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Singapore

Intellectual Property

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This country-specific Q&A provides an overview of intellectual property laws and regulations applicable in Singapore.

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Singapore: Intellectual Property

1. What different types of intellectual property rights exist to protect: (a) Inventions (e.g. patents, supplementary protection certificates, rights in trade secrets, confidential information and/or know-how); (b) Brands (e.g. trade marks, cause of action in passing off, rights to prevent unfair competition, association marks, certification marks, hallmarks, designations of origin, geographical indications, traditional speciality guarantees); (c) Other creations, technology and proprietary interests (e.g. copyright, design rights, semiconductor topography rights, plant varieties, database rights, rights in trade secrets, confidential information and/or know-how).

(a) Inventions and technology are primarily protected by patents. The law of confidence also protects trade secrets, confidential information, and know-how;

(b) Brands are protected by registered trade marks (which distinguish a business' goods and services from those of another), certification marks (guaranteeing a quality or characteristic), and collective marks (indicating origin from members of an association). For unregistered trade marks or trade names, protection is available through the common law action of passing off.

i. Singapore law also provides for the protection of geographical indications (GIs);

(c) Other creations, technology and proprietary interests are protected by:-

- i. Copyright, which protects original literary, dramatic, musical, and artistic works, including sound recordings, films, performances and broadcasts.
- ii. Registered designs protect the aesthetic appearance of an article and can include graphical user interfaces and virtual designs.
- iii. More specific rights exist for plant varieties and the topography of semiconductor circuits.
- iv. Trade secrets and confidential information protect proprietary commercially valuable information and data.

2. What is the duration of each of these intellectual property rights? What procedures exist to extend the life of registered rights in appropriate circumstances?

- a. Patents: 20 years from the date of filing. Patent term extensions are available where:-
 - i. there was an unreasonable delay by the Registrar in granting the patent; or
 - ii. the subject matter of the patent includes an active ingredient of a pharmaceutical product, and there was an unreasonable curtailment of the opportunity to exploit the patent caused by the process of obtaining marketing approval because the pharmaceutical product was the first pharmaceutical product to use the active ingredient.
- b. Trade Marks: 10 years from the date of application, but this can be renewed indefinitely for subsequent 10-year periods.
- c. Copyright: Literary, musical, dramatic, artistic works, and photographs are protected for the life of the author plus 70 years. Films, unpublished authorial works are protected for 70 years after the making of the work. No extensions allowed.
- d. Registered Designs: An initial term of 5 years, renewable for two additional 5-year periods, up to a maximum of 15 years.
- e. Trade Secrets & Confidential Information: Protection can last indefinitely, as long as the information remains secret and confidential.

3. Who is the first owner of each of these intellectual property rights and is this different for rights created in the course of employment or under a commission?

Generally, the inventor of an invention, creator of a circuit design, author of a copyright work, or designer of a design is the first owner. If an IP right is created by an employee in the course of their employment duties, the employer is the first owner, unless an agreement states otherwise.

For trade marks, the registrant is the first owner and for unregistered trade marks, the first user in Singapore would be the first owner.

For geographical indications and plant varieties, the entitlement to file for registration of a GI and plant variety is given to a producer of the relevant goods in the geographical area specified, an association of such producers, or a competent authority having responsibility for the relevant GI, and to the person who bred, or discovered and developed, that variety, respectively.

Under a commission, the ownership depends on the type of IP and the governing contract. For copyright, the author/creator of the work is generally the first owner unless the contract transfers ownership to the commissioning party. Likewise for registered designs.

4. Which of the intellectual property rights described above are registered rights?

The following IP rights are registered rights that require a formal application process with the relevant Registry:

- Patents
- Trade Marks
- Registered Designs
- Geographical Indications
- Plant Varieties

5. Who can apply for registration of these intellectual property rights and, briefly, what is the procedure for registration?

Any person or company claiming to be the proprietor of the right can apply. The general procedure involves:

1. Making an application: Filing an application with the relevant Registry, including paying any necessary fees.
2. Formalities check by the relevant Registry: The relevant Registry reviews the application to ensure it meets the formal requirements.
3. Substantive search and/or examination: The relevant Registry conducts a substantive examination.
 - For patents, this involves assessing novelty, inventive step, and industrial applicability.
 - For trade marks, this assesses distinctiveness and checks for conflicts with prior marks.
 - For registered designs, this involves assessing whether on the face of the application it is not new or not registrable for any other reason.
4. Publication: If the application passes examination, it's allowed, which may involve a further step of publication as in the case of trademarks and designs.
5. Opposition: For trademarks, upon publication, third parties may oppose the registration.

6. Grant/Registration: If there's no successful opposition, the right is granted, and a certificate is issued. For patents and registered designs, upon successful completion of the examination procedure, the applications proceed to registration (and publication in the case of registered designs).

6. How long does the registration procedure usually take?

The registration procedure usually takes:

- Patents: 2 to 4 years.
- Trade Marks: 6 to 12 months, if there are no objections or oppositions.
- Registered Designs: 3 to 6 months.

7. Do third parties have the right to take part in or comment on the registration process?

Trade Marks: Third parties can participate in the process primarily by filing an opposition within the two-month window after the application is published but before it is granted.

Patents: During the registration process any person may make observations in writing to the Registrar on the question whether the invention is a patentable invention, stating reasons for the observations.

8. What (if any) steps can the applicant take if registration is refused?

The applicant can appeal to the High Court if the Registry refuses the application.

9. What are the current application and renewal fees for each of these intellectual property rights?

Patents:

- Application fees: S\$170 for a domestic application, S\$210 for a Singapore national phase entry application;
- Renewal fees: starts at S\$165 per year for the 5th to 7th years of the patent, and increases every three years up to S\$1,120 for the 20th year of the patent; and
- With effect from 1 September 2025, renewal fees start at S\$176 for the 5th to 7th years of the patent, and increases every three years up to S\$1,200 for the 20th year of the patent.

Industrial designs:

- Application fees: S\$200 per design;
- Extension fees: S\$220 for the first 5-year period, S\$330 for the second 5-year period.

Trade marks:

- Application fees: S\$380 per class (S\$280 per class if the specifications comply fully with the Registry's list of pre-approved items);
- Renewal fees: S\$440 per class
- With effect from 1 September 2025, renewal fees will be S\$480 per class.

Geographical indications:

- Application fees: S\$1,500;
- Renewal fees: S\$940.

Plant varieties:

- Application fees: S\$1,600;
- Annual fees: S\$150.

10. What are the consequences of a failure to pay any renewal fees and what (if any) steps can be taken to remedy a failure to pay renewal fees?

Patents: The patent will cease to have effect. An application together with a statutory declaration or affidavit setting out the grounds for the application and the evidence in support thereof to restore the lapsed patent may be made within 18 months from the day on which it ceased to have effect.

Industrial designs. The registration will cease to have effect and be removed from the Register. A restoration application may be made within 6 months from the date of removal from the Register.

Trade marks. The registration will cease to have effect and be removed from the Register. A restoration application may be made within 6 months from the date of removal of the trade mark from the Register.

Geographical indications. A renewal application may be made up to 6 months after the expiry of the registration failing which, the registration will be removed from the Register.

Plant varieties. The grant of protection will be cancelled. A late annual fee may be paid within 6 months after the due date, together with a late fee.

11. What are the requirements to assign ownership of each of the intellectual property rights described above?

To be legally effective, an assignment of registered IP rights must be in writing and signed by or on behalf of the assignor.

For registered GIs, the assignee must be entitled to file for registration of the GI that is the subject of the assignment and consent to having the registration transferred to them.

An assignment that does not fulfil the statutory requirements may be void or may only amount to an equitable assignment. In the case of an equitable assignment, it may be perfected where the assignee ratifies the assignment by obtaining a written assignment subsequently.

For unregistered rights, there are generally no special requirements except for copyright and layout designs of integrated circuits, which require an assignment to be in writing and signed by or on behalf of the assignor.

12. Is there a requirement to register an assignment of any of these intellectual property rights and, if so, what is the consequence of failing to register?

Registration of an assignment with the relevant registry is not mandatory for the assignment to be valid between the parties involved.

An unregistered assignment or licence is ineffective against a third party who later acquires a conflicting interest in the IP in good faith and without notice.

The assignee may be prevented from enforcing their rights against an infringer or from recovering costs in infringement proceedings until the assignment is registered.

13. What are the requirements to licence a third party to use each of the intellectual property rights described above?

To be legally effective, a licence of registered IP rights must be in writing and signed by or on behalf of the licensor.

14. Is there a requirement to register a licence of any of these intellectual property rights and, if so, what is the consequence of failing to register?

It is not required to record the grant of a licence, but is recommended because doing so will guard against a person acquiring a conflicting interest in that right in ignorance of the licence.

15. Are exclusive and non-exclusive licensees given different rights in respect of the enforcement of the licensed IP, and if so, how do those rights differ?

Patents: Exclusive licensees have the same rights as a proprietor to bring proceedings for infringement, while non-exclusive licensees do not.

Confidential information: No.

Industrial designs: Exclusive licensees have the same rights as a proprietor to bring proceedings for infringement, while non-exclusive licensees do not.

Trade marks: An exclusive licence may be broad enough to provide a licensee with the same rights that would be enjoyed by the proprietor. If so, the exclusive licensee may bring infringement proceedings in its own name against any person other than the proprietor. Otherwise, licensees (exclusive or not) may not have rights to bring proceedings for infringement in their own name unless they have first requested that the proprietor do so and failing which, the licensee may proceed to commence infringement proceedings.

Geographical indications: No.

Copyright: Exclusive licensees have the same rights as a proprietor to bring proceedings for infringement, while non-exclusive licensees do not.

Layout-designs of integrated circuits: Exclusive licensees have the same rights against a successor in title to the owner as they have against the licensor. They also have the same rights and remedies as the owner, except against the owner.

Plant varieties: No.

16. Are there criminal sanctions for infringement of any intellectual property rights, and if so, what

are they and how are they invoked?

Criminal sanctions are available for certain types of IP infringement, particularly for wilful infringement on a commercial scale. This applies mainly to:

- Trade mark – Counterfeiting, falsely applying trademarks, and importing/selling counterfeits
- Copyright – Dealing in infringing copyright works, including importing, distributing, or selling, with actual or presumed knowledge of infringement, attracts criminal liability.

Sanctions include fines and/or imprisonment for up to 5 years. A proprietor can also initiate private prosecutions with the Attorney-General's approval. Alternatively, the Attorney-General may decide to prosecute such persons in place of the proprietor.

17. What other enforcement options are available for each of the intellectual property rights described above? For example, civil court proceedings, intellectual property office proceedings, administrative proceedings, alternative dispute resolution.

Civil proceedings for infringement are available for all IP rights, with all cases to be heard in the High Court. There are two mechanisms under which IP cases may proceed, the Simplified Process or the Default Process.

To proceed under the Simplified Process, (i) the monetary relief claimed by each party in the action does not or is not likely to exceed SGD500,000, or (ii) where all parties agree to the application. However, the Court ultimately decides whether a case is suitable to be heard under the Simplified Process and may have regard for the following matters: –

- whether a litigant can only afford to participate in the proceedings under the Simplified Process;
- the complexity of the issues;
- whether the estimated length of the trial is likely to exceed two days; and
- any other relevant matter.

Alternative dispute resolution mechanisms, like arbitration, expert determination and mediation, are available. There are several institutions, such as the World Intellectual Property Organization (WIPO), Singapore International Arbitration Centre (SIAC) and Singapore International Mediation Centre (SIMC) that offer ADR services.

Mediation is mandatory under the civil process unless a party has a good reason for not attempting the same.

18. What is the length and cost of such procedures?

High Court infringement cases may take between one to two years to reach trial depending on whether the case is under the Simplified Process or Default Process.

Under the Simplified Process, the costs may range between about SGD 50,000 to SGD 160,000 (USD 62,500 – 117,000) depending on the complexity of the matter. The successful party may recover up to SGD 50,000 (USD 39,000) of their legal costs for a trial on liability. Damages may be assessed in a separate tranche, and the successful party may recover up to a further S\$ 25,000 (USD 20,000).

Under the Default Process, the costs are typically from about SGD 200,000 (USD 156,000) depending on the complexity of the matter. The successful party may recover between 40 – 60% of its legal costs.

19. Where court action is available, please provide details of which court(s) have jurisdiction, how to start proceedings, the basics of the procedure, the time to trial, the format of the trial, the time to judgment and award of relief and whether any appeal is available.

All civil IP matters have to be commenced in the General Division of the High Court.

The typical main stages of the proceedings are:-

- pleadings;
- interlocutory matters (applications for better particulars, security for costs, etc.);
- discovery;
- filing of witness statements; and
- trial.

A case may reach the trial stage by 12 months under the Simplified Process, and within 18 months under Default Process.

At trial, parties will present their cases and evidence using written opening statements (supplemented by oral opening statements if directed by the court), witness statements, cross-examination, and written closing submissions (supplemented by oral closing statements if directed by the court). A decision may be expected

between 4 – 6 months after the submission closing submissions.

Appeals are to the Appellate Division of the High Court or in the case of matters of patent law, to the Court of Appeal.

20. What customs procedures are available to stop the import and/or export of infringing goods?

Singapore Customs may be notified of expected imports of infringing goods by copyright or trademark rights holders. Upon notification, Singapore Customs will then seize these goods. However, it is incumbent on the rights holder to initiate infringement proceedings within ten working days of said seizure. Otherwise, Singapore Customs may release the seized shipment.

Customs can also detain counterfeit goods on their own initiative. Typically the rights holders will be requested to assist Singapore Customs with the authentication of such seized goods.

21. Are any non-court enforcement options or dispute resolution mechanisms mandatory in respect of intellectual property disputes in any circumstances? If so, please provide details.

No.

22. What options are available to settle intellectual property disputes in your jurisdiction?

Disputes can be settled through mediation or negotiation.

23. What is required to establish infringement of each of the intellectual property rights described above? What evidence is necessary in this context?

The requirements to establish infringement vary by the IP right:

- Patents: For a product, proving that the defendant has carried out the acts of making, keeping, disposing of, using, or importing the product in Singapore. For a process, proving that the defendant is using the process or offering it for use in Singapore without authorization, or dealing with products obtained

directly from the patented process. In all instances, it would also be necessary to show that the product or process comprises every essential element of at least one patent claim.

- Trade Marks: Showing that the defendant used an identical or confusingly similar mark on identical or similar goods/services, creating a likelihood of confusion among the public.
- Copyright: Infringement involves doing any act that is exclusive to the copyright owner such as reproducing, communicating, adapting, or performing a work. Secondary liability for authorising infringement and trading in infringing articles are also considered infringements.
- Registered Designs: Establishing infringement requires showing that acts within the design owner's exclusive rights, such as making, selling, or importing articles with the registered design, or enabling their manufacture have been carried out by the defendant.
- Passing Off: Establishing the "classic trinity":
 1. The claimant has goodwill or reputation in their brand.
 2. The defendant has made a misrepresentation that deceives the public.
 3. The claimant has suffered or is likely to suffer damage as a result.

24. How does the court acquire any necessary information (fact or technical) and in what circumstances does it do so? In particular a) Is there a technical judge, a judge with technical experience, a court appointed expert, an expert agreed by the parties, and/or parties' expert witness evidence? b) What mechanisms are available for compelling the obtaining and protecting of evidence? Is disclosure or discovery available?

a) Is there a technical judge, a judge with technical experience, a court appointed expert, an expert agreed by the parties, and/or parties' expert witness evidence?

To ensure a high level of expertise and consistency in handling such cases, the General Division of the Singapore High Court has a dedicated Intellectual Property/Information Technology (IP/IT) List. Judges appointed to this list have significant experience in and familiarity with the intricacies of IP law and disputes though they may not have technical backgrounds.

Factual evidence is provided by witnesses in the form of affidavits of evidence in chief. Technical evidence is typically provided by expert witnesses (either appointed

by the respective parties or a joint expert agreed upon by the parties). It is also possible to have a court-appointed expert.

b) What mechanisms are available for compelling the obtaining and protecting of evidence? Is disclosure or discovery available?

Search orders and preservation orders are available to obtain and preserve evidence. Discovery is available prior to an action as well as in the course of an action. Under discovery each party must disclose all relevant and material documents to the other.

25. How is information and evidence submitted to the court scrutinised? For example, is cross-examination available and if so, how frequently is it employed in practice?

Evidence may be scrutinised at trial, primarily through the cross-examination of witnesses (both factual and expert) by the opposing party's lawyer.

26. What defences to infringement are available?

Common defences include:

- a. Challenging the validity of the IP right.
- b. Specific statutory defences:
 - i. Patents: private, non-commercial, or experimental purposes; prior use, experimental acts, parallel imports, and acts done for the purposes of obtaining marketing approval in respect of a pharmaceutical product.
 - ii. Trade Marks: Honest use of one's own name; use for descriptive purposes (e.g., to describe the quality or purpose of a product); use but not in the course of trade; comparative advertising; prior continuous use of the mark and exhaustion of rights, i.e., use relates to resale of genuine goods already placed on the market.
 - iii. Registered Designs: Private, non-commercial purpose, for the purpose of evaluation, analysis, research, or teaching.
 - iv. Copyright: Fair dealing, assessed based on factors like the purpose of the use (e.g., commercial vs. non-profit), the nature of the work, the amount used, and the market impact, is a defence. Use for criticism, review, reporting, or legal proceedings is not infringement.
 - v. Layout-Designs of Integrated Circuits: act was for private use, research, teaching, or evaluation.
- c. Passing Off / Breach of Confidence: Negating the core

elements of the cause of action

27. Who can challenge each of the intellectual property rights described above?

Any person can bring proceedings to challenge any registered patents or trademarks. However, only an interested party may bring an action for revocation of a registered design.

28. When may a challenge to these intellectual property rights be made (e.g. during any registration process or at any time during the subsistence of the right)?

Patents: During the registration process any person may make observations in writing to the Registrar on the question whether the invention is a patentable invention, stating reasons for the observations. Following grant, any person may file a request for the Registrar to conduct a re examination of the specification of a patent for an invention on the basis of any of the grounds set out under section 38A, Patents Act 1994. Any person may also file a revocation action either at the Patent Registry or in the High Court on the grounds listed under section 80, Patents Act 1994.

Trademarks: During the registration period after the trade mark application is published an opposition may be brought within the two-month period following publication. Following grant, invalidation and revocation actions may be brought.

Registered Designs: A revocation challenge may only be brought after registration.

29. Briefly, what is the forum and the procedure for challenging each of these intellectual property rights and what are the grounds for a finding of invalidity of each of these intellectual property rights?

Trademarks: Invalidation or revocation proceedings can be initiated at the Registry or the High Court. Opposition proceedings can only be initiated at the Registry during the two-month period following publication of a trademark. Invalidity or opposition challenges can be based on non-distinctiveness, misleading the public, bad faith, or conflict with a prior mark. An action for revocation may be brought for non-use within the five-year period after registration or for non-use for a continuous period of five years.

Patents: Validity challenges may be brought before the Patent Registry or the High Court. Challenges can be based on a lack of patentability (i.e., not novel, inventive or capable of industrial application), non-patentable subject matter, disclosure of added matter, an amendment or correction that should not have been allowed, insufficiency, and double patenting.

Industrial designs: Invalidity challenges may be brought before the Registry of High Court and can be based on lack of novelty, or the design being dictated solely by function.

30. Are there any other methods to remove or limit the effect of any of the intellectual property rights described above, for example, declaratory relief or licences of right?

A party may apply to court to seek declaratory relief on the basis that their proposed conduct or goods does not infringe a patent or design. Declaratory relief may also be sought to have a trademark declared invalid.

Licenses of right (compulsory licenses) may be applied for by any person to remedy an anti-competitive practice. This prevents a patent holder from using their monopoly to unfairly stifle competition or create a harmful market situation.

31. What remedies (both interim and final) are available for infringement of each of the intellectual property rights described above?

Singapore courts can grant a range of remedies:

- a. Interim Remedies (granted pending trial):
 - i. Interlocutory Injunction: An urgent court order to stop the infringing activity until the case is decided.
 - ii. Search Order (formerly known as an Anton Piller): An order permitting entry to the defendant's premises to search for and seize evidence of infringement.
 - iii. Detention or Preservation Order: An order to detain or preserve any property which is the subject matter of an infringement action to prevent them from being destroyed or dissipated.
- b. Final Remedies (granted after a successful trial):
 - i. Permanent Injunction: A final order prohibiting future infringement, but is not available as of right, but subject to the discretion of the court.
 - ii. Damages or an Account of Profits: The successful claimant can choose between compensation for

their losses (damages) or the profits the infringer made from the infringement.

iii. Statutory damages are also available for certain actions: –

1. For copyright claims, a successful party may elect for statutory damages instead of general damages or an account of profits, which case, there is no need to prove any actual financial loss. The court may award up to S\$10,000 for each work or subject matter infringed, up to an aggregate limit of S\$200,000 for a single action, unless the claimant can prove that its actual loss exceeds S\$200,000.
2. Similarly for trade mark infringement claims involving the use of a counterfeit trade mark, the successful claimant may elect for statutory damages not exceeding S\$100,000 for each type of goods or service in relation to which the counterfeit trade mark has been used, up to an aggregate limit of S\$1 million, unless the claimant proves that its actual loss exceeds S\$1 million.

- iv. Order for Delivery Up or Destruction: An order for the infringing goods to be delivered to the claimant or destroyed.

32. What are the costs of enforcement proceedings and is any kind of costs recovery available for successful parties? Is there a procedural mechanism enabling or requiring security for costs?

The successful party is generally entitled to recover a portion of their legal costs (typically between 40 – 60%) from the unsuccessful party. In the absence of an agreement between the parties, the amount of recoverable costs is determined by the court.

A defendant can apply for security for costs if the claimant is based overseas and has no significant assets in Singapore. Security may be furnished by giving a first-class bank guarantee, payment of a sum of money into court or by way of a solicitor's undertaking to ensure that the defendant's costs can be paid if the claimant's case fails.

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