

本文の複製、転載、改変、再配布を禁止します。

Tilleke & Gibbins

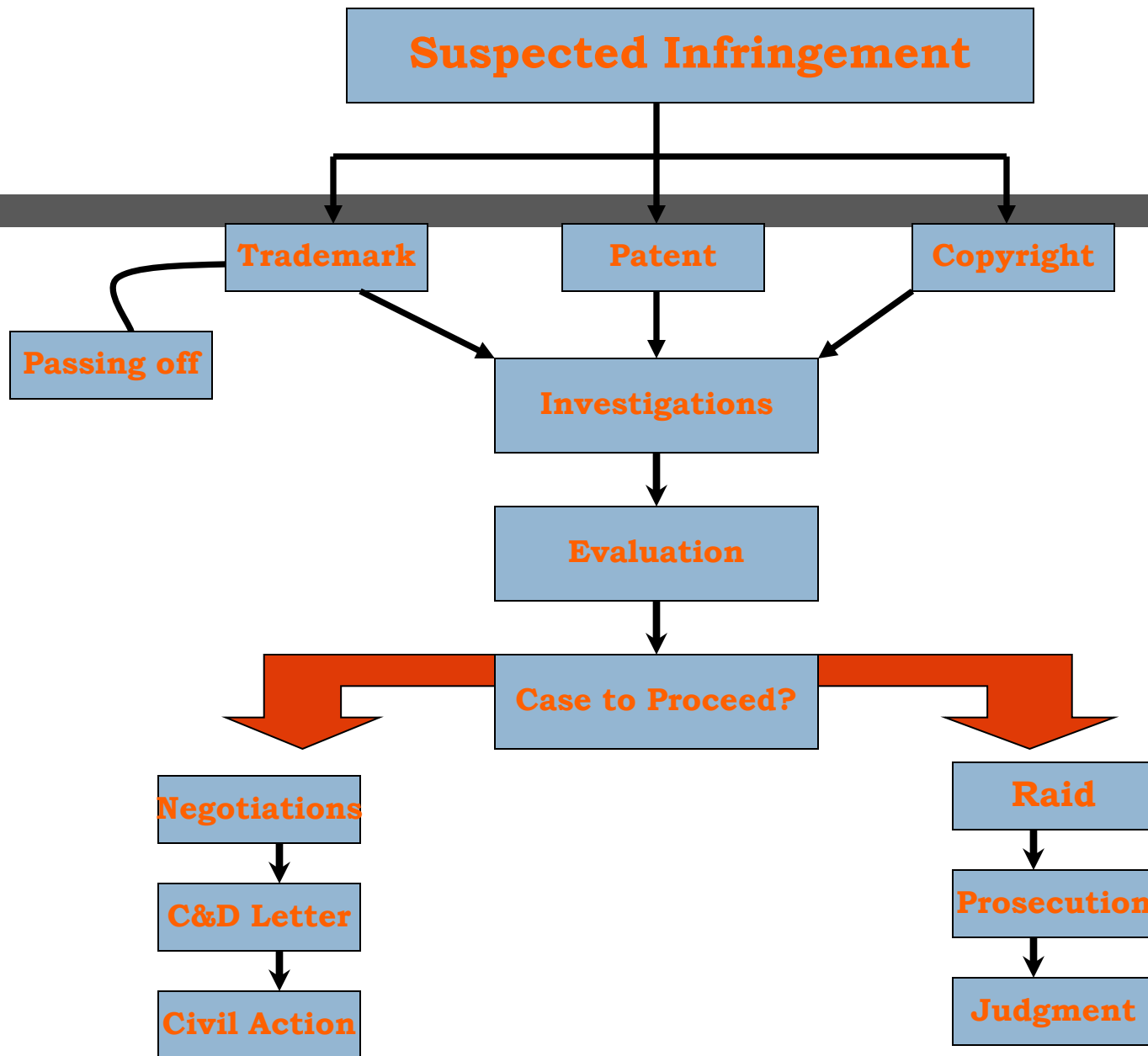
Bangkok | Hanoi | Ho Chi Minh City

IP Litigation



Our Practice

- ❑ Patents
- ❑ Trademarks
- ❑ Copyrights
- ❑ Trade secrets
- ❑ Trade names
- ❑ Infringement
- ❑ Invalidity & Cancellation
- ❑ Appeals of decisions by the Board of Trademarks and Board of Patents
- ❑ Other commercial disputes involving IP assets such as franchising and distributorship.
- ❑ Anton Piller Orders & Emergency Injunctions



Criminal Action



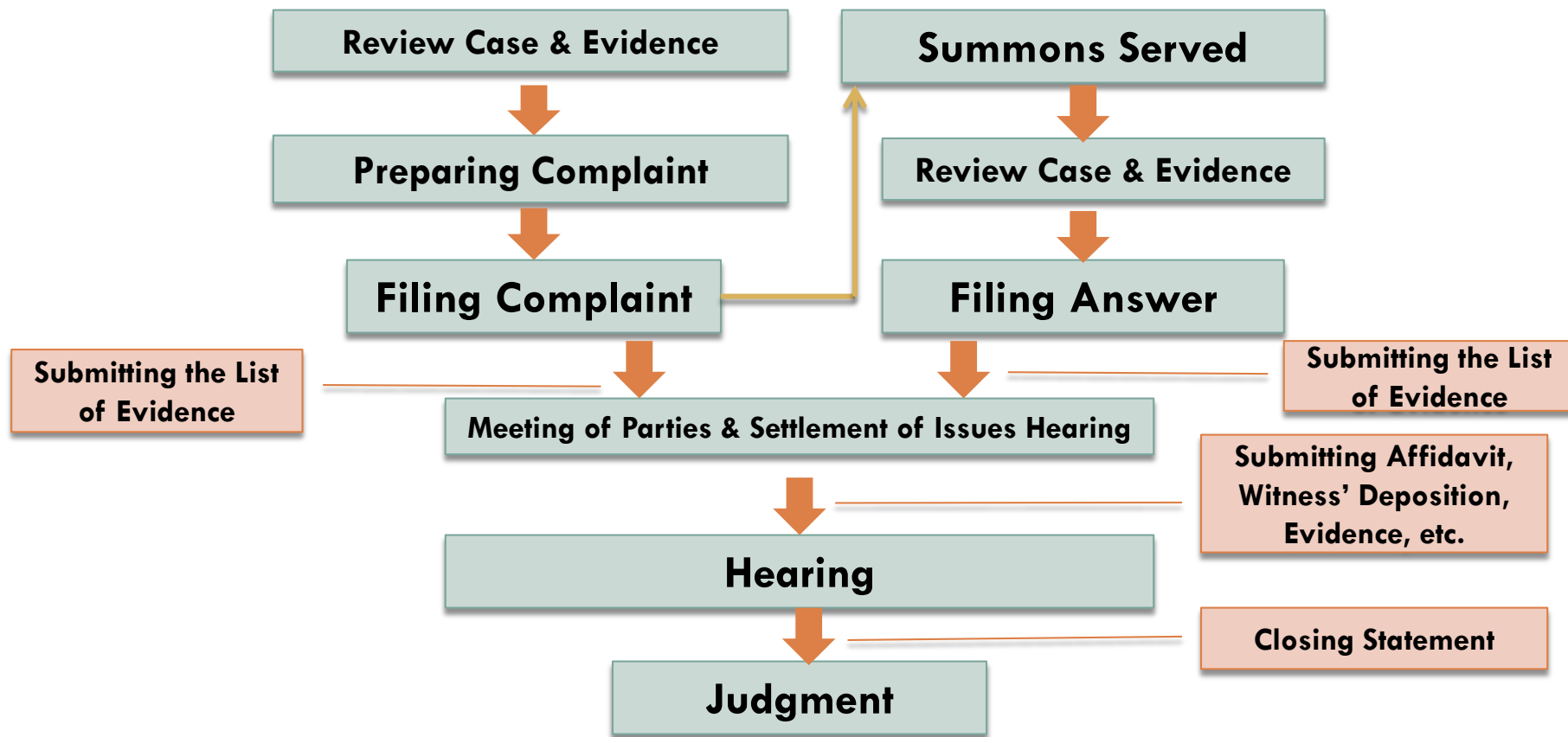
Raid

Seize

Judgment

Destruction

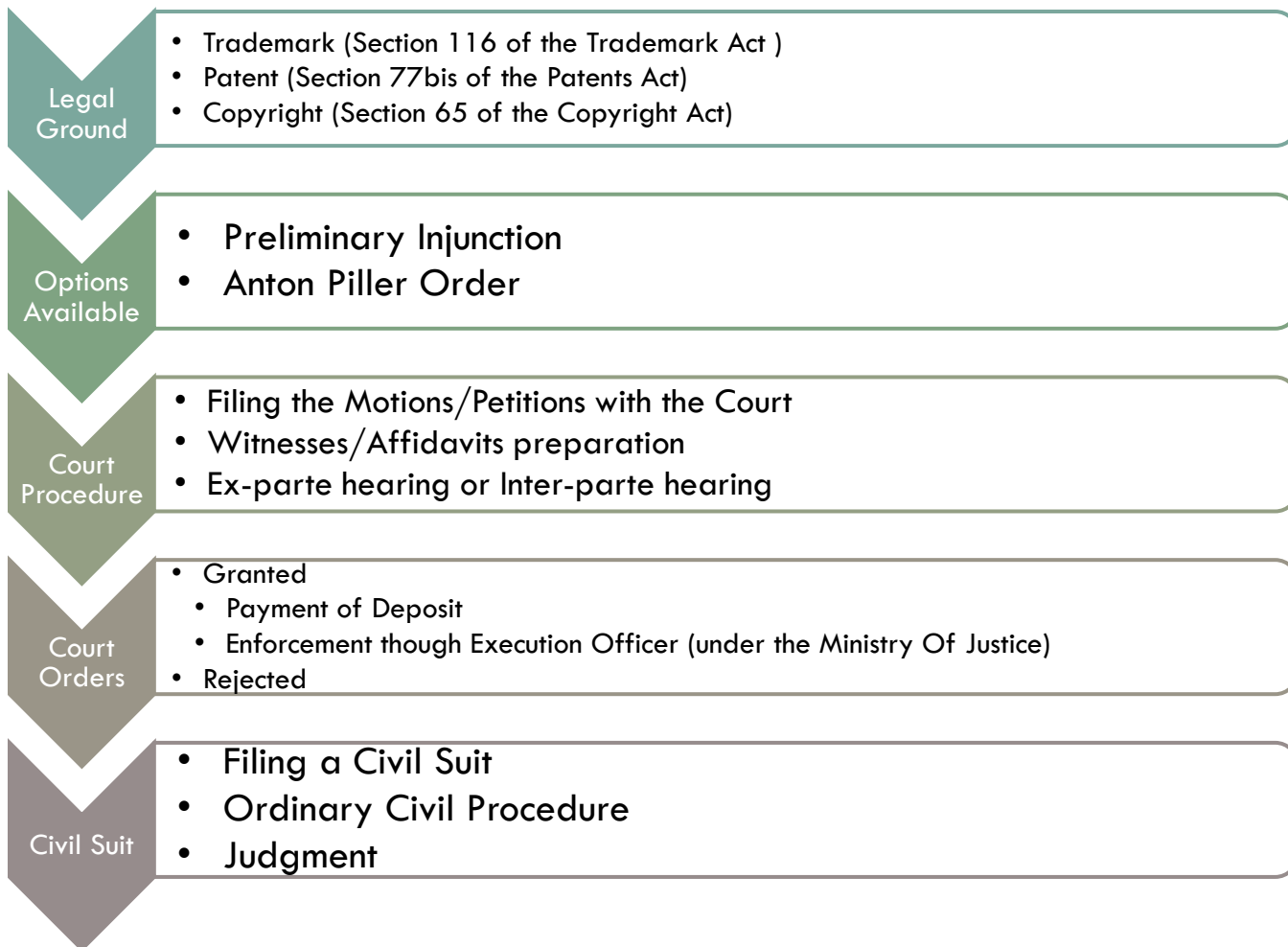
Civil Litigation



Injunctive Relief Option



A Good, But Not A Supreme Court.



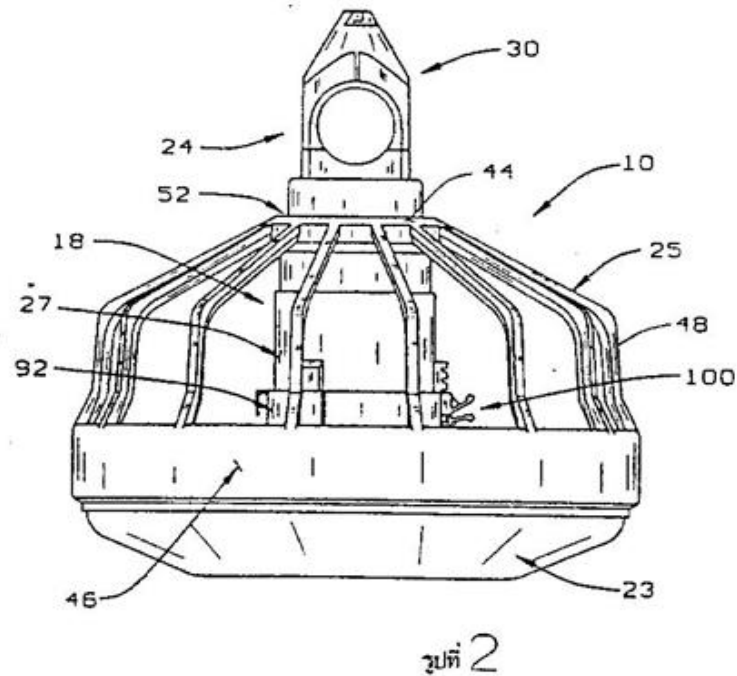
Case Examples - GSI

GSI Group, Inc. v. Almin Enterprises Co., Ltd., Alminco Agro-Development Corp, and Navakit Group Co., Ltd.

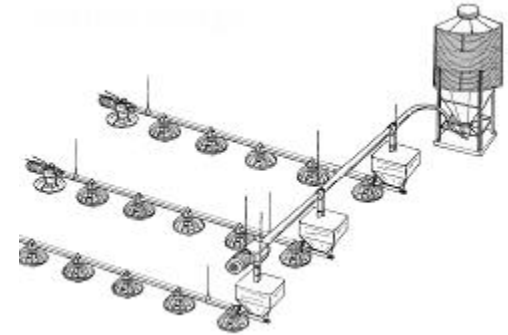
■ **Background**

- GSI Group owns a registered Thai patent for a “*poultry feeder*”.
- In 2001, GSI became concerned that the defendants were planning to display an infringing poultry feeder at the Bangkok Poultry Show.
- The alleged infringer would only be in Thailand for the three days of the exhibition before moving on to Singapore and they had no property in Thailand.
- The alleged infringer ignored a strong warning letter sent by GSI’s legal representative.

Case Examples - GSI



"POULTRY FEEDER"
TH Patent No. 9634



Infringing Products

Case Examples - GSI

GSI Group, Inc. v. Almin Enterprises Co., Ltd., Alminco Agro-Development Corp, and Navakit Group Co., Ltd.

□ **Legal Actions**

- GSI Group quickly prepared and filed a motion requesting a preventative injunction with the IP&IT Court, requesting the Court to order the infringers to desist from selling, offering for sale or importing into the Kingdom the patented products.
- At the same time, they submitted a motion to the Court requesting taking of evidence in advance (Anton Piller Order).
- Ex-parte Hearing had been conducted.
- 24 hours after the motions were filed, the Court granted the plaintiff's request.

Case Examples - GSI

GSI Group, Inc. v. Almin Enterprises Co., Ltd., Alminco Agro-Development Corp, and Navakit Group Co., Ltd.

□ **Getting the Orders**

- **Writ of Prohibition (Preventative Injunction):** Ordering the infringer to refrain manufacturing and distributing, displaying, and importing into the Kingdom of the infringing products.
- **Writ of seizure (Anton Piller Order):** The infringing feeder was seized.
- **Deposit:** The Court ordered the plaintiff to provide a security deposit of THB_{200,000} (\$5,050) against possible damages.
- **Actions:** T&G litigation team served the Court's order and injunction on the infringer's representatives, and four sets of infringing feeders were seized from Alminco's booths at the exhibition.

Case Examples - GSI

GSI Group, Inc. v. Almin Enterprises Co., Ltd., Alminco Agro-Development Corp, and Navakit Group Co., Ltd.

■ **Follow on Civil Suit**

- GSI Group then filed a civil suit for patent infringement against Almin, Alminco and Navakit with the IP&IT Court.
- In 2003, the Court ruled in favour of the plaintiff on the grounds that the defendants' products infringed the plaintiff's Thai patent. It ordered Almin and Navakit to cease manufacturing and importing any infringing products. It also ordered them to pay damages, court and legal fees to the plaintiff.
- In 2007, the Supreme Court rendered the Judgment affirming the IP&IT Court Judgment.

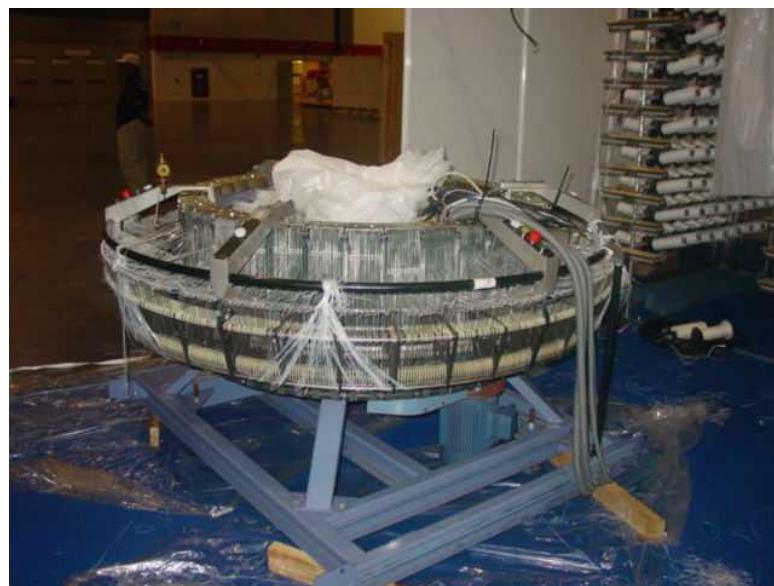
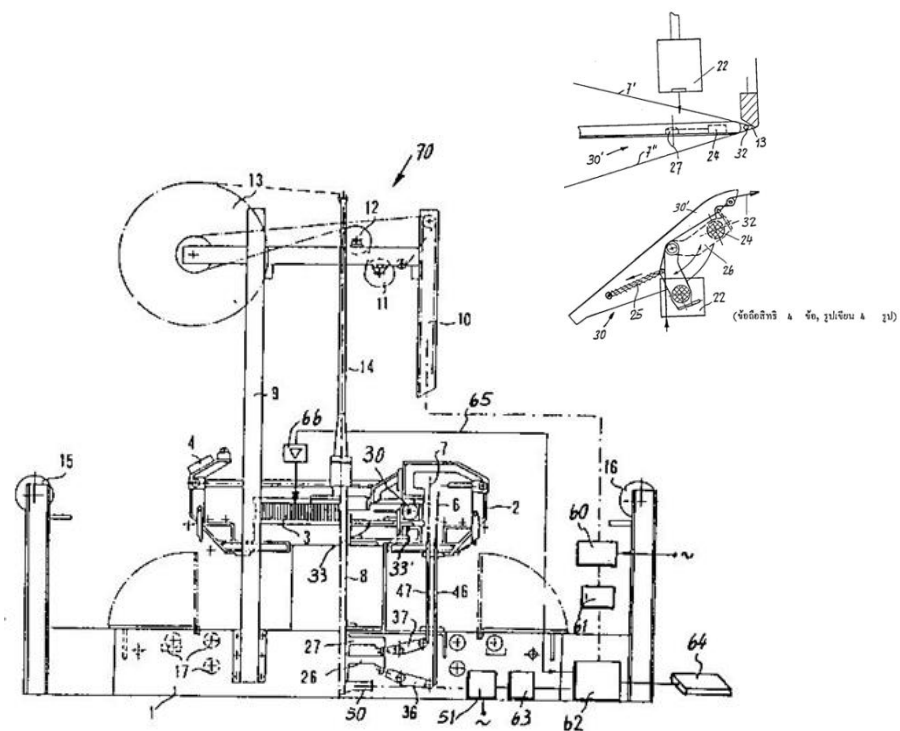
Case Examples - Starlinger

Starlinger & Co Gesellschaft mbH v. Changzhou Hengli Machinery Co., Ltd. And Multi-Tech (Thailand) Co., Ltd.

□ Background

- Starlinger owns a registered Thai Patent for “*A fabric draw off device in a circular loom.*”
- In 2004, on the first day of a four day exhibition Starlinger realized that a competitor had set up an infringing display. The plaintiff had only one limited opportunity to take action before the exhibition closed and the defendant and its infringing equipment moved to the next country.
- Cease and Desist letter was served, but lack of cooperation.

Case Examples - Starlinger



**"A fabric draw off device in a circular loom."
TH Patent Nos. 13665 and 13695**

Infringing Products

Case Examples - Starlinger

Starlinger & Co Gesellschaft mbH v. Changzhou Hengli Machinery Co., Ltd. And Multi-Tech (Thailand) Co., Ltd.

❑ Legal Actions

- ❑ A civil request for emergency relief was prepared.
- ❑ One team of lawyers worked feverishly to prepare the plaintiff's affidavit as they travelled in rush hour traffic to the exhibition centre. Another team prepared the petition for an Anton Piller Order and Preventive Injunction requiring the defendants to cease selling and proposing for sale the potentially patent-infringing circular loom.
- ❑ The IP&IT Court accepted the petition, and arranged an *ex-parte* hearing in response to a request for emergency consideration.

Case Examples - Starlinger

Starlinger & Co Gesellschaft mbH v. Changzhou Hengli Machinery Co., Ltd. And Multi-Tech (Thailand) Co., Ltd.

□ **Getting the Order**

- **Writ of Prohibition (Preventative Injunction):** The Court ordered the Defendants to cease importing, selling and proposing for sales of the possible infringing circular loom.
- **Writ of seizure (Anton Piller Order):** The infringing loom has been seized as evidence
- **Deposit:** The Court ordered the plaintiff to provide a security deposit of THB_{200,000} (\$5,050) against possible damages.
- **Actions:** T&G lawyers along with execution officers served the court orders on the Defendants. The machinery was finally removed from the Exhibition and stored in a container and secured and affixed with the court order and court seal. The same order and seal were also posted on the booth, as was a public legal notice to inform exhibition attendees that the equipment infringed valid Thai patents. The entire operation was completed within 72 hours.

Case Examples - Starlinger

Starlinger & Co Gesellschaft mbH v. Changzhou Hengli Machinery Co., Ltd. And Multi-Tech (Thailand) Co., Ltd.

❑ **Follow on Civil Suit**

- ❑ Starlinger then filed a civil suit with the IP&IT Court for patent infringement against Changzhou Hengli Machinery Co., Ltd. and its Thai business partner, Multi-Tech (Thailand) Co., Ltd.
- ❑ The settlement negotiation has been conducted. And finally, both parties had successfully entered into the Compromise Agreement.

Cases filed with the Central IP&IT Court for Copyright and Trademark Violations

Civil Cases	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013 (Jan-Jul)
1. Trademark Infringement	24	18	18	18	22	12	23	12	19	8
2. Copyright Infringement	26	21	21	26	22	15	16	25	28	27

Criminal Cases	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013 (Jan-Jul)
1. Trademark Act	2,411	2,508	3,356	3,362	3,896	4,282	3,379	3,473	4,094	2,229
2. Copyright Act	2,799	2,947	3,415	2,815	2,409	2,341	1,708	1,210	1,154	574

Civil Cases	2012 (Jan-Jul)	2013 (Jan-Jul)
1. Trademark Infringement	12	8
2. Copyright Infringement	18	27

Criminal Cases	2012 (Jan-Jul)	2013 (Jan-Jul)
1. Trademark Act	2,387	2,229
2. Copyright Act	712	574

Source: The Central IP&IT Court

Cases filed with the IP&IT Court 2004 - Jul 2013

Civil Cases	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013 (Jan-Jul)
1. Trademark Infringement	24	18	18	18	22	12	23	12	19	8
2. Appeal against decision of the Board of Trademarks	37	46	56	66	62	22	34	23	21	21
3. Cancellation of Trademark Registration	15	16	24	33	24	10	11	13	9	1

Criminal Cases	2004	2005	2006	2007	2008	2009	2010	2011	2012	2012 (Jan-Jul)
1. Trademark Act	2,411	2,508	3,356	3,564	3,896	1,674	3,380	3,497	4,094	1,746
-Counterfeiting (Section 108)	3	3	19	2,774	3,152	1,674	123	221	3	0
-Imitating (Section 109)	3	0	78	189	277	0	11	47	5	2
-Importing, selling, offering for sale under Sections 108, 109	2,405	2,505	3,259	601	467	0	438	243	258	77
-Import, sale, and possession for sale of counterfeit goods under Sections 108, 110	0	0	0	0	0	0	2,494	2,583	3,180	1,276
-Import, sale, and possession for sale of imitating goods under Sections 109, 110	0	0	0	0	0	0	311	402	648	391

Cases filed with the Central IP&IT Court 2004 - Jul 2013

Number of Patent Suits (both administrative suits and infringement suits)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013 Jan - Jul
Patent Infringement (civil cases)	10	6	3	4	1	8	3	3	2	1
Patent Infringement (criminal cases)	13	14	12	7	9	10	6	17	13	6

	2012 Jan - Jul	2013 Jan - Jul
Patent Infringement (civil cases)	2	1
Patent Infringement (criminal cases)	10	6

Source: The Central IP&IT Court