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Intellectual Property

# Towards an Efficient and Business-Friendly IP System – Intellectual Property (Amendment) Act 2021 Passed in Parliament

## Introduction

The Intellectual Property (Amendment) Bill 2021 ("**Bill**") was passed in Parliament on 12 January 2022. The Bill makes changes to a number of Intellectual Property ("**IP**") statutes, seeking to create a more efficient and business-friendly IP registration system in Singapore.

The Bill follows an earlier public consultation by the Intellectual Property Office of Singapore's ("**IPOS**") held from July to August 2021. The changes in the Bill are in line with the Singapore IP Strategy 2030, which seeks to strengthen Singapore's position as a global hub for intangible assets ("**IA**") and IP, and to attract and grow innovative enterprises using IA and IP. As businesses generate more IA and IP, IPOS' IP registration operations become increasingly important.

The Bill makes changes to the following statutes:

- (a) Patents Act;
- (b) Trade Marks Act;
- (c) Registered Designs Act;
- (d) Plant Varieties Protection Act; and
- (e) Geographical Indications Act 2014.

The changes are directed at effecting improvements across three broad categories:

- (a) Enhanced business-friendliness;
- (b) Operational efficiency; and
- (c) Enhanced legislative and procedural clarity.

This Update highlights the key changes effected by the Bill.

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## **Business-Friendliness**

To improve business-friendliness of the IPOS system, the Bill introduces four major changes which seek to improve the experience of applicants seeking to register their IP.

**Enabling the publication of part of a trade mark application** – Currently, for trade mark applications seeking protection across multiple classes of goods and services, an objection by the trade mark examiner in respect of only some of the goods or services applied for may prevent the entire application from proceeding to publication if the applicant fails to respond adequately or at all to the objections. The Bill now allows for partial acceptance, under which the mark may proceed to publication in relation to the goods and services for which no objections were raised.

**Post-deadline relief** – Currently, if certain deadlines are missed in a trade mark application, and the application is deemed withdrawn, the applicant can only apply for reinstatement six months after the deadline. The Bill in effect reduces the amount of time an applicant has to reinstate a lapsed application from six months, instead giving the applicant two months to request for the continued processing of the application. This is to reduce the uncertainty for third parties who wish to apply for identical or similar marks.

**Publication of applications for the correction of errors on the register** – The Bill introduces a process whereby an application to rectify an error or omission on the trade mark register by any person having sufficient interest can now be published by IPOS so that third parties affected by the application can raise objections to the application.

**Translations for International patents** – A fee no longer has to be paid in order for IPOS to publish English translations filed with IPOS.

## **Operational Efficiency**

The next group of changes in the Bill seeks to improve operational efficiency, and includes the following four key amendments to IPOS' internal processes.

**Patent examination objections** – The patent examiner is given the option of inviting the applicant to make the necessary amendments (provided that the objections can be overcome with minor amendments to the specifications), instead of having to issue a written opinion (which was previously, always required).

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**Patent examination review** – If a patent applicant has amended the specification of an application to address all unresolved objections in an earlier report, the patent examiner no longer has to specify whether he or she agrees or disagrees with the earlier report.

**Cooperative examination** – The Bill introduces a new cooperative mode of examination for applications for the protection of new plant varieties, allowing for examiners to rely on relevant tests conducted and submitted by parties acceptable to IPOS.

**Technical and operational provisions** – The Bill shifts certain technical and operational provisions from primary to subsidiary legislation, allowing IPOS to efficiently adapt to changing needs since amendments to subsidiary legislation can be made more quickly.

## Legislative and Procedural Clarity

The Bill introduces certain changes that seek to clarify the law, and to smoothen IPOS' administration of the IP prosecution process.

**Public access to patent documents without prior request** – IPOS may on its own initiative make available to the public information or documents relating to a published patent application and its corresponding granted patents without a prior request having been made, subject to restrictions that it prescribes.

**Practice directions on sequence listings** – The Bill amends the Patents Act to enable the Registrar to issue practice directions setting out the format in which these sequence listings are to be filed with patent applications.

**Expired trade marks** – The Bill clarifies that expired trade marks will be considered "earlier trade marks" when determining the registrability of a trade mark, as long as the expired trade marks remain eligible for renewal or restoration.

## Concluding Words

Singapore's IP system has a reputation for being efficient, effective and accessible. This not only benefits Singapore as an IP hub, but also businesses and individuals seeking to register or utilise their IP.

The changes in the Bill represent the continued effort to improve and update Singapore's IP registration framework. Businesses seeking to register IP should be aware of the amendments and how they affect the registration process.

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For further queries, please feel free to contact our team below.

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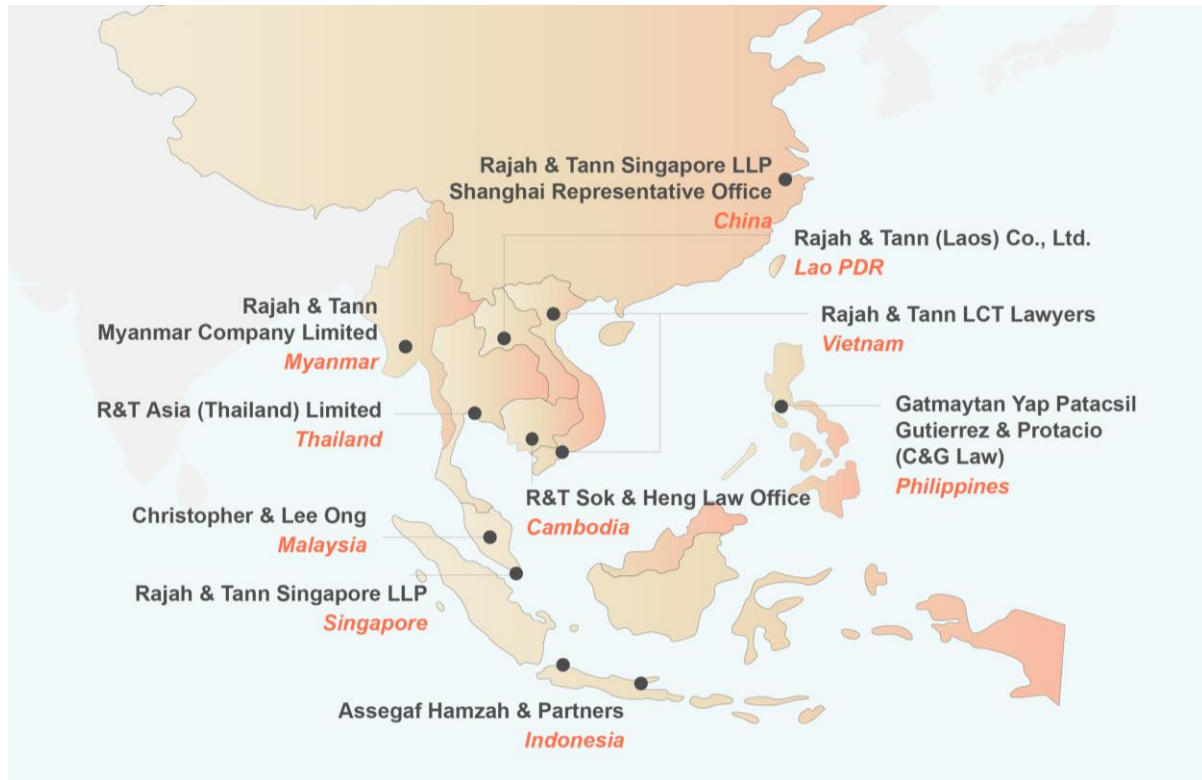
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