

**PUBLIC CONSULTATION PAPER  
ON  
THE PROPOSED 2007 AMENDMENTS OF THE PATENTS ACT**

FOR DISCUSSION – PROPOSED AMENDMENTS TO THE EXISTING PROVISIONS	EXPLANATION
<p><b>Interpretation</b></p> <p>2. —(1) In this Act, unless the context otherwise requires —</p> <p>...</p> <p>"designate" , in relation to an application or a patent, means designate the country or countries (in pursuance of the Patent Co-operation Treaty) in which protection is sought for the invention which is the subject of the application or patent <u>and includes a reference to a country being treated as designated in pursuance of the treaty.</u></p> <p>...</p> <p>(2)-(8) [No change]</p> <p style="text-align: right;"><b>[UK Patents Section 130(1)]</b> <b>[PCT rule 4.9]</b></p>	<p><b><u>A. Why make changes?</u></b></p> <p>The changes proposed make clear that "designate" refers to all the contracting states of the PCT which are automatically deemed to be designated on filing of an international application. See PCT changes in 1 Jan 04.</p> <p><b><u>B. What are the changes in brief?</u></b></p> <p>See above</p> <p><b><u>C. What effects would these changes bring?</u></b></p> <p>It follows that <u>every</u> international application for a patent is treated as an international application for a patent (SG), because every international application is treated as having designated the SG on filing.</p> <p><b><u>D. Implementation Date</u></b></p> <p>The changes would come into force on 1 April 2007.</p> <p style="background-color: yellow;"><b><u>E. Purpose of this Consultation</u></b></p> <p style="background-color: yellow;"><b>IPOS would like to invite views from the patent users on the following:</b></p>

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	<b>As to the proposed amendments to the section 2</b>
<p><b>Priority date</b></p> <p>17. —(1) [No change]</p> <p>(2) If in or in connection with an application for a patent (the application in suit) a declaration is made, whether by the applicant or any predecessor in title of his, complying with the relevant requirements of the rules and specifying one or more earlier relevant applications for the purposes of this section made by the applicant or a predecessor in title of his and <del>each having a date of filing during the period of 12 months immediately preceding the date of filing the application in suit, the application in suit has a date of filing during the period allowed under subsection (2A)(a) or (b) below,</del> then —</p> <p>(a) if an invention to which the application in suit relates is supported by matter disclosed in the earlier relevant application or applications, the priority date of that invention shall instead of being the date of filing the application in suit be the date of filing the relevant application in which that matter was disclosed or, if it was disclosed in more than one relevant application, the earliest of them; and</p> <p>(b) the priority date of any matter contained in the application in suit which was also disclosed in the earlier relevant application or applications shall be the date of filing the relevant application in</p>	<p><b><u>A. Why make changes?</u></b></p> <p>The changes proposed would be aligned with the PCT changes that would come into force on 1 Apr 07.</p> <p>Ref:- new PCT Rules 4.10, 26bis3</p> <p><b><u>B. What are the changes in brief?</u></b></p> <p>i. Whilst the current 12 month requirement for claiming priority is still retained, applicants can now file subsequent applications after the 12<sup>th</sup> month and claim priority over the earliest filing, provided that certain conditions are met.</p> <p>ii. The PCT receiving and designated Offices are required to inform the IB/PCT of at least one of the criteria i.e. that failure to file within 12<sup>th</sup> months occurred</p> <p style="margin-left: 20px;">a. in spite of due care or</p> <p style="margin-left: 20px;">b. that it was unintentional</p> <p><b><u>C. What effects would these changes bring?</u></b></p> <p>This would provide patent applicants with a limited</p>

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<p>which that matter was disclosed or, if it was disclosed in more than one relevant application, the earliest of them.</p> <p style="text-align: center;"><b>[UK Patents Section 5(2)]</b> <b>[new SG Patents Rules 9(1); 9(2); 9(4); 9A &amp; 9B]</b></p> <p><u>(2A) The periods are—</u></p> <p><u>(a) the period of twelve months immediately following the date of filing of the earlier specified relevant application, or if there is more than one, of the earliest of them; and</u></p> <p><u>(b) where the Registrar has given permission under subsection (2B) below for a late declaration to be made under subsection (2) above, the period commencing immediately after the end of the period allowed under paragraph (a) above and ending at the end of the prescribed period.</u></p> <p style="text-align: center;"><b>[UK Patents Section 5(2)(A)]</b> <b>[new SG Patents Rule 9A(1)]</b></p> <p><u>(2B) The applicant may make a request to the Registrar for permission to make a late declaration under subsection (2) above.</u></p> <p style="text-align: center;"><b>[UK Patents Section 5(2)(B)]</b> <b>[new SG Patents Rules 9A(2) &amp; 9C]</b></p> <p><u>(2C) The Registrar shall grant a request made under subsection (2B) above if, and only if—</u></p>	<p>safety net to fall back on under certain circumstances when they miss the non extendible 12<sup>th</sup> month period to claim priority.</p> <p><b><u>D. Transitional &amp; Savings Provisions &amp; Implementation Date</u></b></p> <p>Normal cases:- The changes would apply to SG applications which qualify for a date of filing by complying with new section 26(1) on or after 1 April 2007.</p> <p>New (divisional) cases:- The changes would apply to earlier (parent) SG applications which qualify for a date of filing by complying with new section 26(1) on or after 1 April 2007.</p> <p>PCT cases:- The changes would apply to PCT applications that enter national phase into Singapore which qualify for an international date of filing on or after 1 April 2007.</p> <p><b><u>E. Purpose of this Consultation</u></b></p> <p><b>IPOS would like to invite views from the patent users on the following:</b></p> <p><b>1. As to the proposed amendments to the</b></p>

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<p><u>(a) the request is made within the prescribed period, in the prescribed manner, with the prescribed fee and it shall comply with the prescribed requirements; and</u></p> <p><u>(b) the Registrar is satisfied that the applicant's failure to file the application in suit within the period allowed under subsection (2A)(a) above was [unintentional]* or [had arisen in spite of due care]*.</u></p> <p><i>* Alternatives to be considered in the Consultation.</i></p> <p style="text-align: center;"><b>[UK Patents Section 5(2)(C)] [new SG Patents Rule 9A]</b></p> <p>(3)- (6) [No change]</p>	<p><b>section 17;</b></p> <p><b>2. As to which of the criteria* would be best for Singapore (both as a PCT receiving Office and Designated Office) to adopt. See PCT rule 26bis.3(i), 49ter.2(g) &amp; 49ter.2(h) which will come into force on 1 Apr 07, and</b></p> <p><b>* in spite of due care or that it was unintentional</b></p>
<p><b>Date of filing application</b></p> <p><del>26. — (1) The date of filing an application for a patent shall, subject to the provisions of this Act, be taken to be the earliest date on which the following considerations are satisfied in relation to the application:</del></p> <p><del>(a) the documents filed at the Registry contain an indication that a patent is sought in pursuance of the application;</del></p> <p><del>(b) those documents identify the applicant or applicants for the patent; and</del></p> <p><del>(c) those documents contain a description of the invention</del></p>	<p><b><u>A. Why make changes?</u></b></p> <p>The changes proposed would be aligned with the PCT changes that would come into force on 1 Apr 07.</p> <p>Ref:- new PCT Rules 4.18, 12, 20.1, 20.2, 20.3, 20.4, 20.5, 20.6, 20.7</p> <p><b><u>B. What are the changes in brief?</u></b></p> <p><b>Requirements to obtain a Date of Filing</b></p> <p>i. The changes will allow an applicant to indicate in</p>

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<p><del>whether or not the description complies with the other provisions of this Act and with any relevant rules.</del></p> <p><u>(1) Subject to the following provisions of this Act, the date of filing an application for a patent shall be taken to be the earliest date on which documents filed at the Registry to initiate the application satisfy the following conditions -</u></p> <p><u>(a) the documents indicate that a patent is sought;</u></p> <p><u>(b) the documents identify the person applying for a patent or contain information sufficient to enable that person to be contacted by the Registry; and</u></p> <p><u>(c) the documents contain either –</u></p> <p><u>(i) something which is or appears to be a description of the invention for which a patent is sought; or</u></p> <p><u>(ii) a reference, complying with the relevant requirements of rules, to an earlier relevant application made by the applicant or a predecessor in title of his.</u></p> <p style="text-align: center;"><b>[UK Patents Section 15(1)]</b> <b>[new SG Patents Rules 19(1A), 19(1B), 26, 26A]</b></p> <p><del>(2) Every application for a patent shall be examined on filing to determine whether –</del></p> <p><del>(a) the filing fee has been paid; and</del></p>	<p>the request for the grant of a patent that he wishes to refer to an earlier application subject to meeting certain requirements.</p> <p>ii. The effect is that the missing element of the application, subject to meeting certain requirements, will be incorporated into the application.</p> <p><b>After a Date of Filing is accorded but missing parts or drawings introduced</b></p> <p>iii. In general, the addition of missing parts or drawings to the patent application could potentially affect the Date of Filing.</p> <p>iv. The PCT changes allow the addition of the missing part or drawing if certain conditions are met.</p> <p><b><u>C. What effects would these changes bring?</u></b></p> <p>i. Although uncommon, cases of missing parts do occur and in many instances, they are the result of human error.</p> <p>ii. The changes would provide patent applicants with a fall-back position (subject to certain requirements being met) if this were to occur.</p>

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<p><del>(b) the application satisfies the requirements for the accordance of a filing date.</del></p> <p><u>(2) It is immaterial for the purposes of subsection (1)(c)(i) above –</u></p> <p><u>(a) whether the thing is in, or is accompanied by a translation into, a language accepted by the Registry in accordance with rules;</u></p> <p><u>(b) whether the thing otherwise complies with the other provisions of this Act and with any relevant rules.</u></p> <p style="text-align: right;"><b>[UK Patents Section 15(2)] [new SG Patents Rules 19(10) &amp; 19(11)]</b></p> <p><del>(3) If a date of filing cannot be accorded, the Registrar shall give the applicant an opportunity to correct the deficiencies, and if the deficiencies are not corrected within the prescribed period, the application shall be treated as having been abandoned.</del></p> <p><u>(3) Where documents filed at the Registry to initiate an application for a patent satisfy one or more of the conditions specified in subsection (1) above, but do not satisfy all those conditions, the Registrar shall as soon as practicable after the filing of those documents notify the applicant of what else must be filed in order for the application to have a date of filing.</u></p> <p style="text-align: right;"><b>[UK Patents Section 15(3)]</b></p>	<p><b><u>D. Transitional &amp; Savings Provisions &amp; Implementation Date</u></b></p> <p>Normal cases:- The changes would apply to all SG patent applications that are made on or after 1 April 2007.</p> <p>New (divisional) cases:- The changes would apply to earlier (parent) SG applications that are made on or after 1 April 2007.</p> <p><b><u>E. Purpose of this Consultation</u></b></p> <p><b>IPOS would like to invite views from the patent users: As to the proposed amendments to section 26 and its corresponding proposed amendments to section 28, 36A, 80 &amp; 84.</b></p>

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<p><del>(4) If the filing fee has not been paid within the period prescribed under section 25 (2), the application shall be treated as having been abandoned.</del></p> <p><u>(4) Where documents filed at the Registry to initiate an application for a patent satisfy all the conditions specified in subsection (1) above, the Registrar shall as soon as practicable after the filing of the last of those documents notify the applicant of the date of filing the application.</u></p> <p style="text-align: center;"><b>[UK Patents Section 15(4)]</b></p> <p><del>(5) If before the grant of a patent under section 30 it is found that any drawing referred to in any such application is filed later than the date which by virtue of subsection (1) is to be treated as the date of filing the application, the Registrar shall give the applicant an opportunity of requesting within the prescribed period that the date on which the drawing is filed shall be treated for the purposes of this Act as the date of filing the application, and—</del></p> <p style="padding-left: 40px;"><del>(a) if the applicant makes any such request, the date of filing the drawing shall be so treated; but</del></p> <p style="padding-left: 40px;"><del>(b) otherwise any reference to the drawing in the application shall be treated as omitted.</del></p> <p><u>(5) Subsection (6) below applies where –</u></p>	

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<p><u>(a) an application has a date of filing by virtue of subsection (1) above;</u></p> <p><u>(b) within the prescribed period the applicant files at the Registry –</u></p> <p style="padding-left: 40px;"><u>(i) a drawing, or</u></p> <p style="padding-left: 40px;"><u>(ii) part of the description of the invention for which a patent is sought, and</u></p> <p><u>(c) that drawing or that part of the description was missing from the application at the date of filing.</u></p> <p style="text-align: right;"><b>[UK Patents Section 15(5)] [new SG Patents Rule 26A]</b></p> <p><u>(6) Unless the applicant withdraws the drawing or the part of the description filed under subsection (5)(b) above (“the missing part”) before the end of the prescribed period –</u></p> <p style="padding-left: 40px;"><u>(a) the missing part shall be treated as included in the application; and</u></p> <p style="padding-left: 40px;"><u>(b) the date of filing the application shall be the date on which the missing part is filed at the Registry.</u></p> <p style="text-align: right;"><b>[UK Patents Section 15(6)] [new SG Patents Rule 26A]</b></p>	

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<p><u>(7) Subsection (6)(b) above does not apply if -</u></p> <p><u>(a) on or before the date which is the date of filing the application by virtue of subsection (1) above a declaration is made under section 17(2) above in or in connection with the application;</u></p> <p><u>(b) the applicant makes a request for subsection (6)(b) above not to apply; and</u></p> <p><u>(c) the request complies with the relevant requirements of rules and is made within the prescribed period.</u></p> <p style="text-align: right;"><b>[UK Patents Section 15(7)]</b> <b>[new SG Patents Rule 26A]</b></p> <p><u>(8) Subsections (6) and (7) above do not affect the power of the Registrar under section 107(1) below to correct an error or mistake.</u></p> <p style="text-align: right;"><b>[UK Patents Section 15(8)]</b> <b>[SG pre-amended Patents Act Section 26(7)]</b></p> <p><del>(26)</del> Where, after an application for a patent has been filed and before the conditions in section 30 (2) and (3) are satisfied, a new application is filed by the original applicant or his successor in title in accordance with the rules in respect of any part of the matter contained in the earlier application and the <del>considerations</del> <u>conditions</u> mentioned in subsection (1) are satisfied in relation to the new application (without the new application contravening section 84) the new application shall be</p>	

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<p>treated as having, as its date of filing, the date of filing the earlier application.</p> <p style="text-align: center;"><b>[UK Patents Section 15(9)] [new SG Patents Rules 9(5) &amp; 27]</b></p> <p><del>(7) Nothing in subsection (5) shall be construed as affecting the power of the Registrar under section 107 (1) to correct errors or mistakes with respect to the filing of drawings.</del></p> <p style="text-align: center;"><b>[See new SG Patents Act Section 26(8)]</b></p> <p><del>(8) An application for a patent shall be treated as having been abandoned at the end of the prescribed period unless before that period ends the applicant files one or more claims for the purposes of the application.</del></p> <p style="text-align: center;"><b>[See new SG Patents Act Section 26(10)]</b></p> <p><u>(10) Where an application has a date of filing by virtue of this section, the application shall be treated as having been abandoned if any of the following applies –</u></p> <p><u>(a) the applicant fails to file at the Registry, before the end of the prescribed period, one or more claims;</u></p> <p><u>(b) where a reference to an earlier relevant application has been filed as mentioned in subsection (1)(c)(ii) above –</u></p> <p><u>(i) the applicant fails to file at the Registry, before the end of the prescribed period, a description of the invention for</u></p>	

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<p><u>which the patent is sought;</u></p> <p><u>(ii) the applicant fails to file at the Registry, before the end of the prescribed period, a copy of the application referred to, complying with the relevant requirements of rules;</u></p> <p><u>(c) the applicant fails to pay the fee referred to in section 25 before the end of the prescribed period;</u></p> <p style="text-align: center;"><b>[UK Patents Section 15(10)] [new SG Patents Rules 26 &amp; 27A]</b></p> <p><u>(11) In this section “relevant application” has the meaning given by section 17 (5) above.</u></p> <p style="text-align: center;"><b>[UK Patents Section 15(11)]</b></p>	
<p><del><b>Examination as to form</b></del> <b><u>Preliminary examination</u></b></p> <p><del><b>28.—(1) Where—</b></del></p> <p><del>(a) an application for a patent has a date of filing;</del></p> <p><del>(b) the application is not withdrawn or treated as having been abandoned; and</del></p> <p><del>(c) one or more claims for the purposes of the application have been filed in accordance with section 26 (8);</del></p>	CONSEQUENTIAL AMENDMENT TO SECTION 26

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<p><del>the Registrar shall, as soon as practicable after the end of the prescribed period, examine the application so as to determine whether the application complies with those requirements of this Act and the rules which are designated by the rules as formal requirements for the purposes of this Act.</del></p> <p><u>(1) The Registrar shall conduct a preliminary examination of the application if -</u></p> <p style="padding-left: 40px;"><u>(a) an application for a patent has a date of filing;</u></p> <p style="padding-left: 40px;"><u>(b) the application has not been withdrawn or treated as having been abandoned; and</u></p> <p style="padding-left: 40px;"><u>(c) the filing fee has been paid.</u></p> <p style="text-align: center;"><b>[UK Patents Section 15A(1)]</b></p> <p><del>(2) Where, after an examination under subsection (1), it is determined that not all the formal requirements are complied with, the Registrar shall give the applicant an opportunity to make observations and to amend the application within such period as the Registrar may specify so as to comply with those requirements (subject, however, to section 84).</del></p> <p><u>(2) On a preliminary examination of an application the Registrar shall</u></p> <p style="padding-left: 40px;"><u>(a) determine whether the application complies with those requirements of this Act and the rules which are designated by</u></p>	

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<p><u>the rules as formal requirements for the purposes of this Act; and</u></p> <p><u>(b) determine whether any requirements under section 26(10) above remain to be complied with.</u></p> <p style="text-align: center;"><b>[UK Patents Section 15A(2)]</b> <b>[current SG Patents Rules 32 &amp; 33]</b></p> <p><del>(3) If the applicant fails to do so, the Registrar may refuse the application.</del></p> <p><u>(3) The Registrar shall record in a report his determinations under subsection (2) above.</u></p> <p style="text-align: center;"><b>[UK Patents Section 15A(3)]</b></p> <p><u>(4) If on the preliminary examination of an application it is found that -</u></p> <p style="padding-left: 40px;"><u>(a) any drawing referred to in the application, or</u></p> <p style="padding-left: 40px;"><u>(b) part of the description of the invention for which the patent is sought,</u></p> <p><u>is missing from the application, then the Registrar shall include this finding in his report under subsection (3) above.</u></p> <p style="text-align: center;"><b>[UK Patents Section 15A(4)]</b></p> <p><u>(5) Subsections (6) to (8) below apply if a report made by the Registrar under subsection (3) above that not all the formal requirements have</u></p>	

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<p><a href="#">been complied with.</a></p> <p style="text-align: center;"><b>[UK Patents Section 15A(5)]</b></p> <p><a href="#">(6) The Registrar shall send the report to the applicant and specify a period during which the applicant shall have the opportunity -</a></p> <p style="padding-left: 40px;"><a href="#">(a) to make observations on the report, and</a></p> <p style="padding-left: 40px;"><a href="#">(b) to amend the application so as to comply with those requirements (subject to section 84 below).</a></p> <p style="text-align: center;"><b>[UK Patents Section 15A(6)] [new SG Patents Rule 26A(4)]</b></p> <p><a href="#">(7) The Registrar may refuse the application if the applicant fails to amend the application as mentioned in subsection (6)(b) above before the end of the period specified by the Registrar under that subsection.</a></p> <p style="text-align: center;"><b>[UK Patents Section 15A(7)] [new SG Patents Rule 26A(4)]</b></p> <p><a href="#">(8) Subsection (7) above does not apply if –</a></p> <p style="padding-left: 40px;"><a href="#">(a) the applicant makes observations as mentioned in subsection (6)(a) above before the end of the period specified by the Registrar under that subsection, and</a></p> <p style="padding-left: 40px;"><a href="#">(b) as a result of the observations, the Registrar is satisfied that the</a></p>	

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<p><a href="#">formal requirements have been complied with.</a></p> <p style="text-align: center;"><b>[UK Patents Section 15A(8)]</b></p> <p><a href="#">(9) If the Registrar determines under subsection (3) above -</a></p> <p style="padding-left: 40px;"><a href="#">(a) that any requirement of section 26(10) above has not been complied with; or</a></p> <p style="padding-left: 40px;"><a href="#">(b) that a drawing or part of the description of the invention has been found to be missing,</a></p> <p><a href="#">then the Registrar shall notify the applicant accordingly.</a></p> <p style="text-align: center;"><b>[UK Patents Section 15A(9)]</b> <b>[new SG Patents Rules 26A]</b></p>	
<p><b>Extension of term of patent</b></p> <p><b>36A.</b> —(1) – (12) , (14) <i>[no change]</i></p> <p>(13) In subsection (2), “period attributable to an act or omission of the applicant” includes (without prejudice to the generality of the expression) any of the following periods which is applicable:</p> <p style="padding-left: 40px;">(a) the period taken by the applicant to pay the filing fee under section 25 (1) (b), calculated from the date of filing of the application for the patent to the date on which the filing fee is paid;</p>	<p>CONSEQUENTIAL AMENDMENT TO SECTION 26</p>

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<p>(b) the period taken by the applicant to <del>correct</del> <u>address the</u> deficiencies in his application under section 26 <del>(3)</del>, calculated from the date of the Registrar's notification to the applicant of the deficiencies to the date on which the applicant <del>corrects</del> <u>addresses</u> the deficiencies;</p> <p>(c) the period taken by the applicant to file one or more claims for the purposes of the application under section 26 <del>(8)</del> <u>(10)</u>, calculated from the date of filing of the application for the patent to the date on which the applicant files the claim or claims;</p> <p>(d) – (q) <i>[no change]</i></p>	
<p><b><u>Repeal of Section 51:</u></b></p> <p><del>Avoidance of certain restrictive conditions</del></p> <p style="text-align: center;"><b>[UK Patents Section 44 (repealed)]</b></p>	<p><b><u>A. Why make changes?</u></b></p> <p>i. This section deems certain conditions or terms of contracts as void if they are restrictive (often known as "tie-in clauses"). For example, in the case of a contract for supply, it would be restrictive if a term or condition in the contract requires the person supplied to acquire from the supplier, or his nominee, or prohibit him from acquiring from any specified person, or from acquiring except from the supplier or his nominee, anything other than the patented product.</p>

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	<p>ii. With the advent of the coming into force of the Competition Act in 2005 (Phase One) and the provisions on anti-competitive agreements, abuse of dominance etc. in 2006 (Phase Two), it is proposed that the consideration as to whether such terms and conditions previously deemed as restrictive and void be made under the Competition Laws.</p> <p><b><u>B. What are the changes in brief?</u></b></p> <p>A repeal of this provision is being considered.</p> <p><b><u>C. What effects would these changes bring?</u></b></p> <p>Such restrictive covenants in contracts relating to patented products would be subject to the requirements of the Competition Laws &amp; its corresponding Guidelines.</p> <p><b><u>D. Transitional &amp; Savings Provisions &amp; Implementation Date</u></b></p> <p>Section 51 will however continue to apply to agreements entered into before 1 Apr 2007.</p>

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	<p><b><u>E. Purpose of this Consultation</u></b></p> <p><b>IPOS would like to invite views from the patent users: As to the proposed repeal to section 51.</b></p>
<p><b><u>Repeal of Section 52:</u></b></p> <p><del>Determination of parts of certain contracts</del></p> <p style="text-align: center;"><b>[UK Patents Section 45 (repealed)]</b></p>	<p><b><u>A. Why make changes?</u></b></p> <p>Similar consideration as in Section 51 above is being made.</p> <p><b><u>B. What are the changes in brief?</u></b></p> <p>A repeal of this provision is proposed.</p> <p><b><u>C. What effects would these changes bring?</u></b></p> <p>Such parts in contracts relating to patented products would be left subject to the requirements of the Competition Laws &amp; its corresponding Guidelines.</p> <p><b><u>D. Transitional &amp; Savings Provisions &amp; Implementation Date</u></b></p> <p>Section 52 will however continue to apply to agreements entered into before 1 Apr 2007.</p>

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	<p><b><u>E. Purpose of this Consultation</u></b></p> <p><b>IPOS would like to invite views from the patent users: As to the proposed repeal to section 52.</b></p>
<p><b>Power to revoke patents on application</b></p> <p><b>80.</b> —(1) Subject to the provisions of this Act, the Registrar may, on the application of any person, by order revoke a patent for an invention on (but only on) any of the following grounds:</p> <p style="padding-left: 40px;">(a) – (c) <i>[no change]</i></p> <p style="padding-left: 40px;">(d) the matter disclosed in the specification of the patent extends beyond that disclosed —</p> <p style="padding-left: 80px;">(i) in the application for the patent, as filed; or</p> <p style="padding-left: 80px;">(ii) where the patent was granted on a new application filed under section 20 (3) or 47 (4) or section 116 (6) of the Patents Act (Cap. 221, 1995 Ed.), or in accordance with section 26 (6) (9), in —</p> <p style="padding-left: 120px;">(A) the earlier application made under this Act;</p> <p style="padding-left: 120px;">(B) the application made under the United Kingdom Patents Act 1977; or</p> <p style="padding-left: 120px;">(C) the application under the European Patent</p>	<p>CONSEQUENTIAL AMENDMENT TO SECTION 26</p>

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<p style="text-align: center;">Convention designating the United Kingdom filed at the European Patent Office, as the case may be, from which the filing date and the right of priority has been derived, as filed;</p> <p style="text-align: center;">(e)-(g) [no change]</p> <p>(2) – (10) [no change]</p>	
<p><b>Amendments of applications and patents not to include added matter</b></p> <p><b>84.</b> —(1) An application for a patent which —</p> <p style="padding-left: 40px;">(a) is made in respect of matter disclosed in an earlier application, or in the specification of a patent which has been granted; and</p> <p style="padding-left: 40px;">(b) discloses additional matter, that is, matter extending beyond that disclosed in the earlier application made under this Act or in the application made under the United Kingdom Patents Act 1977 or the application under the European Patent Convention designating the United Kingdom filed at the European Patent Office from which the filing date and right of priority is sought to be derived, as filed, or the application for the patent, as filed,</p> <p>may be filed under section 20 (3) or 47 (4) or section 116 (6) of the Patents Act (Cap. 221, 1995 Ed.), or as mentioned in section 26 <del>(6)</del> (9), but shall not be allowed to proceed unless it is amended so as to</p>	<p>CONSEQUENTIAL AMENDMENT TO SECTION 26</p>

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<p>exclude the additional matter.</p> <p style="text-align: center;"><b>[UK Patents Section 76(1)]</b></p> <p><u>(1A) Where, in relation to an application for a patent—</u></p> <p style="padding-left: 40px;"><u>(a) a reference to an earlier relevant application has been filed as mentioned in section 26(1)(c)(ii) above; and</u></p> <p style="padding-left: 40px;"><u>(b) the description filed under section 26(10)(b)(i) above discloses additional matter, that is, matter extending beyond that disclosed in the earlier relevant application,</u></p> <p style="padding-left: 40px;"><u>the application shall not be allowed to proceed unless it is amended so as to exclude the additional matter.</u></p> <p style="text-align: center;"><b>[UK Patents Section 76(1A)]</b></p> <p>(2) – (3) <i>[no change]</i></p> <p><u>(4) In subsection (1A) above “relevant application” has the meaning given by section 17(5) above.</u></p> <p style="text-align: center;"><b>[UK Patents Section 76(4)]</b></p>	
<p><b>Adaptation of provisions in relation to international application</b></p> <p><b>87.</b> —(1) Where an international application for a patent (Singapore) is accorded a filing date under the Patent Co-operation Treaty —</p>	<p><b><u>A. Why make changes?</u></b></p> <p>i. The first change is consequential to the change proposed for section 17.</p>

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<p>(a) that date or, if the application is re-dated under the Treaty to a later date, that later date shall be treated as the date of filing the application under this Act;</p> <p>(b) any declaration of priority made under the Treaty shall be treated as made under section 17 (2), and where in accordance with the Treaty any extra days are allowed, the period of 12 months specified in section 17 <del>(2)</del> <a href="#">(2A)(a)</a> shall be treated as altered accordingly; and</p> <p>(c) any statement of the name of the inventor under the Treaty shall be treated as a statement filed under section 24 (2).</p> <p>(2) If the application, not having been published under this Act, is published in accordance with the Patent Co-operation Treaty, it shall be treated, for purposes other than those mentioned in subsection (3), as published under section 27 when the <del>conditions mentioned in section 86 (3) (a) are complied with.</del> <a href="#">national phase of the application begins or, if later, when published in accordance with the Treaty.</a></p> <p style="text-align: right;"><b>[UK Patents section 89B(2)]</b></p> <p>(3) – (5) <i>[no change]</i></p>	<p>ii. The second change proposed makes clear that the application is treated as published under section 27 when it is published under the PCT even if the publication occurred after the application has entered national phase.</p> <p>Ref:- new PCT Rule 49ter1</p> <p><b><u>B. What are the changes in brief?</u></b></p> <p>See above.</p> <p><b><u>C. What effects would these changes bring?</u></b></p> <p>The second change would make it clear that this provision applies whether the international application enters the national phase early, or enters the national phase at the end of the time period.</p> <p><b><u>D. Transitional &amp; Savings Provisions &amp; Implementation Date</u></b></p> <p>i. The first change is consequential to the change proposed for section 17.</p> <p>ii. For the second change - where the national phase (as defined by section 86(3) of the Patents</p>

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	<p>Act) of an international application for a patent (SG) begins before 1 April 2007, section 87(2) of that Act has effect in relation to that application as if the amendment to that subsection had not been made.</p> <p><b><u>E. Purpose of this Consultation</u></b></p> <p><b>IPOS would like to invite views from the patent users: As to the proposed amendments to section 87.</b></p>