

Update on Singapore Legislation, Practice, and Global Innovation Ranking

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I – AMENDMENTS TO THE SINGAPORE GEOGRAPHICAL INDICATIONS ACT 2014 AND GEOGRAPHICAL INDICATIONS RULES

The Singapore Geographical Indications (Amendment) Act 2020 and Geographical Indications (Amendment No. 2) Rules 2020 entered into force on 15 August 2020. The amendments elucidate the requirements for filing a qualification of rights request and provide clarification on how variants of a Geographical Indication (“GI”) are treated. Request for post-registration qualification of rights has also been removed under the amended Act and a new limitation of scope mechanism has been established.

a) Qualification of Rights

Any person, whether the applicant or a third party, desiring to request for a qualification of the rights conferred in respect of a registered GI in relation to any name contained in the GI or any term which may be a possible translation of the GI, may submit the request at any time after the date of the publication of the application for registration of the GI and before a GI is registered.

A request may not be made if the qualification of rights would render registration of a name contained in a GI or a term which may be a possible translation of a GI null. In such a case, the amendments to the Act clarified that where a request to qualify the rights of a GI would effectively nullify that GI, the request should be filed as an opposition or cancellation action instead.

b) Variants of a GI

The Act has also been amended to define “variant”, in relation to a GI, which are interpreted as a variant of the indication constituting the GI, and includes any translation, transliteration or other variation of the indication. Each variant must satisfy the requirements of the GI Act in order to be registered.

The amendments clarified that individual variants of a GI (such as translations, transliterations, or other names used for the same product) may be challenged or rejected, while others proceed to registration. A refusal of registration of a variant does not prevent any other variant of the GI from being registered if that other variant satisfies the requirements of the GI Act.

c) Post-Registration Qualification of Rights and Limitation of Scope

While the qualification of rights mechanism continues to be available for GI that have not yet been registered under the amended Act, the process for post-registration qualification of rights has been removed.

For disputes as to the scope of the protection conferred upon a registered GI post-registration, a new judicial process has been introduced to deal with such matters. Any person may apply to the High Court at any time after the registration of a GI for an order that a limitation of scope in relation to any name or rights contained in the registered GI or in relation to any term which may be a possible translation of the registered GI to be

entered in the register. The application may not be made if the effect of the order that a limitation of scope be entered in the register is to render registration of the name or term null. In such a case, an application for cancellation of the GI or variant constituting the GI should be made instead of making an application for an order to enter a limitation of scope in the register. Cancellation of the registration of a variant constituting a GI does not affect any rights in respect of the registration of any other variant constituting that GI.

II – SG IP FAST TRACK PROGRAMME (“SG IP FAST”)

The Intellectual Property Office of Singapore (“IPOS”) has previously launched the FinTech Fast Track (“FTFT”) and Accelerated Initiative for Artificial Intelligence (“AI2”) programmes respectively in 2018 and 2019 to support the growth of FinTech and AI innovations in Singapore. On 04 May 2020, the Intellectual Property Office of Singapore (“IPOS”) initiated a new patent acceleration programme, the SG Patent Fast Track programme, to replace the FTFT and AI2 programmes in order to expand support for innovation to all sectors in order to help innovators to bring their solutions to benefit society. As part of IPOS’ continuous commitment to provide excellent and efficient IP registration services to innovators and businesses, IPOS has now expanded the SG Patent Fast Track programme to include the acceleration of trademark (“TM”) and registered design (“RD”) applications effective 01 September 2020, and renamed the initiative as SG IP Fast Track (“SG IP FAST”).

Under the SG IP FAST, patent applications in all technology fields which are first filed in Singapore can be granted in as soon as six months. Applicants with a **successful** request for patent acceleration under the SG IP FAST can request acceleration of **related** TM and RD applications whereby straightforward TM applications can be registered in as soon as three months while non-straightforward TM applications can be registered in as soon as six months. RD applications can be registered in as soon as one month. Under the current practice, a standard RD application can be also be registered in as soon as one month. However, it may take about eight months for a standard straightforward trade mark to be registered.

The applications are deemed to be related if the TM and/or RD are to be used in relation to the invention contained in the patent application, or related products and services, example as follows:

Patent Application:

Invention relates to energy-efficient air conditioning units.

Trade Mark Application:

Potential goods or services to which the trademark is to be applied:

Class 11: Air conditioning apparatus; Air-conditioning fans; Air-conditioning filters.

Class 35: Retail services relating to air conditioning apparatus; Wholesale services in relation to air conditioning apparatus.

Class 37: Installation and repair of air conditioning apparatus.

Registered Design Application:

Articles to which the registered design is to be applied: Air-conditioner.

The related TM and/or RD applications must be filed within one month of the applicant being notified that a patent application has been placed on SG IP FAST. A copy of the Patent Preliminary Examination Report indicating that a patent application is placed on SG IP FAST and the patent application number must be provided with the request to place the related TM and RD under the SG IP FAST. Presently, the request will not incur any official fee.

There is no cap on the number of requests for acceleration of TM and RD applications. However, the cap of five patent applications a month under SG IP FAST, which will be reset on the first day of every month, will remain. Unutilised capacity will be rolled over to the next month, subject to a maximum cap of ten applications a month. There is also a cap of ten patent applications per year per entity (individual or corporate).

The patent application must satisfy the following conditions in order to be placed or remain on acceleration:

1. Application must be first-filed in Singapore, i.e. no priority claim;
2. Application must contain 20 or fewer claims;
3. Application must not be a divisional application;
4. Application must be filed with a request for search and examination report on the same day;
5. Application must state the reason(s) for requesting acceleration and the technology field to which the invention relates;
6. Where the formalities examination report is not favourable, the Applicant must respond within two weeks from the date of receipt; and
7. Where a written opinion is issued, the Applicant must respond within two months from the date of receipt.

Regarding item 5, possible reasons for acceleration include the patent application being filed is for an emerging technology with a short product lifecycle (e.g.: FinTech, Industry 4.0 and Artificial Intelligence) or a technology with an environment or public health cause (e.g.: food security, mitigating climate change, waste water and smart energy management, and therapeutic agents to combat COVID-19).

The TM applications must satisfy the following conditions in order to be placed or remain on acceleration:

1. The specification of goods and/or services in the application must be fully adopted from IPOS' pre-approved classification database;
2. The application is not for a series mark;
3. The application is not for a non-conventional mark, such as 3D shape mark, colour as a trade mark, aspect of packaging, sound mark and other non-conventional mark;
4. The application is not for a certification or collective mark;

5. The objections raised by the Examiner in the first Examination Report are all resolved in the first submission within one month of the report;
6. The applicant responds as directed by the Registrar (such as filing the official form to formalise any amendments) in the second Examination Report within two weeks;
7. The application must not encounter opposition during the publication stage; and
8. The applicant cannot request for Extension of Time ("EOT") during the course of examination.

The RD applications must satisfy the following conditions to be placed or remain on acceleration:

1. Deficiencies raised in the first Examination Report are all resolved in the first submission within two weeks; and
2. The applicant cannot request for EOT to respond to the Examination Report.

Through the SG IP FAST pilot programme, innovators and businesses will be able to better protect their creations, build a strong portfolio of intellectual property ("IP") rights for strategic commercialisation, and to enjoy the maximum benefit of their IP protection. The SG IP FAST programme will end on 29 April 2022.

III – SINGAPORE RANK IN THE GLOBAL INNOVATION INDEX 2020

In the 2020 edition of the Global Innovation Index (GII), Singapore has retained the top rank as the most innovative nation in Asia Pacific. Globally, Singapore has maintained the eighth place where the top five positions are taken by Switzerland, Sweden, the United States of America, the United Kingdom and the Netherlands.

Jointly published by WIPO, Cornell University and INSEAD, the GII is a ranking of world economies based on innovation capabilities measured through 80 indicators to capture the multi-dimensional facets of world innovations. In this edition the GII focuses on the state of innovation financing to examine the evolution of financing mechanisms for entrepreneurs and innovators, the progress as well as the challenges such as the economic slowdown caused by the coronavirus disease (COVID-19) crisis. The indicators are grouped into innovation inputs and outputs where the inputs comprise elements of the national economy that enable innovative activities and the outputs comprise the results of the innovative activities of the economies. Among the world economies, Singapore performed best in the quality of the innovation inputs, particularly in political, regulatory and business environments. However, Singapore performed relatively weak in the innovation outputs particularly in intangible assets such as trademarks and industrial designs by origin.