

## UPDATES FROM IPOS

SEPTEMBER 2022

Dear readers,

We hope this update 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

- [Writers Studio Pte Ltd v Chin Kwok Yung](#) [2022] SGHC 205

This dispute was between Writers Studio (the plaintiff), a company in the education business, and Chin Kwok Yung (the defendant), an individual which it engaged as a tuition teacher. The plaintiff claimed, among other things, that it suffered losses as a result of the defendant's breaches of a non-disclosure agreement and/or a duty of confidentiality owed to the plaintiff. The General Division of the High Court dismissed all of the plaintiff's claims. In so doing, the court discussed and applied the line of cases from *I-Admin* to *Lim Oon Kuin*.

- [Triple D Trading Pte Ltd v Fanco Marketing Pte Ltd](#) [2022] SGHC 226

The plaintiff was the registered proprietor of the "COFAN" trade mark. It commenced trade mark infringement proceedings against the defendant in respect of the latter's use of "CO-FAN". In response, the defendant sought to invalidate the "COFAN" trade mark on the ground that it was registered in bad faith. The defendant also claimed that the plaintiff made groundless threats of infringement. The General Division of the High Court allowed the defendant's counterclaim and ordered that the "COFAN" mark be expunged from the register. However, the defendant was not able to establish that relief for groundless threats should be granted.

- [Michael Reed v Alex Bellingham](#) [2022] SGCA 60

The Court of Appeal reversed a decision of the High Court and restored the order for an injunction made at first instance by a District Judge against the use, disclosure or communication of personal data in breach of the Personal Data Protection Act 2012. A case summary is also available through the link above.



Readers may be interested in the following recent cases wherein IP and/or Tech were an element of the dispute:

- [CVG v CVH](#) [2022] SGHC 249 (successful application to set aside a foreign interim award made by an emergency arbitrator in the context of a dispute connected with franchising agreements)
- [Re Hodlnaut Pte Ltd](#) [2022] SGHC 209 (application by crypto platform Hodlnaut for appointment of interim judicial managers)
- [Zipmex Company Limited](#) [2022] SGHC 196 (grant of extension of moratoria in favour of crypto platform companies in the Zipmex under ss 64 and 65 of the Insolvency, Restructuring and Dissolution Act) (Note: the decision includes two YouTube links to the SG Courts page—the official YouTube page of the Singapore Judiciary—the first is an [audio recording](#) of the Zipmex hearing, and the second is a [video recording](#) of a separate moratoria application relating to another crypto company, Defi Payments Pte Ltd. This is the first time that the Singapore courts have made such recordings available and, as recorded in the Zipmex decision at [2]: “These efforts were made primarily to address the needs of the large number of creditors who are account holders in these various entities, most of whom are situated outside Singapore, and who may not have been able to attend the open court proceedings, even online.”)
- [BCS Business Consulting Services Pte Ltd v & 2 Ors v Michael A. Baker \(Executor of the Estate of Chantal Burnison, Deceased\)](#) [2022] SGCA(I) 7 (In this case, Court of Appeal upheld a decision of the Singapore International Commercial Court to issue an anti-suit injunction restraining the appellants from proceedings in California. The decision arose against the backdrop of a wider dispute concerning the ownership of intellectual property rights (and proceeds therefrom) in respect of “Ethocyn”, a compound which was used in various cosmetic and beauty products.) See also [Michael A. Baker \(Executor of the Estate of Chantal Burnison, Deceased\) v BCS Business Consulting Services Pte Ltd v & 2 Ors](#) [2022] SGCA(I) 8 which was heard together with the first case and concerned a dispute regarding deductions reflected in the account of trust assets.

#### IP cases in the media

- Readers may recall the dispute between The Ryan Foundation (TRF) and HK-based AllRightsReserved (ARR) relating to the Kaws: Holiday Singapore inflatable sculpture exhibition held last year on The Float @ Marina Bay. Before the public opening in November, TRF obtained and served an interim injunction order restraining the exhibition and related activities. The injunction was later lifted. On 26 September 2022, ARR stated in a media release that it had reached a settlement with TRF, apparently following a mediation session. TRF also issued an apology. The story was widely reported, including by the [Straits Times](#) (paywall) as well as elsewhere: see [Yahoo News](#), [Mothership SG](#).
- On 7 October, the Singapore Police Force stated in a media release that 17 persons were arrested for suspected involvement in the sale of illegal streaming devices which allowed consumers to access copyright infringing content from unauthorised sources online. This was following a raid on shops in Sim Lim Square where more than 2,500 such devices, with an



estimated street value of more than S\$500,000, were seized. The story was widely reported, including by [Channel News Asia](#).

- On 20 September, the Asia Video Industry Association’s Coalition Against Piracy (CAP) announced that 99 more domain names associated with illegal streaming sites providing pirated content have since been blocked by internet service providers in Singapore under the terms of a “dynamic” injunction first granted by the High Court in February 2022. (The injunction initially targeted 30 illegal streaming sites and 150 associated domains.) The additional domain name blocks were made in favour of CAP members BBC Studios, Discovery Communications, LaLiga, the Premier League and TVB International. Channel News Asia carried a [report](#) on 28 September. The story was also featured in The Straits Times (link [here](#)).

#### Recent IPOS decision

- [GCIH Trademarks Limited v Hardwood Private Limited](#) [2022] SGIPOS 14

This was the second of two related opposition actions filed by GCIH Trademarks (the opponent) against (the applicant) Hardwood’s trade mark applications. The opponent is the proprietor of the trade mark “TANGO” in Class 30 (registered for chocolate and cocoa products). In the first dispute, the opponent [successfully opposed](#) the registration of “OT TANGO”, which was applied for in Class 30 in respect of chocolate and cocoa products. In this



case, the application mark was . However, the opposition was unsuccessful. In dismissing the opposition, the hearing officer found the application mark to be visually “more dissimilar than similar”, aurally “more similar than dissimilar”, and conceptually “dissimilar to a material degree”. Overall, the marks were considered to be dissimilar on balance. Consequently, the grounds of opposition tied to similarity of marks could not be established. The hearing officer was also of the view that there was insufficient evidence to establish bad faith.

#### Appointment of Young IP Mediators

We are pleased to announce that Jasmine Teo Su Fen and Mak Sok Wai, from the Singapore Management University, and Shannen Chua Tze-En as well as Tan Pei Han, from National University of Singapore, 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.

If you are involved in IPOS proceedings, consider [mediation](#) as an appropriate dispute resolution process; funding is available under our [Revised Enhanced Mediation Promotion Scheme](#).



## IP filing statistics

Readers may be interested to note that we have recently published our filing statistics for 2020-2021, available [here](#). A infographic snapshot is also available [here](#).

