

## UPDATES FROM IPOS

SEPTEMBER 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](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). 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](mailto:gabriel_ong@ipos.gov.sg).

### Recent Court decisions

- *Ong Heng Chuan v Ong Teck Chuan and others* [2021] SGCA 46

The Court of Appeal has upheld the High Court's [decision](#) to dismiss the appellant's claim of minority oppression under s 216 of the Companies Act against the first and second respondents. Readers may be interested to note that the minority oppression claim centred around various acts, including the sale and diversion of "Tong Garden" and "NOI" trade marks belonging to Tong Guan Food Products Pte Ltd and its associated companies in the Tong Garden Group. For the full decision and the corresponding case summary, please click [here](#).

- *Angliss Singapore Pte Ltd v Yee Heng Khay (alias Roger)* [2021] SGHC 168

This suit was brought by Angliss, a food distributor, against a former employee (Yee) for breach of confidence, breach of contractual duties of confidence, loyalty and fidelity; and breach of fiduciary duties. Angliss claimed that Yee's actions had resulted in the loss of its distributorship agreement with a supplier, Arla Food Ingredients Singapore, which had instead signed a distributorship agreement with another food distributor, Indoguna Singapore, where Yee was employed at the time of the suit. Although Yee admitted that he took confidential information belonging to Angliss, he denied any misuse of the information, and asserted that it was Angliss' own actions that caused its loss. In the result, the High Court found in favour of Angliss and awarded damages of S\$729,423. The decision is available at the following [link](#).

- *Yitai (Shanghai) Plastic Co., Ltd. V Charlotte Pipe and Foundry Company* [2021] SGHC 198



The High Court has dismissed an application to adduce further evidence in the context of an appeal against an [IPOS decision](#). The application was brought by the party appealing the successful opposition to the registration of its trade mark. The decision, as well as corresponding case summary, may be accessed at the following [link](#). The pertinent and significant points of the judgment (as set out in the case summary) are reproduced below.

1. To determine whether to admit further evidence on appeal in trade mark proceedings under O 87 r 4(2) of the Rules of Court (2014 Rev Ed) (“ROC”), the *Ladd v Marshall* [1954] 1 WLR 1489 (“*Ladd v Marshall*”) test should not be applied strictly. Just because the applicant has not satisfied all the *Ladd v Marshall* conditions does not mean that its application must necessarily fail. The court should go further to consider whether there are any other compelling factors which make it just to admit the further evidence in question. In this regard, the other considerations stated by Laddie J in *Hunt-Wesson Inc’s Trade Mark Application* [1996] RPC 233 (“*Hunt-Wesson*”) (“*the Hunt-Wesson factors*”), while non-exhaustive, are relevant (at [32]). However, despite these principles, given the policy objectives of finality in litigation and the expeditious resolution of other cases pending before the Registrar of Trade Marks, the admission of further evidence should be the exception, rather than the norm (at [89]).
2. Pleadings (ie, the Notice of Opposition and Counter-statement) must be full in the sense that each party must outline each of the grounds relied upon and state the case relied upon in support of those grounds (at [100]). In particular, all trade marks relied on (whether registered or unregistered) must be specifically stated with the relevant details (at [114(b)]).
3. The General Division of the High Court has the power to remit cases to the Registrar of Trade Marks under O 55 r 6(5) of the ROC or its inherent power (at [76]–[77]).

#### Recent IPOS decision

- *Australian Grape and Wine Incorporated v Consorzio di Tutela della Denominazione di Origine Controllata Prosecco* [2021] SGIPOS 9 (Full Grounds of Decision)

This was the first case to proceed to a full opposition hearing under the Geographical Indications Act 2014 (which came into force on 1 April 2019). One of the key issues was whether “Prosecco” is the name of a grape variety or a geographical indication (or both). The opponent, the Australian Grape and Wine Incorporated, a representative body for grape growers and winemakers in Australia argued that “Prosecco” is a name of a grape variety and should not be registered as a GI. The applicant, Consorzio di Tutela della Denominazione di Origine Controllata Prosecco, disputed that “Prosecco” is the name of a grape variety and argued that even if it is, the term can nevertheless be registered as a GI. The hearing officer found that while “Prosecco” is indeed the name of a grape variety, under Singapore law, it does not follow that “Prosecco” cannot also be a GI; that would only be the case if “Prosecco” is also likely to mislead consumers as to the true origin of the products bearing “Prosecco”. After considering the evidence, the hearing officer found that the opponent had not established that consumers would likely be so misled, and consequently dismissed the opposition. The decision is available at the following [link](#).



## Launch of List of Technical Experts

We are pleased to announce that we have published a [List of Technical Experts](#) on IPOS' website. Among other things, the list seeks to profile Singapore-based expertise and provide parties/institutions with additional options. All of the experts on the list have attended IPOS' "Acting as a Witness in a Patent Dispute" course and/or have prior experience acting as an expert witness or assessor.

If you have previously engaged expert witnesses in IP or technology disputes before, please let them know that they may apply to be listed as an expert witness here: [FormSG](#)

We have also arranged for a public run that will take place on 18 October 2021 so that more potential experts can find out more on how to act as expert witnesses in patent disputes. The link for the run is [here](#).

## In Conversation with Justice Dedar Singh Gill & Simon Thorley, QC

We are happy to present a series of interviews that the NUS Law Intellectual Property Students Association ("IPSA") has conducted with key players of the intellectual property ("IP") field in Singapore. The interviews seek to represent a diversity of views in the field of IP dispute resolution. As the Singapore IP Strategy 2030 Report highlights, Singapore is currently seeking to strengthen its position as a dispute resolution hub for IP disputes. The main purpose of these interviews is to explore and discuss the various strategies that Singapore is intending to employ towards advancing its objectives.

The first two interviews, published during IP Week @ SG 2021 by the Singapore Law Review in Vol 12 (2020/21) of Juris Illuminae are as follows. We hope you enjoy reading them.

- [In Conversation with Justice Dedar Singh Gill](#) (published on 24 August 2021)
- [In Conversation with Simon Thorley, QC](#) (published on 25 August 2021)

## IP Week Roundup

We hope that those of you who joined us for IP Week @ SG 2021 had an enjoyable and meaningful time. For those who were unable to join us, here are some links which you may find useful.

- Speech by Minister Edwin Tong at IP Week @ SG 2021: <https://www.mlaw.gov.sg/news/speeches/2021-08-24-speech-by-mr-edwin-tong-at-ip-week-2021>
- [Media Release: More IP Resources for Enterprises to Emerge Stronger from the Pandemic](#)
- [WIPO-IPOS IP for Innovation Awards Winners Showcase](#)
- [ST Op-Ed 'Harnessing IP to build back better' by WIPO Director General Daren Tang](#)

## Featured Event:

**Contentious Trade Mark Proceedings at IPOS: Best Practices and Other Practical Tips** (3 Public CPD points)



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.

