

UPDATES FROM IPOS

FEBRUARY - APRIL 2024

Dear readers,

Here is an update on developments in IP/IT dispute resolution in Singapore between Feb to April 2024.

Court decisions

[*Three Arrows Capital Ltd and 2 Ors v Cheong Jun Yoong*](#) [2024] SGHC(A) 10

In our earlier [update](#), we covered [*Cheong Jun Yoong v Three Arrows Capital Ltd and others*](#) [2024] SGHC 21 (where the General Division of the High Court dismissed 3AC's application to set aside an order allowing Cheong to effect service of court papers in the BVI). In this case, the Appellate Division dismissed 3AC's application for permission to appeal. The court case summary is available at the link above.

[*MoneySmart Singapore Pte Ltd v Artem Musienko*](#) [2024] SGHC 94

This case concerns a former employee of MoneySmart Singapore Pte Ltd who resigned and joined CAG Regional Singapore Pte Ltd ("CAGRS"), a subsidiary of MoneyHero Limited (a competitor of MoneySmart). Both MoneySmart and MoneyHero are in the business of providing online financial product comparison services on an online platform. MoneySmart sought *ex parte* interim injunctions aimed at stopping the ex-employee from working for CAGRS. They were initially granted subject to certain conditions. Here, the main issue was whether the interim injunctions should be set aside.

In discharging the interim injunctions, the General Division of the High Court considered, among other things, whether the ex-employee had breached (or will likely breach) a confidentiality clause. (The Shopee case below was cited and discussed in this case.)

[*Kiri Industries Ltd v Senda International Capital Ltd and another \(Fan Jing, non-party\)*](#) [2024] SGHC(1) 7

Readers of our updates will recall our coverage of the long running Kiri v Senda (DyStar). Links to some earlier reports are [here](#) (Feb 2023) and [here](#) (Nov 2022). This most recent case involves an application for an order for examination of judgment debtor (and a related order for leave to serve out of jurisdiction) with a view to enforcing the unpaid costs orders for the underlying litigation amounting to more than S\$6.6m.



[Shopee Singapore Private Limited v Lim Teck Yong](#) [2024] SGHC 29

This case involved a claim by e-commerce company Shopee Singapore Pte Ltd against a former senior employee (Lim) who joined ByteDance Pte Ltd as “Leader for TikTok Shop Governance and Experience”. When Lim was an employee, he signed a restrictive covenant agreement and an employee confidentiality agreement. Shopee sought interim injunctions to stop Lim from accepting employment with ByteDance and to restrain Lim from soliciting Shopee’s clients and employees. Shopee also sought, in the alternative, a springboard injunction to restrain Lim on grounds that Lim had misused confidential information to give ByteDance an unfair advantage.

The General Division of the High Court did not allow the interim injunctions sought.

[Marten, Joseph Matthew v AIQ Pte Ltd.](#) [2023] SGHC 361

Some of our readers may be interested in this shareholder dispute concerning a tech start-up in Singapore. The company in question, AIQ Pte Ltd, was in the business of developing and selling software relating to visual recognition technology for mobile devices. Its key asset was a portfolio of patents which it acquired relating to visual recognition technology. This patent portfolio was eventually consolidated into two patents which were charged as security (referred to in the judgment as the “Secured Patents”) for debts due in connection with a loan of US\$1m to AIQ by Goh Soo Siah (“GSS”), one of its shareholders.

Sometime later, AIQ ran into significant financial issues due to lack of funding and GSS informed AIQ that he wanted his money back. As there was no payment, GSS issued a statutory demand. After AIQ failed to comply, it was wound up. Prior to the winding-up, it assigned the Secured Patents to GSS. Among the many claims brought by the plaintiffs (which had alleged minority oppression and conspiracy) was the accusation that the defendants had deliberately caused AIQ to be wound up so that the Secured Patents would be handed over in full to GSS so that he could commercialise the visual recognition technology without the involvement of the minority shareholder and 1st plaintiff, Marten Joseph Matthew.

The General Division of the High Court dismissed all of the plaintiffs’ claims.

[Longitude 101 Pte Ltd v Navinea Kanapathy Pillai and another matter](#) [2024] SGDC 47


The above decision of the District Court was also reported in the media under the headline “[Court finds employee wrongfully dismissed due to pregnancy, awards S\\$122,000 in damages](#)” (Channel News Asia, 11 March 2024, by Louisa Tang). The ex-employee’s wrongful dismissal action was filed as a counterclaim in response to a lawsuit by the company (Longitude 101) which had alleged that she had misappropriated money and breached the terms of her employment contract (including a confidentiality clause). As the headline suggests, the counterclaim succeeded whilst the company’s claims failed.



IPOS case

[Google LLC v Green Radar \(Singapore\) Pte Ltd](#) [2024] SGIPOS 1

grMail

Google opposed Green Radar’s trade mark application for “grMail” () in Classes 42 and 45 for “*Electronic monitoring services being IT security services in the nature of protection and recovery of computer data*” and “*Security services for the protection of property and individuals*” respectively. The applicant does not provide any email services. Instead, “grMail” is an enterprise email security service. Google relied on its trade mark registration for “GMAIL” in Singapore in Class 38 for “*telecommunication services; electronic mail services; all included in Class 38*”. Five grounds of opposition were raised under the Trade Marks Act: (a) s 7(6) (bad faith); (b) s 8(2)(b) (confusing similarity); (c) s 8(4)(b)(i) (well known trade mark); (d) s 8(4)(b)(ii) (trade mark well known to the public at large); and (e) s 8(7)(a) (passing off).

The IP Adjudicator dismissed the opposition on all grounds. In arriving at her conclusion, the IP Adjudicator found “GMAIL” and “grMail” were slightly more similar than not. She also agreed with Google’s contention that the mark “GMAIL” is well known to the public at large in Singapore. However, she was of the view that there is no similarity in the services and that there would be no likelihood of confusion (which meant that ss 8(2)(b), 8(4)(b)(i) and 8(7)(a) could not succeed). As regards s 8(4)(b)(ii), the IP Adjudicator was not persuaded that there would be any dilution or unfair advantage taken of the distinctive character of the “GMAIL” mark. Finally, there was insufficient evidence to prove bad faith under s 7(6).

IP Adjudicators

We are pleased to announce the following appointments and reappointments of our [IP Adjudicators](#) for a 2-year term with effect from 1 April 2024.

Appointments:

- Assistant Registrar Sim Junhui
- Tan Tee Jim, SC

Reappointments:

- District Judge Vince Gui
- Prof David Llewelyn

We also record our appreciation for our IP Adjudicators who completed their terms with distinction: Mrs Murgiana Haq and Mr Andy Leck on 31 March 2023; Senior Assistant Registrar Cheng Pei Feng, Mrs Lee Ai Ming, Mr M. Ravindran and Dr Burton Ong on 31 March 2024.

Featured articles

Our friends at NUS Law’s Centre for Technology, Robotics, Artificial Intelligence & the Law (TRAIL) have published their [Feb](#) and [Mar](#) issues of Bits & Bytes, covering topics such as “[Mickey Mouse Enters the Public Domain – the End of a Cultural Icon?](#)” by Dr Stanley Lai, SC, David Lim, Linda Shi and



Justin Tay (Allen & Gledhill LLP) and [Generative AI and Copyright Fair Use](#) by Professor David Tan (NUS Law).

Also in the news recently was an interesting report in the Straits Times on 10 April 2024 titled "[Singaporean writers object to IMDA using their works to train a large language model](#)", by Charmaine Lim. The article was also shared by the [Business Times](#) and [Singapore Law Watch](#).

Some might also be interested in the following article: [When brands sue people for posting bad reviews](#) (ST, 16 April 2024, by Samer Elhajjar – note: may be paywalled)

Featured videos

IPOS is glad to be part of the Practising Law Institute (PLI) series "Global IP Spotlight". The inaugural episode featured Adriana Uson (SIAC), Prof Daryl Lim (Penn State Dickinson Law), our Chairman Dr Stanley Lai, SC (A&G) and Sandy Widjaja (IPOS). The speakers discussed the current IP dispute resolution landscape, suitability of different resolution options for cross border IP disputes, and how Singapore stands out in the international dispute resolution environment. PLI is a nonprofit organisation and one of the leading providers of continuing legal education in the US, with more than 400,000 members. The video is available at the following [link](#) (paid program).

And, if you missed the seminars which IPOS co-organised with PennState Dickinson Law and WIPO Arbitration and Mediation Center on the topic of "Intellectual Property & International Dispute Resolution: What Every Lawyer and Corporate Counsel Needs to Know" in February, here are some recordings of the events in [New York City](#) (registration required) and [Washington DC](#) (YouTube link).

Finally, on a lighter note, some might find Channel News Asia's video series, [On the Red Dot: Food Feud](#), interesting. The videos (which are also hosted on YouTube) feature feuds relating to matters which are close to the hearts and bellies of many in Singapore: "[Katong Laksa](#)", "[Ji Xiang Ang Ku Kueh](#)" and "[Tai Hwa / Tai Wah Bak Chor Mee](#)" (the former with a Michelin star and the latter featured on the Michelin Guide).

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If you know of anyone who would like to be added to this mailing list (which deals primarily with IP/IT dispute resolution in Singapore), please drop us a note at ipos_hmd@ipos.gov.sg. IPOS also separately maintains another mailing list for circulars, legislative amendments and other related matters which you can join by contacting news@ipos.gov.sg. For any comments or feedback (or to draw our attention to any interesting news we might have missed), please email gabriel_ong@ipos.gov.sg. Archived copies of our previous updates are available at the following [link](#).

