I. GROUP REPORTS

01. AUSTRALIA (AUS)

- All documents (including lodgment of applications, responses to official actions and official forms) are now filed electronically using IP Australia’s eServices or B2B system or the Alternative Lodgment Service when eServices and B2B is unavailable due to maintenance.

- Another electronic document management system, Objective Connect, is provided for lodgment of evidence and other correspondence in opposition and non-use matters.

02. BANGLADESH (BGD)

- A new wing in the name GI Unit (Geographical Indication Unit) has been established in the Department of Patents, Designs and Trade Marks who will register Geographically Indicative Marks.

- The Geographical Indication (GI) Act 2013 was passed in the Parliament and the same has been effective from 10th November, 2013.

- The Trade Marks Act 2009 was enacted by repealing The Trade Marks Act 1940 which came into force on 1st July, 2008. The said Act was duly amended in respect of opposition relating activities for registration shall be concluded within 360 working days (instead of 120 working days which was fixed earlier).

- The Trade Mark Rules in accordance with the Trade Marks Act 2009 is being prepared and the same is under consideration by the Ministry of Industries.

03. HONG KONG (HKG)

- There was no significant legislative change or proposed legislative change affecting trade marks and the practice of the Trade Marks Registry during the last 12 months.
04. INDIA (IND)

- **11/??/2013**: CGPDTM launched a Stock and Flow based Dynamic Trademark Utility which allows public to see on real time basis the detail of Examinations of trade mark applications, show cause hearings, publications in the trade marks journal, registrations of trademarks. Responses to OA plus evidence may be filed online.

- **12/17/2013**: CGPDTM published “Guidelines for functioning under the Madrid Protocol”.

- **2/5/2014**: CGPDTM extended e-filing services of trademarks to renewal, opposition, correction, duplicate registration certificate, etc.

05. INDONESIA (IDN)

- New Government Regulation regarding Types and Tariffs of Non-Taxable State Income No. 45 year 2014 has stipulated as of July 3, 2014 which effect that all the official fees relating to the IPR have been changed with the new tariffs.

- Several cases in which registrations obtained in bad faith were canceled, including YAMADA (sewing machines) vs. YAMATO (fire extinguisher)

06. JAPAN (JPN)

- The latest revised Japan Trademark Act was officially promulgated on May 14, 2014.

The most significant changes in the new act are:

1. Additional Type of Protectable Trademarks; sound, color per se, motion, hologram, position.

2. Increased Eligibility for “Regional Collective Trademarks”

3. Exceptional Protection of Trademarks Similar to Marks Indicating International Organizations

- LADY GAGA denied registration for audio discs, etc.

07. KOREA (KOR)

- 1. To claim secondary meaning, an applicant was required to show that consumers would easily recognize the mark as a source identifier. The “easily” was deleted.
• 2. Marks that may potentially cause dilution are denied registration.

• 3. Applications filed knowing that a third party is using or planning to use the mark are now denied registration as unfair.

• 4. Reflection of changes in unfair competition law

• 5. Pfizer’s 3D mark for Viagra was recognized as distinctive in a trademark infringement and unfair competition action despite the diffident word mark.

08. MACAU

(Not available)

09. MALAYSIA (MYS)

• 1. There was no recent development or changes in the Malaysian Trade Marks Act.
  - IP Agents Good Conduct Guidelines
  - ASEAN IP Portal
  - IPR Marketplace Portal

• 2. In Wieland v. Industrial Automation, the court ruled that defendant who was merely a distributor and/or agent of the plaintiff’s goods has no sufficient cause to register the WIELAND mark.

10. MYANMAR (MMR)

• 1. Money Laundering Combating Law (Union Hluttaw Law no.11/2014) was enacted on 14 March 2014 under which IP infringed offences are defined as the money laundering offences.

• 2. Ministry of Science and Technology (MOST) completed its final drafts. All these drafted IP laws (Trademark Law, Patent Law, Industrial Design Law and Copyright Law) were sent up to the Union Attorney-General Office for scrutiny in June 2014 to be able to submit to the Parliament via the Cabinet.

• 3. Intellectual Property Proprietors’ Association of Myanmar (IPPAM) aiming at protecting and promoting IPRs of the public in cooperation with Myanmar government and foreign IP Associations/ Organizations was established in December 2013 and officially recognized by
the Ministry of National Planning and Economic Development in June 2014.

• 4. IP Awareness Activities co-organized by MOST, IPPAM, APAA Myanmar Recognized Group, APAA Korean Recognized Group, INTA, JETRO, JPO, JICA

11. NEW ZEALAND (NZL)

• 1. LEGISLATIVE DEVELOPMENTS

The Madrid Protocol and The Singapore Treaty came into force in New Zealand in 2012. There have been no subsequent legislative developments.

• 2. ADMINISTRATIVE DEVELOPMENTS

New Case Management System:

The Intellectual Property Office of New Zealand (IPONZ) introduced its new case management system for trade marks in February 2012 and its use has been mandatory since then. The new system has made it easier for users to search, apply for and maintain trade mark registrations and proceedings cases through a simple user interface. This system has some advantages: users can update and maintain their cases themselves and all communication is electronic; the system provides users with a record of transactions and a task list includes due dates.

Searching the database takes longer so that searches are more expensive than they were. Searching with fuzzy logic is no longer a feature of the database and there has been no adequate explanation for its absence. The search pages are in general poorly designed.

12. PAKISTAN (PAK)

• Upgradation of Industrial Property Automation System (IP AS) from old technology (Centura) to latest technology (Java) in IPO-Pakistan offices;

• Deployment of WIPO Scan+ in Registries for scanning and indexing of IP Applications;

• Implementation of Electronic Document Management System (EDMS) for storing and access of paper documents of IP Applications in digital form;

• Integration of all three systems (IPAS-Java, WIPO Scan+ and EDMS) to work together with each other;

• Digitization of IP applications records under Trade Related Technical Assistance;
• (TRTA -II) program of European Commission [will soon be completed]

This is first step on the way to paperless environment which will lead toward the goal of online filing (e-filing) of IP applications in coming years.

13. PHILIPPINES (PHL)

• Amendment of the Provisions on the Declaration of Actual Use of the Trademark Regulations

• Use of Document Codes for all documents filed with the Intellectual Property Office

• Amendment of the Trademark Regulations relating to Trademark Applications with Priority Right Claim and Implementation Guidelines regarding Trademark Applications with Priority Right Claim

14. SINGAPORE (SGP)

• 1. Introduction of common forms and changes to existing forms, to accommodate the e-services called IP2SG extended to TMs and designs subsequent to patents.

• 2. Ability to file all forms electronically;

• 3. Entering of particulars of express trusts and beneficiaries in the Register of Trade Marks.

• 4. Case: Choice Fortune v. Seiko: Principal Assistant Registry dismissed the opposition, ruling that while SEIKI (TV sets, etc.) and SEIKO (time pieces) are marginally similar, consumers’ attention would be paid more to the goods, with no showing of dilution in an unfair manner.

15. SRI LANKA (LKA)

• During the last year under review, 6,183 Trademark Applications have been filed. In an accelerated program to clear the backlog of pending applications, 20,000 applications have been examined, 2,600 published in Gazette and 1,500 Certificates of Registration have been issued.

• The Government is also taking steps to appoint additional Directors of Intellectual Property and increasing the cadre of the staff of the NIPO to enable more expeditious disposals of all applications.

• It is now possible to register trademarks with the Sri Lanka Customs. Registrations with the
Customs does not safeguard IP rights but is treated as an initiative of the rightful holders notifying Sri Lanka Customs of any impending violation of the IP rights as provided for in terms of Section 125 (b) of the Customs Ordinance.

16. TAIWAN (TWN)

- According to Article 5, the following behavior is explicitly listed as trademark use: possessing, displaying, sale, exportation, or importation of the goods.

- The Examiner of the TIPO can, ex officio or by request of a third party, examine whether the trademark application is filed in bad faith.

17. THAILAND (THA)

- Update on amendments to the Thai Trademark Act (the “Act”)

- The first set of draft amendment was reviewed by the Senate early 2013 and is now at the National Legislative Assembly for consideration and final approval, including protection of non-traditional marks.

- The second set of the draft amendment (accommodate implementation of the regulations and procedures of the Madrid system) was reviewed by the Council of State and is being forwarded to the Cabinet for consideration and approval.

18. VIETNAM (VTM)

(Not available)
II. SPECIAL TOPIC
Protection of Non-Traditional Trademarks

Y: Registrable   N: Unregistrable   D: Under Discussion

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### Statistics

Nos. of Applications / Registrations

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Protection of Non-Traditional Trademarks - Additional Issues

1. Legal Basis of the Protection

2. Discussions on Future Introduction

3. Actual Status of the System for Protecting Non-traditional Trademarks

   - Application, Public Announcement, and Registration

   - Requirements for Registration

     Distinctiveness

     Functionality

4. Determining the Similarity

5. Enforcement

(End of document)