

## UPDATES FROM IPOS

JULY 2023

Dear readers,

Here is this month's roundup on developments in IP/IT dispute resolution in Singapore.

### Recent Court decisions

- [Bybit Fintech Limited v Ho Kai Xin & 5 Ors](#) [2023] SGHC 199

In a judgement widely covered by the media, the General Division of the High Court ruled that Tether (USDT), a stablecoin, is property that is capable of being held on trust. Although the ruling was, strictly speaking, made in respect of USDT, the decision makes clear that in principle a holder of a crypto asset has *"an incorporeal right of property recognisable by the common law as a thing in action and so enforceable in court"* (at [36]). According to the court case summary (available through the same link above), this is the first time that this has been decided in any common law court.

- [Patrick John Wee Ewe Seng v True Yoga Pte Ltd & 2 Ors](#) [2023] SGHC(A) 26

This appeal concerned the conduct of Mr Wee, a former director and CEO of the "True" group of companies (which included True Yoga in Singapore). For context, despite knowing that the group's business operations in Malaysia and Thailand were facing financial difficulties and were headed for closure, Mr Wee authorised the promotion and sale of long-term membership packages that could not be fulfilled. At trial, the General Division of the High Court found that Mr Wee's actions amounted to a breach of duty under his employment contract and breach of fiduciary duty as a director. The Appellate Division upheld the judgment and dismissed the appeal. In so doing, the appellate court found Wee to have mismanaged the closure of the business and damaged the brand equity of the "True" brand.

- [Razer \(Asia-Pacific\) Pte. Ltd. v Capgemini Singapore Pte. Ltd](#) [2023] SGHC 195

Earlier this year, the General Division of the High Court found Capgemini Singapore liable to Razer (Asia-Pacific) for breach of contract and negligence arising out of a misconfigured server file which led to a leak of the latter's non-public consumer data. This decision concerned the costs to be awarded to Razer following that lawsuit. The court held that Razer had a contractual right to indemnity costs, which was provided for in the agreements between the parties. Razer was also found to have a separate right to indemnity costs flowing from the date of its offer to settle (OTS), since the outcome of the suit was less favourable than the terms of the OTS.



- [Lim Oon Kuin & 2 Ors v Rajah & Tann Singapore LLP](#) [2023] SGHC 222

This decision arises out of a long-running bid by embattled former oil tycoon Lim Oon Kuin—popularly known as “OK Lim”—together with two members of his family, to restrain their former lawyers, Rajah & Tann, from acting for two companies (or their (interim) judicial managers / liquidators) in the Hin Leong group which OK Lim had founded. Part of the Lims’ case was that R&T had, through acting for them since the 1990s, acquired confidential information which may be misused by R&T against them: see judgment at [7] and earlier Court of Appeal decision, issued in April 2022, [here](#).

Sometime around August 2022, the parties attempted to resolve their dispute. When this was unsuccessful, seeing that the claim was essentially for injunctive relief to restrain R&T from acting for the companies, the law firm ceased its engagement and offered to pay the costs of the proceedings on a no-admission-of-liability basis. However, the Lims did not respond to the offer. R&T then applied to strike out the actions on the basis that they served no practical purpose. In response, the Lims filed amendment applications seeking new reliefs in connection with their allegations relating to misuse of confidential information. Ultimately, the amendment applications were disallowed and the court actions were ordered to be struck out, subject to an undertaking (which had already been accepted by the Lims) by R&T not to act for or advise the companies or their liquidators.

#### Appeals arising from IPOS decisions

- On 10 August 2023, the Court of Appeal heard the appeal against the decision of the General Division of the High Court in [Australian Grape and Wine Inc v Consorzio di Tutela della Denominazione di Origine Controllata Prosecco](#) [2022] SGHC 33. Judgment has been reserved.

#### Featured articles

Readers may be interested in the following articles:

- The Metaverse Beyond the Internet, authored by Professor Tan Cheng-Han & Associate Professor Daniel Seng Kiat-Boon, published in (2023) Law, Innovation and Technology, DOI: [10.1080/17579961.2023.2245677](#)

The article abstract is reproduced below.

*Just as the evolution of the Internet has transformed the way people live and work, so too the next significant iteration of the Internet, commonly referred to as the Metaverse, which the authors suggest will go beyond the Internet as a sort of successor state to the Internet, will also lead to significant societal change. This paper considers a number of issues that are likely to test the law and its response including in the areas of online wrongs, intellectual property and digital assets.*

- [A Shifting Breach of Confidence Action in Singapore](#): Lim Oon Kuin v Rajah & Tann Singapore LLP [2022] 2 SLR 280 [Case Note], authored by Adel Zaid Hamzah and published on e-First 2 August 2023



The article abstract is reproduced below.

*In Lim Oon Kuin v Rajah & Tann Singapore LLP [2022] 2 SLR 280, the Singapore Court of Appeal clarified that its previous decision in I-Admin (Singapore) Pte Ltd v Hong Ying Ting [2020] 1 SLR 1130 was not meant to be a massive rehaul of the breach of confidence action in Singapore. This case note raises some interesting questions that may require clarification in a future decision. In particular, it will be argued that the effect of Lim Oon Kuin v Rajah & Tann LLP is that there are now three formulations of the breach of confidence action in Singapore, and some solutions to these unanswered questions will be proffered.*

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](mailto: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](mailto: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](mailto:gabriel_ong@ipos.gov.sg). Archived copies of our previous updates are available at the following [link](#).

