

UPDATES FROM IPOS

OCTOBER 2021

Dear readers,

Hope this email finds you well.

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. And, 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.

Recent Court decisions

- *Mac's Associates Pte Ltd & 2 Ors v Siew Kang Yoke & Anor* [2021] SGHC 210

The High Court has set aside an Anton Piller order (“APO”) that was obtained by the plaintiffs to search and seize certain documents in the defendants’ residences, office and car. The defendants were ex-employees of the plaintiffs. The plaintiffs claimed that the defendants had taken and misused their confidential information in setting up a competing business. Although the court found that there was a strong *prima facie* case that the documents in question were confidential, the plaintiffs were not able to establish a strong *prima facie* case of a causal link between the alleged misuse or conversion of confidential information and the loss suffered by the plaintiff. This was one of the main reasons the APO was set aside. The full decision is available [here](#).

- Appeal against IPOS decision in *Warrior Pte Ltd v Nippon Paint (Singapore) Co. Pte. Ltd.* [2021] SGIPOS 7 (Unreported)

The High Court has dismissed an appeal against the above [decision](#). No written grounds of decision are available.

Recent IPOS decisions

- *Combe International Ltd v Dr. August Wolff GmbH & Co. KG Arzneimittel* [2021] SGIPOS 10



This trade mark opposition dispute involved the application mark “Dr. Wolff’s Vagisan”

**Dr. Wolff’s
Vagisan**

(), sought to be registered in Classes 3 and 5. The opponent, Combe International, relied on its earlier registered marks which comprise “VAGISIL”. The opposition failed on all grounds.

The IPOS case summary is available [here](#), and the full decision is available [here](#). The IP Adjudicator also commented on the vexed issue of the role of acquired distinctiveness in the marks similarity assessment: a brief summary is located in the final paragraph of the IPOS case summary (linked earlier).

- *Technopharma Limited v Unilever plc* [2021] SGIPOS 11

This case was about whether three registered “FAIR & LOVELY” trade marks belonging to Unilever plc should be revoked for non-use. On the facts, none of the marks were put to use in the exact forms in which they were registered.

The decision addresses various issues surrounding the legal requirements for “genuine use” of a registered trade mark, which the proprietor bears the burden of proving in order to resist the non-use revocation application.

In the result, an order was made to revoke all three marks for non-use. The IPOS case summary is available [here](#), and a link to the full decision is available [here](#).

Update to List of Technical Experts

In our previous update, we announced the launch of the [List of Technical Experts](#) on IPOS’ website, aimed at: (1) profiling Singapore-based expertise and (2) providing parties/institutions with additional options.

We have since made some updates to the profiles of the experts to include, among other things, detailed information on their background and expertise, direct contact information, and language proficiency.

Appointment of Young IP Mediators

We are pleased to [announce](#) (also [here](#)) that Samuel Teo and Ong Kye Jing have been appointed as Young IP Mediators by IPOS. Young IP Mediators have the opportunity to: (1) participate in mediations concerning IP disputes as a shadow mediator or co-mediator; and/or (2) be involved in a range of projects in this vein.

New published article on copyright law

Readers may be interested to note that a new article ([link](#)), titled “*Copying Right in Copyright Law: Fair Use, Computational Data Analysis and the Personal Data Protection Act*”, authored by Professor David Tan and Thomas Lee Chee Seng, has just been published on 30 September 2021 in the Singapore Academy of Law Journal. For convenience, the article abstract is reproduced below.



"Data mining and predictive analytics is a multi-billion industry in the 21st century and can generate immense public benefit. At the same time, it has attracted global controversy in highly visible cases of copyright and data protection violations such as in the Google Books and Google Images litigation. The governing laws require a constant delicate balancing between the interests of rights owners, data miners and private individuals. This article analyses Singapore's copyright and data protection regimes to examine their effectiveness as dual and complementary regulators of data mining. It also identifies the salient concerns shared by stakeholders to pinpoint avenues for legal reform. Finally, in recognising that economic considerations play a crucial role underlying Singapore's copyright and data protection regimes, this article suggests that an economic analysis to identify reforms in line with maximising welfare among stakeholders is apropos. The article concludes that more illustrations should be added to the proposed computational data analysis exception under s 244 of the proposed Copyright Act 2021 to clarify the grey areas, and that the research exception under the Personal Data Protection Act 2012 (Act 26 of 2012) should be retained in its current form."

In Conversation with Dr. Stanley Lai, SC

We are happy to present the [third interview](#) in the series of interviews by the NUS Law Intellectual Property Students Association ("IPSA") with key players of the intellectual property ("IP") field in Singapore.

As mentioned in our previous email, the interviews seek to represent a diversity of views in the field of IP dispute resolution, and aim to explore and discuss the various strategies that Singapore is intending to employ in strengthening its position as an international dispute resolution hub for IP disputes.

IPOS: Our Transformation Story

Over the years, IPOS has built up Singapore's IP regime to be one of the best in the world. Today, we continue to cement our international reputation and to fuel Singapore's growth as a global IP and innovation hub.

This year, IPOS celebrates our 20th anniversary. To commemorate the occasion, we are pleased to introduce [IPOS Our Transformation Story](#), a book describing our 20 years of growth as a statutory board from 2001 to 2021. (For those who are interested, pages 30-33 relate to dispute resolution.)

Featured Events

Contentious Trade Mark Proceedings at IPOS: Best Practices and Other Practical Tips (3 Public CPD points), 19 Oct 2021

New to handling contentious trade mark proceedings at IPOS? Or just looking at a refresher so that you can conduct proceedings at IPOS more efficiently and effectively?

We are pleased to share that Contentious Trade Mark Proceedings at IPOS: Best Practices and Other Practical Tips (online live streaming session) will be held on **19 October 2021**, 9.30 am – 12.30 pm. [Join us](#) for this practice-oriented seminar ([brochure](#)) for only \$100 (excluding GST) and learn: (1) to avoid some of the common errors made in pleadings and evidence; and (2) how to better prepare for Case Management Conferences, Pre-Hearing Reviews and other hearings before IPOS.

(Fully Online) Acting as an Expert Witness in a Patent Dispute (5 Public CPD points), 18 Oct 2021



Expert evidence plays an important—and sometimes pivotal—role in patent dispute resolution. However, the roles and responsibilities of the expert in preparing a report or giving witness testimony is often misunderstood or shrouded in mystery.

This [full day seminar](#) (18 October 2021, 9.30am - 4.30pm) seeks to introduce participants to the world of expert evidence with a focus on patent disputes, whether in court or before a tribunal (e.g. in arbitration proceedings).

(Fully Online) 9th Developments in IP Law Series, 20 January 2022 (Trade Marks / Passing Off), 27 January 2022 (Patents), 10 February 2022 (Breach of Confidence / Privacy and Data Protection), 17 February 2022 (Copyright) (Pending confirmation: 3 Public CPD points per session)

Stay current on the latest IP law developments in Singapore and the UK with this flagship programme for IP professionals. Where relevant, developments in the EU, US, and Australia are also discussed in this series, which typically runs in the first quarter of the year.

Like its previous sell-out editions, this 9th edition returns with a line-up of prestigious speakers, comprising distinguished academics, experienced practitioners, industry representatives, and representatives from the public sector. Anyone with an interest in IP will benefit greatly from this programme. For more information, please click [here](#).

