

PART I (B)

General Overview of Items (A) – (F)

COUNTRY: MALAYSIA

A. HOW TO COMMERCIALIZE INVENTIONS

Inventions come in many forms, formal and informal. The cornerstone of any IP is protection. The Malaysia Intellectual Property Office encourages all inventors to apply for patent protection. This is most important for the commercialization of their inventions and new-found technologies.

Inventors apply to the Malaysia Intellectual Property Office for patent grants. In the past, patent applications were always dominated by foreign applicants. For quite some time 95% of patent applications came from overseas, while only 5% came from local applicants. This gave cause for concern for many years. However, last year the figure increased to 10% for local applications. This was made possible through aggressive campaigns held in the institutions of higher learning, particularly research institutions. This has encouraged researchers and their institutions to file for patent grants. This is a good start.

One of the greatest sources of invention is in the local universities. The students involved in the science and engineering fields are normally the leaders in discovering new areas of technology.

There are several means of commercializing inventions.

FINANCIAL MEANS

The crux of the problem is getting inventions to the market place. Inventors are not always good businessmen. While they are able to invent, not all of them are able to commercialize their inventions. This is because of a lack of finance. Inventions that do not catch the attention of the commercial exploiters often die a natural death. However keen inventors have to chase financial institutions for assistance. The dilemma is that not all inventors have the skill to enter into the business field. Attempts by some of them have been found to be failures. So they need to join up with businessmen to commercially exploit their works. They then place advertisements in the media to invite the attention of the economic communities. This has worked well in some cases. The only problem is that once the businessman comes into the equation, he may take the lion's share, leaving behind only scraps for the inventors.

Assistance from the Ministry of Science and Technology

The Ministry of Science and Technology of Malaysia realizes the importance of research and development, and the need for technological innovations for sustainable development in a knowledge-based economy. Therefore the Ministry has placed a high priority on the scientific and technological developments in the country.

INDUSTRIAL AND R&D GRANTS

Since the year 1988, the Malaysian Government has been implementing a centralized grant system of financing science and technology (S&T) research in public institutions and research agencies. The Ministry of Science, Technology and Innovation (MOSTI) has taken responsibility for managing the funds and the implementation of S&T research and development (R&D) programs in the country. Other private agencies such as the Multimedia Development Corporation and the Multimedia Super Corridor also participate in providing assistance.

LOAN AND VENTURE CAPITAL

There is one more problem area for the inventor. In cases where the invention has yet to be tested, financial institutions would not be prepared to provide loans. It would be too risky to venture into an unproven business. For that reason, the inventor may have to approach those willing to provide venture capital.

However, it is thanks to the Malaysian Government, as various ministries and agencies have helped the Small and Medium Industries (SMI) through financial assistance given in the form of business loans to entrepreneurs and business owners of specialized industries. These loans are made available through financial institutions such as the Credit Guarantee Corporation Malaysia Berhad, Bank Pembangunan dan Infrastruktur Malaysia Berhad and Bank Industri dan Teknologi Malaysia Berhad and enable these entrepreneurs to obtain loans up to 100% and credit facilities to support their business aspirations. Venture capital is an alternative form of financing.

S&T TAX INCENTIVES

To further encourage the involvement of the private sector in carrying out R&D, the Government of Malaysia has made available various types of incentives for R&D activities. Most of the R&D deductions and allowances are provided for under the Income Tax Act, 1967. The category of incentives by way of Pioneer Status and Investment Tax Allowance are provided under the Promotion of Investments Act 1986.

Therefore an enterprising inventor can always make use of the assistance provided by these financial institutions.

MEETING OF MINDS

They are more often than not unable to bring their inventions to the market place by way of commercialization owing to lack of finance. Banks and other financial institutions do not take risks in unproven areas. Therefore they refuse applications from students who do not have any earning capacity. Their educational institutions do not come forward either to finance their inventions.

In this regard, one possibility is the invention exhibitions that are held in various parts of the country. Here the inventors display their inventions, distribute brochures and give detailed explanations on the functions of the inventions. Any potential businessman who shows an interest in an invention then enters into an agreement with the inventor and commercializes the invention. Exhibitions are held where potential investors are invited to view the exhibits, and if they like what they see, enter into agreements to exploit them. The most celebrated exhibition is the MINDS Exhibition, where hundreds of exhibition halls are erected in reputable venues. The exhibits are judged and awards are given for various categories of invention. This is a boost for the inventors as they receive a lot of publicity through the media. Then the businessmen come into the equation. It is not surprising that even foreign businessmen are attracted to local inventions.

TRADE ASSOCIATIONS

There are trade associations that encourage their members to seek out the latest inventions. These associations which are involved in business activities could join hands with inventors to commercialize their inventions.

Malaysian Invention and Design Society

Founded in 1986, the Malaysian Invention and Design Society is the largest body in Malaysia representing individuals, universities and companies who pursue excellence in invention, creativity, innovation, research and development, and industrial design. MINDS is responsible for promoting high standards of invention and design, fostering professionalism and encouraging continuing professional development amongst its members.

Its objectives are:

- *To encourage creative thinking and the spirit of invention among the people and businesses of Malaysia*
- *To promote and enhance the development and utilization of Malaysian inventions and designs*
- *To provide advice and guidance to individual inventors and designers as well as companies involved in research and development*

- *To offer support and guidance in the commercialization of new inventions and product ideas*
- *To provide professional development and training programs to enhance competitiveness*

MINDS is active nationally and internationally and associated with the World Intellectual Property Organization (WIPO) and the International Federation of Inventors' Associations. With support from the Ministry of Science, Technology and the Environment, Ministry of Domestic Trade and Consumer Affairs, Ministry of Education and SIRIM, MINDS has established itself as the leading body to support inventions and designers in Malaysia.

Grants of up to RM50,000 are available to MINDS members for new inventions and designs.

B. HOW TO BENEFIT FROM ORIGINAL INDUSTRIAL DESIGNS

INTRODUCTION

An industrial design is the ornamental or aesthetic aspect of an article. The design may consist of three-dimensional features, such as the shape or surface of an article, or of two-dimensional features, such as patterns, lines or colors. Industrial designs are applied to a wide variety of products both industrially-produced and handcrafted, from technical and medical instruments to watches, jewelry, and other luxury items; from home wares and electrical appliances to vehicles and architectural structures; from textile designs to leisure goods. The range is wide and covers almost every aspect of our lives.

Benefit to Society

This aesthetic value of a product is appreciated both by individuals and society at large. Hence it is very much reflective of the norms, values and customs in society. Designers acknowledge that the environments, objects and services created as a result of the design process both reflect and help to define the cultural identity of their nations and certain societies within nations. Designers strive to embody and promote the cultural traditions of their national societies while incorporating the best characteristics of international design principles and standards.

First Beneficiary

The first beneficiary is certainly the owner. An industrial designer combines his artistic skills and practical knowledge to create designs. When he registers his designs, his skills receive their rightful protection. When an industrial design is protected, the owner - the person or entity that has registered it - is assured of exclusive rights against

unauthorized copying or imitation of the design by third parties. Once a design is registered, a registration certificate is issued. Following that, the term of protection is generally five years, with the possibility of further renewal up to a total of 15 years in most cases. This helps to ensure a fair return on investment. Therefore the first step is to register the design.

Client's Objectives

A study shows that when a client purchases a product, 70% of the decision is motivated by its appearance. Recognising this, designers work within the limits of their profession to further the interests of their clients through provision of the following:

- Regard for strategic, economic and technical objectives,
- Appropriate, good quality and competitive designs,
- Best professional practices
- Efficient, economic and environmentally-sound production means, and
- Honest business practices.

That is to say the first step in designing a new product is to discover the client's needs and how the product will be used. Designers talk to clients about what they want, and carry out research on products and design trends. For example, they read publications and study design styles. They also attend showings of new products in their field. To develop their designs, they consider size, shape, weight, color, and materials to be used. In the end it is the client who obtains satisfaction. By making a product aesthetically appealing and attractive, industrial designs increase its commercial value and facilitate its marketing and commercialization.

Economic Benefits

Industrial designs are what make an article attractive and appealing; therefore, they add to its commercial value and increase its marketability. An effective system of protection also benefits consumers, by promoting fair competition and honest trade practices, encouraging creativity, and promoting more aesthetically-pleasing products.

Protecting industrial designs helps economic development by encouraging creativity in the industrial and manufacturing sectors, as well as in traditional arts and crafts. They contribute to the expansion of commercial activities and the export market.

Industrial designs can be relatively simple and inexpensive to develop and protect. They are reasonably accessible to small and medium-sized enterprises as well as to individual artists and craftsmen, in industrialized and developing countries.

Clear Terms of Contractual Agreements

Designers have one disadvantage. When they sign contracts with businessmen, more often than not, they stand to lose out, especially when they are not very business-oriented.. The entrepreneurs who wish to commercialize the designs often take the

lion's share, leaving the designers with little. Designers will need clearly to define the basis on which their total remuneration is to be calculated, before accepting an assignment.

Surveys

In order to benefit further, the designers would have to conduct market surveys. To find out whether a design is practical, they consider cost, ease of use, and safety. They also consider market conditions, or what is selling in the product area.

Some Statistics

In Malaysia industrial design registration came into force in 1999. There were only 204 applications filed in that year, compared to a total of 4,999 applications filed up to July 2005.

Each year there is an average of 1,000 applications filed in Malaysia. It is heartening to learn that around 50% of the applications filed come from inside the country. The number is said to be increasing every year.

Most of the applications are for the protection of decorative items. The most popular applicant is Royal Selangor Pewter that registers mugs and containers. This company has an international reputation as the products are in great demand from foreign visitors to Malaysia. They are popular gift items for many happy occasions.

Following this there is the "Three-V" which is one of the leading exporters of Malaysian furniture, especially to the Middle East. There are also small-scale firms that register on an *ad hoc* basis.

Avenues for Commercialization

Many designs are made known to the public through trade exhibitions. The Malaysian furniture exhibition is very well-known and it attracts large numbers of exhibitors from across the world. This is an area where furniture is properly exhibited and promoted.

As for financial assistance, there is practically no direct assistance. This is only available in the form of simple business loans.

C. CONTRIBUTION OF TRADE MARKS TO BUSINESS DEVELOPMENT IN MALAYSIA

The Legal Framework

As early as 1962 and before, Intellectual Property Rights were administered by the Trade Marks Registration Office. With the enforcement of the Trade Marks Act 1976 and the Patents Act 1983, the Office changed its name to the Trade Marks and Patents

Registration Office in 1983 under the Ministry of Trade and Industry. On October 27, 1990, when the Ministry of Domestic Trade and Consumer Affairs was established, an Intellectual Property Division was created. From then onwards the Trade Mark Act was administered under this Department. Again, on March 3, 2003 the division was turned into a corporate body called the Malaysia Intellectual Property Corporation (IPCM) It was renamed by the Prime Minister of Malaysia as the Malaysia Intellectual Property Office (MyIPO). at the launch of national Intellectual Property Day at Malacca on March 3, 2005. However it still falls under the general aegis of the Ministry of Domestic Trade and Consumer Affairs.

In 1997, a new requirement was created to safeguard against unscrupulous applicants claiming rights. Applicants were required to submit statutory declarations along with their trademark applications. According to the Statutory Declaration Act 1960, anyone found guilty of making a false declaration would receive a jail sentence. Perjury is a serious offence in Malaysia. This is a major area for the trademark regime.

The Trade Mark Act was amended in 2000 to comply with the obligations of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, whereby provisions were created for border measures. Again provisions for well-known marks were also provided for in the amendment. By and large the Trade Mark Act 1976 is said to be very supportive of business development. False claims are punishable under the Trade Description Act 1972, where an individual is fined RM100,000 and a company is fined RM250,000.

Role of MyPO

MyIPO is the custodian of the IP laws. It sets clear functions for the development of the trade marks for the purpose of promoting business. MyIPO assists the trademark regime in Malaysia in the following ways;

- i) provides protection through registration services
- ii) provides advisory services
- iii) provides search facilities for trademarks
- iv) disseminates information to the public through public awareness programs

Trademarks contribute to business development by way of winning over customers. Trademarks do not deal with products, but only with brands. It is the brands that contribute to business development. This paper will deal with various approaches used for brand development to win business and it may explain the contribution of a trademark to business development. In the long run, it is the customer who determines the success of the business.

According to a study by the World Intellectual Property Organization, an average of 1,500 brand names per day are registered. But how many of these are successful brands is the question one has to ask. Success comes in various forms.

Trademarks could certainly contribute to business development. In the first place, the trademark has to be registered. Only registered trademarks have IP value. The value increases over a period of time. We know that the IP value of Coca Cola, IBM and Microsoft runs into billions of US dollars. Therefore in order for trademarks to succeed in the business world, they have to be registered.

Trademarks also provide recognition for both the financial institutions and the customers. As for the financial institutions, they only recognize the registered trademarks when they intend to approve loans and grants. They would hesitate to give loans to unknown marks.

It is a trademark that makes it possible for its owners compete fairly. With no registration nor recognition, anyone can duplicate a mark. Therefore trademarks do encourage fair competition in the market place.

Malaysia takes a very positive approach nowadays. In the past it used to allow foreign goods to be assembled in Malaysia, and they carried the label "Made in Malaysia." The term "Made in Malaysia" only mentions the assembly and manufacture in Malaysia. The trademark still belongs to the original owner. Malaysia now favors its own trade marks and these are known as Malaysian brands. It is Malaysian brands that we want to promote both locally and overseas.

As trademarks build customer loyalty, the brand is used to entice customers who more often than not use brand names when purchasing goods; a clear indication that it is the trademark that is foremost in their minds.

A good looking brand name is about identification and trust. Every company strives to build brand trust with its customers, most of whom tend to associate brand names with almost every tangible product they encounter daily. Should the trademark establish some form of trust, then it would be successful in the market place. This is always done through claims made in advertisements. More often than not there would be a statement to say something like "quality is guaranteed" and this statement would be emphasized form time to time.

A businessman must be consistent in putting out the same message to the population in the course of developing customer loyalty. The message communicated in every medium should be the same. That is to say, in packaging, displays, guarantees, and any other consumer-targeted communication. Not only the wording, but the colors, typography, and images used in the brand name should all proclaim uniformity. It is such approaches associated with the trademarks that work on the minds of customers.

Again for good sales of products, they must be plausible and desirable. That is to say, the consumers must be convinced that the products they buy are believable and desirable. To this end, the designers have to make sure that the trademark indicates some level of believability. This is about the most difficult aspect of a trademark, as it involves a psychological approach.

There is a saying that the bottom-line in business is survival of the fittest. One has to be constantly on the move. Taking one's eye off the ball in a highly-competitive business environment may even bring the businessman to the brink of insolvency. Trademarks therefore have to keep on emphasizing their appeal to the mind of the customer. Therefore in some cases trademarks would need to change in form or color to add aesthetic value. The best example one could give in this regard is the Shell logo that has undergone several modifications over the decades. Each change was made to reflect changing tastes. In Malaysia the logos of the daily newspapers have undergone several changes to keep up with the competitive spirit in a competitive business. Sometimes the logos would have to look dynamic, rather than always retaining the same appearance.

A businessman has to understand fully the likes and dislikes of his customers. One needs to find out which segment of the population rejects the product and why. Such a survey will enable the businessmen to create the right message to win over new customers.

Support by Organizations

The Malaysian public is well aware that trademarks are important for business development. The Federation of Malaya Manufacturers (FMM) is an active promoter of brands for business development, as it is fully aware of the need to boost branding in order to increase performance. The FMM has come out with an association called the Branding Association of Malaysia, which is an active and aggressive promoter of brands.

The Branding Association of Malaysia conducts seminars and workshops for business communities and members of the public on the importance of trademarks. Reputable speakers from leading national and international corporations are invited to share their success stories with the audience.

The Branding Association of Malaysia covers areas such as the need for brand names to be catchy, the need for aggressive marketing to win over customers; association of brands with quality and safety; the need for brands to be believable and desirable; establishing brand loyalty; the need to have uniformity in colors, typography, and images used; and the need for constant surveys on customer preference. Many of these seminars are officially opened by Malaysian ministers and high-ranking officials.

Design Companies

There are commercial artists who assist firms in producing trademark logos. Designing logos for trademarks is already becoming big business in Malaysia.

Government Grants

In many industrializing nations, SMEs and the small and medium industries sector, constitute the backbone of the industrial sector in the form of ancillary and supporting industries. This is also the case in Malaysia where SMEs have evolved to support larger companies and the MNCs.

REGISTRATION WITH MYIPO

Each year MyIPO receives almost 20,000 trademark applications. Of these about 51% are local applications, while 49% are from abroad. Generally speaking, trademark is an area that is well-known to the business community. This is evidenced by the fact that Malaysians file more trademarks than patents or industrial designs. In fact, a number of Malaysian marks have even gone international and they bear witness to high quality and standards. Selangor Pewter is our own local brand that creates renown for Malaysia across the world. PETRONAS is another, while Proton is yet one more that is making a mark for Malaysia overseas.

D. CONTRIBUTION OF COPYRIGHT

In Malaysia, the copyright regime is seen to be a key player in the preservation and development of culture, and an important generator of employment and revenue. It is for these reasons that the Government places great emphasis on suppressing piracy in the area of copyright.

The Legal framework

Any successful exploitation can only take place within a legal framework. In Malaysia a copyright system has existed since 1912, but the first copyright statute of independent Malaysia came into force on August 1, 1969, known as the Copyright Act 1969. This Act was repealed in 1987 when the Copyright Act 1987 came into force on December 1, 1987.

Broadly, the Copyright Act 1987 provides for the making of better provisions in the laws in respect of copyright. To this end, the Copyright Act underwent major amendments in 1990, 1996, 1997, 2000 and 2003 to cater for the changing needs on the domestic as well as the international scene. The 1990 amendment was to make provisions for Malaysia to join the Berne Convention. The 1996 amendment was to widen the powers of the Copyright Tribunal to settle disputes between the users of copyright works and the collecting societies, and to provide for the compounding of offences. The 1997 amendment was mainly to provide protection for the contents that pass through the Multimedia Super Corridor. The Act was again amended in 2000 to provide protection for the rights of the performers and it was further amended in 2003 to widen its powers of enforcement and to increase penalties.

Malaysian copyright laws became international standards by its becoming a signatory to the Berne Convention for the Protection of Literary and Artistic works, which is a convention administered by the World Intellectual Property Organization (WIPO), on October 1, 1999. Malaysia also became a signatory to the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement in 1994.

The Copyright Act 1987 protects the literary, artistic and musical works (computer programs are treated as literary works); published editions of such works; sound recordings; films; broadcasts, and works derived from works eligible for copyright.

The Act also specifies the protection period of the works. The duration of a copyright for literary, artistic and musical works is the life of the author plus fifty years after his/her death. For the rest of the works eligible for copyright, this expires fifty years from the start of the calendar year following the year in which the work was first published.

The copyright owner has the exclusive right to control various acts in Malaysia, in relation to a literary, artistic or musical work, a sound recording or a film. Such acts include the reproduction of the work in a printed form; a public performance or show; the communication of the work to the public; the distribution of copies to the public by sale or other transfer of ownership; and the commercial rental to the public.

It is within this framework that the copyright Industry in Malaysia has emerged as the core copyright-based industry.

INDIVIDUAL DEVELOPMENT

The copyright regime supports a wide range of individuals who are key players, in order to promote culture and the industry. The copyright works and the individuals involved are:

- i) Literary works- authors, publishers, students, software developers; script writers
- ii) Artistic Works- architects, photographers
- iii) Musical works- lyric writers, composers
- iv) Sound recordings- recording companies, musicians, sound engineers;
- v) Films- movie and video producers, actors and technicians
- vi) Broadcasts- broadcasting staff

COPYRIGHT-BASED COMPANIES

Apart from the individuals, the copyright-based industries also generate much revenue and many employment opportunities for Malaysians. These core industries are:

- i) Press and literature

- ii) Music, theatrical productions and opera
- iii) Motion pictures and videos
- iv) Radio and TV
- v) Photography
- vi) Software and databases
- vii) Visual and graphic arts
- viii) Advertisement agencies -visual and graphic
- ix) Apparel, textiles and footwear- designs
- x) Jewelry and coins- designs
- xi) Furniture- designs
- xii) Household goods, china and glass- designs
- xiii) Interior design companies - wall coverings and carpets -designs

THE COPYRIGHT-RELATED INDUSTRIES

- i) TV sets, radios, VCRs, CD players, cassette players
- ii) Computers and equipment
- i) Musical instruments
- ii) Photographic and cinematographic instruments
- iii) Photocopiers
- iv) Blank recording material
- v) Paper

Unlike other branches of copyright, the music industry covers a wider range of key players such as songwriters, composers, publishing houses, sound recording companies, studios, sound engineers, manufacturers of music CDs, singers, and musicians.

Collecting Societies

There are also collecting societies for the collection of royalties for those involved in music. The Copyright Act provides for the-setting up of collecting societies. There are currently two operational collecting societies in Malaysia, the Music Authors Copyright Protection Bhd. (MACP) which administers public performances, broadcast and diffusion rights in musical and associated literary works on behalf of its members and the Phonographic Performance Malaysia (M) Pte. Ltd. (PPM) which administers the recording industry's rights. The Performing Artist Rights Malaysia Sdn Bhd (PRISM) collects royalties for singers and musicians in the recording industry.

Development of Local Talents

In an effort to discover local talent, a program called Aademi Fantasia was introduced in 2003 with the cooperation of a pay television network called ASTRO. It has since discovered much new talent.

Umbrella Body

An umbrella body called Persatuan KARYAWAN Malaysia was established in 2001. This body looks after the welfare of artists in the entertainment industry, including actors, singers, stage performers, musicians, song writers and composers.

Conclusion

The copyright sector is growing in its own way and is the leading factor in the development of local culture.

E. VALUATION AND ASSESSMENT OF IP RIGHTS IN BUSINESS ENTERPRISES

Valuation and assessment of IP rights in business enterprises is emerging as a key area of Intellectual Property. In fact the IP community in Malaysia is well aware of this. It is one area that is already being set up in the more developed countries. In the past financial institutions used to provide loans and grants based on tangible property. Of late there has been a move by the banks to use the IP strength and value within an organization to secure loans and financial assistance. This is to say that IP valuation has already come to the fore.

In Malaysia, although the need for IP valuation is already being felt, a clear-cut mechanism is yet to be devised for the evaluation of IP. At present a leading research institution in the country is already making a move towards creating a yardstick to measure IP strength. It is the Standards and Industrial Research Institute of Malaysia, (SIRIM) under the Ministry of Science and Technology. This body is now called SIRIM Berhad since it became a corporate body nine years ago.

SIRIM is now using guidelines in the form of man hours and material costs to value the IP of a product. But this is still in its infancy and needs to evolve further, adding in other components to provide a complete valuation mechanism.

Different lecturers provide different methods of valuation. Each one differs from the other. This makes it difficult for the Malaysians to adopt any specific method as an acceptable form of evaluating or assessing IP.

F. ACCESS TO CAPITAL BASED ON IP ASSETS- FINANCIAL SCHEMES (LOANS, GRANTS) BY GOVERNMENT INSTITUTIONS AND WITH PRIVATE CAPITAL

BRAND DEVELOPMENT

The Malaysian Government encourages those in the Small and Medium Scale Industries (SMIs) to manufacture their own brands enabling them to gain international market acceptance. The Government is well aware that developing and promoting a brand is not a simple matter of giving a product, or a service, a brand-name, or a logo. Highly successful brandnames require market differentiations as they have been developed to such an extent to have global appeal and global market acceptance. To this end, the Government has provided, under the Economic Stimulus Package announced in May, 2003, a Special Fund of RM100 million for the development and promotion of Malaysian brand names by Malaysian companies. This is handled by the Small and Medium Industries Development Corporation (SMIDEC). Under the scheme, being developed, for the utilization of the fund, a matching grant of up to a maximum of RM2 million can be made to companies that qualify, to cover 50% of the cost of the development of their brands, including the registration of trademarks and patents, as well as for promotional expenses.

FOR PATENT DEVELOPMENT

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PART II: SUCCESS STORIES

Case Study 1

THE MUSIC INDUSTRY IN MALAYSIA

INTRODUCTION

This is a paper prepared pursuant to a study among the ASEAN countries, initiated by the World Intellectual Property Organization (WIPO) and the Association for South East Asia Nations (ASEAN). This study covers success stories based on aspects of intellectual property.

METHODOLOGY

The methodology used to conduct this study came from key sources of information in the industry. Well-known people and key players such as recording companies, collecting societies, lyricists, singers, musicians, and businessmen were among those whom I interviewed to obtain a bird's-eye view of the music industry in Malaysia. I wish to offer my thanks for the valuable information they provided.

KEY INFORMANT

Mr. Sandy Monteiro was appointed Managing Director of Universal Music Malaysia on December 1, 2002 and the Chairman of the Recording Industry Association of Malaysia. Mr. Monteiro has been in the music industry for many years now – starting as Marketing Manager with Warner Music in 1994 and as Executive Director of the Recording Industry Association of Malaysia (RIM) between 1998 and 2000. The Recording Industry Association of Malaysia is a body that represents the interests of the recording industry in Malaysia. While involved in this industry he spearheaded many of its efforts to fight music piracy. In 2000 he left for Singapore. Prior to leaving he issued a press statement to the effect that he had given up hope on the future of the local music industry. However, his passion for music brought him back to take up his current position in Malaysia. With such wide experience in the field of music, he has been identified as the most appropriate and qualified person to be chosen as the key source of information for this paper.

Other Key Informants

Other important sources who provided information were Mr. Tan Ngiap Foo, Chief Executive Officer of Recording Industry Association of Malaysia (“RIM”), Mr Ramani Ramalingam, General Manager of Public Performance Malaysia Sdn Bhd, (“PPM”), a collecting society representing the record industry, Miss Chan Miew Lan, General Manager of Music Authors Copyright Protection Berhad (MACP) and Mr Ong Peng Chu, General Manager of Performers Rights of Malaysia Sdn. Bhd. (PRISM)

THE MUSIC INDUSTRY

The music industry lies at the heart of the copyright regime. Music has become indispensable to mankind. This is one of the copyright works that is being used by the world's population at almost every opportunity ranging from entertainment outlets right up to funeral processions. It used to be thought that it was natural resources and later human resources that formed the most important assets in a nation's economy. But time has proved that it is in IP that the future of the economy lies. In the U.S.A, the most important contributor is no longer the automobile or aeronautic industries. Today the copyright industry, with a strong emphasis on music has emerged as the leading contributor to the economy. Likewise in Sweden the leading industry is the music industry, with millions of albums being exported. Countries that place the highest value on intellectual property and its protection are the U.S., Japan, Sweden and Australia and they derive the greatest returns in terms of percentage of GDP from the music industry. This has opened the eyes of economic analysts. With that in mind, I have chosen the music industry of Malaysia as my example.

The Legal Framework in Malaysia

Successful exploitation can only take place within a legal framework. In Malaysia a copyright system has existed since 1912, but the first copyright statute of independent Malaysia came into force on August 1, 1969 and was called the Copyright Act 1969. This Act was repealed in 1987 when the Copyright Act 1987 came into force on December 1, 1987.

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The Act also specifies the protection period for the works. The duration of copyright for literary, artistic and musical works is the life of the author plus fifty years after his/her death. For the rest of the works eligible for copyright, this expires fifty years from the beginning of the calendar year following the year in which the work was first published.

The copyright owner has the exclusive right to control the carrying out of various acts in Malaysia. In relation to a literary, artistic or musical work, a sound recording or a film, such acts include the reproduction of the work in a material form; the performance, showing or playing to the public; the communication of the work to the public; the distribution of copies to the public by sale or other transfer of ownership; and commercial rental to the public.

It is within this framework that the copyright industry in Malaysia has emerged as the core copyright-based industry.

DEVELOPMENT OF MUSIC INDUSTRY

Music in Malaysia has been developing since the days when traditional music flourished. However, as an industry it has only really developed over the past decades, especially since colonial times when the colonial masters brought in gramophones. It was the property of an exclusive group then. The first form of musical entertainment was through the Radio Malaya stations that broadcast songs during the Japanese occupation (1941-1945). Songs were played and were picked up by the listeners. They were broadcast over public radio, i.e. one radio for each village. Following the Japanese occupation, songs were popularized by movies, especially Indian movies. In the 1950s Malay movies also contained songs.

It was only in the 1950s that gramophone records came to be bought even by people of more limited means, and they were played on wind-up gramophone players such as “His Masters Voice.” It was the 1960s when pop songs from the west created waves in Malaysia. The Beatles were a group that sensationalized music. Radio stations were still popular sources for songs, and apart from songs on vinyl records, open-reel tape recorders were also introduced in Malaysia. There was a craze for such articles where many songs could be recorded and replayed at any time.

The hi-fi system became popular in the 1970s. Along with that, in the early 1970s cassettes were introduced costing little, and this made them affordable by everyone. There was mass production of radios with cassette players selling at moderate prices. Immediately following this, there was the introduction of cartridges with songs, but, although the sound reproduction was better, they were short lived.

In the 1970s new musical outlets were created to earn money from music. These were dance clubs and discotheques. Towards the latter part of the 1980s karaoke outlets became popular in Malaysia. By this time also most of the recordings on cassettes and record players fell out of favor. In 1996 compact discs became very popular in Malaysia, and still continue to be popular. Musical videos are also in great demand.

It has to be pointed out that records, open reel tapes, cassettes and compact discs were originally imported, but within a short period of time local factories started to produce them. This is just a brief historical background to the development of the music industry.

Universal Music Malaysia

It is against this backdrop that the first success story can be told. I had picked up samples from Universal Music Malaysia. The nearest and keenest competitors to Universal Music Malaysia are Warner Music, EMI and Sony BMG which together control 80% of the market in Malaysia. There are also independent recording companies such as Life Records and Suwah. Altogether there are at least 65 active recording companies in Malaysia dealing with sales of music products. Universal Music Malaysia was formed in 1995. In 1998 Universal Music Malaysia merged with Polygram Recording Company that has been in existence in Malaysia since 1983. Universal Music's business is sales of music products, both audio and video. They handle both local and international artists. Universal Music Malaysia is made up of a staff of 35. There are three directors, five senior managers, supported by marketing, sales and administrative staff. In 1995 they had a turnover of RM38 million. By 2005 this had been drastically reduced to a mere RM20 million.

Universal Music Malaysia (UMG) is the Malaysian branch of the Universal Music Group. It leads the music industry in global sales with an estimated worldwide market share in 2004 of 24.7%. Its global operations encompass the development, manufacture, marketing, sales and distribution of recorded music through a network of subsidiaries, joint ventures and licensees in 77 countries, representing approximately 98% of the music market. Therefore the Universal Music Group owns the most extensive catalogue of music in the industry, which is marketed through two separate divisions, Universal Music Enterprises (in the U.S.) and Strategic Marketing & Commercial Affairs (outside the U.S.) Universal Music Malaysia thrives within the music business environment in Malaysia.

It has to be emphasized at the outset that the music industry is not simply a case of plain sailing. Although considered an important part of the cultural lives of mankind, it has both problems and prospects. In the traditional manufacturing or production sectors there are always standardized supply chains and uniform outputs. But the music industry on the other hand relies on contributions from various groups such as artists and composers that may again tend to vary from project to project or song to song. Those in the music industry have divided the core value chain of the industry into five key areas being artists and repertoire, recording, production, marketing and sales. Each is a unique component in itself.

The industry operates with multiple but close relationships between individuals such as artists, song writers, composers, musicians and producers, who in turn deal with record companies, production houses, recording studios and publishers. We do not find the real hierarchical production process that we see in other manufacturing processes.

PERFORMANCE OF THE MUSIC INDUSTRY

With this background, we can now obtain a bird's-eye view of the problems of the industry. There was a time when consumers used to frequent shops where they could buy music products. In other words music products were only available in shops. However these days consumers need not go to shops anymore. There are three ways in which people have access to music products. They are a) pirated sources; b) their own devices; and c) internet sources.

a) Pirated sources

At one time vinyl records were pirated. These records were produced from music recorded on cassettes. Hence the quality was not good, and therefore the demand for them was not high. However with the advent of optical discs piracy escalated to unprecedented heights. This is where people claimed that technology was an asset and at the same time a liability. When music is recorded on optical discs, there is no compromise whatsoever in quality. Each copy is termed as master. That is to say, when copies are made from a master optical disc, each one becomes a master by itself. This time consumers see no difference between an original and a pirated copy. Again, the pirates are able to bring down prices to unimaginable levels. The Recording Industry of Malaysia has said that it has tried to reduce the price of cassettes to as low as RM1.50, which was the maximum as they would only make a very small profit given all the additional costs in producing marketing and selling an album. But the pirates were able to compete by further reducing prices to RM1.30 by sacrificing quality control. Plus they do not have to pay sales tax, advertising, royalties etc. Sales too take place all over the country, even in reputable sales outlets, without mentioning the open-air night markets. In many cases it was suspected that the producers of the original products could be the ones producing the pirated discs as well. One has to understand the mind of the customer. For these customers, two factors decide their purchases, firstly the quality, and secondly the price. As there is little difference in quality and the price is extremely low, customers preferred such pirated products. The law does not deter the users from possession of such pirated products either. The crux of the issue was that the consumers were given a choice; albeit an unequal choice.

b) Own Devices

With the advent of technological products customers need not seek sales outlets to purchase the musical products. With the coming of CD burners, it has been made possible to create your own optical discs. In the beginning CD burners were sold independently. Nowadays they come as a package with personal computers. Most users burn CDs for personal consumption, using one master CD. However, burning at home is also used as a source of income in some situations. There are multiple burners by which a few hundred copies can be produced in a week. They are sold at night markets, or redistributed to other outlets. Such a means of production and sale is very popular among university students too.

c) Downloading from Internet sites

The music industry is of the firm opinion that it is most affected by the downloading from internet sites that offer free music. Napster was one group that offered free music on a peer-to-peer file sharing system. That was declared null and void by court order. Since then they have now come back as a legal site where music is sold to members. However there are still numerous sites operating on the net, offering free music. These sites offer what they call “world music” ranging from ancient to modern music, cutting across all language barriers. Such sites are very popular, as on one surfer can access almost any kind of music. The music of their choice is first downloaded into their PC and burnt on to optical discs. What is most interesting is that some of the songs that are released for the first time are immediately uploaded onto the net. Again the quality of music in the MP3

file system is almost as good as the original. This is one area where losses are heavy. Downloading and burning are done at home and are difficult to monitor. The crux of the issue is how illegal is it to download and file songs from the net.

HOW THE MUSIC INDUSTRY SUFFERS

Owing to this range of problems, the music industry suffers in a number of ways.

a) **Reduction in Investment**

The cornerstone of the music industry is the continued investment in new recordings by record companies. This investment creates multiple opportunities throughout the industry value chain. The recording industry is said to be taking great risks. In Malaysia, out of 80 albums manufactured there is a less than 10% chance of turning out a commercial success. Coupled with this risk, recent years have seen a drastic reduction in the number of new recordings being made owing to piracy activities. Piracy is the arch-enemy of the music industry. It is said that investment in new recordings is equivalent to R&D in the manufacturing sector. Reduction in R&D activities naturally hinders the potential growth of the industry. Universal Music Malaysia clearly states that its turnover has been reduced by 50% over a period of ten years. In 1995 there was a turnover of RM38 million which was reduced to RM20 million in 2005. The causes of the reduction in investment are: -

- i. **Loss of Sales-** This touches on the loss of sales owing to widespread piracy. The impact of the leakages means that revenue generated from investing in recordings and selling of original music products is much lower than anticipated. The bigger the leakage, the wider the negative impact.
- ii. **Reluctance to invest** – Owing to the sustained downturn in the business over recent years, the music industry is already being perceived as a “negative return” sector for investors. In short the rate of return is unfavorable to their investment. This lack of confidence in the industry naturally means that less money is being made available for recording new albums.

b) **Reduction in Key Players**

As we have already mentioned that the music recording industry deals with various individuals, all of them are collectively affected. The decreasing number of new recordings indicates that there are fewer new entrants into the industry. The reduced number of recordings means fewer financial opportunities to sustain a livelihood solely from the music business.

- i. **Artists** – These days fewer new artists are being signed and fewer established artists are being asked to record new albums. Only the handful of well-known artists who continue to record are promoted extensively, and they manage to dominate the industry by monopolizing radio plays and performance requests. There is less

demand for lesser-known or less-established artists who inevitably drop out of the industry.

- ii. **Songwriters and Composers** – With fewer recordings songwriters and composers find it hard to earn a living from song-writing alone. Many have started to treat it as a second occupation and rely on an income from a permanent job elsewhere. One key source put it in crude terms, “one day they are celebrities and the next they seek jobs by selling food in the markets.”
- iii. **Studio workers** – Fewer albums mean less work. Inevitably, studios that cannot sustain their overheads have to close and their workers such as sound engineers and producers are forced out of work or they emigrate. The demand for session musicians has also reduced significantly. Some companies have chosen to use synthesized music rather than live musicians in order to keep down costs. This, however, does affect the quality of the final product.
- iv. **Record Company Executives** – There are fewer opportunities for new executives to enter the industry as almost all companies have downsized. Another important factor is that several senior executives have left to pursue other career opportunities.
- v. **Video Producers** – With lower demand for video productions costs have to be kept down. As a result many video producers now do not regard the music industry as a reliable source of income.
- vi. **Retailers** – The number of legitimate retail outlets is decreasing as many find it difficult to survive under current market conditions. Another aspect that has directly impacted on the sale of local albums in particular has been the Government’s banning of the sale of music and video products in *pasar malam* (open-air night markets). While this has stopped the sale of legal products in *pasar malam* it has not stopped the pirates who continue to sell their illegal products there quite openly.

c) Increased Costs and Cost Cutting

Since the year 2000 consumers have complained that music CDs are overpriced. They also say this was that reason that prompted them to go for pirated products which were cheaper. Since then pressure has been placed on the music industry to lower the price of its CDs and musical VCDs. On the other hand, their costs continue to rise, making it less profitable and less attractive to venture into or continue in the music industry. These costs include: –

- i. **Advertising and Marketing** – Every media player such as radio, TV, press and magazines has increased its music industry advertising rates by more than 30% (Radio ERA increased by 42%, TV3 increased by 300%).
- ii. **Manufacturing** – Manufacturing costs continue to rise with the increased cost of imported raw materials such as polycarbonate and audiotapes used in the production of CDs and cassettes.

- iii. **Distribution and Delivery** – Given the recent increase in petrol prices, the costs of delivery have risen significantly within a short period of time.

In an attempt to reduce costs, some companies have chosen to use cheaper productions, cheaper suppliers and lower budgets for recordings and videos. Whilst they try to maintain value for money for the consumers, the drop in quality is noticeable and has a negative effect on the industry's image as it turns consumers away from original products. It also impacts the viability of entering foreign markets.

d) **Insufficient Quality and Personal Development**

It is felt that there is a lack of personal development within the industry – either due to the lack of opportunity to learn or the lack of desire to do more to improve. Some of the issues raised are: -

- i. **Lack of commitment** – Many artists believe that they have “made it” upon signing a recording contract. They are happy in their status and put little effort into raising their standards. Others do not believe that the industry will give them long-term security and don't want to try harder.
- ii. **Lack of desire** - Few artists look at a recording deal as a first step, an opportunity to learn more about the business and to improve their skills. Fewer still look at the more professional aspects of growth within the industry such as learning about management, music production and more entrepreneurial skills.
- iii. **Lack of discipline** – Partially linked to their perception of “I made it”, many believe that their status as artists is a license to behave badly. Some give the impression that they generally do not care. Some do not behave professionally and do not treat others with respect. Some mix with the wrong crowd and are easily influenced.
- iv. **Lack of sources for guidance** –
 - ◆ Other than the initial grooming and preparation of an artist, record companies do not pay for his/her ongoing personal development. This is normally left to the manager (of whom there are very few who are qualified). In many cases the artist will appoint a family member to act as manager. As such there are very few managers who chart the progress and continued development of the careers of artists under their care.
 - ◆ Due to the downturn in the industry, there is a lack of career professionals.. There are few places where artists or musicians feel they can go to seek advice and information.
 - ◆ Some artists or musicians may not feel comfortable having to learn from a competitor or from those they deem as “has beens”. They also find difficulty in relating to people whom they feel are less talented or knowledgeable than they

are or who do not understand the industry. This significantly reduces the options for choice of facilitator.

- ◆ Others may lack the academic qualifications to attend institutions that offer suitable courses or may not be able to fulfill the entrance criteria.
- ◆ Some cannot afford the fees for music-based courses in established colleges.
- ◆ The courses available may be too long or too structured for the artists to find time to attend.

NEGATIVE PERCEPTION OF THE MUSIC INDUSTRY AND ITS PARTICIPANTS

The industry suffers from the perception that it is a source of entertainment alone, and is not seen as a significant contributor of income to the economy. Music certainly contributes to the growth of the local culture. Yet the players are not seen as professionals as compared to other industries. The music industry is not seen as a platform to secure a position in an industry of choice among young professionals. One has to understand the nature of the industry itself, as many may try, but very few make it. That has been the fate of the industry. A few try for years and finally make it. Some don't make it at all. There is also a risk factor, not only in this country, but across the globe. It is why players in the industry normally have full-time jobs, with one foot only in the music industry. The continued loss of key management talent deprives the industry of future growth potential.

LACK OF FINANCIAL BACKING AND WELFARE BENEFITS

Record companies fund the bulk of new recordings. They recoup their investment from album sales. These recordings are funded internally, and it is very difficult to source funds that can be used in the generation and promotion of albums privately. Financial institutions will not finance such products without significant collateral against loans. The unfortunate reality is that most artists do not have any collateral to provide.

Therefore, when record companies reduce the number of albums produced, third parties do not take up the slack in the vacuum created. Several artists who have lost their recording contracts could still generate albums if they were able to source their own finance. Those who cannot get backing often drop out of the industry. Once they leave, they do not come back.

For the more established artists this psychological torture is great. For them to return to normal employment and to be seen by the general public as a failed artist is the last thing they want. In desperation a few artists do resort to taking drugs, dealing drugs or working for escort agencies either to mask the realities of life or just to keep moving.

In times of difficulty there are no avenues for financial assistance, legal support or counseling to which an artist can turn. It is only on an *ad-hoc* basis that industry groups and artists' associations will contribute towards medical assistance for sick artists. But such gestures take

place only as “one off” cases. Many artists (as we can see from the state of our veteran artists) are forgotten by everyone once they are no longer in the public eye.

In many cases it is observed that the performing lifespan of most artists is limited to 5-10 years at the most. Following their moment of fame, many are at a loss as to what to do next or how to sustain a livelihood once they are no longer in the limelight. At the end of their days of glory as performers, there is only a slim chance of their moving up to management or production level.

LACK OF INTERNATIONAL DEVELOPMENT AND PROMOTION

Given several of the above issues, there are many reasons why the music industry has not been successful in getting Malaysian acts into the regional or international arena. Among these are:

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- i. Fewer artists of international caliber
- ii. Fewer albums being produced
- iii. Production of albums and videos of lower quality
- iv. Dated “sound” of songs produced (perceived as “unoriginal”)
- v. High costs of marketing to promote artists regionally
- vi. Lack of resources to customize products for international markets

Several of the local Chinese artists have moved to Taiwan and Hong Kong in order to get greater exposure and to work in markets with better financial backing.

Rare Case of Glory

However there are also some positive signs. In rare cases, artists have made it internationally. Siti Norhaliza, the celebrated singer is riding high as the number one singer in this country and has performed at the Royal Albert Hall in London. She is certainly a credit to the nation. She is well organized with intelligent future plans and programs and supported by good advisers. However such cases are rare.

CONCERTS AND PERFORMANCE ISSUES

Concerts are a valuable source of income for the industry and its participants. By making a lot of live appearances, artists can show their skills and improve their stagecraft. Unfortunately there are several issues that inhibit the growth of concerts and live performances. Among them are: -

Lack of venues

The ideal set-up for concerts would be to have a series of established venues where music events can be held on a regular basis around Malaysia. Unfortunately, we do not have such a set-up and in most cases music events are held in the most convenient venue regardless of its suitability.

High Rate of Tax

Taxes imposed for shows are generally very high. There is no guarantee that a concert will be a success. The size of the crowd cannot be predicted and that means it is a risky option.

SOME CONSOLING MEASURES

People in the music industry have made efforts to reward the key players in the industry. One area is the formation of collecting societies that provide them with royalties.

i) Music Authors' Copyright Protection Berhad ("MACP")

The MACP was incorporated as a public company limited by guarantee on September 7, 1989 to administer the rights of owners of local musical works. A total of 16 musicians and publishers founded the MACP. The MACP also administers the rights of owners of foreign musical works. On January 1, 1990 the MACP entered into a reciprocal agreement with the Performing Rights Society of the United Kingdom. This agreement enabled the MACP to administer the rights to the world's repertoire of music for the territory of Malaysia. In April 1990 the MACP enjoyed endorsement from the world's copyright fraternity when it was admitted to membership of the International Confederation of Societies of Authors and Composers (CISAC). Today the MACP claims to be a national collecting society representing the majority of composers, authors and music publishers. There are 2,200 local members and 2.5 million from over the rest of the world. With the acquisition of local rights through membership of almost all local composers, authors and publishers, the MACP now owns or controls the public performance rights for Malaysia to more than 11 million musical works of various categories worldwide. The MACP offers a ray of hope for the lyricists, composers and publishing houses in Malaysia.

ii) Public Performance Malaysia Sdn Bhd (PPM)

The Public Performance Malaysia Sdn Bhd, originally called the Phonographic Performance Malaysia is a national non-profit-making body set up in 1988 as a subsidiary of the International Federation of Phonographic Industries (IFPI) to exercise the recording industry's rights in Malaysia and to grant licenses for the public performance and broadcast of its members' sound recordings and music videos. The PPM therefore represents the producers of sound recordings and music videos contained on magnetic tapes, compact discs, mini-discs, video compact discs, digital videodiscs, laser discs and cassettes. Today PPM is a wholly-owned subsidiary of the Recording Industry Association of Malaysia (RIM), a national group of IFPI. The PPM is responsible for the administration of rights

for broadcasting and public performances and the collection of royalties on behalf of its local and international members. The recording companies receive their share of royalties from public music performances.

iii) Performers and Artists Rights Malaysia (PRISM)

The Performers and Artists Rights Malaysia Pte. Ltd (PRISM) was formed in 2001 to collect remuneration for the performances of its members. PRISM represents the recording artists in the music industry i.e. the singers, musicians and session-musicians. On February 17, 2003, a Memorandum of Understanding was signed between PRISM and the PPM to authorize PPM to collect royalties for and on behalf of PRISM. Today there are some 600 local members and 100,000 foreign artists as members in PRISM. The singers, musicians and session-musicians are paid their share of royalties for public music performances.

KARYAWAN OFFERS HOPE

Although strictly-speaking there are no artists' guilds or trade unions in Malaysia handling the welfare of the members of collecting societies, an umbrella body called the Persatuan Karyawan Malaysia or KARYAWAN was formed in 2000 to look after the welfare of all creative and performing artists , protecting their rights and interests and helping them in their respective careers. Membership is open to all those involved in the music, film, entertainment and broadcasting industries.

KARYAWAN seeks to find solutions and solve problems faced by the local entertainment industry. Among them:

- Limited formal representation at Government level.
- Unemployment of musicians, singers and actors.
- Lack of talent-sourcing activities.
- No long term financial plan. (EPF or pension)
- No social or welfare services.
- Lack of professional training and education.
- Lack of management know-how.
- Lack of protection for artists' rights.

Pension Scheme

In 2004 KARYAWAN created a pension scheme for formerly well-known and veteran artists who have made an invaluable contribution to the country's entertainment industry. Since the creation of the pension scheme eight artists have been receiving a total of RM500 per month and will continue to do so for the rest of their lives.

However, it should be noted that KARYAWAN does not focus exclusively on the interests of the music industry. It covers the interests of artists in general.

Reduction in Entertainment Tax

Freddy Fernandez, Chairman of KARYAWAN has held discussions with the Ministry of Culture, Arts and Tourism, Ministry of Information and the Ministry of Finance for a reduction in the entertainment tax. There seems to be some hope that the tax will be reduced in the coming years.

ACADEMI FANTASIA

In an attempt to revive the careers of the local artists and to discover future talent, efforts have been taken to introduce a new program called Akademi Fantasia. This noble effort was pioneered by Freddy Fernandez in 2003 with the support of a private pay station called ASTRO. It has been well received by the Malaysian public, leading to the discovery of new talent. One more avenue has been opened up for the local artists, and this has now become an eagerly-awaited event.

THE GOVERNMENT'S ROLE

The Malaysian Government is always mindful of the importance of the development of the music industry, and it is aware of its plight. The Ministry of Information, the Ministry of Arts, Culture and Heritage and the Ministry of Domestic Trade and Consumer Affairs have had several meetings on various aspects of the problems and prospects of artists in the industry.

Ministry of Domestic Trade and Consumer Affairs

The action taken by the Malaysian Government comes at an opportune moment to save the situation. At one time the Intellectual Property Alliance placed Malaysia on the priority watch list, but within a year they had removed it from the list, owing to pragmatic and practical approaches that had been taken.

Anti Piracy Task Force

On April 1, 1999 a high-level Task Force headed by the Minister was set up to pool resources from all the Government enforcement agencies and the relevant private sector concerns to discuss ways and means of fighting piracy. The agencies involved were the Ministry of Domestic Trade & Consumer Affairs, Police, Customs, Ministry of Home Affairs, national Film Development Board, Local Authorities, and copyright based industries associations like Recording Industry Association of Malaysia, Motion Picture Association of America and Business Software Alliance.

Introduction of Optical Discs Act 2000

The Optical Discs Act was introduced in 2000 to curb piracy at the manufacturing level. The manufacturing of optical discs cannot take place without a valid license and a manufacturers' code. Manufacturers are also required to maintain records of raw materials (polycarbonate) suppliers and customers. Forensic tests have been introduced on seized optical discs in order to trace the source of production.

National Anti Piracy Campaign

In 2003 a National Anti-Piracy Campaign was launched with the support of the local artists and the copyright-based industries.

Amendment of the Copyright Act

In July 2003 the Copyright Act was amended to provide wider powers to enforcement officers to arrest without a warrant. Deterrent sentences were increased under the Act for infringement.

Hologram Stickers

Hologram stickers were introduced to enable customers to distinguish fake from original products. Introduction of the Trade Description (Original Label) Order 2002 took effect from January 15, 2003. The stickers were placed on all devices on which data may be stored in digital form and read by means of lasers or any other means such as CDs, VCDs, CD-Roms., DVDs, LDs, video and audio cassettes.

Increasing the Size of the Enforcement Division

The numerical strength of the enforcement officers was increased as well. There are currently 55 branches all over Malaysia with a total staff of 1541. At the moment the Government has managed to contain the level of piracy.

CONCLUSION

From the foregoing, it is quite clear that the performance of the music industry is at a crossroads. While the key players lament the negative situation, deep in their hearts there is a burning desire to revive the industry not only as a source of livelihood, but also to ensure that the local culture is enabled to grow further. While Government agencies play their own part in providing whatever is necessary for the development of the industry, the end users too must give their support by purchasing only original labels and abolishing all forms of piracy. This is then a three-way effort - artists, end-users and the Government.

INTERVIEWED

1. *Mr. SANDY MONTEIRO Chairman, Recording Industry Association of Malaysia*
2. *Mr. TAN NGIAP FOO, Chief Executive Officer, Recording Industry Association of Malaysia RIM.*
3. *Mr RAMANI RAMALINGAM- General Manager, Public Performance Malaysia, Sdn. Bhd.*
4. *Ms CHAN MIEW LAN, General Manager, Music Authors Copyright Protection Bhd.*
5. *Mr. FREDDY FERNANDEZ, Chairman Persatuan KARYAWAN*
6. *Mr. AZIZ BAKAR, Chairman, Malaysian Music Industry Academy*
7. *Mr. ONG PENG CHU, General Manager, Performing Artists Rights Malaysia Sdn Bhd. (PRISM)*
8. *Mr. GOPALAKRISHNAN Chairman, Indian Recording Industry Associations Malaysia*

Case Study 2

THE PETRONAS SUCCESS STORY

1. INTRODUCTION

- 1.1. This is a paper prepared pursuant to a study in the ASEAN countries, initiated by the World Intellectual Property Organization (WIPO) and the Association for South East Asia Nations (ASEAN). This study covers success stories based on aspects of intellectual property. The Malaysia Intellectual Property Office nominated me to work as the national consultant for Malaysia, under the guidance of Mr. Lee Yuke Chin of SIRIM, who is the Regional Consultant.
- 1.2. I have chosen to write the story of PETRONAS, the National Petroleum Corporation of Malaysia. Needless to say, I am a loyal supporter and customer of PETRONAS as a user of its gas for my car and for cooking. Their story is based on the success of brand promotion or what is called trademark promotion, based on interviews with certain officials of PETRONAS on July 22, 2005 at their offices. I have also collected information from various official publications they provided at the interviews.

2. BACKGROUND

- 2.1. Petronas is the acronym for Petroleum Nasional Berhad, which is Malaysia's national petroleum corporation. It was incorporated on August 17, 1974, under the Companies Act, 1965, and is wholly owned by the Malaysian Government. The entire ownership and control of the petroleum resources in Malaysia rests with PETRONAS through the Petroleum Development Act, 1974. PETRONAS is an integrated international oil and gas company with business interests in more than 35 countries, and four subsidiaries listed on the Malaysian Board. As at end of March 2004, the PETRONAS Group comprised 93 wholly-owned subsidiaries, with 19 partly-owned outfits and 55 associated companies. PETRONAS is today ranked among the fortune global 500 largest corporations in the world. It is certainly a tale of success, and deserves to have its success highlighted.

3. BUSINESS ACTIVITIES

- 3.1. A brief background to PETRONAS would be useful. PETRONAS is engaged in the exploration and production of oil and gas; oil refining; marketing and distribution of petroleum products; trading; gas processing and liquefaction; gas transmission pipeline network operations; marketing of liquefied natural gas, petrochemical manufacturing and marketing; shipping; and property investment. As at 2005, a total number of 32,716 employees worked for PETRONAS. It is based at:

Tower 1, PETRONAS Twin Towers
Kuala Lumpur City Centre
50088 Kuala Lumpur
Malaysia

4. BUSINESS PERFORMANCE

- 4.1. Petronas entered the local market in 1987, and went international in 1993. The petronas group has registered an impressive performance for the year 2005, which is considered to be the best in all the 30 years of its existence. Such an impressive performance has added luster to the organization. As at march 31, 2005, the petronas group had registered revenues of rm137.5 billion. Its profit before taxation was rm58 billion, while the net profit amounted to rm35.6 billion. Total assets amounted to rm239.1 billion, while the shareholders' fund was rm129.4 billion. It is heartening to mention that nearly 80% of its revenue was generated outside malaysia, meaning that this was comprised of revenues from international operations and exports. Thus its business performance has been highly impressive.

5. FAVORABLE FACTORS

- 5.1. The most impressive and strongest-ever performance of the Group in 2005 could be attributed to a number of factors. The clear-cut philosophy of PETRONAS could be said to have created a frame for its success. Operational efficiency, reliable initiatives, capable leadership concerted team effort, clarity in mission and vision, shared values, as well as strong R&D are among the favorable factors that have guaranteed sustained growth in the group.

- 5.2. The Mission Statement of Petronas is defined as follows;

- We are a business entity
- Petroleum is our core business
- Our primary responsibility is to develop and add value to this national resource
- Our objective is to contribute to the well-being of the people and the nation.

- 5.3. Likewise the Vision Statement of PETRONAS is equally catchy. It reads:

- To be the leading oil and gas multinational of choice.

- 5.4. Again, the shared values of PETRONAS are as follows:

- Loyalty - loyalty to the nation and corporation
- Professionalism – committed, innovative and proactive and always striving for excellence
- Integrity – honest and upright
- Cohesiveness – united in purpose and fellowship.

- 5.5. The Annual Report of 2005 throws further light on the PETRONAS philosophy in treading a practical and successful path. The Report carries statements that are clearly contributory factors in ensuring success for the company. Some of these statements are:
- (i) Our relationships with the communities we serve are built on trust.
 - (ii) Our most important asset is our people.
 - (iii) Globalization makes us neighbors. Respect makes us friends.
 - (iv) Human resource development remains a top priority of PETRONAS' commitment to attract, nurture and retain talents to sustain the Groups' success.
 - (v) Capability building, leadership development and the right mindset -the key focus of PETRONAS' corporate agenda – will transform the Group into a high-performing organization known for its resilience and distinctiveness.
 - (vi) PETRONAS' most important legacy is its investment in the generations to come.

It goes without saying that very few large scale corporations in the world have shaped such philosophical guidelines in steering them to success. PETRONAS is one of the few corporations to possess clear cut ideas and philosophies for success.

6. TECHNOLOGY

- 6.1. PETRONAS is mainly involved in highly sophisticated oil drilling and refinery activities. It clearly appreciates the added value impact of technology in its business competitiveness and sustained growth. It utilizes sound technology to operate world class plants, and creates new products or improvises on existing products. In 1999 the Malaysia pioneer petroleum discovery center or PETROSAINS was set up to stimulate the public's interest in science and technology with the hope of nurturing local scientists and technologists.
- 6.2. There is also a PETRONAS Research and Scientific Services Private Limited Company that undertakes many of the Group's research and development activities. It deals with areas like geo-science, petroleum engineering, facilities engineering, process technology, petroleum products, environmental management, laboratory services, and data management
- 6.3. PETRONAS also develops its in-house technical capabilities through its wholly-owned subsidiary GGP Technical Services Sdn. Bhd. which provides services ranging from basic designs, engineering, procurement and construction management to the oil, gas and petrochemical industries both at home and abroad.
- 6.4. PETRONAS receives grants for commercialization of R&D, and for developing prototypes or pilot plants. Its R&D partners are universities, institutions of higher learning, government research institutes, private consultants, and other companies that are collaborating with PETRONAS.

7. IP AWARENESS

- 7.1 PETRONAS is well aware of the importance of IP to its growth. In the past the subject of IP was addressed on a smaller scale. Today there is a separate and well-organized IP Division within its Legal Department. There is a senior manager, mid-level manager, three executives and two non-executives within the IP Division. They also use external services. The staff is well informed of IP laws and IP protection. They undergo frequent training courses and seminars on IP-related matters in reputable institutions. They keep themselves informed of the importance of IP to business development, especially the need to register their trademarks and patents. PETRONAS has applied for patents and registered its trademarks, designs and domain names. However it is in the area of trademarks that PETRONAS has created a niche for itself across the globe. The PETRONAS group has more than 200 trademarks spread out over 65 countries. To date some 2000 registrations have been made worldwide, which again reflects its consciousness in securing protection for its brands. A check with the Malaysia Intellectual Property office (MyIPO) shows that 110 trademark applications have been registered in all 45 classes. This in itself is a clear sign of the level of IP consciousness within PETRONAS.
- 7.2 PETRONAS believes that owning a patent or other IP right makes it easier to attract finance. They also understand that new products and new designs rate higher than price competition. PETRONAS understands too that its intellectual property rights have the function of protection against potential competitors as well as preventing imitation. Intellectual property is seen as an important asset that can be capitalized by selling or licensing. As for patenting, PETRONAS is of the firm opinion that strategic patenting can prevent the company from prosecution for patent infringement, and that patents, new designs and new technology enhance its corporate image.

8. BRAND NAME AND ITS PROMOTION

- 8.1. The PETRONAS logo is a story in itself. The logo was conceptualized and designed by a local design firm, Johan Designs. The original design underwent some changes to meet the needs of the changing times. The PETRONAS logo is a combination of a drop of oil with the typographic letter 'P' in the form of a triangle in the top right corner. The triangle represents directional movement and dynamism. The solid circle within the logo indicates the wheel of progress. The emerald green color is indicative of nature, representing oil resources from the sea. However, the color itself is a unique green, which they proudly refer to as the "PETRONAS GREEN". The author has indicated that now there is a move to register color marks and he was pleased to learn that the staff are already aware of this development. The color has been registered in the European Union. The Brand Value of PETRONAS is clearly spelt out as TRUSTED, PASSIONATE, PROGRESSIVE, ENRICHING. The PETRONAS logo was sent for registration with the then Intellectual Property Division of the Ministry of Domestic Trade and Consumer Affairs in 1987.

9. BRAND PROMOTIONAL ACTIVITIES

- 9.1 PETRONAS has, to my mind registered its greatest success in the area of customer loyalty. Perhaps very few corporations have been as successful as PETRONAS in winning the hearts of customers. The core of any brand is its promotion. The ultimate aim of any brand development is winning over customers, which PETRONAS has very successfully done, and continues to do. PETRONAS has carried out well-calculated and concerted efforts to promote its brand. Several approaches had been tried, direct and indirect.
- 9.2 The most direct form of brand promotion is certainly the logos that appear on the products themselves. In Malaysia, PETRONAS is the most popular, and foremost among gas stations (in Malaysia they are called petrol stations) that are found in even the most remote corners of the country. In several areas where competitors hesitate to operate, PETRONAS petrol stations provide services to the rural people. Today, there are more than 700 PETRONAS petrol pumps in the country. PETRONAS has also become a household name for cooking gas which has found its way into many homes. PETRONAS cooking gas cylinders are easily available in any part of the country, including the most remote areas.
- 9.3 Promotional activities come in many forms. In-house publications are very good promoters of the brand. PETRONAS is again very well-advertised through the print and electronic media. Advertisements appear from time to time in the leading local dailies in the English, Malay, Chinese and Tamil languages in order to cover all the major ethnic groups in the country.
- 9.4 PETRONAS also advertises in special souvenir books released to mark important events.
- 9.5 Billboards are found in several parts of the country, often at strategic points, where Malaysians converge for various types of activities.
- 9.6 Then there is the indirect approach, which equally wins the hearts of the Malaysians, irrespective of race or religion. Malaysia is a multi-racial, multi-cultural, and multi-religious country. Therefore, one would expect there to be a wide range of religious festivals. PETRONAS has always seized such opportunities to contact the communities through tailor-made advertisements on the occasions of Christmas, Deepavali, Hari Raya Puasa, the Chinese New Year, and Vesak Day. These advertisements have created tremendous and indelible impacts in the hearts of the communities concerned. Such forms of advertisement, offering good wishes to the various communities continue to be the talk of Malaysia for months afterwards.

- 9.7 PETRONAS' logo plays another important role at the prime entry point in Malaysia. Trolleys for transporting baggage at the Kuala Lumpur International Airport carry an advertisement for PETRONAS. Immediately after clearance of immigration, inbound tourists seek out trolleys to transport their baggage to the pick-up points outside the airport. It is on these trolleys that we see PETRONAS advertised. Here the company becomes the first greeter, welcoming foreigners as well as Malaysians who are returning home. This first impression creates an impact on the minds of visitors to Malaysia.
- 9.8 One other area of brand promotion is through the social-outreach program. PETRONAS offers scholarships to various categories of students, ranging from secondary school students right up to students on degree programs. This has been one area that is proudly mentioned by Malaysians – beneficiaries and observers. Scholarships are also given in places where PETRONAS operates such as Kerteh in Terengganu state where the PETRONAS oil refinery is located, Gurun in Kedah where another plant operates, as well as in the States of Sabah and Sarawak. To date PETRONAS has offered numerous scholarships for students pursuing diploma and degree courses at local and foreign institutions of higher education in various fields. In this way, PETRONAS has also been instrumental in creating a large educated class with enhanced human resource capabilities, at a time when the country is on a path towards achieving a developed nation status by the year 2020.
- 9.9 PETRONAS also supports other scholarship programs under the Lembaga Amanah Yayasan Tun Abdul Razak, the Fellowship Perdana Menteri Asia and the Cambridge Scholarship Fund. It offers Best Student Awards to students majoring in specific fields at local universities such as University Kebangsaan Malaysia, University Technology Malaysia, University Islam Antarabangsa and Kolej Agama Sultan Zainal Abidin. A computer center has been set up in Kerteh, Trengganu, and books have been donated for libraries, science and technology competitions sponsored and research efforts supported.
- 9.10 Among other outreach programs are the PETRONAS Adventure Teams that organize four-wheel drive and motorcycle expeditions locally and abroad, carrying the PETRONAS logo across the globe. This is termed brand communication. The PETRONAS Tech Tour is an educational mobile exhibition platform through which PETRONAS communicates its brand to the community as the titular sponsor of the PETRONAS Malaysia Formula 1 Grand Prix as well as part of the SAUBER Formula 1 Team. Launched in 2001, the PETRONAS Tech Tour has so far traveled to 90 locations nation-wide. The Tour promotes 10 brands through the Malaysian International Shipping Corporation, PETRONAS Primax, Bridgestone Tyres, Volvo Trucks/Samsung Electronic, PETRONAS Mesra Stores, and PETRONAS Motorsports. PETRONAS first entered international motor sports in 1995 when it became the main sponsor for the Swiss-based SAUBER Formula. One Team., and its logo has been seen worldwide.
- 9.11 In 2005 PETRONAS sponsored the Responsible Care Awards, organized by the Chemical Industries Council of Malaysia (CICM) in order to support the improvement of health, safety and environment protection.

- 9.12 There are also several PETRONAS institutions that promote the brand. Foremost is of course the PETRONAS Twin Towers, which are the tallest twin towers in the world where PETRONAS has its headquarters. The building itself is a leading promoter of the logo at the global level. In this building is the Philharmonic Hall which is famous for musical events.
- 9.13 In 1997 the Universiti Teknologi PETRONAS (UTP) was established by invitation of the Malaysian Government. The university was formerly known as the Institute of Technology PETRONAS (ITP). This university offers the pursuit of knowledge and expertise for the advancement of engineering, science and technology in order to enhance the nation's competitiveness. Its objective is to produce well-rounded graduates who are creative and innovative.

10. CONCLUSION

It is the firm opinion of the author that PETRONAS has been unique in promoting its brands. While it is through mere advertisements and direct brand promotions that any business attracts customer loyalty, PETRONAS has taken the path of social service more than direct brand promotion in winning the hearts of its customers. In this way PETRONAS has demonstrated a new path and I am proud to have written the success story of this prestigious organization.

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

COUNTRY: MALAYSIA

No.	English Title + Brief Description of its Contents in less than 50 words	Year of Publication	Agency Responsible and Address	Contacts (Tel/Fax/email)
A. GEOGRAPHICAL INDICATIONS				
1.	<p>General Information on Geographical Indications This booklet gives an overview of geographical indications focusing on protection, exclusion, registration of geographical indications, right of use, term of protection, eligibility for application and mode of application.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332 Website: http://www.mipc.gov.my</p>
B INDUSTRIAL DESIGNS				
1.	<p>General Information on Industrial Designs This booklet gives basic information on industrial designs, focusing on the meaning of industrial designs, rights conferred upon the rights owner, registrable designs, excluded designs, filing of registration, term of protection, extent of protection, eligibility for application and mode of application.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332 Website: http://www.mipc.gov.my</p>
2.	<p>Industrial Designs Law in Malaysia: Cases and Commentary This book is the only available local publication on this developing area of law. It gives the reader a good understanding of design law principles and practice in Malaysia, as well as the operation of its governing statute, the Industrial Designs Act 1996.</p> <p>The book presents in a systematic and clear manner the legal principles and issues relevant to design law. A collection of local and international cases have been compiled and analyzed critically in this work to throw light on the genesis and development of design law in Malaysia.</p>	2004 Author: Dr. Juriah Abdul Jalil	<p>Sweet & Maxwell Asia No 17, Jalan PJS 7/19 Bandar Sunway 46150 Petaling Jaya Selangor Darul Ehsan</p>	<p>+603 5633 0622 +603 5638 4049 (Fax) www.sweetandmaxwellasia.com</p>

C. LAYOUT DESIGNS OF INTEGRATED CIRCUITS				
1.	<p>General Information on Layout Designs of Integrated Circuits</p> <p>The booklet touches on the salient aspects of industrial designs, focusing on the meaning of layout designs, how they are protected, who is eligible for protection, who is the rights holder, term of protection, and the rights of the owner.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mipc.gov.my</p>
D. COPYRIGHT				
1	<p>General Information on Copyright</p> <p>The booklet gives some basic information on what is copyright, works protected, ownership of copyright, duration of protection, legal rights of the owner, enforcement and copyright tribunals.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mipc.gov.my</p>
2.	<p>Copyright Law in Malaysia</p> <p>This book is aimed at providing practitioners, students and those in the copyright-related industries with an introduction to the law of copyright. References to foreign texts and authorities have also been provided to strengthen the arguments. The book expands in an enlightening manner on the Copyright Act for legal practitioners, members of the judiciary, in-house counsel, law students requiring specialized knowledge on technical areas of law.</p>	<p>2001 (2nd edition) Khaw lake Tee</p>	<p>Malayan Law Journal Level 12A (Tower 2), Kelana Brem Tower, Jalan SS 7/15 (Jalan Stadium), 47301 Kelana Jaya, Selangor Darul Ehsan</p>	<p>Tel: 7718.6800 Fax: 7718.6801</p> <p>Email: Customer.Care@mlj.com.my</p>

3.	<p>Copyright Law in Malaysia: Cases and Commentary</p> <p>This book provides a full and authoritative analysis of cases, both local and international, on issues concerning copyright, as well as an up-to-date discussion on all current amendments to the copyright law, such as the Copyright (Amendment) Act 1996, the Copyright (Amendment) Act 1997 and the Copyright (Amendment) Act 2000. The book cites leading local and overseas cases on copyright law and presents copious commentaries to elucidate the wide range of issues in this area of law. The commentaries which are enlightening, thought-provoking and insightful, enable the reader to have an in-depth and critical understanding of copyright law.</p>	<p>2004</p> <p>Author: Dr. Ida Madieha bt Abdul Ghani Azmi</p>	<p>Sweet & Maxwell Asia No 17, Jalan PJS 7/19 Bandar Sunway 46150 Petaling Jaya Selangor Darul Ehsan</p>	<p>+603 5633 0622 +603 5638 4049 (Fax)</p> <p>www.sweetandmaxwellasia.com</p>
4.	<p>Mengenai Undang-Undang Hakcipta di Malaysia</p> <p>This book was written to solve the age-long issue of lack of any authoritative book on copyright in the national language of Malaysia. It touches on the Act itself, works protected, duration of protection, exclusive rights given by the law, enforcement of copyright and copyright tribunals. As the book was released in 1992, some of the contents are no longer relevant as many amendments have taken place since then.</p>	<p>1992</p> <p>Rohazar Wati Zuallcobley</p>	<p>Pustaka Pertiwi Sdn. Bhd. 8 Jalan Jujur 3 Blok 1, Bandar Tun Razak 506000 Kuala Lumpur.</p>	<p>Tel: 9717685 Fax: 9716908</p>
E. TRADE MARKS				
1	<p>General Information on Trade Marks</p> <p>The booklet touches on the meaning of trademarks, functions of trademarks, importance of trademark registration, territorial protection, duration of protection, eligibility for protection, how to apply and registered trademark agents.</p>	<p>2005</p>	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mip.gov.my</p>

2.	<p>Trade Marks Law in Malaysia: Cases and Commentary</p> <p>The book provides a collection of the interpretation and applications of the rules by the courts in leading cases on the subject of trademarks. The book has also added commentary and analysis on cases, highlighting the important principles and comparing them with other cases on the issue. The topics discussed range from the definition of trademarks, registration process, dealings with trademarks, and enforcement of trademark rights in developing areas such as trademarks and the Internet. It discusses the relationship between trademarks and other laws such as geographical indications trade descriptions, passing off and malicious falsehoods.</p>	<p>2004 Author: Dr. Ida Madiha bt AbduL Ghani Azmi</p>	<p>Sweet & Maxwell Asia No 17, Jalan PJS 7/19, Bandar Sunway 46150 Petaling Jaya Selangor Darul Ehsan</p>	<p>+603 5633 0622 +603 5638 4049 (Fax)</p> <p>www.sweetandmaxwellasia.com</p>
3.	<p>Trade Marks and Service Marks</p> <p>The handbook contains narrative text on the practice, applicable rules from the Trade marks Act 1976, Trade Descriptions Act 1972, the relevant conventions together with subsidiary rules and commonly-used court forms. This book would be highly useful for legal practitioners, members of the judiciary, in-house counsel, law students requiring specialized knowledge on technical areas of law and procedure on trademarks.</p>	<p>2003 Advisory Author: Teo Bong Kwang</p>	<p>Malayan Law Journal Level 12A (Tower 2), Kelana Brem Tower, Jalan SS 7/15 (Jalan Stadium), 47301 Kelana Jaya, Selangor Darul Ehsan</p>	<p>Tel: 7718.6800 Fax:7718.6801</p> <p>Email: Customer.Care @mlj.com.my</p>
4.	<p>Trade Mark Law and Practice in Malaysia</p> <p>The book contains a wealth of information connected with trademark law and practice in Malaysia, and elaborates on the practice involved. It traces the historical development of the subject and discusses cases and materials connected with the subject, including those in the context of cyberspace. It deals in-depth with use of trademarks and its relevance in the registration and post registration stages, with special focus centered on what constitutes a distinctive and registrable trademark, and when one trademark is to be regarded as confusingly similar to another.</p>	<p>2001 Author: Teo Bong Kwang</p>	<p>Malayan Law Journal Level 12A (Tower 2), Kelana Brem Tower, Jalan SS 7/15 (Jalan Stadium), 47301 Kelana Jaya, Selangor Darul Ehsan</p>	<p>Tel: 7718.6800 Fax: 7718.6801</p> <p>Email: Customer.Care @mlj.com.my</p>

F. PATENTS				
1.	<p>General Information on Patents</p> <p>The booklet deals with the meaning of patents, utility innovation, need to protect an invention, inventions that could be patented, inventions that cannot be patented, national security, term of protection, eligibility for application, mode of application and registered patent agents.</p>	2005	<p>Intellectual Property Corporation of Malaysia</p> <p>32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mipc.gov.my</p>
2.	<p>Patent Law in Malaysia: Cases and Commentary</p> <p>The book presents the materials in a clear and straightforward manner. It can be understood not only by legal practitioners but also by laypersons who want to know and understand the key concept in patent laws. Judges too would benefit from reading this book when they apply patent laws to adjudicate their cases. Extensive materials have been incorporated into the text and various aspects of the law on patent have been examined and assembled. Further, extensive reference has been made to other works from America, Japan, United Kingdom, Germany, Australia and some other common law jurisdictions.</p>	<p>2004</p> <p>Author: Dr. Ida Madieha bt Abdul Ghani Azmi</p>	<p>Sweet & Maxwell Asia</p> <p>No 17, Jalan PJS 7/19, Bandar Sunway 46150 Petaling Jaya Selangor Darul Ehsan</p>	<p>+603 5633 0622 +603 5638 4049 (Fax)</p> <p>www.sweetandmaxwellasia.com</p>
3.	<p>Patents in Malaysia</p> <p>Patent Laws in Malaysia had undergone many changes. This Guide Book was prepared with the guidance of an expert from WIPO, and is intended to provide some basic information and guidance on how to make patent applications. The book talks of who is eligible to apply, the difference between patent and utility innovation, exclusions, requirements for application, claims, examination, filing date, work flow, hearing date and appeals. It also contains samples of application forms to be submitted.</p> <p>This guide book would be of great assistance to applicants who seek to protect their inventions and innovations with the Patent Registration Office.</p>	1996	<p>Intellectual Property Division, Ministry of Domestic Trade and Consumer Affairs, Malaysia</p>	<p>The Division was made into a corporate body in 2003, and the book is out of print.</p>

4.	<p>Questions and Answers About the Patent System and Services Provided By the Intellectual Property Division</p> <p>The booklet is intended to answer frequently asked questions on several areas of patent. It addresses topics such as what is patent, what is utility innovation, for what can a patent or utility innovation certificate be granted, who can apply for patent, how can the application be made, confidentiality of the innovation, what is patent information, technical information, commercial implications of patent information and searches. The booklet is indeed a valuable guide for members of the public as well as those intending to file for patent.</p>	1998	<p>Intellectual Property Division, Ministry of Domestic Trade and Consumer Affairs, Malaysia</p>	<p>The Division was made into a corporate body in 2003, and the book is out of print.</p>
5.	<p>Patents in Malaysia - Applicant's Guide</p> <p>This book is an improvised version of the earlier publications as mentioned above on the same subject matter. It talks about eligibility for applications, differentiates between patents and certificates, mentions patentable inventions and eligible utility innovations, newness, inventiveness, industrial applicability and exclusions, and provides grant procedure flowcharts. It also mentions the physical and terminology requirements of documents, claims, abstract, examination, determining of filing dates, grants, amendments, extension of time, hearing of appeals and patent protection in other countries. This book could serve as a comprehensive guide to any person who intends to file a patent application in Malaysia.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mip.gov.my</p>

6.	<p>Patent Agent Examinations 2005, Syllabus And Example Papers</p> <p>The book is intended to provide candidates with an opportunity to demonstrate a broad general technical knowledge, necessary for patent agency work, and to demonstrate their ability to briefly explain various technical topics so that technical readers may understand them. This book contains questions on a number of topics and is therefore a highly valuable guide for those intending to take patent examinations.</p>		<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mipc.gov.my</p>
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G. INTELLECTUAL PROPERTY

1	<p>Intellectual Property Corporation of Malaysia</p> <p>This booklet talks about the newly established Intellectual Property Corporation of Malaysia, its objectives, visions and the acts administered under this body.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mipc.gov.my</p>
2.	<p>Halsbury's Laws of Malaysia-Intellectual Property</p> <p>This practical and user-friendly handbook gives basic information on several areas of intellectual property, such as copyright, patents, trademarks and trade names, and industrial designs. It is copiously footnoted with detailed explanations and case laws. This is a highly valuable book for those who want to obtain in-depth information on these subjects. Legal practitioners, members of the judiciary, in-house counsel and law students would find the book very informative, useful and highly valuable.</p>	2000	<p>Malayan Law Journal Level 12A (Tower 2), Kelana Brem Tower, Jalan SS 7/15 (Jalan Stadium), 47301 Kelana Jaya, Selangor Darul Ehsan</p>	<p>Tel: 7718.6800 Fax: 7718.6801</p> <p>Email: Customer.Care@mlj.com.my</p>

3.	<p>Harta Intelek - Aset Berharga Teras Pembangunan Ekonomi Negara</p> <p>This is a cartoon booklet in the native Malay language that aims to explain to a layman the various fields of IP. The heading itself, if translated reads as follows:</p> <p>Intellectual Property- Valuable Asset- Development Thrust of the Nation's Economy.</p> <p>This pictorial booklet gives an introduction to intellectual property and illustrates patents, trade marks, copyright, industrial designs and geographical indications. It ends with a quiz on IP. This is good material for beginners in intellectual property, particularly students.</p>	2005	<p>Intellectual Property Corporation of Malaysia 32nd Floor Menara Dayabumi Jalan Sultan Hishamuddin 50623 Kuala Lumpur</p>	<p>Tel: 22748671 Fax: 22741332</p> <p>Website: http://www.mipc.gov.my</p>
H. INDUSTRIAL AND R&D GRANTS				
1.	<p>Intensification Of Research in Priority Areas (IRPA)</p>	2005	<p>The IRPA Secretariat, Science and Technology Division, Ministry of Science, Technology and the Environment, Level 1 & 2, Block C5, Parcel C, Federal Government Administrative Centre, 62662 Putrajaya.</p> <p>Web site: http://www.moste.gov.my/s&t</p>	<p>Tel: 03-8885 8000 (GL) 03-885 8046/8885 8047</p> <p>Fax: 03-8889 2994</p> <p>Email: irpa@moste.gov.my</p> <p>Contact : Zam Abd Karim Sakib Kusmi</p>

2.	Industry Research & Development Grant Scheme(IGS)	2005	The IGS Secretariat, Science and Technology Division, Ministry of Science, Technology and the Environment, Level 1 & 2, Block C5, Parcel C, Federal Government Administrative Centre, 62662 Putrajaya. Web site: http://www.moste.gov.my/s&t	Tel: 03-8885 8000(GL) 03-8885 8065 Fax: 03-88893005 Email: igs@moste.gov.my Contact: Ooi Goan
3.	Demonstrator Application Grant Scheme(DAGs)	2005	DAGS Secretariat,c/o Mimos Berhad, Technology Park Malaysia, 57000 Bukit Jalil, Kuala Lumpur. Website: http://www.nitc.org.my/dags	Tel: 03-8996 5000 Fax: 03-8996 0255 Email: dags@nitc.org.my
4	The Multimedia Super Corridor Research and Development Grant Scheme(MGS)	2005	Multimedia Development Corporation Sdn Bhd (389346-D),MGS Unit, MSC Headquarters, 63000 Cyberjaya, Selangor Darul Ehsan. Website: http://www.msc.com.my/mdc/cs/mgs/default.asp	Tel: 03-8318 8477 Fax: 03-8318 8786 Email : mgs@mdc.com.my

5.	Grant For Product And Process Improvement (ITAF 2)	2005	ITF Secretariat, Small and Medium Industries Development Corporation (SMIDEC), 801C, Level 8, Tower C, Uptown 5 No. 5, Jalan SS21/39, Damansara Utama, 47400 Petaling Jaya, Selangor D.E. Web site: http://www.smidec.gov.my	Tel: 03-7660 8585 Fax: 03-76651920 / 03-76601919 Email: smidec@smidec.gov.my
6.	Grant For Productivity And Quality Improvement And Certification (ITAF3)	2005	ITF Secretariat, Small and Medium Industries Development Corporation (SMIDEC) 801C, Level 8, Tower C, Uptown No. 5, Jalan SS21/39, Damansara Utama, 47400 Petaling Jaya, Selangor D.E. Web site: http://www.smidec.gov.my	Tel: 03-7660 8585 Fax: 03-7665 1920 / 7660 1919 Email: smidec@smidec.gov.my

7.	Grant For Upgrading Engineering Design Capabilities	2005	Chief Executive Officer, Small Medium Industries Development Corporation (SMIDEC), S01C, Level 8, Tower C, Uptown 5 No.5, Jalan 8821/39, Damansara Utama, 47500 Petaling Jaya, Selangor D.E. Web site: http://www.smidec.gov.my	Tel: 03-7660 8585 Fax: 03-7665 1920 / 7660 1919 Email: smidec@smidec.gov.my
8.	E-Manufacturing Grant-ERP	2005	E-Manufacturing Grant Secretariat, Small and Medium Industries Development Corporation (SMIDEC), 801C, Level 8, Tower C, Uptown 5 No. 5, Jalan SS21/39, Damansara Utama, 47400 Petaling Jaya, Selangor D.E. Web site: http://www.smidec.gov.my	Tel: 03-7660 8585 Fax: 03-7665 1920 / 7660 1919 Email: smidec@smidec.gov.my

9.	E-Commerce Grant For SMEs	2005	E-Commerce Grant Secretariat Small and Medium Industries Development Corporation (SMIDEC), 801C, Level 8, Tower C, Uptown 5 No. 5, Jalan SS21/39, Damansara Utama, 47400 Petaling Jaya, Selangor D.E. Web site: http://www.smidec.gov.my	Tel: 03-7660 8585 Fax: 03-7665 1920 / 7660 1919 Email: smidec@smidec.gov.my
10.	Grant For RosettaNet Standard Implementation	2005	RosettaNet Grant Secretariat, Small And Medium Industries Development Corporation (SMIDEC), 801C, Level 8, Tower C, Uptown 5 No. 5, Jalan SS21/39, Damansara Utama, 47400 Petaling Jaya, Selangor D.E. Web site : http://www.smidec.gov.my	Tel: 03-7660 8585 Fax: 03-7665 1920 / 7660 1919 Email : smidec@smidec.gov.my

11.	Technology Acquisition Fund For Women(TAF-W)	2005	Government-Industry Technology Services (GITS),Malaysia n Technology Development Corporation, University Research Park, 43400 Serdang, Selangor D.E. Web site: http://www.mtdc.com.my	Tel: 603-8941 2000 Fax: 603-8941 3632 Email: tafcrdfwef@mtdc.com.my
12.	Technology Acquisition Fund(TAF)	2005	Government Industry Technology Services (GITS),Malaysia n Technology Development Corporation, University Research Park, 43400 Serdang, Selangor D.E. Web site: http://www.mtdc.com.my	Tel: 03-8941 2000 Fax: 03-8941 3632 Email: tafcrdfwef@mtdc.com.my
13.	Technology Acquisition Fund(TAF)	2005	Government Industry Technology Services (GITS),Malaysia n Technology Development Corporation, University Research Park, 43400 Serdang, Selangor D.E. Web site: http://www.mtdc.com.my	Tel: 03-8941 2000 Fax: 03-8941 3632 Email: tafcrdfwef@mtdc.com.my

14.	Commercialization of Research and Development Fund(CRDF)	2005	Government-Industry Technology Services (GITS),Malaysia n Technology Development Corporation, University Research Park, 43400 Serdang, Selangor D.E. Web site: http://www.mtdc.com CRDF Application Process Flow Application Forms: http://www.mtdc.com.my/grant/crdfform.doc	Tel: 603 8941 2000 Fax: 603 8941 3632 <u>Email:tafcrdfwef@mtdc.com.my</u>
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I. LOANS & VENTURE CAPITALS

1.	Small Medium Industries Promotional Program (SMIPP)	2005	Bank Pembangunan dan Infrastruktur Malaysia Berhad, Menara Bank Pembangunan, Jalan Sultan Ismail, P.O. Box 12352, 50774 Kuala Lumpur. Web site: http://bpimb.com.my/loan_scheme.htm	Tel: 03-2691 3399 / 2691 7799 Fax: 03-2692 8520
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2.	Initial Capital Scheme	2005	Bank Pembangunan dan Infrastruktur Malaysia Berhad , Menara Bank Pembangunan, Jalan Sultan Ismail, P.O. Box 12352, 50774 Kuala Lumpur. Web site: http://www.bpim.b.com.my/loan_scheme.htm	Tel: 03-2691 3399 / 2691 7799 Fax: 03-2692 8520
3.	New Guarantee Scheme	2005	Bank Pembangunan dan Infrastruktur Malaysia Berhad , Menara Bank Pembangunan, Jalan Sultan Ismail, P.O. Box 12352, 50774 Kuala Lumpur. Web site: http://www.bpim.b.com.my/loan_scheme.htm	Tel: 03-2691 3399 / 2691 7799 Fax: 03-2692 8520
4.	MSC Venture One	2005	MSC Venture Corporation Sdn. Bhd. (476857-D), 1st Floor Raja Wali Block, Cyberview Garden Villas & Office Complex, 63000 Cyberjaya, Selangor D.E. Web site: http://www.mdc.com.my/mscvc/index.html	Tel: 03-8312 7260 Fax: 03-8312 7290 Email: mscvc@mdc.com.my

5.	CTV- Commerce Technology Ventures Funds	2005	Commerce Technology Ventures Sdn Bhd ("CTV") , No.6, Commerce House, 22-24 Jalan Semantan, Damansara Height, 50490 Kuala Lumpur. Web site: http://www.commerce-ventures.com.my	Tel: 03-2732 5577 Fax: 03-2732 1343
6.	Financing for the High Technology Industries	2005	Manufacturing Loans Department, Bank Industri & Teknologi Malaysia Berhad Level 27, Bangunan Bank Industri, Bandar Wawasan, No. 1016, Jalan Sultan Ismail, P.O. Box 10783, 50724 Kuala Lumpur Web site : http://www.bankindustri.com.my	Tel: 03-2692 9080 / 03-2612 8419 Fax: 03 2691 1430 Email : enquiry@bankindustri.com.my
7.	High Technology Venture Capital Fund	2005	Bank Pembangunan dan Infrastruktur Malaysia Berhad , Menara Bank Pembangunan, Jalan Sultan Ismail, P.O. Box 12352, 50774 Kuala Lumpur. Web site : http://www.bpim.com.my/loan_schemes.htm	Tel: 03-2691 3399 / 2691 7799 Fax: 03-2692 8520

8.	DTA Ventures Management Sdn. Bhd.	2005	<p>Dali Sardar 24 A, Jalan Datuk Sulaiman, Tmn. Tun Dr. Ismail, 60000 Kuala Lumpur</p> <p>Web site: http://www.dtacapital.com</p>	<p>Tel : 603 77222500 / 603 77222560</p> <p>Fax : 603 77222570</p> <p>HP: 012-2889114</p> <p>Email : dali@dtacapital.com</p>
9.	BI Walden Management Sdn. Bhd.	2005	<p>Chok Kwee Bee - Executive Director #22-01 Menara Dion, No. 27, Jalan Sultan Ismail, 50250 Kuala Lumpur</p> <p>Web site: http://www.waldenintl.com</p>	<p>Tel : 603 20312202 / 603 20319699</p> <p>Fax : 603 20312205</p> <p>Email : kbchok@waldenintl.com</p>
10.	Cradle Investment Programme	2005	<p>Malaysia Venture Capital Management Berhad (545446-U) (Wholly owned by Minister of Finance Inc.)</p> <p>Level 11, Bangunan Bank Industri 1016 Jalan Sultan Ismail 50250 Kuala Lumpur</p> <p>Web site: http://www.cradle.com.my</p>	<p>Tel : 603 2693 1550</p> <p>Email : enquiries@cradle.com.my</p>

J. TAX INCENTIVES				
1.	Contract R&D Company	2005	Malaysian Industrial Development Authority (MIDA) Block D, Plaza Sentral, Jalan Sentral 5, 50470 Kuala Lumpur. Web site: http://www.mida.gov.my	Tel: 03-2267 3633 Fax: 03-2274 7970
2.	R&D Company	2005	Malaysian Industrial Development Authority (MIDA) Block D, Plaza Sentral, Jalan Sentral 5, 50470 Kuala Lumpur. Web site: http://www.mida.gov.my	Tel: 03-2267 3633 Fax: 03-2274 7970
3.	In-House Research	2005	Malaysian Industrial Development Authority (MIDA) Block D, Plaza Sentral, Jalan Sentral 5, 50470 Kuala Lumpur. Web site: http://www.mida.gov.my	Tel: 03-2267 3633 Fax: 03-2274 7970

4.	Double Deductions For Approved Research Projects	2005	Inland Revenue Board, Technical Division, 15th Floor, Block 11, Government Offices Complex, Jalan Duta, 50600 Kuala Lumpur Web site: http://www.hasilnet.org.my	Tel: 03-6201 7055 Fax: 03-6201 0905
5.	Double Deductions For Cash Contribution To Approved Research Institutes.	2005	Inland Revenue Board, Technical Division, 15th Floor, Block 11, Government Offices Complex, Jalan Duta, 50600 Kuala Lumpur Web site: http://www.hasilnet.org.my	Tel: 03-6201 7055 Fax: 03-6201 0905
6.	Double Deductions For Payment For The Use Of The Services Of Approved Research Institutes, Research Companies, R&D Companies Or Contract R&D Companies	2005	Inland Revenue Board, Technical Division, 15th Floor, Block 11, Government Offices Complex, Jalan Duta, 50600 Kuala Lumpur Web site: http://www.hasilnet.org.my	Tel: 03-6201 7055 Fax: 03-6201 0905

7.	Exemption Of Import Duty, Sales Tax And Excise Duty On Machinery/Materials Used For Research And Development	2005	Malaysian Industrial Development Authority (MIDA) Block D, Plaza Sentral, Jalan Sentral 5, 50470 Kuala Lumpur. Web site: http://www.mida.gov.my	Tel: 03-2267 3633 Fax: 03-2274 7970
8.	Incentives for High Technology Companies	2005	Malaysian Industrial Development Authority (MIDA) Block D, Plaza Sentral, Jalan Sentral 5, 50470 Kuala Lumpur. Web site: http://www.mida.gov.my	Tel: 03-2267 3633 Fax: 03-2274 7970

9.	Incentives For The Promotion Of Computer Software Development In Malaysia	2005	Malaysian Industrial Development Authority (MIDA) Block D, Plaza Sentral, Jalan Sentral 5, 50470 Kuala Lumpur. Web site: http://www.mida.gov.my	Tel: 03-2267 3633 Fax: 03-2274 7970
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