

SINGAPORE

A. Legislative Developments

1. *Patents (Amendment) Act 2001 and Patents (Patent Agent) Rules 2001*

The *Patents (Amendment) Act 2001* and *Patents (Patent Agent) Rules 2001 (S645/2001)* have introduced provisions governing the regulation of patent agents in Singapore, and on a more general thrust, to streamline and strengthen the patent administration system.

Patents (Patent Agent) Rules 2001

The amendments have introduced provisions relating to the registration of patent agents, the making of rules to regulate the registration process and to regulate the conduct and practice of a registered patent agent. The amendments also stipulate who may carry on a business, practice or act as a patent agent and who may describe, hold or permit to be described or held out as a patent agent.

To qualify to register as a patent agent in Singapore a person must be resident in Singapore, hold a university degree or equivalent qualification approved by the Registrar, having completed a "Graduate Certificate in Intellectual Property"; have passed the patent agent qualification examinations, completed a one-year internship in patent agency work, and have professional indemnity insurance of at least \$1 million for each claim (although this does not apply to a registered patent agent who intends

to carry out patent agency work in the capacity of an employee and in no other capacity during the practice year).

The Patents (Amendment) Act 2001

These amendments have introduced some modifications to the procedural requirements relating to applications and grants of patents, including allowance for an electronic online system (e-Patents) to carry out patent transactions online such as renewals, alterations of addresses and the downloading of patent specifications. It also dispenses with the need to Gazette new entrants to the Paris Convention and WTO as convention countries.

These amendments have been in force since 25 February 2002.

2. *Patents (Amendment No. 2) Rules 2002*

With effect from 15 August 2002, the Japan Patent Office has been designated as a prescribed patent office for purposes of section 29(1)(c) of the Patents Act.

Section 29(1) stipulates the obligations to file a request for search and/or examination within the time limits prescribed under the Patents Act and Rules. As a further alternative, if the applicant does not wish to file a separate request for search and/or examination at that point in time, the applicant can rely on a “corresponding international application” or a “corresponding application” for a patent filed at any “prescribed patent office”, and simply furnish the prescribed details with the Registry of Patents of all its corresponding international applications and corresponding applications.

Prior to 15 August 2002, the patent offices prescribed for the purposes of section 29(1)(c) were Australia, Canada, New Zealand, the United Kingdom, the United States of America and the European Patent Office. Japan has now been included as a prescribed patent office as well.

B. Cooperatives with Foreign Patent Offices

1. Direct Cooperatives between IPOS and other Patent Offices

One of the functions of the Intellectual Property Office of Singapore (“**IPOS**”) is the monitoring of worldwide intellectual property developments and issues, and to work closely with industry groups, professional associations and government agencies to secure and maintain strategic alliances with other National Intellectual Property Offices. This includes participation in activities under the umbrella of ASEAN Working Group in Intellectual Property Cooperation (“**AWGIPC**”) and the European Community - Asean IPR Co-operation Programme (“**ECAP**”).

A key initiative in awareness and education was the launch of the Europe Asia Patent Information Conference in September 2002, which was a collaboration with the European Patent Office (“**EPO**”). The success of this has led to a second such event to be held in 2004 with the EPO.

Another initiative is the upcoming OPTIMAL 2003 in March, which is a first-time collaboration with the Japan Patent Office (“**JPO**”), is anticipated to further raise Singapore's profile in industry and the IP legal community alike. The aim of the event is to unravel key trends and developments in intellectual asset management and IP valuation and licensing strategies, both in the Asian region and around the globe. In addition, it will provide a platform for organisations looking for licensing opportunities or ways to optimise their intellectual assets.

2. Bilateral Free Trade Agreements

Singapore has undertaken various bilateral Free Trade Agreements (FTAs) with the hope of accelerating the momentum of trade liberalisation. To date, Singapore has concluded FTAs with Australia, the European Free Trade Association, Japan, New Zealand and the United States. Discussions with ASEAN, the People’s Republic of China, South Korea and Mexico are ongoing.

Although the FTAs with Australia, Japan, the European Free Trade Association and the United States contain specific provisions relating to Intellectual Property, we highlight the main provisions concerning patent law where available:

Japan

The Agreement between Singapore and Japan for a New-Age Economic Partnership ('JSEPA') was signed on 13 January 2002. The JSEPA was recently ratified by the Japanese government and we expect that it will come into force soon.

Of particular interest, Japan and Singapore will provide direct links between SurfIP, an Intellectual Property portal owned by the Intellectual Property Office of Singapore ("IPOS") and Japan's intellectual property databases, maintained on Japanese Patent Office's ("JPO") Industrial Property Library website, and between the Industrial Property Digital Library ("IPDL") website and the ePatents databases owned by IPOS. In addition, JPO will place the SurfIP search banner on its website, so as to establish a communication link from the IPDL website to SurfIP.

European Free Trade Association

The European Free Trade Agreement (EFTA), between the European Free Trade Association (which comprises of Switzerland, Iceland, Liechtenstein and Norway) and Singapore, was signed on 26 June 2002, with the agreement coming into effect on 1 January 2003.

In particular, EFTA requires that before 2005, Singapore extends patent term protection with respect to pharmaceutical and plant patents to compensate the patentee for curtailment of the patent term as a result of the marketing approval process, subject to a maximum of five years. The overall term of patent protection, including any extension, shall not exceed 25 years from the date of filing of the patent application.

Furthermore, Singapore must ensure that adequate and effective patent protection for inventions in all fields of technology is provided for under national law. This is to be done on a level that corresponds to patentability under the European Patent Convention.

USA

The substantive conclusion of the US - Singapore Free Trade Agreement (USSFTA) was announced on 19 November 2002 with both parties committed to the enhancement of intellectual property standards. Both sides have reached agreement on various areas of intellectual property:

Regarding patents, Singapore will continue to allow all inventions, including bio-inventions, to be patentable as long as they do not contradict public order or morality.

Singapore has also undertaken to limit the use of compulsory licenses as well as to implement safeguards to strengthen patent protection, especially for pharmaceuticals,

and in particular, will grant a data exclusivity period of up to five years from the date of marketing approval, instead of the date of application, as well as allow the extension of patent protection periods if there are administrative delays during the marketing approval process.

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