

S.E.A. View

Asean a model for IP cooperation

Good international ties important for innovation in intellectual property sector

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It is often taken for granted that robust intellectual property laws are fundamental to the success of innovation. In contrast, it is not widely acknowledged that relationships between nations also play a critical role.

Fractious ties between nations are not conducive to the effective development and enforcement of intellectual property (IP) laws. A stalled Trans-Pacific Partnership, or even Brexit, can be harmful to progress on multilateral

initiatives. In the near term, harmonisation is off the table.

Achieving interoperability in IP the “Asean way” may be more realistic as a new paradigm for strengthening international relations. The Asean way involves cooperation, non-interference and mutual respect for national sovereignty to pursue diverse priorities, and at the same time, a desire to move forward together in a cooperative manner while giving due recognition to the different levels of development. This is the subject of our new book *International Intellectual Property And The Asean Way: Pathways To Interoperability*.

The objective of interoperability is to secure national cooperation to enhance operational outcomes of IP in the administrative, legislative, judicial and enforcement spheres.

This is highly attainable in Asean. Having acceded to the World Trade Organisation, every Asean member agrees to adhere to the standards imposed under the Agreement on Trade-Related Aspects of Intellectual Property Rights.

The development of IP along internationally accepted principles has emerged as a policy priority to enhance competitiveness of the Asean Economic Community (AEC) and to improve IP owners’ access to overseas markets.

The initial efforts in the 1990s and 2000s to forge common regional IP profiles in Asean encountered numerous setbacks.

Fortunately, the acceleration of the AEC integration culminated in a new Asean Intellectual Property Action Plan (2011–2015) that permitted greater flexibility in the process of IP integration.

That was quickly followed by the introduction of the Asean Intellectual Property Rights Action Plan (2016–2025) which set “new” strategies for technology transfers

and expansion of technological capabilities in the AEC.

The primary goal of this 10-year plan is the promotion of cross-border trade and investment. Some of the key strategies to achieve this are: create a more robust Asean IP system; develop regional IP platforms and infrastructures; promote an inclusive Asean IP ecosystem; and stimulate asset creation and commercialisation.

The action plans include the establishment of regional IP platforms and infrastructure for the exchange of data among member states to boost technical and procedural convergence of national IP laws within the AEC framework. The regional IP offices are expected to deepen sectoral engagements.

The plan re-emphasised teamwork and collective responsibility within the AEC. Country “champions” lead specific initiatives with well-defined deliverables and detailed performance indicators.

For example, the Philippines focuses on IP enforcement, while Indonesia, Laos and Vietnam are leaders in genetic resource, traditional knowledge and traditional cultural expression. Thailand and Indonesia are joint leaders in the establishment of an Asean Copyright Notification/Recordation Network.

Of course, IP is not the only matter on the Asean interoperability agenda. It has also pursued other complementary pathways to facilitate inter-agency dialogue and cooperation.

An example is the establishment of the Council of Asean Chief Justices to promote collaboration among the region’s court systems and share best practices in the administration of justice.

There are also work plans on e-commerce and good regulatory practices to support regional trade liberalisation and uphold freer movements of goods within Asean.

Also, a National Trade Repository will be established by all Asean

states, with the goal of forming a collective Asean Trade Repository. This will function as a one-stop online database of information on Asean trade and Customs.

As long as the desired outcomes of deeper harmonisation of law and practices remain elusive, the Asean interoperability model may provide useful insights for other countries that value national cooperation without jeopardising domestic IP policy imperatives.

And the interoperability agenda can extend beyond Asean to other settings, such as the judicial processes of private international law and cross-border enforcement.

While affirming the merit of harmonisation, the interoperability agenda of cooperation is a pragmatic solution to the regional and global integration of IP laws.

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