

ABSTRACT

The purpose of establishing the Intellectual Property and International Trade Court is in accordance with the footnote appended to the Act for the Establishment of and Procedure for Intellectual Property and International Trade Court B.E. 2539 (1996) as follows:

“Whereas intellectual property and international trade cases are of certain specific features – different from general criminal and civil cases – the adjudication of which requires both career judges and external persons who possess competent knowledge of the matters relating to intellectual property and international trade in order to ensure more expediency and efficiency, it deems appropriate to establish the Intellectual Property and International Trade Court with a view to adjudicating intellectual property and international trade cases specifically and well equipped with special procedure so as to ensure more convenience, expediency and fairness.”

The external persons participating in the adjudication of the intellectual property and international trade cases are called the associate judges who jointly play the role in both civil and criminal cases. As designed by the Act for the Establishment of and Procedure for Intellectual Property and International Trade Court B.E. 2539 (1996), this regime aims at their considerable expertise in the adjudication of every intellectual property and international trade case so as to ensure legality and equity in accordance with international treat. Where the associate judges are entrusted with the criminal cases in relation to copyrights, patents and trademarks, such intention, however, has not yet been entirely accomplished on the grounds that most cases neither require any substantial expertness nor contain any specialization issues for the associate judges to decide at all. The significant matter for the court to scrutinize and decide a criminal action must be the exact facts relevant to the charge – the issues to be decided by the career judges only. Therefore, it is implied that the associate judges have no actual role in deciding all criminal cases with respect to copyrights, patents and trademarks because these cases require no professionalism.