

UPDATES FROM IPOS

APRIL 2023

Dear readers,

Here is the April 2023 update on IP/IT dispute resolution in Singapore.

Recent Court decisions

- [General Hotel Management \(Singapore\) Pte Ltd & Anor v The Wave Studio Pte. Ltd. & 2 Ors](#) [2023] SGHC(A) 11

The Appellate Division of the High Court has dismissed an appeal against a [decision](#) of the General Division concerning the ownership of copyright in respect of certain photographs taken for the purposes of branding and marketing a range of luxury hotels and resorts. However, the appellant's appeal against the decision below that costs should be awarded on an indemnity basis was allowed. The court's case summary is included in the link above.

- [Towa Corporation v ASM Technology Singapore Pte Ltd & Anor](#) [2023] SGHC 99

This judgment concerns the assessment of damages to be awarded in respect of patent infringement. The [first instance decision](#) on liability was [upheld on appeal](#) by the Court of Appeal.

- [Fonterra Brands \(Singapore\) Pte. Ltd. v Consorzio del Formaggio Parmigiano Reggiano](#) [2023] SGHC 77


The Consorzio del Formaggio Parmigiano Reggiano owns the geographical indication ("GI") "Parmigiano Reggiano", registered for cheese. Under the Geographical Indications Act 2014, protection for a GI may extend to unauthorised use of a translation of the GI. However, a third party may submit a request to qualify the scope of protection of a registered GI. In this case, Fonterra applied to carve out "Parmesan" from the scope of GI protection on the basis of the contention that "Parmesan" is not a translation of "Parmigiano Reggiano". The IPOS hearing officer who heard the matter at first instance [found](#) that "Parmesan" is a translation of the GI and should therefore be accorded protection. Fonterra appealed to the General Division of the High Court, which upheld the finding and dismissed the appeal. (In this case, the issue of whether "Parmesan" was or has become the generic name for such products was not argued before IPOS and so did not arise for consideration in the appeal.) Fonterra has filed a request for leave to further appeal.



On 9 April 2023, The Straits Times reported on this case under the headline ‘*Parmesan*’ is translation of ‘*Parmigiano Reggiano*’ High Court Rules in cheese dispute. The news article is also available on Singapore Law Watch [here](#).

- *Symphony Holdings Limited v Skins IP Limited (HC/TA 11/2022)*

The General Division of the High Court has allowed an appeal against an IPOS decision. At first instance, an IP Adjudicator [allowed](#), in part, a non-use revocation action brought by Skins

IP Limited against the registered trade mark “”. (The registration was ordered to be revoked in part in Classes 18, 25 and 28, but the revocation action failed in respect of Class 10.) Symphony Holdings appealed against the IP Adjudicator’s decision in relation to Classes 18 and 25. Skins IP Limited (the respondent in the appeal) did not attend the hearing of the appeal. The appeal was allowed and the IPOS decision in respect of Classes 18 and 25 was reversed. No written grounds of decision were issued by the Court.

- *Pauline New Ping Ping v Eng’s Char Siew Wantan Mee Pte. Ltd. (HC/TA 7/2022)*

The General Division of the High Court has dismissed an appeal against an IPOS decision concerning the “ENG’S” wonton/wantan mee trade marks. The first instance [decision](#) by an IP Adjudicator was covered in the media, including by The Straits Times in a [report](#) dated 24 July 2022 titled ‘*Daughters of Eng’s wonton noodles founder win trademark dispute*’. No written grounds of decision were issued by the Court.

Recent IPOS decisions

- [Vetements Group AG v Xiamen VETEMENTS Brand Management co,LTD.](#) [2023] SGIPOS 6

Vetements Group AG (the “applicant”) is a Swiss company which owns the “Vetements” European luxury brand (founded in 2013 by Demna Gvasalia, a famous designer who is also the creative director of Balenciaga). It applied for a declaration of invalidity against “VETEMENTS”, a trade mark in Class 25 for clothing and related goods registered in the name of Xiamen VETEMENTS Brand Management Co, LTD (the “proprietor”), a Chinese company. In its statement of grounds, the applicant alleged that the proprietor had produced copies in China of the former’s goods (and similar items) and sold them under the mark “VETEMENTS” with the false claim that it was the applicant’s collection for the Asian market.


Although the proprietor defended the action by filing a counter-statement, it did not file its evidence by the required deadline. Under the Trade Marks Rules, the effect of this failure to file evidence is that it is deemed to have admitted to the facts alleged by the applicant. After considering the pleadings, and the applicant’s evidence and submissions, the hearing officer allowed the invalidation action on the ground that the mark had been registered in bad faith.

- [HMV Brand Pte. Ltd. v Yongfeng Trade Co., Limited](#) [2023] SGIPOS 7

HMV, the music and entertainment retailer, closed its last store in Singapore in 2015. In 2019, slightly less than four years afterwards, Yongfeng Trade Co., Limited, a Hong Kong company,






applied to register the following dog and gramophone mark “” in classes 9 and 25 (“subject mark”). The examiner who first considered the application initially refused



to allow it, citing a conflict with three earlier trade marks including “**HIS MASTER'S VOICE**” in



class 9 and “” in classes 9 and 25. Yongfeng then applied to revoke the three cited marks on the basis of non-use. It succeeded because the owner of the cited marks, Mermaid (Brands) Limited, which was part of the HMV group of companies, did not respond. With the cited marks out of the way, the subject mark was allowed to proceed to registration. In 2020, what remained of HMV’s trade mark portfolio in Singapore was transferred to HMV Brand Pte Ltd. (the “applicant”). The applicant commenced invalidation proceedings against the subject mark in 2021. After consideration, the hearing officer found that the subject mark had been registered in bad faith.

Featured articles

- Professor David Tan has authored an article titled “*The Best Things in Life are Not for Free: Copyright and Generative AI Learning*”. It is published on the “Feature” section of the Law Gazette website, available at the following [link](#). The piece begins with the following abstract:

Generative AI tools like Chat GPT and Stable Diffusion must have access to millions of text and images in order for them to learn and eventually generate output successfully in response to user commands. The key question for copyright lawyers today is whether this machine learning should come at a price.

- Associate Professor Saw Cheng Lim and Samuel Zheng Wen Chan have authored an article titled “*Of Inventorship and Patent Ownership: Examining the Intersection between Artificial Intelligence and Patent Law*”, published in the Singapore Journal of Legal Studies. The [citation](#) is [Mar 2023 Online] Sing JLS 1-25. The article abstract is reproduced below.

Artificial intelligence (“AI”) has garnered much attention in recent years, with capabilities spanning the operation of self-driving cars to the emulation of the great artistic masters of old. The field has now been ostensibly enlarged in light of the professed abilities of AI machines to autonomously generate patentable inventions. This article examines the present state of AI technology and the suitability of existing patent law frameworks in accommodating it. Looking ahead, the authors also offer two recommendations in a bid to anticipate and resolve the challenges that future developments in AI technology might pose to patent law. In particular, the case is made for fully autonomous machine inventors to be recognised as “inventors” by



statute and for patent ownership of AI-generated inventions to be granted to the owners of these machine inventors by default.

Media coverage

Readers who are following developments in the crypto space may also be interested in the following Business Times [report](#) dated 10 April 2023 which records a discussion (in the context of a High Court hearing) concerning whether cryptocurrency is money.

INTA Singapore 2023

In conjunction with the INTA Annual Meeting, IPOS and Maxwell Chambers will be organising a presentation by Singapore Dispute Resolution Institutions & tour of Maxwell Chambers on 16 May 2023 (Tuesday), 4-6pm. The intention is to introduce the international delegates attending INTA to our globally-respected dispute resolution institutions as well as to showcase Maxwell Chambers' state-of-the-art hearing facilities to them. The event is supported by SICC, SIAC, and SIMC.

The programme is as follows (each segment is optional):

- 4 - 5pm – presentations by the Ministry of Law, Singapore International Commercial Court, Singapore International Arbitration Centre and Singapore International Mediation Centre, followed by a Q & A session
- 5 - 6pm – networking tea break / tours of Maxwell Chambers (multiple tours at 20 min intervals).

To register, click here: [link](#). The event is also listed on the IPOS INTA 2023 [microsite](#) (under “Other Highlights”).

If you know of anyone that would like to be added to this mailing list (which deals primarily with IP/IT dispute resolution in Singapore), please drop us a note at ipos_hmd@ipos.gov.sg. IPOS also separately maintains another mailing list for circulars, legislative amendments and other related matters which you can join by contacting news@ipos.gov.sg. For any comments or feedback (or to draw our attention to any interesting news we might have missed), please email gabriel_ong@ipos.gov.sg. Archived copies of our previous updates are available at the following [link](#).

