>	<b>ROUNDTABLE DISCUSSION AMONG SEA JUDGES</b>
<p>This activity seeks to improve the quality of IPR decisions rendered by SEA judges and promote the expeditious disposition of IPR cases by enhancing their awareness of the latest jurisprudence and judicial enforcement best practices in the EU and in SEA. This will benefit businesses and rights holders in SEA that seek to avail themselves of judicial remedies against IPR infringement. The Activity will entail a study visit to the Central Intellectual Property and International Trade Court of Thailand. Senior SEA judges hearing IP cases will attend a public hearing at the Court to observe its proceedings first-hand. The two-day event will also feature a seminar on the most pressing IP adjudication issues being encountered by SEA judges. Aside from EU judges, prosecution experts will also be invited to bring more understanding to their role in stimulating and improving the coordination of investigations and prosecutions between the competent authorities.</p>	

<b>ACTIVITY 21</b>	<b>PARTICIPATION OF THE SEA COUNTRIES IN THE EUIPO IP MEDIATION CONFERENCE</b>
<p>The activity will support the participation of representatives from the SEA countries with existing IPR mediation systems in order to serve as a means for enhancing their capacity and promoting mediation as a viable alternative for IPR dispute resolution. The conference is a follow up to the IP Mediation Conference organized in 2014 and will include speakers from the SEA countries that have experienced success in implementing IPR mediation mechanisms. The programme will include topics on global trends in IP mediation, mediation practices in the different fields of IPR such as copyright and patents, IP court mediation, policies and mechanisms for domain name dispute resolutions, and the development and effective use of soft skills in resolving IP disputes. Mediation has proven its effectiveness in settling disputes and as a viable and cost-effective alternative to judicial proceedings. To promote the use of mediation as a mode of dispute settlement in non-EU countries, an exchange of best practices between EU and SEA mediation officials or mediators will be organized to share</p>	



experiences and best practices in mediating IP cases.

<b>ACTIVITY 22</b>	<b>IMPROVING LEGAL CERTAINTY FOR EUROPEAN ENTERPRISES THROUGH ENHANCED PATENT DATA EXCHANGE</b>
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The EU, through the EPO, has been leading the way in providing quality global patent information to its users, noting that such data presents a uniquely valuable resource that can help both businesses and policy makers in arriving at sound business and policy decisions. For researchers, innovators, and scientists, patent information is perceived to provide the most up to date and comprehensive volume of technical information in the world. For this purpose, the EPO continues to develop its patent information services by expanding its databases and making more data available to its users. IP Key SEA will then support the EPO's program that aims to improve the availability of, and access to, SEA patent information by enhancing the coverage, completeness, and quality of the patent data provided by the SEA IPOs to the regional patent database.

<b>ACTIVITY 23</b>	<b>SUPPORT FOR THE DRAFTING OF REGIONAL COMMON GUIDELINES FOR PATENT EXAMINATION</b>
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As patent backlog and patent-related issues rank high on the list of concerns of industries in a number of jurisdictions in SEA, common guidelines for patents may serve as a useful resource for businesses seeking protection in the SEA countries. The common guidelines would also support the approximation and convergence of patent examination standards and criteria applied by the participating IP offices, while serving as a practical training tool for SEA patent examiners and an essential reference material for professional advisors and patent agents. To this end, IP Key SEA together with EPO will support the drafting of the regional common guidelines for search and examination, which is aimed at enhancing the quality, consistency, and transparency of the examination work undertaken by the SEA patent offices.





<b>ACTIVITY 24</b>	<b>EU WORKSHOP AND ON-SITE TRAINING ON IT TOOLS FOR IP AUTHORITIES: TM VIEW, DESIGNVIEW, AND TMCLASS</b>
<p>The activity seeks to promote the continued utilization and effective maintenance of the EUIPO-developed IT tools by the SEA IP offices, which contribute to the increased efficiency and improved quality of IP services in the SEA countries, to the benefit EU businesses availing of such IP services in the target countries. To ensure the sustainability of the IT tools adopted by SEA IP Offices and support the uninterrupted and seamless data transmission to the EUIPO's TMview and Designview, there is a need for transfer of knowledge to SEA IT officials to enable them to maintain the tools. The activity will entail the organization of a workshop and hands-on training in the premises of the EUIPO in Alicante, Spain for the IP authorities of the SEA countries, to enable them to better administer and maintain the IT tools adopted by the IP Offices.</p>	

<b>ACTIVITY 25</b>	<b>SUPPORT FOR THE USE OF FRONT OFFICE TOOLS IN SEA COUNTRIES</b>
<p>The activity will entail the provision of IT expert support to the offices in the possible adaptation, deployment, and enhancement of front office tools in SEA countries. Remote IT support will be provided to the interested IP Offices in maintaining the tools to ensure their sustainability. The training to be provided to the SEA IT officials is expected to provide them with the capacity not only to maintain the front office tools but also adapt them for future use by the other SEA IP Offices, including the adaptation of the front office tools for the electronic version of the common trademark filing, and initiative related to the harmonization of formality requirements among SEA IP Offices.</p>	

