

Tips for protecting your brand in South-East Asia

Business in South-East Asia – the facts and figures

Economic growth in South-East Asia has been, and is likely to remain strong. As its economies have shifted from exports to a broader base of growth drivers, both consumption and investment in the region has soared¹.

Between 2015 and 2019, it is predicted that the ten ASEAN nations (Indonesia, Malaysia, the Philippines, Singapore, Thailand, Brunei Darussalam, Cambodia, Laos, Myanmar and Vietnam) will experience 5.6% GDP growth on average, with business fueling much of the growth in the region².

This region is increasingly attractive for international trade and foreign investment, due to rising domestic demand for foreign products. Among the most promising sectors for European companies in South-East Asia are electronics, automotive components, mechanical engineering (machinery), IT/software, food processing and leisure and tourism.

Why is IP relevant for my brand?

Many European companies originally moved to South-East Asia to take advantage of low-cost labour and raw materials. In recent years, however, they have started to expand into local domestic markets, set up franchises, establish R&D, engage in cooperative development, establish relationships with suppliers and develop long-term partnerships in key markets across the region.

Franchising is a business system for expanding sound businesses, based on a business model that is replicated through the creation of a network under the same brand name. This regularly involves transferring technologies and designs, sharing brand names and trade marks with joint-venture (JV) partners, and offering-up trade secrets (from distribution lists to marketing strategies) with local companies. This leaves European companies open to potential infringement and brand dilution. If a company's well-reputed brand is hijacked by another company, this can cost a company its reputation, and a significant amount of money to restore – if this is indeed possible.

¹ OECD, *Economic Outlook for Southeast Asia, China and India: Strengthening Institutional Capacity* (2015).

² Ibid

How to protect your IP in South-East Asia

- **Swat-up on local IP:** Taking time to inform yourself on IP regulations in your destination country can help you exploit business opportunities and avoid pitfalls of local laws and regulations. If handled correctly, IP assets can offer increased commercialisation, income generation and value-adding opportunities.
- **Don't assume your IP in South-East Asia is covered by European law:** In South-East Asia, in order to protect your trade mark, registration is required. Certain ASEAN countries, such as Singapore, protect unregistered trade marks based on laws which protect rights against passing off (i.e. someone misrepresenting their goods or services as being affiliated with your brand, even if your trade mark is not registered but has built up a reputation and goodwill) or rights against unfair competition. However, these countries may not always be quick or keen to put such laws into practice.³
- **Understand your company's IP needs:** It is crucial that companies, particularly SMEs, clearly understand the aspects of their business that constitute IP and identify their IP assets accordingly before entering a new market. Remember – IP includes more than just technology related inventions. A restaurant or a shop's branding, down to the colour and style of its furniture, wall colour and window dressing, constitutes an integral part of its external image. This is part of what sets it apart from its competitors.
- **Be prepared to enforce your rights:** Entering a new market and protecting IPRs sometimes means being ready to enforce or defend rights in order to ensure that business objectives are met. Defending your IP rights can prevent brand dilution further down the line. Before enforcement action, several steps are recommended. These are listed in the following South-East Asia IPR SME Helpdesk guide: [Using Contracts to Protect Your Intellectual Property](#).
- **Franchising:** The franchise business model is widespread in Southeast Asia, particularly in Singapore, Thailand, Malaysia and Indonesia. Develop a strong franchising strategy. Jollibee Food Corporation (JFC), one of the Philippines' largest fast food restaurant chains, stipulates that franchising applicants undergo a three month training programme and must conform to specific franchising guidelines in order to be able to operate a Jollibee restaurant. This ensures that franchises uphold the same high standards that JFC promotes. Franchise agreements should contain clauses that license the use of a company's IP (usually trade marks, trade secrets and certain copyright work) to the franchisee. The clauses must be carefully drafted to cover all anticipated use by the franchisee, but also to ensure good quality control within the franchise.

See our [IP Country Factsheets](#) and our [Guide to Trade Mark Protection in South-East Asia for](#) more information about brand protection and franchising in South-East Asia.

³ <http://bit.ly/1KK14Qb>

The **South-East Asia IPR SME Helpdesk** supports small and medium sized enterprises (SMEs) from European Union (EU) member states to protect and enforce their Intellectual Property Rights (IPR) in or relating to South-East Asian countries, through the provision of **free information and services**. The Helpdesk provides jargon-free, first-line, confidential advice on intellectual property and related issues, along with training events, materials and online resources. Individual SMEs and SME intermediaries can submit their IPR queries via email (question@southeastasia-iprhelpdesk.eu) and gain access to a panel of experts, in order to receive **free and confidential first-line advice** within **3 working days**.

The South-East Asia IPR SME Helpdesk is co-funded by the European Union.

To learn more about the South-East Asia IPR SME Helpdesk and any aspect of intellectual property rights in South-East Asia, please visit our online portal at <http://www.ipr-hub.eu/>.