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MyIPO welcomes any original and unpublished contributions which are of interest to IP experts, IP agents, academicians, corporate and professional bodies. Manuscript should be submitted in English or Malay language, ranging from 1,500 to 2,500 words and to be submitted in softcopy.

For enquiries:

Tel: 603-22998964 / 8962

Fax: 603-22998989

e-mail: ipbulletin@myipo.gov.my

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Editor's Note

Dear readers,

With the emergence of this issue we proudly present the forth release of the MyIP Bulletin publication. The Intellectual Property Corporation of Malaysia (MyIPO) continues to set the "under making" tradition to bring out a journal embodying material of theoretical and empirical nature in the fields of intangible properties. This volume highlights the new amendments on the Copyright (Amendment) Act 2012 and discusses on the issues focusing on the Geographical Indications; its present implications on the future outcomes.

MyIP Bulletin is just at its infant stage. Despite bearing the fact that we are just young and green, we insist that we honour the power of experience and knowledge. We believe that there shall never be any compromise in giving the best one can produce. To synchronise our belief and the outreach demands, we hereby brought experts in the discussion arenas.

In here, these remarkable persons have gracefully pen down their thoughts and insights on the pros and cons of the Intellectual Property (IP) related issues. Clearing the dust in the air, we have added value to the IP industry and aim to view IP from a wider and a whole new perspective of social and economical edges.

We in the Editorial Team, acted as the moderators of these papers; providing space for debates, exploration and exposure of new ideas from the 'brains' to the end users. In here, we shall witness the volume of different but coherent views continue to rise, affirming that the issues, challenges and possibilities raised by past and present efforts to address the importance of IP continue to capture the interest and speak to the passions of the scholars. Reading through the articles presented, we humbly said that we have gained so much which we assure that the readers are of the same thought.

Certainly, two issues are just too short a time frame for us to offer definitive conclusions of IP, but to the least, it does provide another alternative to the industry players to discuss and observe some trends and to speculate on the future of it.

We hope that these readings benefit every level of people as much as they have done to us. We welcome comments and suggestions to improve our production in the future. Finally, we wish to thank all those who have made it possible to bring out this issue. Foremost, we would like to convey our highest gratitude to the contributors, who, despite the tight schedule, managed to contribute their thoughts in here. We have also given our full respect to the reviewers and editors for their exceptional work on behalf of the Bulletin. Their endless efforts and continuing support have enabled us to move into our forth issue.

Thank you.

MyIP Bulletin Editor

HAK CIPTA, CIPTA HAK

Mulai **1 JUN 2012**, Perbadanan Harta Intelekt Malaysia (MyIPO) memperkenalkan dua perkhidmatan baharu iaitu :

- 1) Sistem Pemberitahuan Secara Sukarela Hakcipta
- 2) Pendaftaran Badan Perlesenan



Permohonan dibuat di Ibu Pejabat MyIPO Sahaja.
Sila hubungi : 03-2299 8491 (Kaunter Pendaftaran)

AN INTERVIEW

with YBhg. Dato' Saripuddin Kasim

Secretary General, Ministry of Domestic Trade, Co-operatives and Consumerism

Q1 Malaysia has successfully transformed itself from agricultural to industrial based economy and intellectual property (IP) is recognized as new source of wealth for the nation. Does the development of intellectual property system in Malaysia is in line with Vision 2020?

Yes, it is in line with the Vision 2020 where Malaysia is to become a high income nation through innovation and intellectual property (IP) regime is one of the key economic enablers that can create a new source of wealth.

As I see it, the IP legislations which comprise of Trade Marks Act 1976, Patents Act 1983, Copyright Act 1987, Industrial Designs Act 1996, Geographical Indications Act 2000 and Layout Designs of Integrated Circuit Act 2000 provide sufficient protection to ensure that they are relevant with the current global economic development and technology enhancement, at par with the international treaties and fulfil the stakeholders' needs.

So I believe a sound intellectual property legislations are pivotal to support competitive business environment in Malaysia.

By becoming a signatory to the Trade Related-Aspects of Intellectual Property Rights (TRIPs) Agreement administered by WTO in 1995, as a pre-requisite, our intellectual property legislations had complied with the TRIPs Agreement and in fact we are above the minimum standard as required.

I believe in order to become one of the high income nations by 2020, intellectual property is the strategic catalyst for the transformation of Malaysia's economy. In this regard, I am of the



view that the government, industry, academia/ research institutions and all stakeholders should be complimenting each other to create a new ecosystem that will foster broader intellectual property protection to boost local SME's to penetrate the international markets thus generating new source of income.

Q2 What is Dato's view on the evolving of IP Delivery Service System over the past years and how it has contributed towards creating a competitive business environment in Malaysia?

Basically, the corporatization of MyIPO in 2003 was to provide and enhance effective delivery and quality services on IP registration. Recently, MyIPO managed to shorten the ordinary pendency period of processing for patents and trademarks applications from 38 months to 26 months and 18 months to 12 months respectively in 2011 compared to the previous year.

An expedited examination process for registration of patent and trade mark was also introduced in February 2011 to provide a speedier registration of trade mark and patent applications subject to clear cut case basis. Patent can be granted within 20 months from date of filing and for trade mark within 6 months 3 weeks. This period makes Malaysia as one of the fastest IP registrations process in the world and as a touch point for Malaysia in intellectual property development.

In line with technology enhancement, the Patent and Trade Mark Online System which was used for online search and filing system that only applicable to patent and trade mark application was upgraded by introducing the IP Online System. This System provides easy access for applicants to make search and to file patent, trade mark, industrial design and geographical indication where the fee is much cheaper than manual filing.

The opening of regional offices in Southern Region (Johor), East Coast Region (Pahang) and Northern Region (Pulau Pinang) which started operation in 2011 widen the spectrum of public engagement on awareness program and IP filing. These regional offices are tasked to intensify intellectual property outreach programmes by establishing a smart-partnership with State Governments and Local Authority.

A sound intellectual property rights strategy and prudent management of an intellectual property portfolio holds the potential to deliver a greater value like other conventional tangible assets in a business entity. Thus, the implementation of strategic initiatives reflects Government's commitment to provide a new conducive IP ecosystem towards a competitive business environment in Malaysia.

In addition, the removal of Malaysia from the USTR Special Report 301 Watch List on 30th April 2012 will also support a competitive business environment. It will boost investor's confidence on our IP system and will encourage more local as well as foreign investment.

Q3 **The Copyright (Amendment) Act 2012 has come into force on 1 March 2012. How does the new amendment contribute towards the development of copyright protection in Malaysia?**

Copyright Voluntary Notification System was incorporated in the amendment of the Copyright Act which provides as an alternative for the copyright owners to protect their works through voluntary notification and does not impede the non-formality requirement for the enjoyment of the copyright protection provided under the Berne Convention. It allows information on copyrighted works to be compiled into a database and facilitates owners to prove ownership in the event of any disputes arise. It safeguards the owners and benefits potential users or licensee to determine the rightful owners.

Under this amendment, the functions of the Copyright Tribunal have been expanded to hear disputes relating to royalty collection and distribution of copyrighted works.

The amendments also facilitate Malaysia to accede to two international treaties which are WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT). Among the benefits are;

- (i) local copyright owners gets international protection;
- (ii) encourage the development of electronic commerce within the country and the international trade;
- (iii) increase the market for products and services that are protected under copyright and related rights thus will contribute to the economic development of the country; and

- (iv) promote local talents and industry to benefit from domestic and overseas market.

Therefore, I am of the view that the introduction of this new system will serve as a platform to spur the creative industry in Malaysia and support the implementation of National Creative Industry Policy.

Q4 Geographical Indication in Malaysia is still at its infant stage compared to other IP components. What are the challenges faced by the Government and how to encourage geographical indication registration?

Geographical Indication (GI) identifies the origin of the goods based on quality and reputation. It is relatively new IP rights in Malaysia and yet GI is one of the contributors in leveraging the economic development and growth. It protects and preserves local knowledge and traditions.

Among the challenges faced by the Government are:

- (i) First, to convince the producers to register for protection and to utilize their GI in promoting their product. In my observation, this ownership concept of affiliation and not individual is the main factor that contributes towards lack of interest among producers to register their GI.
- (ii) Secondly, lack of cooperation between the local producers to ensure the demands can be fulfilled. GI products can only be produced from its place of origin and consumers can be assured that the product bears certain quality, reputation or characteristics which are attributable to its place of origin. One producer may be strong in marketing and other producers may be strong in production, cooperation between them is significant to realise this strategies. This is what we call a 'win-win' situation for all the producers.

Thus, I urge all Malaysian GI producers and trade organisations endeavour to take advantage of the

registration system and step-up efforts to protect their rights. A successful GI marketing strategy will enable the product to gain recognition at national and international market like the success of Sarawak Pepper and Sabah Tea. Furthermore, GI registration can be utilized to develop the rural areas. Registration of GI will promote the small and medium enterprises (SMEs) in the rural economies and will offer the producers a long-term income.

The Government encourages the GI producers to form associations or cooperatives and to register their GI products. Through this channel, GI producers in that specific area can be united, the costs for registering the GI products can be shared equally and member of associations or cooperatives have an exclusive right to exploit GI product. In the same time, the consumer will be assured that the quality of the product is guaranteed.

We have a list of potential GI in Malaysia and MyIPO is organizing awareness campaign on GI protection by collaborating with state governments in northern zone, southern zone, east cost zone as well as Sabah and Sarawak zone. Our mission is to convince the producers on the benefit of GI protection and to facilitate them in registering the GI.

Q5 For the past few years, MyIPO has been organising IP awareness programmes to disseminate IP information to the public. In your opinion, how can this effort be further enhanced to ensure the dissemination of IP information be conveyed to every level of society effectively?

Since its corporatisation, awareness programmes on IP protection has been tasked under MyIPO as one of its main function. MyIPO's awareness programmes were designed to raise public awareness on IP. The programmes were organised not only for public at large but also specific target groups such as industry players, academicians, researchers, students, Small and Medium Enterprises (SMEs), IP practitioners, enforcement related agencies and judicial body.



“ It is necessary for us to learn, adopt and utilize IP for the benefit of economic and social development”.

for outreach programs have been enhanced through the social media such as Facebook, Twitter, Youtube and Flickr.

Furthermore, MyIPO has collaborated with Non-Governmental Organisations such as Yayasan Inovasi Malaysia (YIM), Malaysian Association of Creativity and Innovation (MACRI) and Ministry of Science, Technology and Innovation to organize awareness programmes at the grass-root level. In addition, MyIPO also organized familiarization programmes for special interest group such as mass media and enforcement agencies as well as establishing a smart-partnership with higher learning institutions and schools.

On top of that, upgrading the Intellectual Property Training Centre to IP Academy is another initiative that can be implemented. This academy will enable to offer more training on IP and related matters not only at certificate level but also Bachelor, Master and Doctorate level. In the same time Malaysia will build up a pool of home grown IP professionals.

For the past years, MyIPO has been striving to ensure dissemination of IP information is conveyed to every level of society in any possible medium and I believe this effort will continue for another years to come with more effective strategies. In my observation, the effectiveness of these awareness programmes do not lies on MyIPO alone but all Malaysian in general. Thus, I would like to urge all of us to participate in these initiatives and to play our role in making it effective.

Since 2005, Malaysia has been celebrating the National Intellectual Property Day (NIPD), in conjunction with the World IP Day on 26 April, with the objective to enhance public awareness on the importance of innovation, protection and commercialisation of IP. It also reflects the Government’s recognition to innovators or IP creators on their contributions to the nation’s economic and social developments.

MyIPO has also intensified its outreach programmes on IP by introducing Media Action Plan, knock-door approach and roundtable sessions with Higher Learning Institutions. Media Action Plan includes television and radio interview sessions, publication of IP articles in major newspapers and outdoor advertisements on IP. The knock door approach for instance was conducted throughout the country. Through this session, advisory services are provided directly to the SMEs and to assist them in registering their IP.

While, roundtable sessions with Higher Learning Institutions provide an opportunity for MyIPO to understand the problems and constraints faced by them in protecting their IP as well as to facilitate them to register their IP. The efforts

Q6 The Government has announced an allocation for IP Valuation and Collateralization project under 2013 Budget. What is Government expectation on this project?

Valuing and using IP in financing is a growing area in countries such as US, China, Japan and Thailand. In supporting Government's Economic Transformation Programmes towards achieving high income nation by 2020, it is vital to fully utilize IP as a source of wealth like any other tangible assets in a business. In this regards, MyIPO has been collaborated with MDeC to initiate a study on IP Valuation Methodology since 2011. The aim of this initiative is to encourage development of IP-based banking instrument for collateralization and securitization of IP Assets.

IP valuation model is formed as the first step in assisting financial institutions to refer to a specific methodology in valuing IP assets. MyIPO has been working closely with MDeC and Financial Institutions/Venture Capital Companies to formulate an IP Valuation Model. In depth and thorough study on IP Valuation is necessary to ensure the applicability of the Model in business and banking environment. Next step is a pilot project with selected local finance institution. A combination of IP Valuation and IP Collateralization will enable IP owners to obtain financing from financial institution to commercialize their IP.

The announcement of an allocation for IP Valuation and Collateralization under 2013 Budget is a timely manner. The Government will be establishing an Intellectual Property Financing Fund Scheme amounting to RM200 million and will be offered through Malaysian Deb Ventures Berhad. The Government will provide a 2% interest rate subsidy and guarantee of 50% through Credit Guarantee Corporation Malaysia Berhad. In addition, RM19 million will be allocated for training programmes for local

intellectual property evaluators conducted by MyIPO, aiming to create an intellectual property right market platform. Other than that, we are also in the midst of updating the relevant laws to support the implementation of this initiative.

We hope that, IP can be used as collateral for the registered owners to obtain financial assistance just like any other tangible assets. This will highlight IP as a modern tool in assisting people to generate income.

Q7 How do you view the future of IP and MyIPO?

We must understand that intellectual property is an area that is expanding rapidly both locally and internationally. Therefore, the Government through MyIPO will keep IP evolving. New emerging IP components are being discussed at the international level such as traditional knowledge, genetic resources, traditional cultural expression and folklore.

As a developing country striving to achieve a high income nation, we must keep abreast with this current development. It is necessary for us to learn, adopt and utilize IP for the benefit of economic and social development.

For the past 9 years, we can see that, the development of IP system in Malaysia is encouraging. MyIPO has shown its capability in administering IP system in Malaysia by improving IP service delivery and updating the IP laws in stages, according to needs of stakeholders and to accommodate the current technology enhancement. Various initiatives on IP awareness were implemented.

Thus, I believe that if the current momentum is maintained or improved, in five years to come, registration of IP will not only stand as a proof of ownership, but also will be a tool that can be exploited by the people to generate new source of income.

HIGHLIGHTS OF THE COPYRIGHT AMENDMENT 2012 - PART II

Annie Cheng, Legal Officer, Legal Division, MyIPO

(1) Introducing Statutory Damages¹

The amendment to section 37 now provides options to the copyright owners to elect for damages or statutory damages in a proven case of copyright infringement and the prohibited acts under sections 36A and 36B. The introduction of statutory damages is to provide monetary relief to the copyright owners for proven infringement where actual damages and the infringers' profits are difficult or expensive to prove. Under section 37 (1) of the 2012 Amendment, the court may award the statutory damages of not more than RM25,000.00 for each work, and not exceeding RM500,000.00 in the aggregate.

(2) Limiting the Liabilities of [Internet] Service Providers

New sections 43B to 43I are provisions dealing with the limitation of liabilities of a service provider. "Service provider" is defined in section 43B as meaning a person who provides services relating to, or provides connections for, the access, transmission or routing of data and a person who provides, or operates facilities for, online services or network access.

Generally, Part VIB covers service provider that comes within the four functions as provided in sections 43C, 43D and 43E. The four functions are:

- (a) Transmission, routing and provision of connections
- (b) System caching

- (c) Storage
- (d) Information location tools (referring or linking)

A service provider that falls under any of the four functions (nevertheless, a service provider can perform more than one of the abovementioned function) may claim the 'limitation of liabilities' provided under Part VIB if it fulfils or complies with the conditions stipulated in the respective provisions.

The 2012 Amendment has also introduced the notice and takedown procedure to enable the owner of the copyright (right holders) to notify the service provider to removes the infringing material or disable access to the infringing electronic copy on its network, where applicable.

As a precaution against the abuse of the notice and takedown procedure provided under section 43H, section 43I provides criminal liability to person who makes any statement that is false, which upon conviction, be liable to a fine not exceeding RM100,000.00 or to imprisonment for a term not exceeding five years, or to both. In addition, the person shall be liable to compensate any person who suffers any loss or damages as a result of making the notification.

(3) Strengthening the Enforcement Powers

The 2012 Amendment seeks to strengthen the enforcement powers provided under Part VII of the CA 1987. Three new sections were introduced and the existing section 50 was amended.

¹ Section 37 (2) provides that statutory damages is not available to a plaintiff in an action under section 36A (3).

² This is the definition for the purpose of section 43C of the 2012 Amendment.

³ This is the definition for the purpose of Part VIB other than section 43C and it includes a person referred to in paragraph (a) of the definition of "service provider".

⁴ Section 43H (1) of the 2012 Amendment.

⁵ Section 43I (1)(a) of the 2012 Amendment.

⁶ Section 43I (1)(b) of the 2012 Amendment.



New section 45A (1) allows any Assistant Controller or a police officer not below the rank of Inspector (hereinafter defined as “Authorized Officer”) to gain access to computerized or digitalized data in exercising his powers under section 44. New section 45A (2) defined “access” as including the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of the computerized data.

Meanwhile, the amendment to section 50 expanded the scope of investigation powers given to the Authorized Officer to be consistent with the powers given in seizable cases under the Criminal Procedure Code [Act 593].

New section 50B (1) seeks to empower the Public Prosecutor, on application of an Authorized Officer, to authorize the officer to intercept communications which are likely to contain any information relevant for the purpose of investigation into an offence under the CA 1987 or its subsidiary legislation. The information obtained by the Authorized Officer as a result of such interception shall be admissible in court.

New section 51A makes clear that the evidence given by an agent provocateur shall be admissible in court. Any person who ‘tipped-off’ information or any other matter which is likely to prejudice the investigation or proposed investigation conducted under or for the purposes of the CA 1987 will be guilty of a criminal offence under the new section 52A. The introduction of new section 52A is also to curb the information leakage regarding a prospective raid to prevent the suspect the opportunity to destroy the evidence.



⁷ Section 50B (2) of the 2012 Amendment.

⁸ Section 36A (2)(b) of the 2012 Amendment.

⁹ Section 36A (2)(e) of the 2012 Amendment.

¹⁰ Section 36A (2)(f) of the 2012 Amendment.

¹¹ Section 36B (2) reads:

“Subsection (1) does not apply if the removal or alteration of any electronic rights management information without authority is –

(a) in relation to anything lawfully done for the sole purpose of –
(b) done by a library, an archive or an educational institution for the sole purpose of making an acquisition decision in relation to a work in which copyright subsists.”

¹² Section 43A (3) of the 2012 Amendment.

(4) Enhancing the existing provisions on Technological Protection Measures (TPMs) and Rights Management Information (RMI)

Prior to the 2012 Amendment, the only provisions relating to the protection of technological protection measures (TPM) are found in sections 36 and 41 (1) of the CA 1987. The 2012 Amendment is seen to have strengthened the protection of TPM under the CA 1987.

“Technological protection measure” is defined in section 3 as meaning “any technology, device or component that, in the normal course of its operation, effectively prevents or limits the doing of any act that results in an infringement of the copyright in a work.” The act of circumventing, causing or authorizing other person to circumvent a TPM is prohibited by virtue of new section 36A (1). Nevertheless, this provision will not be applicable to certain purposes listed in section 36A (2), inter alia, for the sole purpose of identifying and analyzing flaws and vulnerabilities of encryption technology, for any lawful purpose of law enforcement, national security or performing a statutory function, and circumvention done by a library, an archive or an educational institution for the sole purpose of making an acquisition decision in relation to a work in which copyright subsists.

Apart from prohibiting the unlawful act of circumventing a technological protection measure, the act of trafficking of the circumventing technology, device or component, inter alia, the manufacturing for sale or hire, importing, selling or let for hiring, offering or exposing for sale or

hiring, advertising for sale or hiring, possessing or distributing the said technology, device or component is also prohibited under new section 36A (2).

The existing provisions relating to rights management information (RMI) as provided under sections 36 (4) and (5) of the CA 1987 are moved to become the new section 36B. The more apparent change to the provisions on RMI is the provision of specific exceptions to the prohibited acts relating to RMI. The said exceptions are found in section 36B (2).

Criminal penalties for the prohibited acts under sections 36A and 36B are found in paragraphs (h), (i) and (j) of section 41 (1).

(5) Introducing Anti-Camcording Provisions

Anti-camcording provisions are now part of the Malaysia copyright law with the insertion of new section 43A. By virtue of section 43A, the operating of an audiovisual recording device in a screening room to record any film in whole or in part is now a criminal offence and upon conviction, one can be liable to a fine of not less than RM10,000.00 and not more than RM100,000.00 or to imprisonment for a term not exceeding 5 years or to both.

“Screening room” is defined as meaning any venue which is utilized for the exhibition or screening of a motion picture, including a motion picture theatre.

DO YOU KNOW?

Closer co-operation among ASEAN member states can reduce smuggling of goods while boosting patent registrations in the 10-member bloc by 15-20 per cent annually, according to Director-General of Thailand’s Intellectual Property Department.

Source: Bernama

China remains the primary country where the suspected IPR infringing goods were coming from the moment of detention. As in former years, China, Hong-Kong, India, Turkey and the United Arab Emirates remain in the top 10. Syria appears for the first time due to detentions of recorded CD/DVDs. **Source: Report on EU customs enforcement of IPR - 2011**

In October 2011, Microsoft had signed patent license agreements with ten Android device manufacturers. Currently, Microsoft is thought to be making more money from IP associated with Android than it does from licensing its own Windows Phone mobile OS to equipment manufacturers. **Source: Redmondmag**

HIGHLIGHTS OF MYIPO AC



ACTIVITIES OCTOBER 2012



PENDAFTARAN KARYA HAK CIPTA: MUDAH, MURAH, MELINDUNGI

MOHAMED FAIRUZ BIN MOHD PILUS

Pengarah Bahagian Hakcipta, MyIPO

PENDAHULUAN

Memiliki harta adalah satu kegembiraan, membuktikan pemilikan harta adalah satu kesukaran. Senario ini seringkali berlaku di dalam isu keempunyaan harta bersumber intelektual atau dikenali sebagai harta intelek. Walaupun secara amnya masyarakat sekeliling mengiktiraf sesuatu harta intelek tersebut miliknya, perasaan dukacita wujud apabila si pengkarya gagal membuktikan keempunyaan sesuatu harta miliknya. Perasaan ini timbul apabila isu atau permasalahan berkaitan hak pemilikan harta intelek dipertikaikan. Kemusykilan ini akan dapat diatasi melalui pengurusan dokumentasi dan pemilikan harta intelek yang ditadbir urus dengan baik. Pemilikan harta alih dan harta tidak alih contohnya seperti

rumah, tanah, kereta dan sebagainya mempunyai geran atau pendaftaran hak milik sebagai bukti pemilikan tiap-tiap harta itu. Bagaimana pula bentuk dokumen pemilikan yang perlu dibuktikan dalam konteks harta intelek? Bagi cap dagangan, paten dan reka bentuk perindustrian, sijil pendaftaran yang dikeluarkan adalah bukti keempunyaan bagi komponen harta industri itu. Bagaimana pula dengan hak cipta?

PEMBUKTIKAN PEMILIKAN KARYA BERHAKCIPTA

Karya-karya berhakcipta seperti karya sastera, karya seni, karya muzik, filem, rakaman bunyi, siaran dan karya terbitan mempunyai pencipta dan miliknya. Secara ringkas, seseorang pencipta itu memperoleh hak eksklusif terhadap

ekspresi ideanya dengan syarat karyanya adalah asli, menggunakan daya usaha kreatif pengkarya dalam penghasilan karya dan menzahirkan dalam bentuk material yang boleh dibaca, dilihat atau didengar. Sesuatu karya menjadi keempunyaan pengkarya secara automatik apabila karya dizahirkan secara material sebagaimana dinyatakan pada Artikel 2, Konvensyen Berne dan disokong oleh Seksyen 7 dan 8 Akta Hak Cipta 1987. Hak keempunyaan karya berhakcipta tidak diperolehi melalui pendaftaran tetapi mendapat perlindungan secara automatik apabila karya dihasil dan dizahirkan dalam bentuk material. Ianya berbeza dengan komponen harta intelek lain yang memberi perlindungan secara pendaftaran selagi ianya diperbaharui setelah luput tempoh pendaftaran atau tempoh perlindungan tamat mengikut peruntukan undang-undang masing-masing.

Di dalam hak cipta, beban pembuktian berkaitan keempunyaan karya berhakcipta terletak kepada seseorang pencipta yang merupakan pengkarya sesuatu karya tersebut. Pencipta atau pengkarya sastera, muzik dan seni merupakan pemilik pertama yang mempunyai hak eksklusif untuk tempoh sepanjang hayatnya dan 50 tahun selepas kematiannya. Hak karya berhakcipta ini boleh diwarisi selagimana hak miliknya tidak dipindah milik hak keempunyaannya kepada pihak ketiga. Karya filem, rakaman bunyi dan siaran hanya mempunyai hak eksklusif selama 50 tahun bermula pada tahun berikutnya penerbitan sesuatu karya tersebut.

Berbalik semula alikisah, seorang pengkarya yang kreatif menghasilkan satu atau 100 karya, seringkali berlaku pemilik karya gagal

mengemukakan atau dapat menyediakan satu dokumentasi lengkap bagi membuktikan sesuatu pemilikan karya beliau. Ini mungkin disebabkan karya tersebut dihasilkan dalam tempoh masa yang telah lama dan pemunya karya tidak menyimpan dokumentasi berkaitan secara teratur. Masalah sebegini juga mengakibatkan waris pengkarya tidak dapat menuntut hak ekonomi hasil dari penerbitan karya si pengkarya tersebut. Oleh yang demikian, sistem perundangan hak cipta perlu menyediakan satu mekanisma membantu pengkarya-pengkarya dalam hal berkaitan keempunyaan karya berhakcipta.

SISTEM PENDAFTARAN PEMBERITAHUAN SUKARELA HAK CIPTA

Perbadanan Harta Intelek Malaysia (MyIPO) telah melaksanakan Sistem Pemberitahuan Sukarela Hak Cipta bermula 1 Jun 2012. Pelaksanaan Sistem Pemberitahuan Hak Cipta atau pendaftaran karya hak cipta secara sukarela merupakan satu inisiatif baru yang digubal di dalam Akta Hak Cipta 1987 (Pindaan 2012). Objektif utama adalah untuk mewujudkan satu sistem perundangan yang membantu menyelesaikan masalah keempunyaan sesuatu karya berhakcipta. Secara amnya, apabila sesuatu permohonan karya hak cipta diterima, ianya akan didaftar dan direkodkan ke dalam Daftar Hak Cipta. Butiran pemilikan dan bahan karya tersebut disifatkan sebagai keempunyaan terhadap sesuatu karya tersebut sebagaimana sistem pendaftaran cap dagangan, paten dan reka bentuk perindustrian. Walaubagaimanapun, sistem pemberitahuan atau pendaftaran ini tidak melangkai prinsip asas pemilikan karya berhakcipta secara automatik. Negara-negara seperti Amerika Syarikat, Kanada,

Britain, Korea Selatan dan India telah lama mewujudkan sistem pendaftaran karya hak cipta. Sebagai contoh, Korea Selatan, pendaftaran karya hakcipta pada tahun 2001 adalah sebanyak 14,634 manakala pada tahun 2011 adalah sebanyak 28,154. Amalan yang telah dijalankan di negara-negara tersebut membuktikan bahawa melalui sistem pendaftaran karya hak cipta adalah cara yang mudah untuk membuktikan keempunyaan atau pemilikan sesebuah karya berhakcipta.

MyIPO mengambil pendekatan **3M – Mudah, Murah, Melindungi** dalam melaksanakan sistem pemberitahuan sukarela melalui pendaftaran karya hak cipta ini. **Mudah** dalam mengisi borang pendaftaran dan pemohon perlu menyediakan bahan karya dan akuan bersumpah. Tiada semakan diatas isu kredibiliti sesuatu permohonan. Satu notis pemberitahuan akan dimaklumkan kepada pemohon menyatakan bahawa maklumat tersebut telah direkodkan ke dalam Daftar Hak Cipta.

Murah kosnya berbanding dengan faedah yang diterima. Menariknya disini, bayaran untuk pendaftaran karya hak cipta hanya sekali sahaja. Tiada yuran penyelenggaraan atau fi pembaharuan sijil pendaftaran dikenakan sebagaimana aktiviti pendaftaran komponen harta intelek yang lain. Anggaran kos permohonan bagi sesuatu pendaftaran pemberitahuan sukarela karya hak cipta serendah RM25.00 tertakluk kepada saiz bahan karya bagi setiap permohonan. Pengkarya mempunyai pilihan untuk mendapatkan perkhidmatan tambahan sekiranya perlu, contohnya Sijil Pemberitahuan Hak Cipta sebanyak RM50.00 dikenakan dan sebagainya.

Faedah yang diterima bagi seorang pengkarya contohnya penulis sebuah novel mempunyai jangka hayat hidupnya 50 tahun lagi dari tarikh pemfailan karyanya. Ditambah dengan 50 tahun tempoh perlindungan selepas kematian, bermakna 100 tahun perlindungan secara wujud. Penulis novel itu hanya perlu membayar sekali sahaja serendah RM25.00 (tertakluk kepada saiz bahan karya) untuk mendapat perakuan pendaftaran melalui Sistem Pemberitahuan Sukarela ini.

Melindungi hak keempunyaan pengkarya dengan memberipengiktirafan kepada pemunya karya berhakcipta. Sebarang maklumat dan bahan karya yang dikemukakan oleh pemohon direkod sebagaimana yang diisytiharkan. Pemohon perlu bertanggungjawab terhadap setiap perisytiharannya. Ianya dianggap *prima facie* selagi kesahihan sesuatu karya tidak dicabar. Beban pembuktian tertakluk pada pihak yang mencabar dan perlu membuktikan kesahihan keempunyaan sesuatu karya hak cipta tersebut.

Penghasilan dan pendaftaran sesuatu karya hak cipta memberi perlindungan dari aspek perundangan. Namun begitu, falsafah di sebalik pewujudan sesuatu karya juga berkaitan dengan sumbangan individu terhadap perkembangan kreativiti dan minda manusia pada masa kini dan akan datang. Oleh itu, hak cipta bukan sahaja menyentuh aspek perlindungan hakcipta bahkan juga menghasilkan budaya perkongsian intelektual kearah budaya masyarakat bertamadun melalui perkembangan intelektual. Pangkalan data Sistem Pemberitahuan Sukarela Hakcipta berperanan menjadi sumber rujukan untuk tujuan penyelidikan dan pendidikan

bagi semua pihak yang berminat terhadap karya-karya industri kreatif yang dihasil dan dilindungi di bawah sistem pendaftaran hak cipta ini. Pendekatan ini akan mewujudkan satu budaya di dalam masyarakat Malaysia pada masa depan yang menghormati dan memberi pengiktirafan kepada hasil-hasil karya berhakcipta.

Tambahan dari itu, pangkalan data ini menjadi satu medium hebahan umum kepada masyarakat awam berkaitan maklumat dan butiran pemilikan seseorang pengkarya dan hasil karyanya. Secara tidak langsung, pangkalan data ini memperluaskan jaringan dan jalinan di antara pemunya karya berhakcipta dan orang awam.

Mana-mana pihak yang ingin menggunakan karya-karya berhakcipta tersebut boleh mendapatkan maklumat melalui pangkalan data Sistem Pemberitahuan Sukarela Hakcipta ini untuk menghubungi pengkarya asal atau tuan punya pemilik karya. Ini akan membantu industri kreatif dan pengkarya-pengkarya mempromosikan karya mereka secara percuma. Sesuatu karya yang belum dikomersialkan pada hari ini berpotensi menjadi karya yang diminati pada masa hadapan. Tempoh masa perlindungan yang panjang mempunyai keberangkalan nilai komersial wujud. Sebagai contoh, beberapa karya novel yang diterbitkan dahulu kurang mendapat sambutan pada ketika itu. Namun, setelah beberapa tahun kemudian, hasil

dari fenomena sastera yang meningkat pemintaannya terhadap gaya penulisan dan penghasilan novel tersebut, karya novel ini dicetak semula dan mendapat sambutan yang amat menggalakkan. Pentingnya bagi pengkarya tersebut, perlindungan hak cipta secara melalui pendaftaran karya berhakcipta telah membantu pengkarya membuktikan keempunyaan seterusnya menikmati faedah ekonomi seperti pelesenan dan royalti penerbitan karya novel tersebut. Begitu juga dengan hasil karya hak cipta yang lain.

PENUTUP

MyIPO merupakan organisasi yang mentadbir akta dan perundangan berkaitan harta intelek yang telah akan sentiasa mengambil inisiatif baru bagi memastikan pentadbiran dan perlindungan harta intelek yang memberi manfaat kepada pencipta dan pengkarya tanah air yang menghasilkan sesuatu harta bersumber intelektual. Inisiatif baru yang dibuat pada tahun 2012 ini diantaranya memperkenalkan satu sistem pendaftaran karya hak cipta yang dikenali sebagai Sistem Pemberitahuan Sukarela Hak Cipta bermula 1 Jun 2012. Inisiatif ini diambil hasil dari kajian terhadap amalan perlindungan hak cipta di negara-negara lain dan juga respon dari yang memerlukan satu sistem yang dapat membantu pembuktian keempunyaan atau pemilikan sesebuah karya berhakcipta secara **MUDAH, MURAH DAN MELINDUNGI.**

Facts and Figures

According to the China's draft of the copyright law, it will increase the fine for piracy to one million yuan (RM491,353) from the existing maximum of 500,000 yuan (RM245,676.5). **Source: Bernama**

Up until July 2012, statistics shows that the imitation goods cases involving clothes is the most action taken case in Malaysia with a total of 165 cases in 2012. **Source: Enforcement Division of MDTCC**



Petunjuk Geografi

Petunjuk geografi merupakan satu petunjuk yang merujuk tempat asalan sesuatu produk yang dihasilkan di sesuatu kawasan atau tempat yang mempunyai **kualiti, reputasi atau ciri lain** yang berpunca atau berkait rapat dengan faktor alam tempat asal geografinya dan faktor kemanusiaan. Produk petunjuk geografi terdiri dalam apa jua bentuk semula jadi, pertanian, makanan atau produk perkilangan.

Dalam mendefinisikan **kualiti atau ciri-ciri**, ianya dikaitkan dengan sejarah, budaya atau tradisi tempat geografi tersebut serta elemen tipikal seperti fizikal dan kimia bahan-bahan mentah yang digunakan untuk menghasilkan sesuatu produk petunjuk geografi tersebut. Manakala **reputasi** pula lebih merujuk kepada pendapat yang positif terhadap produk petunjuk geografi tersebut yang dibangunkan di kalangan pengguna dari masa ke masa.

Terdapat beberapa contoh petunjuk geografi yang terkenal di seluruh dunia dengan kualiti dan ciri tertentu serta reputasi tinggi seperti *Tequila Licor (Mexico)*, *Bordeaux Wines*, *Champagne (France)*, *Manchego Cheese (Spain)*, *Habanos Tobacco (Cuba)*, *Darjeeling Tea*

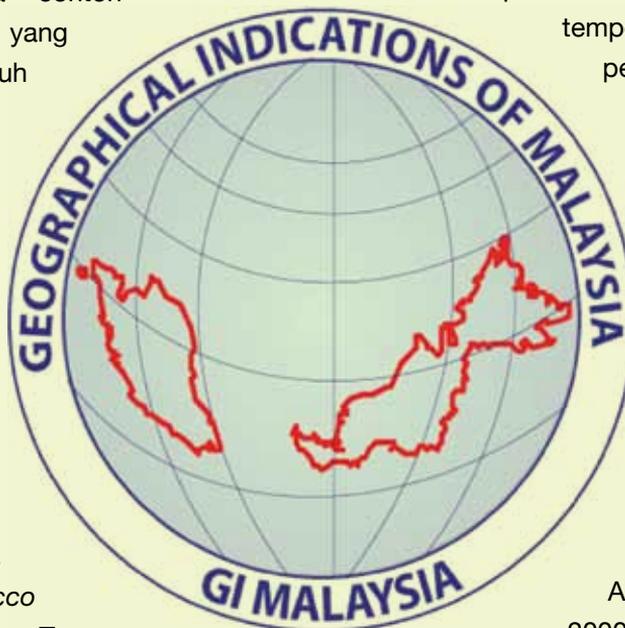
(India), *Parmagiano Reggiano (Italy)*, *Argan Oil (Morocco)*, *Shea Butter (Burkina Faso)*, *Scotch Whisky (Scotland)*, *Solingen Cutlery (Germany)*, *Kilim Carpets (Turkey)* dan *Thai Silk (Thailand)*.

Perlindungan Petunjuk Geografi di Malaysia

Di Malaysia, Akta Petunjuk Geografi 2000 dan Peraturan-Peraturan 2001 memberi perlindungan komprehensif kepada petunjuk geografi khususnya petunjuk geografi yang berdaftar. Pendaftaran petunjuk geografi dapat membantu pemunya dan komuniti petunjuk geografi untuk membuktikan hak milik mereka sekiranya berlaku pertikaian atau pelanggaran hak kerana setiap petunjuk geografi yang berdaftar mempunyai sijil pendaftaran yang sah untuk dijadikan keterangan *prima facie* selagi mana petunjuk geografi tersebut mematuhi peruntukan Akta Petunjuk Geografi

2000 dan Peraturan-Peraturan 2001. Sijil pendaftaran ini adalah sah bagi tempoh 10 tahun dari tarikh pemfailan dan tempoh perlindungan ini boleh diperbaharui selama mana yang mungkin.

Sehingga Oktober 2012, Malaysia mempunyai 17 petunjuk geografi tempatan yang berdaftar di bawah Akta Petunjuk Geografi 2000 dan Peraturan-



Peraturan 2001 antaranya adalah *Sarawak Pepper, Sabah Tea, Bario Rice, Tenom Coffee, Langkawi Cheese, Sarawak Litsea, Tambunan Ginger*, Mangga Harumanis Perlis, Kek Lapis Sarawak dan Buah Limau Bali Sungai Gedung. Di samping itu, Perbadanan Harta Intelek Malaysia (MyIPO) juga telah mengenal pasti beberapa lagi produk tempatan yang mempunyai nilai komersil yang tinggi dan berpotensi untuk didaftarkan sebagai petunjuk geografi seperti Tenun Pahang, Tembaga Ladang, Madu Matunggong, Nenas Babagon, Jeruk Bambangan, Parang Kota Belud, Kain Dastar Sabah dan sebagainya.

Pemilikan Petunjuk Geografi - Hak Kolektif

Petunjuk geografi merupakan "hak kolektif" kepada semua pengeluar dalam kawasan geografi yang menjalankan pengeluaran petunjuk geografi. Ini adalah kerana sesuatu petunjuk geografi itu lazimnya menggunakan nama tempat geografi yang tidak boleh dimiliki oleh individu perseorangan. Tambahan pula, apabila petunjuk geografi itu bersifat "hak kolektif", maka ianya lebih mudah untuk membantu pengeluar petunjuk geografi untuk bekerjasama bagi mendaftarkan petunjuk geografi seterusnya menjamin kepentingan mereka selaku pemunya bersama petunjuk geografi yang berdaftar. Disebabkan faktor itu, hanya pengeluar yang menjalankan aktiviti petunjuk geografi dalam kawasan geografi sahaja yang mempunyai hak penggunaan untuk menggunakan petunjuk geografi tersebut.

Pendekatan "kolektif" di kalangan pengeluar turut dapat mewujudkan dan membangunkan standard pengeluaran, pengurusan kawalan kualiti petunjuk geografi dan pemasaran yang lebih berkesan sekaligus mengerat kerjasama di antara pengeluar petunjuk geografi di komuniti

untuk berganding bahu bagi menghasilkan petunjuk geografi yang bermutu tinggi serta dapat mengelakkan persaingan yang tidak adil di antara pengeluar.

Kawalan Kualiti Petunjuk Geografi

Dalam membangunkan reputasi ke tahap yang lebih tinggi, pengurusan kawalan kualiti petunjuk geografi merupakan satu faktor penting bagi memastikan kualiti petunjuk geografi sentiasa dipantau secara berkala dan dijaga dengan teliti supaya pengguna kekal yakin dengan produk petunjuk geografi. Ini adalah kerana di minda pengguna setiap produk petunjuk geografi mempunyai kawalan kualiti dan mutu yang ketat dalam penghasilan produk.

Kawalan kualiti petunjuk geografi terbahagi kepada dua iaitu kawalan kualiti dalaman dan kawalan kualiti luaran. Kawalan kualiti dalaman dilaksanakan oleh pengeluar petunjuk geografi bagi memastikan setiap pengeluaran produk petunjuk geografi mematuhi standard pengeluaran yang sama dan mengekalkan tahap kualiti produk petunjuk geografi tersebut. Kawalan kualiti ini bertujuan menjaga reputasi petunjuk geografi dan meningkatkan keyakinan pengguna. Manakala kawalan kualiti luaran dilaksanakan oleh badan-badan bertauliah seperti jabatan-jabatan atau agensi-agensi kerajaan yang merupakan pakar dalam sesuatu bidang khusus. Contohnya bagi petunjuk geografi dari kelas pertanian, badan bertauliah yang boleh memberikan pengesahan kualiti adalah Jabatan Pertanian Negeri. Pengesahan kualiti luaran daripada badan-badan bertauliah ini adalah penting bagi mengesahkan kualiti produk petunjuk geografi yang dituntut serta dapat memastikan tiada penyelewengan kualiti. Ini adalah kerana, kualiti adalah sesuatu

perkara yang tidak boleh dikompromi bagi menjamin kepentingan pengguna.

Di negara Eropah, pengguna dapat mengenali produk petunjuk geografi dengan melihat logo "matahari" berwarna biru dan kuning yang mempunyai bintang mewakili negara Kesatuan Eropah (EU). Simbol EU ini merupakan satu logo kualiti yang menyediakan satu jaminan ketulenan bahawa produk petunjuk geografi adalah dibuat dalam wilayah tertentu atau dengan menggunakan kaedah pengeluaran yang ketat dan teliti. Sistem pengurusan kualiti petunjuk geografi EU ini direka untuk melindungi hak pengeluar dan pengguna bagi mencegah pihak yang tidak bertanggungjawab dari mengguna dan mengeksploitasi secara tidak adil petunjuk geografi yang boleh memberi kesan buruk terhadap reputasi petunjuk geografi tersebut. Mulai 1 Mei 2009, setiap pengeluar petunjuk geografi yang berdaftar wajib menggunakan simbol ini pada produk mereka.

Impak Positif Petunjuk Geografi

Sebagai pemunya hak eksklusif petunjuk geografi, pelbagai manfaat dapat diterima melalui pendaftaran petunjuk geografi. Ini adalah kerana pendaftaran petunjuk geografi membenarkan pengeksploitan semaksimum mungkin yang merupakan salah satu instrumen penjenamaan yang berkesan dalam memasarkan produk petunjuk geografi memandangkan produk petunjuk geografi

tersebut akan menjadi produk yang mempunyai nilai tambahan (*value-added goods*).

Dalam era globalisasi dan liberalisasi perdagangan, pertubuhan dan persatuan perdagangan perlu bijak mengambil peluang pemasaran melalui petunjuk geografi ini yang mempunyai potensi untuk mengangkat sesuatu produk ke tahap yang baru serta membantu menembusi pasaran global. Antara produk-produk petunjuk geografi luar negara yang berjaya melalui strategi pemasaran ini ialah *Swiss Chocolate*, *London Fog Raincoat*, *Scotch Whisky*, *Kristal Bohemian* dan sebagainya. Di samping itu juga, sesuatu petunjuk geografi boleh memberi kesan positif ke atas pengeluaran, mewujudkan lebih banyak peluang pekerjaan di kawasan geografinya, membolehkan pengeluar untuk memasarkan produk petunjuk geografi pada harga premium (pengguna adalah bersedia untuk membayar apa-apa harga dalam pertukaran kualiti "diperakui" oleh petunjuk geografi), serta untuk membenarkan pengagihan pendapatan yang lebih baik di seluruh rantai pengeluaran keseluruhan; daripada pengeluar bahan mentah kepada pengilang. Ini sekaligus dapat membantu lebih ramai usahawan yang terlibat dengan pengeluaran produk petunjuk geografi untuk lebih berjaya dan memajukan ekonomi perniagaan mereka.

Petunjuk geografi juga memberi kesan secara langsung kepada sektor agro-pelancongan.



Sebagai contoh petunjuk geografi berdaftar di Malaysia, Keju Langkawi merupakan satu tarikan baru bagi para pelancong yang melancong ke Langkawi selain kecantikan pulau itu sendiri. Keju Langkawi mempunyai rasa dan tekstur yang tersendiri kerana ianya dihasilkan daripada susu-susu yang berkualiti tinggi dan segar dari haiwan terpilih, seperti kerbau dan baka khas lembu serta kambing kerana setiap susu tersebut akan mempengaruhi jenis keju yang dihasilkan. Selain keju, Langkawi turut mempunyai satu petunjuk geografi yang amat berpotensi iaitu Gamat Langkawi. Gamat Langkawi ini terkenal dengan khasiatnya dan telah digunakan dalam bidang perubatan sejak turun temurun sebagai ubat penyakit kulit, menyembuhkan kesan terbakar pada kulit dan gigitan serangga. Ini juga telah terbukti secara saintifik di mana gamat berupaya menyembuhkan luka dan berdaya tahan sakit. Oleh itu, ramai pelancong datang melawat Langkawi bagi menyaksikan sendiri cara pemprosesan keju Langkawi dan produk gamat Langkawi ini. Secara tidak langsung ianya merancakkan lagi sektor pelancongan Langkawi. Ini membuktikan bahawa peluang keemasan untuk mendominasi pemasaran melalui petunjuk geografi dilihat mampu

menyumbang kepada pengukuhan sosio-ekonomi negara khususnya sosio-ekonomi penduduk luar bandar. Selain itu, petunjuk geografi turut dapat memelihara pengetahuan tradisional dan biodiversiti komuniti setempat yang mampu dijana dan diwarisi dari generasi ke generasi lain.

Secara kesimpulannya, pendaftaran petunjuk geografi merupakan satu langkah yang penting dan bermanfaat kepada pengeluar dan komuniti di kawasan geografi supaya petunjuk geografi tersebut tidak disalahguna oleh pihak yang tidak bertanggungjawab. Pemunya berdaftar juga dapat mengambil tindakan undang-undang terhadap sebarang pelanggaran hak eksklusif yang membolehkan Mahkamah memberikan injuksi untuk menghalang apa-apa penggunaan secara tidak sah petunjuk geografi. Mahkamah juga boleh mengawardkan apa-apa gantirugi dan apa-apa remedi atau relief lain di sisi undang-undang yang sewajarnya kepada pemunya petunjuk geografi.

Akhir kata, **“Warisan kita, Hak kita. Pertahankannya dengan pendaftaran!”**



KAJIAN KES PETUNJUK GEOGRAFI

A) Lada Sarawak (*Sarawak Pepper*)

Pemunya Petunjuk Geografi: Lembaga Lada Malaysia

1. Bilakah Lada Sarawak didaftarkan?

Lada Sarawak telah mendapat pendaftaran petunjuk geografi daripada Perbadanan Harta Intelekt Malaysia pada 4 November 2003.

2. Apakah keistimewaan Lada Sarawak berbanding lada yang lain?

Sarawak adalah negeri terbesar di Malaysia yang dikenali sebagai pengeluar Raja Rempah iaitu lada di mana 98% pengeluaran lada Malaysia adalah dari Sarawak.

Lada Sarawak sinonim dengan kualiti di dalam perdagangan rempah dan dikenali di pasaran antarabangsa sebagai lada yang berkualiti tinggi. Pada masa sekarang, Lada Sarawak dan Lada Sarawak Tambah Nilai seperti Lada Putih Krim dan Mikrokleen (MK) mendapat permintaan yang tinggi di kalangan negara yang mementingkan kualiti. Sebagai penghormatan, Lembaga Lada Malaysia sebagai salah satu agensi kerajaan telah diberi kepercayaan untuk membangunkan industri lada di Malaysia dan memastikan hanya Lada Sarawak yang berkualiti di eksport ke luar Negara.

Sebagai langkah meningkatkan keyakinan pembeli terhadap Lada Sarawak, Lembaga Lada Malaysia telah berusaha sedaya upaya untuk meningkatkan kualiti Lada Sarawak bermula dari ladang sehingga ke tahap eksport. Selaras dengan usaha tersebut Lembaga Lada Malaysia telah mendapat pengiktirafan MS ISO/IEC 17025:2005 untuk makmal dan



MS ISO 9001:2008 masing-masing untuk *Quality Management Systems* dan *Provision of Purchasing Pepper*. Di samping itu juga, Lembaga Lada Malaysia telah mendapat pensijilan HALAL daripada Jabatan Kemajuan Islam Malaysia dan pensijilan *Hazard Analysis & Critical Control Points* (HACCP) daripada Kementerian Kesihatan Malaysia. Penghargaan ini akan meletakkan Lembaga Lada Malaysia lebih maju di dalam industri lada dengan memiliki makmal dan unit pengredan yang diiktiraf dunia.



3. Apakah kepentingan pendaftaran Lada Sarawak sebagai petunjuk geografi?

Perbadanan Harta Intelek Malaysia telah banyak membantu rakyat dengan menghebahkan kepntlngan pendaftaran harta intelek. Bagi mengekalkan keistimewaan, kualiti dan reputasi Lada Sarawak, Lembaga Lada Malaysia yang pada waktu itu masih dikenali sebagai Jemaah Pemasaran Lada Hitam mengambil inisiatif untuk mendaftar Lada Sarawak di bawah Akta Petunjuk Geografi 2000 pada tahun 2003. Langkah ini juga bagi mencegah pihak lain melakukan eksploitasi tanpa izin terhadap Lada Sarawak berikutan harta bukan aset fizikal telah menjadi semakin penting sebagai salah satu petunjuk mengenai daya saing dan inovasi sesebuah negara atau organisasi korporat. Selaras dengan saranan YAB Datuk Seri Najib Tun Abduk Razak, Perdana Menteri Malaysia yang menggesa supaya diperhebatkan usaha untuk menjana aset bukan fizikill dalam konteks ekonomi model baru berteraskan inovasi dan kreativiti yang sedang dibangunkan di Malaysia.



4. Apakah impak ekonomi Lada Sarawak selepas pendaftaran petunjuk geografi?

Pasaran Lada Sarawak semakin luas dengan mendapat permintaan yang tinggi dari negara Jepun, China, Korea, Vietnam dan Singapura. Lada Sarawak juga telah mula dikenali di mata dunia. Ini juga sebagai bukti Lada Sarawak mampu berdaya saing dan memberi impak positif kepada ekonomi yang berteraskan inovasi.

5. Di manakah pasaran Lada Sarawak ini?

Pasaran Lada Sarawak dipasarkan di seluruh Malaysia sama ada dari produk hulu atau produk hiliran. Bagi pasaran luar negara pula Lembaga Lada Malaysia mengeksport Lada Putih Krim dan Mikrokleen.



Jadual 1: Eksport tahunan Lada Hitam dan Lada Putih Malaysia 2006-2010

Tahun	Lada Hitam		Lada Putih		Jumlah	
	Metrik Tan	USD '000	Metrik Tan	USD '000	Metrik Tan	USD '000
2006	11,136	23,391	5,469	52,521	16,605	75,911
2007	11,180	37,089	3,884	51,648	15,064	88,737
2008	10,307	36,519	3,090	44,223	13,396	80,741
2009	10,481	32,447	2,642	34,308	13,124	66,755
2010	11,189	45,279	2,887	45,168	14,077	90,447

6. Bagaimana Lembaga Lada Malaysia menjaga kualiti Lada Sarawak?

Lembaga Lada Malaysia mempunyai makmal untuk melakukan aktiviti penggredan. Makmal Lembaga Lada Malaysia ini telah mendapat pengiktirafan MS ISO/IEC 17025:2005. Analisa yang akan dijalankan adalah analisa fizikal, analisa mikrobiologi dan analisa kimia. Melalui analisa fizikal, lada akan melalui proses analisa ketumpatan pukal, analisa kulapuk lada, analisa biji ringan (benda asing) dan analisa biji ringan (biji hitam). Manakala analisa kimia pula akan menentukan kandungan minyak lada, kandungan Piperine dalam lada, kandungan Aflatoxin dalam lada menggunakan HPLC, kandungan sisa racun dalam lada menggunakan GCMS dan kandungan logam berat dalam lada. Analisa yang dijalankan bagi mikrobiologi pula adalah *aerobic plate count*, *total coliform count*, *fecal coliform count*, *Escherichia coli* *Salmonella* dan *yeasts and molds*.

Lembaga Lada Malaysia sangat mementingkan kualiti lada terutamanya lada yang akan dieksport ke luar negara bagi memenuhi kehendak pelanggan. Lada Sarawak yang melalui proses-proses penggredan makmal sudah pastinya mencapai tahap kualiti yang dikehendaki dunia.

B. Kopi Tenom (*Tenom Coffee*)

Pemunya Petunjuk Geografi: Yit Foh Coffee Factory Sdn. Bhd.

1. Bilakah Kopi Tenom didaftarkan?

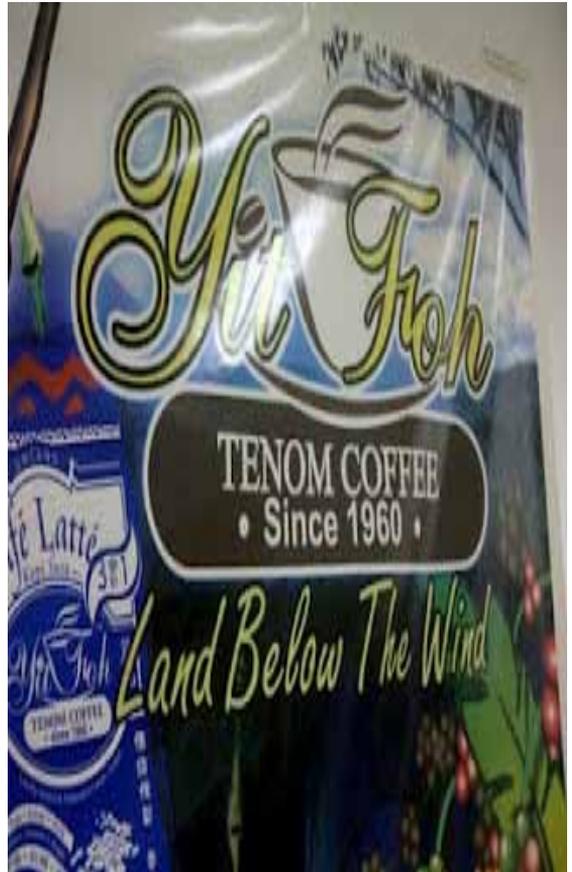
Kopi Tenom telah didaftarkan di Perbadanan Harta Intelek Malaysia pada 1 November 2006.

2. Apakah keistimewaan Kopi Tenom berbanding kopi yang lain?

Kopi Tenom mempunyai keistimewaan tersendiri dari segi cara pemprosesan iaitu menggunakan kayu api untuk menggoreng biji kopi dan juga campuran ramuan-ramuan untuk mengekalkan rasa tradisional Kopi Tenom sejak tahun 1960 lagi. Walau bagaimanapun, hanya pengguna yang betul-betul dapat menilaikan keunikan rasa Kopi Tenom Yit Foh.

3. Apakah kepentingan pendaftaran Kopi Tenom sebagai petunjuk geografi?

Setelah pihak Yit Foh Coffee Factory Sdn. Bhd. Mendapatkan penerangan mengenai kepentingan petunjuk geografi oleh pegawai daripada MyIPO, pihak kami dapat simpulkan bahawa pendaftaran Kopi Tenom sebagai petunjuk geografi adalah sangat bagus kerana pendaftaran ini dapat melindungi hak pengeluar dan usahawan di samping menjaga reputasi Kopi Tenom.



4. Apakah impak ekonomi selepas pendaftaran Kopi Tenom sebagai petunjuk geografi?

Disebabkan petunjuk geografi itu juga merupakan satu jaminan kualiti maka tahap kepercayaan pengguna terhadap produk Kopi Tenom adalah lebih tinggi kerana produk yang membawa label petunjuk geografi ini mendapat permintaan yang meningkat dan pasaran menjadi lebih luas.

5. Sejauh manakah Kopi Tenom dipasarkan?

Disebabkan pengeluaran terhad maka pasaran utama ialah di Malaysia. Jika di Semenanjung Malaysia, produk Kopi Tenom boleh diperolehi di pasaraya Jaya Jusco di sekitar Kuala Lumpur, Pulau Pinang dan Johor.



6. Bagaimanakah penjagaan kualiti Kopi Tenom?

Kualiti Kopi Tenom adalah sesuatu perkara yang tidak boleh di kompromi maka pengetahuan, kemahiran dan pengalaman pekerja adalah sangat penting dan dititik beratkan.

7. Apakah badan kawal selia yang mengawal selia Kopi Tenom?

Pihak Kementerian Kesihatan Malaysia (KKM) sentiasa membuat pemeriksaan ke atas kilang dan produk untuk memastikan produk Kopi Tenom daripada pencemaran dan bahan-bahan terlarang. Selain itu, pihak Jabatan Agama iaitu Jabatan Hal Ehwal Islam Negeri Sabah (JAHEINS) juga membuat pemeriksaan supaya produk Kopi Tenom dijamin halal.

8. Sekiranya ada pihak yang tidak berwajib cuba mengelirukan orang awam dengan menggunakan petunjuk geografi Kopi Tenom dalam urusan perniagaan, apakah tindakan tuan untuk mengatasinya?

Petunjuk geografi yang di daftarkan adalah sah dan dilindungi oleh undang-undang. Sekiranya berlaku penyelewengan atau pelanggaran penggunaan petunjuk geografi, pihak Yit Foh Coffee Factory Sdn. Bhd. akan mengambil tindakan tegas bagi membendung aktiviti perniagaan yang tidak sihat dan penggunaan petunjuk geografi secara sewenang-wenangnya tanpa kawalan kerana ianya dikhuatiri akan menjejaskan kualiti dan reputasi Kopi Tenom.

9. Dari segi menjaga reputasi dan kualiti produk, adakah semua pengusaha Kopi Tenom mengadakan mesyuarat ke arah itu?

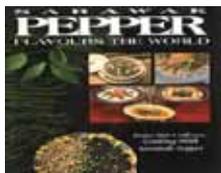
Semua pengusaha Kopi Tenom sudah mengetahui kepentingan petunjuk geografi dalam urusan perniagaan ataupun pemasaran. Sehubungan itu, kesemua pengeluar ini tahu akan tanggungjawab bagi memelihara kualiti dan reputasi Kopi Tenom ini.

10. Adakah Kopi Tenom telah membantu industri pelancongan di Daerah Tenom?

Pihak Yit Foh Coffee Factory Sdn. Bhd. sering mendapat kunjungan daripada pelancong asing dan tidak kurang juga kunjungan daripada rakyat tempatan daripada Semenanjung Malaysia, Kota Kinabalu, Tawau dan Sandakan yang datang melawat kilang dan melihat bagaimana kopi di proses. Mereka akan membeli produk Kopi Tenom untuk dibawa pulang ke negara masing-masing dan secara tidak langsung telah memperkenalkan Daerah Tenom. Selain itu, murid-murid sekolah dari dalam dan luar kawasan Tenom juga mengadakan program lawatan ke kilang Kopi Tenom.



LIST OF REGISTERED LOCAL GEOGRAPHICAL INDICATIONS IN MALAYSIA



Applicant Pepper Marketing Board
Geographical Indication Sarawak Pepper
Date of Reg. 4 Nov 2003



Applicant Desa Tea Sdn.Bhd
Geographical Indication Sabah Tea
Date of Reg. 10 Oct 2006



Applicant Spark Prestige Sdn.Bhd
Geographical Indication Borneo Virgin Coconut Oil
Date of Reg. 13 Oct 2006



Applicant Yit Foh Coffee Factory Sdn. Bhd.
Geographical Indication Tenom Coffee
Date of Reg. 1 Nov 2006



Applicant Tacara Sdn. Bhd.
Geographical Indication Sabah Seaweed
Date of Reg. 9 Apr 2007



Applicant Jabatan Pertanian Sarawak
Geographical Indication Bario Rice
Date of Reg. 13 Mar 2008



Applicant	Johan Limau Bali Chuan
Geographical Indication	Buah Limau Bali Sungai Gedong (Sungai Gedong Pamelos)
Date of Reg.	13 Nov 2008



Applicant	Sarawak Information Technology And Resources Council
Geographical Indication	Sarawak Beras Biris
Date of Reg.	17 Feb 2009



Applicant	Sarawak Information Technology And Resources Council
Geographical Indication	Sarawak Beras Bajong
Date of Reg.	17 Feb 2009



Applicant	Gerakan Daya Wawasan (GDW)
Geographical Indication	Kuih Lidah Kampung Berundong Papar
Date of Reg.	23 Jul 2009



Applicant	Pemborong Mangkab Sdn. Bhd.
Geographical Indication	Tambunan Ginger
Date of Reg.	20 Feb 2009



Applicant	Sarawak Information Technology and Resources Council (SITRC)
Geographical Indication	Sarawak Dabai
Date of Reg.	9 Mar 2010



Applicant	Terung Asam Sarawak
Geographical Indication	(Sarawak Sour Eggplant)
Date of Reg.	12 Oct 2010



Applicant	Persatuan Pengusaha Kek Lapis Sarawak (Association of Sarawak Layered Cake Producers)
Geographical Indication	Kek Lapis Sarawak (Sarawak Layered Cake)
Date of Reg.	10 Nov 2010



Applicant	The Government of the State of Sarawak
Geographical Indication	Sarawak Litsea
Date of Reg.	28 Jan 2011



Applicant	16. Friendly Farm Sdn. Bhd.
Geographical Indication	Langkawi Cheese
Date of Reg.	3 Mar 2011



Applicant	Jabatan Pertanian Negeri Perlis
Geographical Indication	Mangga Harumanis Perlis
Date of Reg.	2 Aug 2011

DO YOU KNOW?

To date, the state of Sarawak has the highest number of registered geographical indications (GIs) in Malaysia with eight products.

Peru, Scotland, France and Italy are the four foreign countries that have registered their respective GIs in Malaysia.

LIST OF REGISTERED FOREIGN GEOGRAPHICAL INDICATIONS IN MALAYSIA



Applicant	The Republic of Peru
Geographical Indication	Pisco
Date of Reg.	3 Dec 2008



Applicant	The Scotch Whisky Association
Geographical Indication	Scotch Whisky
Date of Reg.	18 June 2009



Applicant	Consorzio del Formaggio
Geographical Indication	Parmigiano Reggiano
Date of Reg.	17 Dec 2010



Applicant	Bureau National Interprofessionnel du Cognac
Geographical Indication	Cognac
Date of Reg.	24 Dec 2010



Applicant	Comité Interprofessionnel Du Vin De Champagne (Civic)
Geographical Indication	Champagne
Date of Reg.	25 Aug 2011

FACTS & FIGURES

Melton Mowbray pork pies and Stilton cheese bring in an estimated £100m in sales and tourism at the close neighbours of Leicestershire area.

Source: bb.co.uk

Darjeeling annually produces less than 10 million kilos of tea. Sales figures indicate almost 40 million kilos are sold as Darjeeling. Manufacturers were given until January 2013 to change their blending practices and packaging.

Source: [worldteanews](http://worldteanews.com)



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Petunjuk Geografi Berpotensi Didaftarkan di Malaysia



IP NEWS *in brief*

EUROPEAN UNION (EU)

EU Welcomes Russia's WTO Accession after 18 years of Negotiations

After 18 years of negotiations, Russia joins the World Trade Organisation (WTO) as its 156th member. This accession is particularly important for the EU, as the EU is Russia's first trading partner and Russia is the EU's third trading partner. For the first time both entities will be bound by multilateral rules and obligations for their mutual trade.

The WTO accession will have a positive impact on the conditions of trade and investment between Russia and the European Union. The geographical position of Russia and the importance of its market in terms of volume and growth make it a very important trading partner of the EU.

As a consequence of the WTO accession, Russia will amongst others lower its import duties, limit its export duties, grant greater market access for EU services providers and facilitate rules and procedures in many areas affecting bilateral economic relations. Of particular importance will be regulations on customs procedures, the use of health and sanitary measures, technical standards and the protection of intellectual property.

Source: europa.eu

AUSTRALIA

Australian Made Breakthrough in China

The Australian made, Australian Grown (AMAG) logo has now been formally trademarked in China after commencing the registration process four years ago with the active and financial support of the Australian government.

For the first time ever, Australian exporters have a symbol which can be used on their Australian-made grown exports into China, which both establishes their products as genuinely Australian and is legally protected under Chinese law.

The AMAG logo's formal registration in China as a country-of-origin symbol for Australia provides an essential legal framework which exporters can rely upon in the event that the logo or product carrying is copied or used without proper authority.

Source: FarmWeekly

SINGAPORE

Singapore, South Korea Ink MoU On IP Pact, Patent Prosecution Highway Programme

Singapore and South Korea today signed two memorandums of understanding (MoUs) on comprehensive intellectual property cooperation and on a pilot Patent Prosecution Highway (PPH) programme.

The MoU on cooperation in the IP field establishes an overarching framework for bilateral cooperation between IPOS and KIPO aimed at improving administration and effectiveness of IP systems in both offices through exchanges of information and best practices.

This will allow applicants in both countries to obtain corresponding patents faster and more efficiently.

Implementation of the new PPH pilot programme between Singapore and South Korea will commence on Jan 1, 2013

INDIA

Protect Indian Remedies

Mr. Vinod Bhatt, director of research at Navdanya, a body that promote indigenous knowledge said that India is one of the mega centres for biodiversity in the world. India had early this year, successfully fought off an attempt by a giant Swiss company to secure patent since 2009 at European Patent Office (EPO) for a cow's milk based laxative.

Head of India's Traditional Knowledge Digital Library (TKDL), Mr. Vinod Kumar was cited as saying that India had succeeded in protecting 110 of their traditional knowledge from being exploited commercially by the western world while another 800 are still in the pipeline. More than 200 researchers took 8 years to create the Indian TKDL database, browsing through texts on Hindi, Sanskrit, Arabic, Persian and Urdu ayurveda, yoga and lesser known health system unani and siddha.

Meanwhile Mr. Devinder Sharma, an agriculture scientist and biodiversity expert hope that India could revise their patent law to ensure control over their unique system of medicine, as what China had done to their legislation. It is hope that India would succeed in their fight to protect their 'genetic heritage'.

UNITED STATES OF AMERICA

US post-grant opposition rules finalised

According to ManagingIP, the final rules on post-grant oppositions should make challenging patents in the US far more efficient.

The USPTO's final rules on post-grant opposition proceedings, published in August 2012 have been generally welcomed by lawyers. Overall, attorneys were pleased with the USPTO's modification of some of the more controversial rules in response to feedback received during the public comments phase. Based on one of the special counsels, although practitioners identified some areas that could still be improved, he noted that "some of the edge has been taken off" the most cumbersome requirements.

Some of the key changes include, routine discovery of inconsistent information, estoppels against patent applicant or owner, amending a claim as well as new fees for post grant proceedings.

Source: managingip (September 2012)

SNAPSHOTS

OF GEOGRAPHICAL INDICATIONS

EU-Moldova Agreement On Geographical Indications

The European Union and the Republic of Moldova signed, on 26 June, an agreement to protect their respective geographical indications (GIs). Moldova will ensure a high level of protection for more than 3,200 GIs for food products, wines and spirits already protected within the EU. The agreement also aims at promoting trade in quality agricultural products and foodstuffs between the two parties.

The development of GIs is expected to contribute significantly to the diversification of wine production in the Republic of Moldova. The initial protection of two wine GIs originating from Moldova ('Romanesti' and 'Ciumai' PDO wines) is expected to help the marketing of these products on the EU market. It will also encourage the development of a GI protection system in Moldova, for example through its extension to other categories of products.

Similar bilateral agreements have already been concluded with several EU trading partners, for example with Switzerland and South Korea, or are currently under negotiation. After Georgia, Moldova is the second among the EU neighbourhood countries to take this important step.

Source : The European Affairs Daily

Darjeeling Tea Wins Purity Test

The long struggle for Darjeeling tea growers to protect its 'sanctity' is finally over. Only those that are 100% Darjeeling tea can be mentioned as such all over the world. If there is any blend, it has to be mentioned on the packet.

"The German Tea Association agreed in a recent meeting that any packet labeled as Darjeeling Tea will have 100% Darjeeling tea. If there is any blend, it will be specified on the packet. This will definitely help generate more demand for Darjeeling tea in the European market," S S Bagaria, chairman of Darjeeling Tea Association, told TOI.

Source : The Times of India

"Geographical Indications" as a new branding technique for local entrepreneurs

The Intellectual Property Office of the Philippines (IPOP HL) has embarked on a geographical indications (GI) scheme as a branding exercise for products in order to make them more competitive in the local and global markets.

Ms. Leny B. Raz, the Trademarks Director says IPOP HL has identified eight products that may fall under the GI scheme namely Dagupan bangus (milkfish), Batangas barako coffee, Lumban barong, Bicol pili nuts, Guimaras fresh mangos, Aklan piña cloth, Cebu dried mangos, and Lake Sebu tinalak. According to Raz, Intellectual property puts in extra value to a certain product that is marketed globally. For instance, barako coffee's price is not only measured in terms of its weight. Using the word "barako", we can add value to our product. Barako connotes a unique place of origin, a process, and specific time of planting and harvest.

With the GI scheme in place, consumers will be guaranteed that a certain product is made according to the traditional methods from the place and a quality standard set by its local manufacturers in coordination with the local government.

Raz also says that IPOP HL is proposing a bill to protect these geographical indications since this is a form of intellectual property. Right now, it is protected only as a trade or collective mark system.

Source: IPOP HL

INTELLECTUAL PROPERTY TRAINING CENTRE (IPTC) FACILITIES

TRAINING ROOMS

IPTC has 5 training rooms: Camelia, Lavender, Tulip, Cempaka and Kenanga for various functions ranging from training, meeting, courses, workshops, seminar and conferences and other functions ranging from training, meeting, courses, workshops, seminar, conferences and other functions. Each room is fully equipped with advanced audio visual equipment such as PA system, LCD projector, plasma TV and WiFi for internet connection. The arrangement of chairs and tables can be positioned according to the client's specific needs.

ROOMS	SEATING CAPACITY
Camelia	60 participants
Lavender	50 participants
Tulip	50 participants
Cempaka	50 participants
Kenanga	38 participants



TRAINING ROOMS



IPTC BALLROOM

IPTC BALLROOM

Spanning an area of more than 3626 square metres, IPTC Ballroom can accommodate up to 200 people is equipped with the latest audio visual teaching aids such as PA system, LCD projector, plasma TV and internet connection. This venue is recommended for many domestic meetings and seminars

Rooms	Seating Capacity	Area (s.q)	Style
IPTC Ballroom	200 participants	3626	Seminar style
IPTC Ballroom	300 participants	3626	Theatre style

COMPUTER TRAINING LAB

This computer training lab known as Kenanga room provides a total of 38 computers with internet connection are provided for the use of participants.

PUBLIC SEARCH ROOM

The Public Search Room is located on Mezzanine Floor to provide public access to patents, trade marks and industrial designs information. It can accommodate 34 people at one time and is open from 8.30 am-5.15 pm from Monday to Friday. Well-trained staff are available to assist public users.

INTELLECTUAL PROPERTY LIBRARY (IP LIBRARY)

Intellectual Property Library (IP Library) provided with a total of 5000 references books on intellectual property and general, newspapers, journals and magazines. The collection consists of both local and international publications. Our library also provided computer facilities with internet connection that would allow the participants to access information more effectively.

MUSOLLAH

IPTC also accentuate on the comfort of performing prayers by providing a prayer's room or a musollah for the participants. This musollah can accommodate 50 people at a time.



COMPUTER TRAINING LAB



INTELLECTUAL PROPERTY LIBRARY (IP LIBRARY)



TRAINING ROOMS

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PATENT <small>BUKUKAN HUKUM BERSEKUT</small>	TRADE MARK <small>TERSEKUTUPELAH TANDA DAN PERSEKUT</small>	INDUSTRIAL DESIGNS <small>DIRANGKAIKAN, KERTAS DAN BERSEKUT</small>	GEOGRAPHICAL INDICATIONS <small>AN INDICATION THAT ASSOCIATED TO A SPECIFIC GEOGRAPHICAL PLACE</small>
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