

**IN THE HEARINGS AND MEDIATION GROUP OF
THE INTELLECTUAL PROPERTY OFFICE OF SINGAPORE
REPUBLIC OF SINGAPORE**

Trade Mark Nos.

T9706153E, T9706155A, T9706154C, T9706156Z, T9002227E, T9002228C

Hearing Date: 30 July 2015

**REQUEST FOR EXTENSION OF TIME
TO FILE COUNTER-STATEMENT
IN A TRADE MARK APPLICATION BY
METROJAYA BHD. AND
METROJAYA SENDIRIAN BERHAD**

AND

**OBJECTION THERETO BY
THE EAST INDIA COMPANY
HOLDINGS PTE LTD**

Assistant Registrar Diyanah Binte Baharudin
Decision date: 28 September 2015

Interlocutory hearing – letter requesting for extension of time to file counter-statements by the Registered Proprietors sent 9 days after extended 4-month deadline – no formal request for extension of time made – objection by Applicants – reason for failing to file counter-statement on time due to administrative exigencies – whether request should be allowed

Facts Relevant to the Present Hearing

- i) The East India Company Holdings Pte Ltd (the “**Applicants**”) applied to register the following marks in Singapore:

<i>Representation of mark</i>	<i>Trade Mark Application No</i>	<i>Class(es)</i>	<i>Application Date</i>
EAST INDIA COMPANY GUINEA	T1112856C	14	16/09/2011
THE EAST INDIA COMPANY	T1214780D	3, 18, 20, 25, 32, 33 and 35	19/10/ 2012

- ii) In the course of their application for registration, the Applicants encountered objection from the Trade Marks Registry on the ground that they were confusingly similar to the following marks, owned by Metrojaya Bhd. and Metrojaya Sendirian Berhad (collectively, the “**Registered Proprietors**”):

<i>Representation of mark</i>	<i>Trade Mark Application No</i>	<i>Class(es)</i>	<i>Date of Completion of Registration Procedure</i>
	T9706153E	14	23/12/1999
	T9706155A	14	15/02/2000
	T9706154C	18	15/02/2000
	T9706156Z	16	24/03/2000
	T9002227E	25	31/05/1993
	T9002228C	25	28/02/1994

(collectively, the “Registered Proprietors’ Marks”)

- iii) On 24 November 2014 the Applicants filed revocation actions against each of the Registered Proprietors’ Marks under Sections 22(1)(a) and (b) of the Trade Marks Act (the “Act”).
- iv) On 25 November 2014 the Registrar of Trade Marks (the “Registrar”) issued a standard letter to the Registered Proprietors reminding them to file their counter-statement and evidence of non-use, or alternatively, their request for extension of time to file these documents, by 24 January 2015. However, nothing was heard from the Registered Proprietors by this date. On 11 February 2015, the Applicants wrote to the Registrar requesting that the Registrar confirm that the subject registration would therefore be deemed withdrawn.
- v) On 1 April 2015, the Registered Proprietors sent a letter stating that they were “instructed to apply for an extension of time for [their] clients to file their counter-statements.” At paragraph 4, this letter also contained a list of reasons explaining why they had not used the mark “in Singapore over the course of the last 5 years.” At paragraph 5, the letter went on to explain that they were unable to file their counter-statements by 24 January 2015 because of unfortunate administrative exigencies arising from:

- a. staff movement, in particular, the resignation of [the Registered Proprietors'] Administrative Manager and Human Resources Executive;
 - b. office relocation, in particular, the relocation of [the Registered Proprietors'] corporate headquarters in Malaysia from Menara PM1 to 191 Jalan Ampang.

- vi) In addition, the Registered Proprietors stated that they would give notice to the Applicants as required under Rule 58(6) of the Trade Mark Rules (Cap. 332, Rule 1, Rev. Ed. 2008) (the “**Rules**”) before filing a formal request for an extension of time using Form HC 3.

- vii) On 2 April 2015, the Applicants wrote to the Registrar, requesting that the Registrar confirm that the Registered Proprietors’ Marks be “deemed revoked”, as the Registrar no longer had discretion under Rule 58(5) to allow the extension of time request after the maximum 4 month deadline of 24 March 2015. the Registrar replied thereafter on 25 May 2015 stating that having considered both parties’ representations, the Registrar was “inclined to refuse the Registered Proprietors’ request for an extension of time to file their counter-statement” and that the Registered Proprietors’ Marks would be revoked unless the Registrar heard from the parties. The Registered Proprietors thus wrote to the Registrar on 8 June 2015 requesting for the present interlocutory hearing (but without filing any formal request for an extension of time). A Notice of Interlocutory Hearing was sent out on 15 June 2015, informing both parties as to the deadline for written submissions and bundle of authorities as well as the date and time of the hearing.

- viii) The Applicants duly filed their written submissions and bundle of authorities with the Registrar on 6 July 2015. The Registered Proprietors wrote to the Registrar on the same day with reference to the Applicants’ letter, written submissions and bundle of authorities, stating that they had no record of having received any notice(s) from the Registrar, and also requesting for a copy of the notice(s). The Registrar responded on 7 July 2015 informing the parties that the Registrar’s records showed that the said notice was sent successfully via electronic communication through the IP2SG system but had not been read by the Registered Proprietors. A copy of the notice was also attached. The Registrar also asked the Applicants to indicate if they were agreeable to a postponement of the hearing date, to which they agreed. The hearing date was thus re-fixed and the Registered Proprietors were given up till 23 July 2015 to file their written submissions and bundle of authorities. These documents were duly filed with the Registrar on 23 July 2015.

Summary of the parties’ submissions

- ix) The Registered Proprietors repeated their reasons for failing to file their counter-statements on time. However, they contended that the Registrar has discretion under Rule 83 to correct any procedural irregularity. They cited *The “Tokai Maru” [1998] 2 SLR(R) 646* for the proposition that save for exceptional circumstances, it can rarely be appropriate to deny a defendant an extension of time where the effect is that of depriving him of his defence due to a procedural default. They submit that the Applicants had not suffered any “real” loss or damage which cannot be compensated by costs. Further, they say that they have a “more than level chance of repelling the

Applicant's applications on grounds that the Trade Marks had been used in Singapore or that there are "proper reasons for non-use." The rest of the written submissions focused on the merits of the case, i.e. the purported "use" and the reasons for "non-use".

- x) The Applicants on the other hand placed more reliance on IPOS cases. In their view, the Registrar did not have discretion to grant a further extension of time beyond the 4-month deadline specified in the legislation. Even if the Registrar had discretion, it should not be exercised in the present case because there were no exceptional circumstances that would justify an extension of time. The Applicants pointed out that there is public interest in ensuring that parties who rely on the Rules have the benefit of certainty. Furthermore, the Registered Proprietors had admitted in their letter of 1 April 2015 that they had not used their marks for the last 5 years. As such, the Applicants are likely to succeed in the present revocation proceedings.

Held, denying the request for an extension of time to file the counter-statement

1. The Registrar has the discretionary power under Rule 83 of the Rules to grant an extension of time beyond the 4-month maximum deadline to file a counter-statement: *GSM (Operations) Pty Ltd and Ors v Martin Joseph Peter Myers* (TM No. T0805545C) ("*GSM*"), citing the decision of the Registrar in *Asian Aisle Pte Ltd v Ricegrowers Co-operative Limited* (TM No. T20051/00) at [1]. The discretionary power involves a balancing exercise, between ensuring that rules relating to procedure are followed so that there is certainty for trade mark owners, and between the need to ensure the proper adjudication of the case based on its merits in the interest of justice between both parties. However, the overall consideration of public interest of certainty and transparency of the trade marks application procedure and the need to promote the expeditious disposal of disputes under the Act meant that the Registrar would not allow the overstepping of time limits provided for in legislation under most circumstances. (See *GSM* at [2]-[3].)

Calculating period of delay

2. The period of delay in cases of procedural default is important because it is an indicator of the seriousness of such default, although it must ultimately be examined in light of the facts and circumstances of every case. The period of delay is typically calculated from the time at which the late document is filed, as was done in *KPR Singapore Pte Ltd v PSE Asia-Pacific Pte Ltd* [2010] SGIPOS 13 ("*KPR*") and *GSM*. Both these cases concerned the late filing of counter-statements in opposition proceedings.
3. In the present case, no formal request for an extension of time was filed, neither was any counter-statement filed to date. When queried on this at the hearing, the Registered Proprietors submitted that they were of the view that they needed leave from the Registrar to file such extension of time, otherwise, they would be in breach of Rule 58(4). However, in their letter of 1 April 2015, they appeared to be fully aware of the need to file the formal request in Form HC 3. The late filing of the Form HC 3 would have had the effect of stopping the clock from running on the number of days that the Registered Proprietors would be considered to have been in delay.

4. In *KPR* and *GSM*, the length of delay was calculated from the extended deadline allowed in the legislation for a counter-statement to be filed (i.e. 4 months from the date of the notice of opposition). In the present case, the period of delay is calculated from the extended deadline (24 March 2015) up till the date of the hearing (30 July 2015). Since no formal request was filed, the total length of delay would be **4 months and 6 days**. Even if the Registered Proprietors' letter of 1 April 2015 is taken as the point at which the period of delay should be calculated from, the period of delay would have been **9 days after the extended deadline** on 24 March 2015.
5. The period of delay in the present case (4 months and 6 days) is significant when compared to previous IPOS decisions where an extension of time to file pleadings was sought. In cases where the extension of time sought was allowed, the said extension of time was always within the extended 4-month deadline: see *GSM, Alliance Cosmetics Sdn Bhd v Procter & Gamble Business Services Canada and another* [2009] SGIPOS 9 (“*Alliance*”), *Singapore Press Holdings Limited v Alibaba Group Holding Limited* [2011] SGIPOS 9 (“*SPH*”), *MGG Software Pte Ltd v Apptitude Pte Ltd* [2015] SGIPOS 8 (“*MGG*”). Importantly, exceptional circumstances justified the extension of time in each of these cases.
6. However, it should be noted that even where the extension of time sought is within the extended 4-month deadline, the application for an extension of time may not be allowed if there are no exceptional circumstances that justify the same: *Neutrogena Corporation v Neutrogen Pte Ltd* [2005] SGIPOS 7 (“*Neutrogena*”) and *Kok Han Marketing Services v Sing Brothers Hardware Pte Ltd* [2002] SGIPOS 11 (“*Sing Brothers*”).

Whether “exceptional circumstances” exist

7. In *BRG Brilliant Rubber Goods (M) Shd Bhd v The Polo/Lauren Company, L.P.* [2014] SGIPOS 4 (“*BRG*”), it was held at [11] that in relation to an extension of time for a counter-statement in opposition proceedings, Rule 31(4) of the Rules should be “construed strictly unless there are **exceptional circumstances** which dictate otherwise” (emphasis mine).
8. Such exceptional circumstances may arise, for example, when the parties involved in the dispute were already engaged in earlier opposition involving the same mark and the same (albeit narrower) class of goods and this matter was already fixed for a hearing at IPOS, as well as a series of oppositions in other jurisdictions: see *GSM* at [5].
9. Another example of an exceptional circumstance arose in *SPH*, where the prospective opponents filed their formal request for an extension of time to file their notice of opposition 4 days after the 2-month deadline. The applicants, who had initially agreed to the request for an extension of time in earlier correspondence, later changed their position when asked by the Registrar if they would accept the late filing of the formal request. Given the applicants' previous acquiescence in writing, the Registrar allowed the opponents' application.
10. In the present case, however, the Registered Proprietors' reason for missing the relevant deadline was simply that “unfortunate administrative exigencies” arising from staff movements and a change of address. The Registered Proprietors should have been fully

aware of the present revocation proceedings, given that their counsel was copied on the Application for Revocation dated 24 November 2011 and the Registrar’s letter dated 25 November 2014 respectively. This correspondence should have alerted them to the relevant deadlines for this matter. In addition, I note that the Form TM 1 appointing counsel for the Registered Proprietors was filed as early as 22 January 2003.

11. The IPOS cases show that such administrative exigencies are simply insufficient to amount to “exceptional circumstances.” In *KPR*, the applicants filed an extension of time to file their counter-statement some 16 days after the 4-month deadline. The applicants had requested for an earlier extension of time on 17 August 2010 (within the relevant deadlines) and the Registrar had granted a final extension (up till 17 October 2010), in a letter dated 1 September 2010. The applicants’ reason for failing to file their counter-statement on time was that they did not receive this letter, although the Registrar’s mailing records showed that the letter had been sent out (and the opponents had also received the same). The applicants’ request for an extension of time was denied.
12. In *Neutrogena* the intended opponents failed to file their Notice of Opposition within the specified deadline, citing the reason that they did not discover the advertisement of the relevant mark(s) until more than a week after the deadline. However, there was correspondence between the intending opponents and the applicants prior to this deadline that indicated the intending opponents were well aware of the trade mark applications. It was held that this was not a good and sufficient reason for the Registrar to allow an extension of time.
13. In *Sing Brothers*, the applicants requested for an extension of time to file their counter-statement some 16 working days after the deadline. Their reason for missing the deadline was that the paralegal employee of the firm went on leave after having sight of the Notice of Opposition, and that the lawyer in charge did not get a response from the client within the deadline as the applicants were not in Singapore. The request for late extension of time was similarly denied.

Difference between opposition and revocation proceedings

14. The cases described above relate to extensions of time for pleadings sought in opposition proceedings. This is the first case concerning an extension of time sought for pleadings in revocation proceedings. The relevant rules regarding the consequences of such procedural default are listed below:

Opposition – Failure to file counter-statement	Revocation – Failure to file counter-statement (with evidence)
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15. The consequences of a procedural default in filing the counter-statement are more serious in revocation proceedings than opposition proceedings. In opposition proceedings, an applicant who does not file a counter-statement is treated as having withdrawn his application. In revocation proceedings, however, failure by a registered proprietor to file a counter-statement or statutory declaration would have the effect of the registered proprietor’s trade marks being removed from the register, therefore, losing all attendant rights. In opposition proceedings, the applicant would have to incur the cost and delay of having to re-file his trade mark application. In the case of

revocation however a registered proprietor would lose his trade mark registration. The applicant for revocation can thus register his own mark(s) since the registered proprietor's marks would no longer pose any obstacle to registration. The registered proprietor could then oppose the applicant's trade mark application(s), but the registered proprietor would have lost his prior trade mark rights and would therefore have no basis on which to oppose the application(s), and would have to prove goodwill or that he has an earlier well-known trade mark in order to have a chance of success in the opposition proceedings.

16. However, despite this difference, I cannot find any reason to adopt a less stringent standard for revocation proceedings when the legislature has made it clear that the consequences for the failure to file a counter-statement or an extension of time to file a counter-statement in revocation proceedings would be the granting of the revocation application (see Rule 58(10) extracted above). The wording of Rule 58(10) compared to Rule 31(3) does not suggest that a different test should be adopted.
17. Therefore, unless there are "exceptional circumstances" (as elaborated upon in the cases at [7]-[13] above) that warrant a departure from these defined consequences in the Rules, the Registrar's discretion should *not* be exercised. This would promote commercial certainty and transparency in administration of disputes relating to the trade marks register.

Whether there would be prejudice to the Applicants / Whether the Applicants had a reasonable defence

18. I now turn to consider whether, despite there being no "exceptional circumstances" justifying an extension of time to file the counter-statement, there would be any prejudice to the Applicants *other than* the direct factual consequences of their own default. In *Tilaknagar Industries Ltd v Distileerderij En Likburstokerij Herman Jansen B.V.* [2013] SGIPOS 3 at [12], the Registrar refused the application for an extension of time to file evidence despite the fact that this would result in the applicants' trade mark applications being withdrawn. Whilst this was "prejudicial" to the applicants, it was also held to be a "direct factual consequence" of their default. In addition, no other supporting reasons were given to convince the Registrar that the applicants had a reasonable defence to the opponents' grounds of opposition.
19. In the present case, there was some argument between the parties as to whether the Registered Proprietors had a reasonable defence in the present revocation proceedings. I will consider the points argued before me briefly.
20. The Registered Proprietors' position was that they had a chance of success in the revocation proceedings for the following reasons:
 - a. The Metrojaya Group had opened three EIC outlets in Singapore and by 1996, there were 6 active EIC outlets operating in Singapore. However, the Singapore outlets ceased to operate in 1999 as a result of serious operational losses sustained during the Asian economic crisis in 1997;
 - b. In 2007, the Registered Proprietors decided to renew the trade mark and they were seeking to re-activate the EIC brand in Singapore, but this was hampered by the 2008 financial crisis. As such, over the course of the last 5 years, the

Metrojaya Group's focus was to further strengthen EIC's design development, logistics and store presence in neighbouring Malaysia with the objective of establishing a stronger and more sustainable foundation ready for EIC's return (to Singapore);

- c. The Metrojaya Group (which both the Registered Proprietors are part of) continues to operate a chain of department stores across Malaysia;
 - d. There are presently 740 Singaporeans who hold valid Metrojaya loyalty cards. These members had signed up for their cards at two different stores, both located in Johor Bahru (Malaysian) outlet;
 - e. Promotional materials were made freely available to the public at various Malaysian stores that were "situated close to Singapore".
21. In addition to the assertion of these facts in their written submissions, the Registered Proprietors also attached exhibits showing a sample of the Metrojaya loyalty card (Annex B), promotional material including magazine pages, newspapers, advertisements put up in light boxes, hanging posters in shopping malls (Annex C), advertisements described as being in "local newspapers viz The Straits Times and My Paper" (Annex D) and a picture of street buntings in Johor Bahru town and housing areas to keep the public apprised of sales in Metrojaya stores (Annex E). Although these exhibits were not tendered in the form of a proper statutory declaration, the Applicants did not take issue with it.
22. In the alternative, the Registered Proprietors argued that their marks should not be revoked as there are "proper reasons for non-use". They argued that a financial crisis fell within the description of such proper reasons for non-use in *Nation Fittings (M) Sdn Bhd v Oystertec plc and another suit* [2006] 1 SLR(R) 712 ("*Nation Fittings*") at [129] as it is something that arose independently of the will of the Registered Proprietors and would amount to an "abnormal situation in the industry or market". If the present application was disallowed, they would suffer prejudice in that they would be shut out from the Singapore market and not have the opportunity to be heard on the substantive merits of the case.
23. The Applicants, on the other hand, point out that in their letter of 1 April 2015, the Registered Proprietors admitted that the Registered Proprietors' Marks have not been used in Singapore for "the last 5 years". At the hearing, the Applicants submitted that the rationale of the revocation process was that no one party should be able to monopolize a trade mark indefinitely. The Registered Proprietors have held on to their marks since 1990 and 1997 respectively and many years have passed since the two economic downturns.
24. As regards "proper reasons for non-use", they tendered a decision from OHIM in *Televisa S.A. de C.V. v Harro E. Schulze* (Decision Date: 19/04/2005) ("*Televisa*"), highlighting the following:

Financial difficulties encountered by a company as a result of an economic recession or due to its own financial problems, such as insolvency proceedings, bankruptcy or temporary stoppage of activities etc. are not considered to constitute proper reasons for non-use. These kind of difficulties constitute a natural part of running a business.

25. In my view, the documents tendered by the Registered Proprietors do not disclose any real prospect of success given that most of the purported “use” of the Registered Proprietors’ Marks in the course of trade appears to have taken place in Malaysia. The evidence of advertisements in Annex D do not fit the description “local newspapers viz The Straits Times and My Paper” and appears to be an advertorial that makes reference to various Malaysian outlets and appears to advertise, primarily, the opening of “Metrojaya Komtar JBCC” (in Johore Bahru, Malaysia).
26. Furthermore, there do not appear to be “proper reasons for non-use”. Even if a financial crisis is the type of situation which amounts to a “proper reason” for non-use (a point which I do not decide upon today), the two financial crises relied upon by the Registered Proprietors occurred in 1997 and 2008 respectively – the latest crisis being at least 6 years *before* the present revocation proceedings were filed. The Registered Proprietors themselves admit that “*over the course of the last 5 years*, the Metrojaya Group’s focus was to further strengthen EIC’s design development, logistics and store presence *in neighbouring Malaysia* with the objective of establishing a stronger and more sustainable foundation ready for EIC’s return to Singapore and other ASEAN markets.”
27. The following factors also weigh against the Registered Proprietors in the present case:
 - a. Long period of delay (4 months 6 days) before the extension of time was sought in the present proceedings;
 - b. Reasons for delay are purely administrative exigencies that do not amount to exceptional circumstances that justify the granting of an application for extension of time;
 - c. No previous communication with the Applicants until the letter of 1 April 2015 (9 days after the extended 4 month deadline), which led the Applicants to develop a reasonable expectation that the Registered Proprietors were not interested in defending the proceedings.
28. Given the facts and circumstances above, there would be no prejudice to the Registered Proprietors over and above the direct factual consequences of their own procedural default. The documents before me do not appear to disclose any reasonable defence to the current revocation proceedings.
29. In the present case, the Registered Proprietors have not satisfied the threshold to demonstrate that there are such exceptional circumstances to warrant a departure from the ordinary application of the Rules.

Conclusion

30. By reason of the foregoing, the Registered Proprietors’ request for an extension of time to file their counter-statements is denied. Consequently, the applications for revocation in relation to Trade Mark Nos. T9706153E, T9706155A, T9706154C, T9706156Z, T9002227E, T9002228C are granted, pursuant to Rule 58(10) of the Rules.
31. In view of the documents tendered by the Registered Proprietors (discussed at [20]-[25] above), the Registered Proprietors’ Marks are revoked as of the dates listed in the following table:

<i>Trade Mark Application No</i>	<i>Date of Completion of Registration Procedure</i>	<i>Effective date of revocation</i>	<i>Reason</i>
T9706155A	15/02/2000	16/02/2005	The first day after the period of 5 years following the date of completion of the registration procedure, pursuant to Section 22(1)(a) read with Section 22(7)(b) of the Act.
T9706154C	15/02/2000	16/02/2005	
T9706156Z	24/03/2000	25/03/2005	
T9706153E	23/12/1999	1/1/2004	Since the documents show that the Registered Proprietors ceased to operate their Singapore outlets in 1999, but there is no information as to exactly when this was the case, the last use is taken to be as of 31 December 1999. Therefore, the uninterrupted 5-year period of non-use is calculated from 31 December 1999, pursuant to Section 22(1)(b) read with Section 22(7)(b) of the Act.
T9002227E	31/05/1993	1/1/2004	
T9002228C	28/02/1994	1/1/2004	

Costs

32. In accordance with the Fourth Schedule of the Rules, the following costs are awarded to the Applicants in the present case, to be paid by the Registered Proprietors to the Applicants within **1 month** from the date of this decision.

<i>Item</i>	<i>Costs awarded</i>
Drawing and filing the applications for revocation dated 24 November 2014	\$300 x 6 (\$1,800)
Preparing for interlocutory hearing	\$300
Attending interlocutory hearing	\$150
Total	\$2,250

Legislation discussed:

Trade Marks Act, Cap. 332 (2005 Rev. Ed.), Section 22
Trade Marks Rules, Cap 332, Rule 1 (2008 Rev Ed) (Amended 13 November 2014), Rule 31, Rule 58

Cases referred to:

The "Tokai Maru" [1998] 2 SLR(R) 646

GSM (Operations) Pty Ltd and Ors v Martin Joseph Peter Myers (TM No. T0805545C)
Asian Aisle Pte Ltd v Ricegrowers Co-operative Limited (TM No. T20051/00)
KPR Singapore Pte Ltd v PSE Asia-Pacific Pte Ltd [2010] SGIPOS 13
Neutrogena Corporation v Neutrogen Pte Ltd [2005] SGIPOS 7
Kok Han Marketing Services v Sing Brothers Hardware Pte Ltd [2002] SGIPOS 11
BRG Brilliant Rubber Goods (M) Shd Bhd v The Polo/Lauren Company, L.P. [2014] SGIPOS 4
Sao Paulo Alpargatas S.A. v But Fashion Solutions Comercio E Industria De Artigos Em Pele, LDA [2011] SGIPOS 16
Alliance Cosmetics Sdn Bhd v Procter & Gamble Business Services Canada and another [2009] SGIPOS 9
Singapore Press Holdings Limited v Alibaba Group Holding Limited [2011] SGIPOS 9
MGG Software Pte Ltd v Apptitude Pte Ltd [2015] SGIPOS 8
Tilaknagar Industries Ltd v Distileerderij En Likburstokerij Herman Jansen B.V. [2013] SGIPOS 3
Nation Fittings (M) Sdn Bhd v Oystertec plc and another suit [2006] 1 SLR(R) 712
Televisa S.A. de C.V. v Harro E. Schulze (Decision Date: 19/04/2005)

Representation:

Ms Vicki Heng Su Lin (Vicki Heng Law Corporation) for the Applicants for Revocation

Mr Philip Ling Daw Hoang and Mr Yap Jie Han (Wong Tan & Molly Lim LLC) for the Registered Proprietors