

OVERVIEW OF INTELLECTUAL PROPERTY IN GENERAL

1. Patentable Inventions

(a) Patentability

Patentable inventions must satisfy the following 3 criteria:

- (i) novelty i.e. it must be new in that it has not been revealed by the state of the art;
- (ii) non-obviousness i.e. it involves an inventive step in that it is not obvious to a person skilled in the art; and
- (iii) industrial applicability.

(b) Prior Disclosure Destroying Novelty of Invention

Under the Patents Act (Cap. 221), the state of art shall be taken to comprise all matter which has at any time before the priority date of the invention (or where there is no such priority date, the filing date) been made available to the public (whether in Singapore or elsewhere) by written or oral description, by use or in any other way.

Thus, prior to the filing of a patent application, any publication of the invention and any other information relating thereto (save for the exceptions provided for in the Patents Act) will result in the invention flowing into the public domain and becoming part of the state of the art. "Publication" means "putting the public in possession of an invention by way of speech, talk, paper, drawing, photograph, printed work, tape or video recording, electronic means, or in any other means or medium, or any other disclosure given or distributed". In such an event, the publication would defeat the invention's claims of novelty and non-obviousness. If any disclosure of the invention is necessary, such disclosure should be made on a strictly confidential basis.

(c) Inventorship

An inventor is a person who has made an intellectual contribution to the conception or development of the invention. A person who merely reduced these ideas to practice working under the direction of others is not necessarily an inventor, although the person may be a co-author of publications which subsequently describe the invention. Wrongly stating a person as an inventor could result in the invalidation of an issued patent.

(d) First to file

Generally, patent protection in a country is accorded to the first person who files a patent application for the invention in the particular country.

However, in the USA, the "first-to-invent" patent system applies in which priority is given to the first person to invent the subject matter of the patent, whether or not such person was the first to file a patent application in respect of his invention. Thus, carefully keeping a laboratory notebook which documents the date the invention was first made or reduced to practice may be important in obtaining a patent in the USA.

(e) Section 34 Waiver to File Foreign Application(s)

No person resident in Singapore shall, without the written authority granted by the Registry of Patents, file or cause to be filed outside Singapore a patent application for an invention, unless a patent application for the same invention has been filed in Singapore more than two (2) months before the application is filed outside Singapore, and that there were no directions from the Registry prohibiting or restricting publication of the invention on the grounds of national security interest.

2. Copyright

- (a) Copyright is a proprietary right which subsists in works such as literary (including software programmes), dramatic, musical or artistic works and, other subject matter such as sound recordings, cinematograph films, television and sound broadcasts, cable programmes and published editions of works.
- (b) The basic rule is that the author of a work is the first copyright owner. One of the exceptions to this basic rule is where an employee or a higher degree student makes a literary, dramatic, musical or artistic work in pursuance of the terms of his employment under a contract of service or apprenticeship and in such an event, ownership of copyright is vested in the employer.

3. Trademarks

A trademark serves to identify the trade origin of goods or services, i.e. the trademark informs the public that a particular product or service is the product or service of the owner of the trademark.

4. Registrable Designs

- (a) Registrable designs can be registered in Singapore under the Registered Designs Act 2000. A registrable design means features of shape, configuration, pattern or ornament applied to an article through an industrial process - namely, it is the visual appearance of articles. Registrable designs do not include the method, principle of construction, nor features of shape or configuration of an article, which are dictated solely by the function which the article performs.
- (b) A registrable design does not include features that are dependent upon the appearance of another article, which it is intended to form an integral part of. It also excludes features that enable the article to be connected to, placed in, around or against another article so that either article may perform its functions.

5. Layout Designs of Integrated Circuits

The Layout Designs of Integrated Circuits Act 1998 affords protection for the layout design of integrated circuits. The owner of the 3-dimensional disposition of the elements of an integrated circuit is given monopoly rights to copy, authorise the copying and exploitation of the layout design. The period of protection is 10 years if the layout design is commercialised within 5 years after the year in which it was created or in other cases, 15 years after the year in which it was created.