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INTERPOL World's Commitment to IPR Protection

INTERPOL World 2015 is committed to assisting you, the exhibitor, in safeguarding your intellectual property rights (IPR) while participating at **INTERPOL World 2015**. This is why we are providing you with the following information on IPR protection in Singapore, and will maintain an IP Office at the exhibition. The IP Office will be staffed by trusted legal professionals in the IPR field who will be able to provide general advice to you during the course of the exhibition.

IPR AT THE EXHIBITION

Exhibitions provide companies with an opportunity to present their products, acquire clients and develop new business opportunities. This opportunity and scale of public display, combined with the large numbers of visitors and other exhibitors may also bring IPR risks: your products and services enjoy increased attention at the exhibition, but so does your intellectual property. Monitoring and countering suspected infringements is of utmost importance for exhibitors in order to sustainably and effectively secure and protect your IPR during the exhibition. An effective IPR protection strategy and its execution is a must to ensure that you earn the recognition and financial benefits from your innovation and creation.

IPR IN SINGAPORE

Singapore is widely regarded as having one of the most robust IPR protection regimes in Asia and the world. In the World Economic Forum's global Competitiveness Report 2014/2015, Singapore was ranked second in the world and top in Asia for having the best IPR protection. Similarly the International Property Rights Index 2012 and the Political & Economic Risk Consultancy Report 2011 had ranked Singapore as top in Asia for IP protection efforts.

The implementation of IPR policies to facilitate the protection of IPR is undertaken by the Intellectual Property Office of Singapore (IPOS). IPOS is a statutory board established under the auspices of the Ministry of Law.

In 2013, the Ministry of Law published the IP Hub Master Plan, a plan which was introduced to guide Singapore's development as an IP hub in the next decade. The plan focused on improvements in promoting Singapore as a vibrant marketplace for IP, to provide an efficient and robust regime to facilitate quality IP filings, and to be a hub for IP dispute resolution. The IP Hub Master Plan demonstrated Singapore's commitment to a robust IPR protection regime and recognising the importance of IPR protection in an innovation-driven globalised economy. The following highlights the key features of Singapore's IPR protection regime.

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Patent Protection

The registration of patents in Singapore was recently amended from a self-assessment system to a positive grant system. This means that in order for an applicant to obtain a patent grant, he must show that he has an examination report which is fully positive. The move to a positive grant system further entrenches Singapore's position as an IP hub, aligning Singapore's patent regime close to other international regimes (e.g. the European Patent Office, the UK Patent Office, the Japanese Patent Office). The move also raises the overall quality of patents granted in Singapore, thereby increasing business and investor confidence in Singapore's IP regime.

In order for a patent to be registered in Singapore, requirements of showing novelty, having an inventive step and being capable of industrial application must be satisfied.

To satisfy the requirement of novelty, the invention is regarded as "new" if it does not form part of, or is not anticipated by, the state of the art. An invention will form part of the state of the art if it is made publicly available (i.e. disclosed to any member of the public without any obligation of confidence) before the filing of the application. However an invention made available to the public will not be considered as prior art if the disclosure was due to the inventor displaying the invention at an "international exhibition", provided that the patent application is filed within 12 months of such disclosure. An "international exhibition" means "*an official or officially recognised international exhibition falling within the terms of the Convention on International Exhibitions or falling within the terms of any subsequent treaty or convention replacing that convention.*" In order to benefit from this exception an exhibition must meet the specific requirements of an "international exhibition" as set out in the *Convention on International Exhibition*. These include *inter alia* the requirement that the exhibition lasts more than three weeks.¹ The specific requirements mean that, in reality, it is uncommon that such an exception can be invoked. Similarly, disclosures made unlawfully or in breach of confidence will not be regarded as prior art if the patent application is filed within 12 months of such disclosure.

The robust enforcement regime of patent protection in Singapore finds its roots in the Patents Act (Cap 221). A registered patent would enjoy protection under the Patents Act. Statutory protection for a registered patent can last up to 20 years, as long as the registrant pays the requisite annual renewal fee starting from the end of the 4th year from the date of filing.

Reliefs that can be sought from the infringing party include an injunction to stop the infringing action, demanding an account of profits or seeking damages for the loss suffered.

Trademark Protection

The registration process in Singapore for trademarks is likewise straightforward and fuss-free. One can even file for protection for the same trademark in several classes of goods and/or services within the same application.

After the conduct of a similar marks search to ensure that the trademark one wishes to register is not similar or identical to any earlier mark, one can apply for trademark registration online or download a form and mail the completed application to IPOS.

¹ Article 2 of the Convention Relating to International Exhibitions



Similar to patent rights, trademark rights are jurisdictional in nature and must thus be registered in each country where protection is desired. However, given that Singapore is a contracting party to the Madrid Protocol, an applicant can seek protection for his trademark in several countries simultaneously by filing one application with a single office, in one language, and with one set of fees payable in one currency as long as they too are contracting parties to the Madrid Protocol. This results in a more efficient and seamless registration process.

A registered trademark will be valid for 10 years and can be protected indefinitely as long as the registrant pays the necessary renewal fees after each 10-year period.

Enforcement of a registered trademark is provided for under the Trade Marks Act (Cap. 332), providing remedies of injunctive relief and financial compensation. While a civil suit can be brought against an infringing party, the Trade Marks Act also provides that an infringing party could find himself facing a criminal charge. Amongst other things, conviction under the charges of the counterfeiting of a trademark and the false application of a trademark can mandate jail time of up to 5 years or a fine not exceeding \$100,000.

An unregistered can also find protection under the Trade Marks Act as a “well known mark” or under the common law action of passing off. However, the thresholds for establishing these actions are indisputably higher than proving infringement of a registered trademark.

Thus, the registration of a trademark in Singapore brings with it a whole host of benefits including simplified enforcement procedure.

Copyright Protection

Unlike patents and trademarks, no formal registration is required for a copyright to obtain protection in Singapore. For works to be protected by copyright, the author’s work must exist in some material form and must be original. In addition to that, the author’s work must be ‘connected’ with Singapore in some relevant way.

Once copyright is found to subsist in the work, the Copyright Act (Cap. 63) offers protection both in civil and criminal actions. Copyright infringement has been held to be a strict liability tort; the state of mind of the defendant is irrelevant. This allows for ease of enforcement as no intention requirement is needed to be proved. Criminal offences under copyright law include the manufacture of infringing copies for sale and end-user piracy.

Singapore also provides for border enforcement measures to prevent the importation of infringing goods. A copyright owner or licensee may serve on the Director-General of Customs a written notice to compel the Director-General of Customs to take appropriate action to seize the infringing imports and to inform the copyright owner and the importer of the seized goods of such.



Registered Design Protection

As its name implies, a design must be registered in Singapore in order to enjoy statutory protection under the Registered Designs Act (Cap. 266). Singapore operates on a first-to-file system, meaning that the first person to file an application can claim priority over others.

With Singapore being a signatory to the Paris Convention and a member of the World Trade Organisation, an applicant can claim priority if he had earlier filed an application for the same design in a country who is also a signatory to the Paris Convention or a member of the World Trade Organisation if he subsequently files an application in Singapore within 6 months.

Upon confirming that one's design does not infringe on another's design already so registered, a form which can be mailed to IPOS will have to be completed.

For a design to be registrable under the Registered Designs Act, the main requirements are that the design must be new, it must be industrially applied on an article, and its features are not solely for a functional purpose.

In order for a design to satisfy the novelty requirement, it must not have been (a) registered in Singapore or elsewhere or (b) published anywhere in the world before the date of application in Singapore. However, a design will not be stripped of its novelty if a disclosure was made in confidence or if the disclosure was made at an official internal exhibition. An 'official international exhibition' is defined similarly under the Patents Act.

The protection of registered designs can sometimes seemingly overlap with that of copyright in artistic works. Three different scenarios can arise in such a situation. The first scenario pertains to registered designs. In such a case, the design is protected under the Registered Designs Act and will not enjoy protection under the copyright regime. The second scenario regards unregistered but registrable designs. Where a corresponding design (in relation to a copyrighted artistic work) is registrable under the Registered Designs Act, but is not registered, that design will enjoy neither design nor copyright protection. The rationale for this stance is that where a particular design is eligible for registration under the Registered Designs Act but the design owner refuses to apply for registration, he cannot simply rely on copyright protection while being indolent under the registered designs regime. Finally, in the instance of a design which is unregistrable under the Registered Designs Act, it will enjoy copyright protection.

Registered designs can be protected for an initial period of 5 years. 2 extensions of renewals of 5 years are then allowed, thereby bringing the total duration of protection afforded to be 15 years.

While infringement actions have been rare in Singapore, infringement occurs once there is clear use of a registered design without the consent of its registered owner. The registered owner can then enforce his rights and be entitled to injunctive and financial reliefs.



IP DISPUTE RESOLUTION IN SINGAPORE

There have been several innovations introduced into the dispute resolution regimes in Singapore, as part of the IP Hub Master Plan. If there is an IP dispute to be litigated in Singapore which arises out of an infringement in Singapore, a specialist IP court has been established within the High Court. This move is in recognition that IP cases can be highly complex and technical in nature, and that the judges handling such cases need to be familiar with the area of IP law. IP cases are also managed separately in recognition of the specialist nature of many IP disputes. This specific case management process can minimise delay and facilitate an efficient litigation process.

Singapore is recognised worldwide as a leading centre for international arbitration and is the most popular seat for arbitrations in Asia. To improve its ability to handle IP disputes effectively Singapore International Arbitration Centre has recently appointed a panel of arbitrators with IP expertise. The list comprises figures with expertise in IP laws, IP industry practice and technological disciplines. The availability of arbitrators with IP expertise further enhances Singapore's attractiveness as a venue for arbitrations concerning IP disputes. Alternatively parties may prefer to use mediation to resolve their disputes. The recently opened Singapore International Mediation Centre provides mediation services for the resolution of cross border disputes.

Singapore is also home to the first World Intellectual Property Office Arbitration and Mediation Centre (WIPO AMC) to be established outside of WIPO's Geneva home. The WIPO AMC provides avenues for the resolution of international commercial disputes between parties, and is recognised as a neutral, international forum for the resolution of cross-border disputes.

In line with the dispute resolution scene, Singapore boasts a robust IP enforcement regime. Enforcement action can be carried out both by way of criminal prosecutions (for trademarks and copyright infringements only) and civil suits. Pre-action remedies such as interim injunctions, *Anton Piller* Orders and criminal search warrants are commonly deployed to stop further infringing activity and to seize evidence of infringement pending trial.

Trade Secrets and Confidential Information

A trade secret is information of any type that is actually or potentially valuable to its owner and not generally known or readily ascertainable by the public, and which the owner has made a reasonable effort to keep secret.

Trade secrets are protected under the law of confidence in Singapore, which is based largely on English common law principles. For information to be afforded protection in Singapore, three elements must be met. First, there must be a requisite element of confidentiality; secondly, the information must have been imparted in circumstances importing an obligation of confidentiality; and thirdly, there must have been an unauthorised use of such information to the detriment of the person imparting that information. Being capable of protecting mere ideas, the laws on trade secrets and confidential information provide a useful adjunct to other IP rights. Moreover, given that protection is typically afforded so long as the information does not become common knowledge or generally available to the public, protection can potentially last indefinitely.

In Singapore, certain types of confidential information are also protected under statutory law. For example, the Banking Act protects customer information from unauthorised disclosure by the bank, while the Official Secrets Act prohibits the disclosure of classified government documents and information.



HOW CAN THE IP OFFICE AT THE EXHIBITION ASSIST YOU?

There is an IP Office at the **INTERPOL World 2015** where IPR owners can seek advice in relation to protection and enforcement of their IP in Singapore. The IP Office will be staffed by legal professionals with expertise in IPR protection and enforcement, Information Technology, Data Protection and Cybersecurity from Rajah & Tann Singapore LLP (Rajah & Tann), one of the largest and most established law firms in Singapore.

Whether an issue arises with regard to a potential infringement of any IPRs at the exhibition itself or some advice is required with regard to the protection of patents, trademarks, copyright or registered designs, or any related issue, in Singapore, the IP Office staff will be on hand to provide guidance. While initial general assistance will be provided free of charge, should an exhibitor wish to engage the services of the legal professionals at the IP Office for further legal advice or representation, any such engagement will be governed by a separate contractual agreement between the exhibitor and the legal professionals of the IP Office. Not included in the free assistance on offer is any legal advice specific to the potential dispute, notably any legal opinion or legal research. Rajah & Tann reserves the right to decline the provision of services to specific exhibitors in case of a conflict of interest or for any other reason at their sole discretion.

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