

## PART I

### General Overview of Items (A) – (F)

#### **COUNTRY: BRUNEI DARUSSALAM**

#### **A. COPYRIGHT**

##### **i) Introduction**

The Copyright Order of 1999 came into force on May 1, 2000. Prior to this Order, under existing Brunei Case laws, the UK Copyright Act 1911 provided the relevant remedies.

The Order provides that copyright is a property right in the following descriptions of work namely:

- original literary, dramatic, musical or artistic works;
- sound recordings, films, broadcasts or cable programs;
- typographical arrangement of published editions;

Copyright protection is automatic, thus there is no formal procedure for registration in Brunei Darussalam.

##### **ii) Arrangement of Sections**

**Part I** - deals with subsistence, ownership and duration of copyright which cover areas on rights of the copyright owner, acts permitted to copyright works, moral rights, dealing with rights in copyright works, remedies for infringement, copyright licensing, copyright tribunals and qualification for and extent of copyright protection.

**Part II** - deals with rights in performances.

**Part III** - deals with general provisions and offences.

##### **iii) Duration for Protection**

For literary, artistic, dramatic and musical works: 50 years from the end of the calendar year in which the author died.

For sound recordings and films: 50 years from the year in which they were made or released.

For broadcast and cable programs: 50 years from the end of the year in which they were first broadcast or transmitted.

For typographical arrangement: 25 years from the end of the calendar year in which the edition was published.

#### **iv) Acts of Infringement**

An action for infringement is actionable by the copyright owner. The key issue in deciding whether infringement has occurred is whether a restricted act was carried out in relation to the work or a substantial part of the work.

The court will compare the claimant's work with that of the defendant to ascertain whether it is the same or substantially similar.

In an attempt to inhibit the negative impact that illegal acts have upon copyright owners, the law recognizes that it is not enough merely to provide remedies against those who copy or perform but also to provide owners with protection against those who aid and abet the primary infringer.

The two important differences between primary and secondary acts are:

##### **(a) Nature/extent of involvement**

Primary infringement concerns those who are directly involved in the reproduction or performance of the copyrighted work. Secondary infringement concerns those who deal with infringing copies, facilitate such copying or facilitate a public performance.

##### **(b) The mental element**

The state of mind of the defendant is not formally taken into account when deciding whether an act of primary infringement has occurred. In the case of secondary infringement, the liability is dependent on the defendant knowing or having reason to believe that the activities in question are wrongful.

#### **v) Remedies and Rights**

In addition to moral and performers' rights, the remedies available to a copyright owner are as follows:-

##### **(a) Civil remedies**

- damages;
- an injunction;
- an account of profits;
- others available for infringement of other proprietary rights;
- delivery up - the court can subsequently order the forfeiture/destruction of the infringing goods;

- border enforcement measures – the Controller of Customs has the right to detain prohibited goods upon request from the copyright owner;

(b) Criminal sanctions

The Order provides criminal sanctions for offences such as:-

- making or dealing in infringing articles
- making illicit recordings
- false representation of authority to give consent

The penalty for such offences is a fine and/or imprisonment not exceeding two years or both depending on the nature of the offence committed.

**vi) Exceptions**

- (a) Fair dealing – for purposes of research, private study, criticism or review and reporting current events.
- (b) Education - anything done for the purpose of examination, instruction, performance before an audience of teachers and pupils at an educational establishment, libraries and archives.
- (c) Computer programs making back-up – back-up copying is to be done only by an authorized person. An authorized person is a person having a right of use of the program, for example under license. The Copyright Order affords protection in computer programs and preparatory design materials for computer programs as literary works.
- (d) As provided under any written law.
- (e) For the purposes of proceedings of the Legislative Council or of judicial proceedings, a Royal Commission or of a statutory inquiry.

**B. INDUSTRIAL DESIGNS**

**i) Introduction**

The Industrial Designs Order of 1999 and Industrial Designs Rules of 2000 came into force on May 1, 2000. The Order provides as follows:

**Part I - Interpretation and Application Provision**

**Part II - Registration of Industrial Designs**

**Part III - Rights in Industrial Designs**

**Part IV - Use by the Government of Industrial Designs**

**Part V - Legal Proceedings**

**Part VI - Administrative and Miscellaneous Provisions**

**Part VII - Rules and Regulations**

**Part VIII - Offences**

**ii) Definition of Industrial Designs**

The Order defines industrial designs as features of shape, configuration, pattern or ornament applied to an article by an industrial process, being features which in the finished article appeal to and are judged visually, but does not include:

- (a) a method or principle of construction;
- (b) features of shape or configuration of an article which are dictated solely by the function which the article has to perform; or
- (c) are dependent upon the appearance of another article of which the article is intended by the designer to form an integral part.

An industrial design is applied industrially if it has been applied –

- to more than fifty articles which do not together constitute a single set of articles; or
- to articles manufactured in lengths or pieces, not being hand-made articles.

**iii) Requirement for Registration**

To be registrable, an industrial design must be *new* at the date of filing of the application or the priority date (if applicable). An industrial design is new if it has not been registered, published, used or sold in Brunei Darussalam or elsewhere before the date on which the application for registration was lodged.

Any person who has filed an application for registration in a Paris Convention country or a WTO member country has a right of priority for a period of six months from the filing date of the first application.

**iv) Industrial Designs Excluded from Registration**

- Works of sculpture (other than casts or models used or intended to be used as models or patterns to be mass-produced by any industrial process);
- Wall plaques, medals and medallions;
- Printed matter primarily of literary or artistic character.

**v) Infringement of Industrial Designs**

Industrial designs **MUST** be registered before legal proceedings can be commenced.

Remedies available to the registered owner are:

- (a) damages;
- (b) an injunction;
- (c) an account of profit;
- (d) others which are usually available in proceedings in respect of infringement of other proprietary rights;
- (e) delivery up - the court can order destruction or forfeiture and has the discretion to consider other remedies to compensate the registered owner.

**Exception:** The Court cannot award BOTH damages and an order for account of profits.

**vi) Local Case Law**

**Koninklijke Philips Electronics N. V. v Aifa Sdn (HCCS 117 of 2004)**

The defendant applied to strike out the plaintiff's claim that the designs of the defendant's products were similar to those of the plaintiff.

The defendant's application was allowed for the following reasons:

- (a) That the plaintiff's designs could not be regarded as new because of prior disclosure.
- (b) The UK Registered Designs Act of 1949 did not assist the plaintiff as there is no implementing statute in Brunei Darussalam.

- (c) The designs of the plaintiff were inherently unregistrable as the articles bearing the designs were not made and sold separately.
- (d) The plaintiff had wrongly compared the defendant's articles with the plaintiff's articles when the comparison should have been between the defendant's articles and the registered designs of the plaintiff.
- (e) The plaintiff had not pleaded subsistence of copyright in the designs and title to sue.
- (f) The conditions in the UK 1911 Copyright Act had not been satisfied.
- (g) Under the UK 1911 Act, it was not possible to have dual or overlapping copyright and design protection.

The plaintiff has since filed an appeal and as of today no hearing date has been confirmed.

## **C. LAYOUT DESIGNS**

### **i) The Emergency (Layout designs) Order 1999 came into force on May 1, 2000**

This Act seeks to provide for the protection of layout designs of integrated circuits.

The Order provides for the definition of an integrated circuit which means a circuit in its final or an intermediate form in which at least one of the elements is an active element and some of the materials or all of the interconnections are integrally formed in or on a piece of material that is intended to perform an electronic function.

Layout designs means a 3-dimensional disposition, however expressed, of the elements, at least one of which is an active element, and of some or all of the interconnections, of an integrated circuit and includes such a 3-D disposition prepared for an integrated circuit intended for manufacture.

### **ii) Remedies for Infringement**

- (a) payment of damages
- (b) an account of profits
- (c) delivery up

- (d) Any article delivered up be forfeited to the lawful owner, destroyed or disposed of

**iii) No act of Infringement**

- If it is copied solely for private use
- For research and teaching purposes
- Use by the Government for defense security provided that the Government has informed the owner and the owner is paid by the government

**D. THE MERCHANDISE MARKS ACT OF 1953**

The Act defines merchandise as any article which is the object of commerce which may be brought or sold in trade.

Both the Trade Marks Act (Cap 98) and Copyright Order make reference to this Act.

In general, this Act deals with the prosecution of an offence for using a false trademark or false property mark, counterfeit trademark or property mark, making or possession of any items which are used to counterfeit a trademark or property mark, importing or selling goods marked with a counterfeit trademark or property mark and tampering with or defacing a property mark.

The Act also deals with the prosecution of false trade descriptions of goods. Depending on the nature of the offence, the penalty imposed in this Act ranges from a fine and/or imprisonment of up to three years. The Court may direct the forfeiture of all goods in connection with the offence that has been committed.

**E. TRADEMARKS**

**i) Introduction**

The Trade Marks Act (Cap 98) and Trade Marks Rules came into force on June 1, 2000. Prior to this Act, the law applicable on trademarks was the Trade Marks Act of 1953.

The Act is arranged in five Parts:

**Part I** deals with the registration of trademarks which includes grounds for refusal of registration, the effects of registered marks, infringement proceedings, assignment, licensing, claims for priority, registration procedure, duration,

renewal and alteration of the marks, surrender, revocation and invalidity, collective marks and certification marks.

**Part II** deals with the protection of well-known marks, emblems, Article 6ter and acts of agents or representatives.

**Part III** deals with the registration, the powers and duties of the Registrar, legal proceedings and appeals, fees, business hours, publication, appointment of trademark agents.

**Part IV** deals with proceedings relating to importation of infringing goods, offences, and forfeiture of counterfeit goods.

**Part V** deals with miscellaneous and general provisions.

**ii) Summary of the Trade Marks Act**

- New kinds of signs are registerable, namely colors and shape.
- A less stringent test for registerability.
- The presumption of registerability applies and the Registrar has no discretion to refuse registration if the requirements are met.
- Conflict on earlier trademarks is overcome by consent of the proprietor.
- Provisions for protection of well-known marks even though not registered.
- Disclaimers and limitations are not required but may be entered at the request of the proprietor.
- Applicants may claim a right of priority for an application filed in a foreign Paris Convention country.
- Marks are registerable for both goods and services up to class 42 and multi-class applications are allowed.
- Applications may be divided or merged after filing.
- No extension of time is allowed for filing of a notice of opposition and counterstatement.
- Registration may be revoked for non-use and the onus is on the proprietor to show use. Use must be on the actual goods or services for which the mark is registered.



- Licenses and assignments are recorded without substantive examination.
- There are no provisions for defensive marks but collective marks may be registered.
- Geographical indications or GIs may be protected as certification marks.
- Registration is for a period of ten years and is renewable every ten years, thereafter subject to payment of a renewal fee.

### iii) **Infringement Proceedings (civil remedies)**

Infringement actions are available to the owner of the trademark. The remedies available are as follows:-

- **Civil remedies**

- damages;
- an injunction;
- an account of profits;
- other remedies available in respect of infringement of any other proprietary rights;
- order for delivery up;
- filing a request to the Controller of Customs to detain infringing goods where the owner of a trademark can subsequently apply for an Order of Court for forfeiture, destruction or otherwise.

- **Criminal sanctions**

These are provided for under the Act which also refers to the provisions of the Merchandise Marks Act of 1953. The penalties include fines, imprisonment and forfeiture of counterfeit goods.

### iv) **Local Case Law**

#### **Canon Kabushiki Kaisha v Lee Unison Company (1993)**

The plaintiff's action was for an injunction, an account of profits and passing off of Canon products. In this case, the court ordered the defendant to pay the sum of BND 750,000 to the plaintiff. There was also an order for destruction of the goods.

**International Coffee & Tea LLC v the Coffee Bean & Tea Leaf Sdn Bhd  
(HCCS No 179 of 2000)**

The plaintiff's action was for relief in damages for infringement of his trademark, passing off and an injunction.

The plaintiff first used its mark in 1963, has now applied it in eight countries and owns 120 restaurants and cafés throughout the U.S.A and worldwide. Through advertisement and promotion, it has established goodwill and reputation.

One of the interesting issues that arose from this case was whether the words The Coffee Bean & Tea Leaf are devoid of any distinctive character. The question then becomes whether a trademark which is under attack was recognized by the public as being a trademark.

It was decided that the plaintiff had ample evidence that, based on its goodwill and reputation, it is testimony to the fact that it is looked upon by the public as a trademark.

The defendant's business registration under the name "The Coffee Bean & Tea Leaf" was registered in Brunei on June 9, 1999 and subsequently incorporated under the Companies Act on February 7, 2000. The defendant maintains that the plaintiff has not raised any objections to the registration

The plaintiff's trademark application to register two of his marks in Brunei was made on November 16, 1999 and publication for opposition was made on March 30 and April 29, 2000 when there was no opposition lodged.

The plaintiff intended to open up the first "Coffee Bean & Tea Leaf" café in Brunei in July 2001 and less than 500m down the road the defendant operated a restaurant and café in the name of the "Coffee Bean & Tea Leaf Sdn Bhd".

Even though there was no evidence of actual confusion having been caused, in view of the locality and the close proximity in which the two businesses are situated, the likelihood of confusion was real as both trade names give the impression that they are one and the same business which in fact they are not.

Thus the court granted the relief sought by the plaintiff.

## **F. THE INVENTIONS ACT (CAP 72) OF 1925**

The Inventions Act is an Act providing for the grant of exclusive privileges in respect of inventions. This is a re-registration system whereby any person who has obtained a grant of patent in the United Kingdom, Malaysia or Singapore or any person deriving his right from such grantee by assignment, transmission or other operation of the law may apply to the Registrar within three years from the date of issue of such grant to have it registered in Brunei Darussalam. Under the present system, a local inventor will have to acquire patent rights in one of these countries before he can seek to have his invention protected in Brunei Darussalam.

The certificate of registration issued by the Registrar confers on the applicant privileges and rights similar in all respect to his rights under the United Kingdom, Singaporean or Malaysian patent laws. Such privileges and rights begin from the date of the grant in any of these countries and continue in force only as long as they remain in force in the respective countries.

### **Action for Infringement**

An action may be brought in the High Court by an inventor against any person who, during the continuance of an exclusive privilege granted by this Act without the permission of the inventor, makes, uses, sells or puts into practice an invention or counterfeits or imitates the same. In these circumstances, common law remedies such as damages, an injunction and an account of profits are available to the inventor.

## PART II: SUCCESS STORIES

### *Case Study 1*

<i>General Information</i>	
<b>COUNTRY : BRUNEI DARUSSALAM</b>	
COMPANY NAME : DataStream Technology Group Sdn Bhd ( DST )	
CONTACT ADDRESS	
Contact Person	: Radin Sufri bin Radin Basiuni
Designation	: Head Group Regulatory Policy & Legal
Business Address	: Datastream Technology Headquarters Tungku Link Road BE 3619 Brunei
Tel No.	: + 673 2410888
Fax No.	: + 673 2411371
E-mail	: radin@simpur.net.bn
Home Page (if any)	: www.dst-group.com

### **COUNTRY**

**Brunei Darussalam**

### **TITLE**

**DataStream Technology Sdn Bhd**

[www.dst-group.com](http://www.dst-group.com)


DataStream Technology Sdn Bhd is the holding company and the backbone of the DST Group.

### **TYPE OF INTELLECTUAL PROPERTY CONCERNED**

#### **Trademark**

Classification of goods and services in Classes 9, 14, 16, 18, 25 and 38.

The three initial letters “**DST**”, derived from DataStream Technology, gave rise to the DST Group product branding. As the Company expanded its businesses other brand names evolved.

 **DST**  
Multimedias have nine registered trademarks in Brunei.  
Sdn Bhd

Listed below are the registered marks of the Companies.



There are another ten trademarks pending registration.

## **BACKGROUND**

This is one of the national success stories following His Majesty's Government of Brunei's call for privatization programs. Since the inception of DataStream Technology Sdn Bhd in 1995 the Company has grown substantially and diversified into other types of business. There are now nine other subsidiary Companies.

### **The DST Group**

- 1) DataStream Technology Sdn Bhd (DST Sdn Bhd), which is the main holding Company, was incorporated in April 1995.  
It is the leading brand of Infocom Media Service Provider in Brunei.
- 2) DST Communication Sdn Bhd (DST Com) was also incorporated in April 1995.  
It is the provider of Brunei's mobile phone service and has adopted the use of the GSM system for evolution of its mobile technology platform on the GPRS/EDGE system.
- 3) Integrated Communication Sdn Bhd (Incomm) was formed in July 1994.  
A reseller and solution integrator which offers a wide range of telecommunication products for both consumer and business telecommunication needs. Incomm's core business is the retail arm of the DST Group and it represents brand names such as Nokia, Sony Ericsson, and Motorola etc.
- 4) DST Technical Services Sdn Bhd came into being in October 1995  
This Company provides the facilities for trunked business communications or two-way radio communication systems for companies with intra-communication needs to enable them to manage field operations and mobile teams.

The trademark "**Fascom**" is the brand name of this Company.

- 5) DST Network Sdn Bhd was formed in September 1999  
Originally a satellite television network, DST Network Sdn Bhd now plays a significant role with its new brand Kristal Entertainment Network, which provides 14 channels featuring music and cinema entertainment.
- 6) Kristal –Astro Sdn Bhd was incorporated in September 1999  
A joint-venture broadcasting entity providing 33 digital satellite television channels for home satellite televisions, radio programs, and other interactive services. This joint-venture Company has resulted from the amalgamation of Kristal Sdn Bhd and Malaysia's MEASAT Broadcast Network Systems Sdn Bhd.
- 7) Kristal Media Sdn Bhd was formed in January 2000  
Originally started as one of Kristal's joint ventures, this Company provides entertainment, promotions and event management.
- 8) DST Multimedia Sdn Bhd was formed in June 2000.  
This is the first private licensed Internet Service Provider in Brunei, besides web operations such as Simpur Net; DST Multimedia is also responsible for web-based customer service management of the DST Group. "**Simpur**" is the brand name and their portal is

www.simpur.net.bn

9) DST Payphone Sdn Bhd came into being in June 2000.

“**Zippi**” is the brand name and this particular Company is Brunei’s first privately-operated public pay phone company. It takes advantage of the Group’s synergy and provides digital GSM technology to public payphones. Currently there are 500 units (indoor and outdoor or with solar power where commercial power is not available) installed in the country.

## DEVELOPMENT AND USE OF INTELLECTUAL PROPERTY FOR BUSINESS STRATEGY.

### The three initial letters

Initially the letters DST form the main focal point and are central to the development of the Company’s existing trademarks. With the advent of DSTCom introducing prepaid services; intellectual property rights in the Company evolved with further branding exercises.

### Creation of other trademarks

When DSTCom introduced its post-paid services, the trademark “**Prima**” came into being and the trademark for prepaid services was “**Easi**”.

From these two trademarks the Company took on an extension of branding and value-added services for its customers. These added-value services gave customers the option to select such services and thus increase the business activities of the Company.

Set out below is a chart of such value-added services. With these services further impetus is added to the creation of more trademarks.

**Evolution**, the name for the DST’s Group transformation towards GPRS technology with the convergence of **Voice and Data** for wider applications such as **MMS** and introduction to its data family services know as the ‘**WoW**’ services.

With the introduction of Data, there was again the need to create more trademarks.

Within the DST Group there are three trademarks namely “**FASCOM**”, “**SIMPUR**” and “**ZIPPI**” which is better known to consumers and public alike than the name of the Company which trades under these brand names. In this instance the Company capitalizes on these trademarks and advertises its products using them to gain market leverage.

### Learning experience in the protection of Intellectual Property Rights

When the DST Group applied to register one of its trademarks; it received an objection from the owner of a similar mark on the grounds that it was visually and conceptually identical and/or deceptively and/or otherwise confusingly similar. Subsequently the other party withdrew its opposition and that particular mark was eventually registered on behalf of the DST Group.

From this case, the DST Group learnt the importance of trademark protection and owners of a mark will go to great lengths to protect their intellectual property rights.

This experience reinforces the Company's concept of the protection of Intellectual Property Rights as part of its business strategy. Having protected one IPR it secures the Company's rights in marketing its Brand and also develops more intellectual property rights.

### **Creativity team**

The marketing division of the DST Group houses a marketing and creativity value unit which constantly creates and develops brand names to meet the needs of the DST Group.

### **The importance of Intellectual Property in business**

In brief, Intellectual Property Rights have allowed the DST Group to use its brand names instead of its Company names, thereby providing a brand image recognized by customers. It also allows product differentiation and secures brand value strategy.

### **IMPACT ON PRODUCTIVITY**

Intellectual Property has enabled the Company to license its rights to the Company's licensed vendors. There are now 1000 licensed vendors for the brand name "Easi"; 250 licensed vendors for the brand name "Simpur" and 350 licensed vendors for the brand name "Zippi".

Kristal Astro secured the Company's rights to license from a third party. Kristal-Astro provides digital Direct-To-Home (DTH) satellite television, providing over 33 channels of digital quality satellite television, radio programs and other interactive services. This was made possible by a joint venture with Kristal-Astro Sdn Bhd. The Kristal-Astro service was launched on January 24, 2000, by KRISTAL Sdn Bhd and Malaysia's MEASAT Broadcast Network Systems Sdn Bhd.

With over 33 television and radio channels which ensure that all programs adhere to Brunei's religious, cultural and social values, subscribers will also have access to pay-per-view services, as well as a wide range of interactive services, such as home banking, home shopping and distance learning to be introduced at a later stage.

This had led to the DST Group's market dominance as a network operator, service and entertainment provider for communications.

### **Company image**

The Company's head office in Brunei is a landmark and it is identified by the public as the "DST" tower. The design of the building reflects the image of the Company as being as dynamic and highly innovative as the products and services it offers.





**Employees**

In the past three years, the DST Group has maintained a staff of 500 employees throughout Brunei. By the nature of the services and products offered by the Group, the human resources management has focused on customer value with a multi-skilled, motivated and knowledgeable work force.

**Retailing facilities of the “DST” group**





### **Success story**

An aspiration to excellence is the keynote of the DST Group and its ongoing commitment to bring affordable premium quality services with innovative and useful features to all its customers.

Further, being the country's premier multiple information medium in the area of communications, information technology and entertainment, the Company hopes to continue in its role and to use leading-edge technology to develop and continue to offer innovative, quality products and services.

### **Future**

The Company aims to continue its commitment to giving customers the best communications products and services available.

Further, it aims to broaden the Company's market and acquire access to the latest technology, establishing mutually beneficial alliances with local and foreign partners.

## Case Study 2

<i>General Information</i>	
<b>COUNTRY : BRUNEI DARUSSALAM</b>	
COMPANY NAME : Heatwave Shoes Pte Ltd	
<b>CONTACT ADDRESS</b>	
Contact Person	: Mr Tan Nguan Khoon
Designation	: Director
Business Address	: No 29, Ground Floor, The Mall, Gadong, Bandar Seri Begawan, Brunei Darussalam & BLK 65 A, #04 – 01, Jalan Tenteram , St Michael’s Industrial Estate, Singapore 328958
Tel No.	: +673 2786689 & +65 67329429
Fax No.	: +673 2786278 & + 65 67349839
E-mail	: sales@heatwaveshoes.com
Home Page (if any)	:

### TITLE

Heatwave Shoes Pte Ltd

### TYPE OF INTELLECTUAL PROPERTY CONCERNED

Trademark

Classification of Goods and Services in CLASS 25



From the beginning the Company realized the importance of protecting its brand name. It wanted customers to connect the brand with the quality of goods sold.

The Company’s trade-mark is registered in countries where its goods are being sold.

The mark is currently pending registration in countries in Asia, the Middle East, Europe, the United States of America and the Madrid Protocol countries.

## **BACKGROUND**

The Company was originally formed as a partnership in 1999 and subsequently converted into a private limited company in 2000.

The Company's regional office is in Brunei and its head office is maintained in Singapore.

### **The concept behind the brand name**

The name came about when one of the directors of the Company expressed a desire to produce ideas and designs that flowed endlessly like “**WAVES**” to motivate him in his shoe designs. He hoped his designs would sell like “hot cakes” and set future wave trends, hence the trademark “**HEATWAVE**”.

### **Characteristics of the products**

With the brand name in mind, the Company set about targeting retailers and wholesalers and the export of ladies' fashion shoes.

When the Company first started business it decided to incorporate a certain characteristic design in its products. The main emphasis was to produce designs for shoes for ladies between 20 and 35. The designs of the shoes were to be trendy office, evening and casual wear, and it was also hoped that the designs would appeal to ladies in their forties.

The Company also placed emphasis on the fact that the finished products, the shoes, must be comfortable.

## **DEVELOPMENT AND USE OF INTELLECTUAL PROPERTY IN BUSINESS STRATEGY**

The Company is of the opinion that protecting its trademark is an important aspect in the development of its business strategy. From the outset, when it was conceiving its strategy, its main focus was to project an image for the brand name “**HEATWAVE**”. Keeping that in mind, the Company started to build a customer relationship with its products whereby customers could associate them with the “**HEATWAVE**” trademark.

### **Image in relation to the brand name**

Putting its main emphasis on building up the image of the Trademark; the Company also focused on developing the image of its shops so that customers would associate the trademark with the products. The Company's intention was to decorate all their retail shops in the same way so that customers could associate and identify the goods with the “**Heatwave**” trademark.

The retail shops are bright, modern and lively, resulting in a cheerful atmosphere.

The shoes are displayed under bright lights and in easy-to-reach display units for customers to pick up and try on.



## Designs

The Company has an internal design department that consists of four employees. This design team takes into consideration customers' needs and ideas. Current trends and fashion play a crucial role in the design of the shoes.

*Female Magazine*, which is available in most ASEAN countries, has featured the “**Heatwave**” shoes. This is highly significant for the Company's design team as it implies a certain recognition of the designs of the shoes. This in turn provides publicity for the trademark and the products.

Set out below are photographs of the Company's products which are currently available in its shops and other outlets.



### **Manufacturing and Production**

The company assigns the manufacturing of its shoes to a shoe factory that manufactures and produces the products in accordance with the Company's requirements and specifications.

Each pair of shoes carries with it the distinctive "Heatwave" trademark, as the Company wants customers to associate its products with its trademark. In so doing customers will soon be associating the trademark with the products they are buying, thus also creating public awareness of the trademark.

### **IMPACT ON PRODUCTIVITY**

The Company opened its first retail outlet in 2000 and since then the number of retail shops and outlets has gradually increased in the ASEAN region. The Company's employee numbers have also increased with each passing year.

### **Retail shops and outlets**

Having built up the Company's image in relation to its brand name, it has gradually increased the numbers of retail shops and outlets.

Currently the Company has set up retail businesses in Brunei, Singapore, Myanmar, Indonesia and Thailand.

The chart below shows the numbers of retail shops and outlets owned by the Company in some of the ASEAN countries.

**Countries**  
**Number of retail shops**  
**Number of outlets in shopping malls/ department stores**  
**The year the retail shops/ outlets were set up**

Brunei  
1

2002

Singapore  
4

2000

Myanmar  
1

3  
2003

Indonesia  
1

2005

Thailand  
1

10  
2002

Intellectual Property does have an overall effect on sales as the Company will be setting up more outlets and retail shops in existing markets and is also in the process of setting up retail businesses in India, Vietnam, Taiwan, Australia, Philippines and the Middle East.

**Franchising**

As the Company has grown it has assumed a different status in that the trademark has acquired public recognition. The Company is now in the process of franchising its trademark.

**Quality**

The Company also firmly believes that maintaining the quality of its products is an important criterion as the image of the brand name will be recognized by its customers.

## **Pricing**

Since the day the Company opened its first retail shop, it has maintained a retail price range from SGD\$ 24.90 to SGD \$ 70.00 (USD 15.00 to USD 43.00) for a pair of shoes. With these prices the Company's intention has been to maintain both comfort and quality.

## **Future plan of the Company**

There will be more retail shops or outlets within local department stores in the countries where the Company has since established and opened up retail shops and outlets.

The company's aim is to continue to build its image and establish world-wide recognition of the brand name, "HEATWAVE" so that it will be associated with ladies' shoes which are fashionable and of good quality.

Furthermore the Company will develop more products within the Class 25 specifications in addition to those that it is currently retailing.



### PART III

Listing of Manuals, Guidelines and Directories  
in the Area of  
Intellectual Property (IP) Portfolio Management

**COUNTRY: BRUNEI DARUSSALAM**

No.	English Title + Brief Description of its Contents in less than 50 words	Year of Publication	Agency Responsible and Address	Contacts (Tel/Fax/email)
<b>A. PATENT AND INVENTION RELATED</b>				
1.	<p><i>Inventions Act (Cap 72)</i></p> <p>Contents: - Any person who has obtained a grant of patent in the UK, Malaysia, or Singapore or a person deriving his right from such grantee by assignment transmission or operation of the law may apply within three years from the date of issue of the grant to be re-registered in Brunei Darussalam. Such privileges will remain in force so long as the Grant remains in force in the country it was originally issued.</p>	1925	The Registrar, Attorney General's Chambers, The Law Building, Bandar Seri Begawan BA1910, Brunei Darussalam	<p>Tel: +673 2244872</p> <p>Fax +673 2222720</p> <p>Email: <a href="mailto:info@agc.gov.bn">info@agc.gov.bn</a></p>
<b>B. INDUSTRIAL DESIGN RELATED</b>				
1.	<p><i>Industrial Designs Order and Industrial Designs Rules</i></p> <p>Contents:- An industrial design explaining that that which is new is registerable subject to compliance with the Order. The total period of protection is 15 years. Industrial designs must be registered prior to commencement of infringement proceedings.</p>	1999	The Registrar, Attorney General's Chambers, The Law Building, Bandar Seri Begawan BA1910, Brunei Darussalam	<p>Tel: +673 2244872</p> <p>Fax +673 2222720</p> <p>Email: <a href="mailto:info@agc.gov.bn">info@agc.gov.bn</a></p>

<b>C. TRADEMARK RELATED</b>				
1.	<i>Trade Marks Act (Cap 98) and Trade Marks Rules</i>  Contents:- This Act allows registration of marks and services up to Class 42. The presumption of registerability applies. There are provisions for protection of well-known marks even though there is no registration. The infringement provisions are wider. Criminal sanctions are also provided for.	1999	The Registrar, Attorney General's Chambers, The Law Building, Bandar Seri Begawan BA1910, Brunei Darussalam	Tel: +673 2244872  Fax +673 2222720  Email: <a href="mailto:info@agc.gov.bn">info@agc.gov.bn</a>
2.	Merchandise Marks Act  Contents:- This Act deals with the prosecution of offences for using false trademarks or false property marks, counterfeit trademarks or property marks, making or possession of any items which are used to counterfeit a trademark or property mark, importing or selling goods marked with a counterfeit trademark or property mark, tampering with or defacing a property mark.	1953	The Attorney General, Attorney General's Chambers, The Law Building, Bandar Seri Begawan BA1910, Brunei Darussalam	Tel: +673 2244872  Fax +673 2222720  Email: <a href="mailto:info@agc.gov.bn">info@agc.gov.bn</a>
<b>D. COPYRIGHT RELATED</b>				
1.	Copyright Order  Contents:- This Order provides for rights of a copyright owner against primary and secondary infringement. There are also provisions for acts permitted in relation to copyright works, moral rights, rights in performances and border enforcement measures. Criminal sanctions are also provided for in the Order.	1999	The Attorney General, Attorney General's Chambers, The Law Building, Bandar Seri Begawan BA1910, Brunei Darussalam	Tel: +673 2244872  Fax +673 2222720  Email: <a href="mailto:info@agc.gov.bn">info@agc.gov.bn</a>
2.	Layout Designs Order  Contents:- This Order provides for the protection of layout designs of integrated circuits. The Order also provides remedies for infringement.	1999	The Attorney General, Attorney General's Chambers, The Law Building, Bandar Seri Begawan BA1910, Brunei Darussalam	Tel: +673 2244872  Fax +673 2222720  Email: <a href="mailto:info@agc.gov.bn">info@agc.gov.bn</a>

<b>E. BUSINESS RELATED</b>				
	N/A			
<b>F. FINANCIAL GRANTS</b>				
	N/A			