



“THE MALAYSIAN FRAMEWORK FOR PROTECTION OF INTELLECTUAL PROPERTY RIGHTS IN BIOTECHNOLOGY ”

PRESENTATION BY

Associate Prof. Rohazar Wati
Zuallcoble Deputy Director General
(Industrial Property) MyIPO.

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IP ECO-SYSTEM

- CREATION
- PROTECTION
- INNOVATION
- COMMERCIALIZATION



ADMINISTRATION OF IP IN MALAYSIA

**THE THREE IMPORTANT
ORGANIZATIONAL STRUCTURES.**

- 1) THE IP OFFICE**
- 2) THE EXTERNAL MACHINERY**
- 3) SPECIAL ARRANGEMENT IN COURTS.**



The Intellectual Property Office

- A government institution.
- Organized as a semi-autonomous body,
- able to recruit and train staff on its own terms, manage its own finance.
- Judicially autonomous.
- - decisions of the Office to grant, refuse or revoke IPR or to resolve disputes between parties are quasi-judicial decisions and not administrative.
- - Office must be free from interference and answerable only to courts.



MANAGING IPR

INTELLECTUAL PROPERTY :-

1) COPYRIGHT

2) INDUSTRIAL PROPERTY:-

- PATENT**
- TRADE MARKS**
- INDUSTRIAL DESIGNS**
- GI**
- LAYOUT DESIGNS**



The IPR legislation

- **The Copyright Act 1987**
- **The Patent Act 1983**
- **The Trade Marks Act 1976**
- **The Industrial Designs Act 1996**
- **The Geographical Indications Act 2000**
- **The Layout Designs of Integrated Circuit Act 2000.**



- The International treaties and Convention.
- - Berne Convention.
- - Paris Convention.
- - TRIPS Agreement.
- New:-
- PCT
- Budapest Treaty
- WCT/WPPT



Managing copyright

- No registration provision
- controller of copyright.
- Policy matters
- Collective management of copyright



- Enforcement mechanism:-
- - Section 41 CPA provide for offences.
- - Penalty of fines or imprisonment.
- - minimum fines of RM2000 per infringing copy.
- - assistant from police or enforcement officer.



- Optical Disks.
- - additional legal protection.
- 1. Optical Disks Act
- 2. Original Label Order.



MANAGING PATENT

- receiving patent application and fees
- examination as to form
- publication of the application
- examination as to substance
- refusal or grant
- maintenance of patents



ADDITIONAL SERVICES FOR PATENT

- **APPLICATION FOR COMPULSORY LICENSES.**
- **PATENT INFORMATION SERVICERS.**
- **UPDATE THE POLICY AND LEGAL ASPECTS OF PATENT LAW.**
- **SUPERVISE TECHNICAL TRAINING FOR PATENT INSPECTION OFFICERS.**
- **MONITOR REGISTRATION AND RENEWAL OF PATENT AGENTS.**



MANAGING TRADE MARKS

- receiving application for registration and fees
- examination as to form
- examination as to absolute grounds of nullity
- examination as to relative ground of nullity
- refusal of registration
- renewal of registration



ADDITIONAL SERVICES

- search service
- preliminary advise of the registrar
- policy update
- monitor registration and renewal of trade marks agents



MANAGING INDUSTRIAL DESIGNS

- receiving application for registration and fees
- examination as to form
- examination as to admissibility
- refusal of registration
- renewal of registration



Additional services

- policy matters
- monitor registration
- and renewal of industrial design agents



Managing GI

- receiving application and fees
- examination
- registration.



- Managing layout designs of integrated circuit
- Policy matters of layout designs
- advisory services.



- General enforcement mechanism:-
- - the Office have no enforcement mechanism.
- - infringement of IP must be pursue personally via a civil action or by seeking the assistant of the Enforcement Division.
- - but do provide assistant for border measures.



- Enforcement via police or enforcement Division:-
 - - copyright.
 - - trade marks.
- Civil action:-
 - - patent
 - - industrial designs



- INTERGOVERNMENTAL COOPERATION:-
- World Intellectual Property Organization (WIPO)
- WTO
- PCT
- EPO
- OHIM
- APEC
- KIPO



The external machinery

- The role of trade mark agents,
- The patent agents.



The arrangement in court.

- Decision of the registrar are subject to appeals procedure in court.



IP for Biotechnology

- No restriction.
- Protection from creation to commercialization.
- The route of protection:-
 - Patent
 - Confidential information
 - Industrial designs
 - Trade marks



Application for patent

- All criteria for patentability must be met:-
- - novelty
- - inventive step
- - industrial application.
- Procedural requirement
- ‘disclosing biotechnology invention in the description’



when drawing is not adequate

- Deposits of microorganism
- Via IDA
- The Budapest Treaty
- Not possible at the office.
- Via modified examination



MYIPO initiatives

- Accession to Budapest treaty
- Training and coaching of patent examiner with foreign IP office on biotechnology.



Biotechnology patent applications

- Local application
 - - rubber industries
 - - food
 - - palm oil.
- Foreign application
 - - food
 - - pharmaceuticals
 - - medicines



Statistic of patent applications

Year	Application Received			Granted		
	Local (MY)	Foreign	Total	Local (MY)	Foreign	Total
1986	29	233	262	-	-	-
1987	71	3,195	3,266	-	-	-
1988	73	1,547	1,620	-	6	6
1989	84	1,803	1,887	11	121	132
1990	92	2,213	2,305	20	498	518
1991	106	2,321	2,427	29	1,021	1,050
1992	151	2,259	2,410	10	1,124	1,134
1993	198	2,684	2,882	14	1,270	1,284
1994	223	3,364	3,587	21	1,608	1,629
1995	185	3,992	4,177	29	1,724	1,753
1996	221	5,354	5,575	79	1,722	1,801
1997	179	6,273	6,452	52	737	789
1998	193	5,770	5,963	21	545	566
1999	218	5,621	5,839	39	682	721
2000	206	6,021	6,227	24	381	405
2001	271	5,663	5,934	18	1,452	1,470
2002	322	4,615	4,937	32	1,460	1,492
2003	376	4,686	5,056	31	1,547	1,578
2004	522	4,920	5,442	24	2,323	2,347
2005	522	5,764	6,286	37	2,471	2,508
2006	131	1,342	1,473	14	1,035	1,049
Total	4,373	79,634	84,007	505	21,727	22,232



Statistic of trade mark applications

Year	Application			Registration		
	Malaysia	Foreign	Total	Malaysia	Foreign	Total
1932-1982	-	-	162,415	-	-	132,273
1983-1998	72,362	90,462	162,824	13,598	45,145	58,743
1999	5,053	8,660	13,713	551	1,118	1,669
2000	6,303	12,500	18,803	449	1,328	1,777
2001	6,525	10,078	16,603	1,570	5,341	6,911
2002	7,654	8,785	16,439	4,056	7,072	11,128
2003	8,327	9,439	17,766	3,014	9,108	12,122
2004	10,406	10,337	20,743	3,243	8,473	11,716
2005	10,453	11,691	22,144	3,683	7,771	11,454
2006	594	842	1,436	340	605	945
Total	129,341	164,927	456,683	31,226	87,103	250,602



Statistic of industrial design applications

Year	Application			Registration		
	Local	Foreign	Total	Local	Foreign	Total
1999	81	123	204	0	0	0
2000	234	533	767	67	142	209
2001	324	445	769	144	468	612
2002	334	489	823	195	305	500
2003	337	484	821	434	695	1,129
2004	341	596	937	412	461	873
2005	449	667	1,116	207	318	525
2006	126	191	317	134	228	362
Total	2,226	3,528	5,754	1,593	2,617	4,210



THANK YOU

