

Malaysia

There have been some amendments to our Patents Act 1983 and the Patent Regulations in 2002 and we are pleased to set out below a brief summary of the amendments together with other developments which may be of interest to you.

1. Patents (Amendment) Act 2002

Following the recent corporatisation of the Registry of Patents and the establishment of the Intellectual Property Corporation of Malaysia, the Director General of the Intellectual Property Corporation is now the Registrar of Patents. Further, following the Patents (Amendment) Act 2002, prosecution under the Patents Act 1983 can only be instituted by or with the prior consent in writing of the Public Prosecutor.

2. Patents (Amendment) Regulations 2002

The Patents (Amendment) Regulations 2002 came into effect on 1 July 2002. The purpose for the above amendment was to include Japan as one of the specified jurisdiction as provided in the Patents Regulations. Prior to the amendment only countries such as USA, UK, Australia and the European Patent Office were included in the list of specified jurisdictions.

Under the Patents Act, if the Applicant has a corresponding application in any of the four specified jurisdictions (now five with the inclusion of Japan), the Applicant may request for a modified substantive examination. This is a simplified examination as the substantive requirements as to novelty, inventive step and industrial applicability are considered to have been met provided the Malaysian application conforms to the foreign patent which forms the basis for the modified examination. The Applicant will need to ensure that the Malaysian application conforms to the designated foreign patent. If it does not, the Malaysian application will need to be amended to conform substantially to the designated foreign granted patent in order to qualify for Modified Examination.

Cooperative initiatives

3. Please be advised that in the year 2002, the Malaysian Patent Office did not undertake any new cooperative initiatives with other foreign patent offices. However, the Malaysian Patent Office has an ongoing technical cooperation initiative with the European and Japanese Patent Offices for the training of Malaysian patent examiners. For the Japanese Patent Office, the cooperation extends to training of patent examiners, trademarks and industrial design examiners.

PCT

4. At a recent event on 3 March 2003 to mark the establishment of the Intellectual Property Corporation of Malaysia, the patent officials have indicated again that Malaysia will be acceding to the PCT shortly.

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