

PINTAS IP GROUP



" Today's Asset, Tomorrow's Value "



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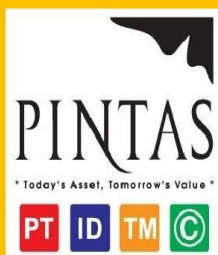
SEASONS GREETINGS AND A HAPPY NEW YEAR 2016!

The year 2015 has been a turbulent year for the intellectual market and we here at Pintas IP Group were on the ride none the less. As we enter into the year 2016,



The Management and Staff of Pintas IP Group would like to wish everyone a Happy and Prosperous Year of the Monkey!

GONG XI FA CAI!!!



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IAM PATENT 1000 AWARD

We here at Pintas IP are proud to announce that one of our main achievements for 2015 is ranked in the IAM Patent 1000 under Top Patent Professionals and our Director, Mr Lok Choon Hong is featured as a leading individual in the Prosecution Category!



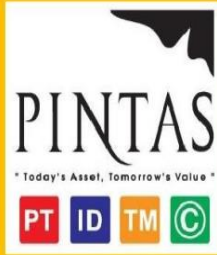
MALAYSIAN CASE LAW

Alpha Home Round Fan Industrial Design Filed by Pintas Wins against Imitator at Malaysian High Court

In the High Court case of Alpha Home Appliances Sdn Bhd (Plaintiff) v NSB Home Appliance (Defendant) claiming that NSB has infringed upon Alpha's Industrial Design Registration No. MY07 – 1270 – 0306 (as of now known as "Plaintiff's ID) and for passing off. NSB launched a counterclaim looking to revoke the Plaintiff's ID under section 27(1)(a) of the IDA 1996 on the claims that the 'Round Shape' Alpha Fan protected under the Plaintiff's ID is not novel as there is disclosure by the way of advertisement dating before the registration of the ID, 10/9/2007.

Alpha's nature of business involves the research and development, manufacturing and distribution of home appliances, particularly to fans and water heaters. NSB on the other hand deals with the manufacturing, import, export and distribute all types of home appliances. Alpha has been manufacturing, distributing and selling of the Alpha Fan as per the registered industrial design of the Plaintiff's ID since 21.8.2008. NSB began selling the "ASTA 56" fans, imported from China, since December 2012.

Around January 2013, Alpha found out that NSB has been distributing, offering for sale and selling "ASTA 56", with housing designed features of shape, configuration, pattern and ornament of which Alpha claims to be similar or an obvious imitation of the Alpha Fans. This led Alpha to file a suit against NSB for infringement and passing off but Alpha limited its case



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Pintas-IP Protection Services

Patents

A patent is an exclusive right granted for an invention, which is a product or a process that provides a new way doing something or that it offers a new technical solution to an existing problem.

Trademarks

A trademark is a sign used for the purpose of indicating a connection between a person having the right to use the sign for his goods and services, distinguishing it from those of others. A sign includes words, logos, labels, names, letters, numbers or a combination of the above.

Industrial Design

Industrial design means features of shape, configuration, pattern or ornament applied to an article by any industrial process or means.

Copyright

The exclusive and assignable legal right given to the originator for a fixed number of years, to print, publish, perform, film or to record literary, artistic, or musical material.

to an industrial design infringement and did not submit on the claim of passing off.

The trial judge stood guided by the case of Three V Marketing Sdn Bhd where both fans were to be scrutinized side by side, apart and at a distance away. The trial judge considered both fans as a whole; he is of the considered opinion that both fans are round in shape, in respect of the bottom part of the housing and the motor housing. It is the submission from NSB, however, that although the ASTA 56 fan is round, it has a concave bottom. Although being viewed from a distance away, the concave bottom is neither noticeable nor distinctive enough to differentiate it from the Plaintiff's Alpha Fan.

The trial judge found that the shape, configuration, pattern and ornament of NSB's 'ASTA 56' are and obvious imitation of the corresponding features of the Alpha Fan. Alpha's claim is allowed and NSB's counterclaim is dismissed with a cost.

Although two product designs may be distinctive at a first glance, industrial designs should be placed with more importance for inspection to avoid being classified as an imitation when viewed from a different angle.

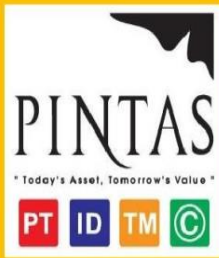
Patent Dependent Claims Emasculated by The Federal Court's Decision of SKB Shutters Manufacturing Sdn Bhd v Seng Kong Shutter Industries Sdn Bhd

The Federal Court of Malaysia has recently issued a decision in a Patent case, SKB Shutters Manufacturing Sdn Bhd v Seng Kong Shutter Industries Sdn Bhd, which upheld a Decision of the Court of Appeal that we believe to be totally wrongly decided.

In the Court of first instance, SKB's Malaysian Patent MY – 28431 – A was found by the Judge to be valid and infringed and allegations of lack of novelty and inventive step were dismissed.

The Court of Appeal reversed the Judge's Decision and found the Patent to be invalid but, rather strangely, failed to revoke the Patent. The Court of Appeal based its Decision on a finding, *inter alia*, that independent Claims 1, 9 and 11 were invalid and therefore they did not have to consider the validity of any "dependent" claims.

The Federal Court on this point said, in effect, that if an "independent" claim is found to be invalid, "the only way the 'dependent' claim can survive and stand if at all is if the dependent claims are redrafted to incorporate the features of the claim upon which they are dependent and are made an independent claim." And such amendment has to be made before the independent claim is found to be invalid and would, of course,



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require an impossible degree of prophesy on the part of the patent attorney or agent.

SINGAPORE CASE LAW

No Copyright for Fact-Based and Widely Used Materials

Global Yellow Pages Ltd (GYP) has lost its law suit against its rival, Promedia Directories (Promedia) for alleged copyright infringement, after the High Court dismissed its claims.

GYP had alleged that Promedia, the publishing company for the Green Book, had copied since 2003 to 2009 from four of GYP's directories. Those directories are three printed ones which are the Business Listings, the Yellow Pages Business and the Yellow Pages Consumer – and the online Internet Yellow Pages.

GYP claimed copyright in the individual listings which includes a name, address and telephone number, highlighting that it had to verify, enhance and classify raw data from telcos, Singtel and M1. Both of GYP's lawyers, Bryan Ghows and Wang Yingyu had argued there were "substantial similarities" between Promedia's printed Green Book, digital CD-ROM directory and the online directory with those on the Yellow Pages listings. This led to GYP alleging that Promedia could not have been able to obtain information on these listings without Promedia copying from GYP's own directories.

Promedia on the other hand added that it had its own database of companies and businesses, regularly updated from different sources. G. Radakrishnan and Mark Teng, both of which are Promedia's lawyers, denied GYP's claims stating that telephone directories will inevitably be similar in content as they are fact-based.

In judgement grounds, Justice George Wei ruled that GYP did not have copyright in some of the works cited and thus there was no infringement. The judge found that there was no infringement by Promedia as no substantial reproduction that could amount to infringement could be found. Justice Wei said, "Copyright does not subsist in individual listings. The form of expression contained in the listings does not meet the level of originality – if there is any originality at all – for copyright protection to be conferred." He added, "To grant GYP copyright protection over the individual would be tantamount to granting it copyright over them, and thus a monopoly over the use of the bare facts themselves."

The case was first filed in 2009 and culminated in a 23-day trial in late 2014 which ended with the judge dismissing GYP's claim of copyright infringement and allowing Promedia's counterclaim against it for groundless threat of copyright infringement. Damages on the counterclaim payable by GYP will be separately assessed and Promedia was awarded costs.

"These are facts which no one can claim copyright ownership over; they are entitled to be used by everyone," Justice Wei said.

Different publishers sharing common facts for information such as published names and contact details should take awareness that such information is free for public use.

Malaysian High Court Rules on Dispute Between Musical Collecting Societies

In a civil law-suit filed by Recording Industry Association of Malaysia (RIM) and its subsidiary, Public Performance Malaysia Sdn Bhd (PPM) against PRISM Berhad (PRISM), the Kuala Lumpur High Court, after a full trial, on 26 January 2015 found PRISM Berhad to be liable for the infringement of PPM's copyright in PRISM's licensing documents and for passing-off by falsely representing to the public that they acted on behalf of RIM members.

Both PPM and PRISM has similar roles and functionality in that both issue licenses to the licensees and collects royalties in respect of public performances. However, PPM has terminated its relationship with Prism Sdn Bhd and has since acted for the Recording Performers Malaysia Berhad (RPM) while PRISM Berhad being the defendant, obtained its Licensing Documents from Prism Sdn Bhd and has published, circulated or made available the licensing documents to members of the public and music users. PPM contended that PRISM Berhad had used its Licensing Documents without permission and sued PRISM Berhad for copyright infringement and the tort of passing-off.

PPM's claim for copyright infringement against PRISM is premised on Section 36(1) of the Copyright Act 1987 ('Act332') and in the present case, the evidence has shown that PRISM's misrepresentation has caused confusion and deception to music users and PPM's licensees as well as having caused further inconveniences, interference, prejudice, injury and damage to PPM.

At the end of the trial, the Kuala Lumpur High Court allowed PPM's claim against PRISM for copyright infringement and passing off with costs as it was of the considered opinion of the Court that PPM had managed to establish the elements for an action in passing-off against PRISM.

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IP NEWS AROUND THE WORLD

Amazon Awarded Patent for Drone Delivery System!

Amazon has been planning to use flying robots to deliver goods to customers for quite some time and now the online retail giant has a patent for its "PrimeAir" drone delivery system.

The U.S. Patent and Trademark Office published the patent last week. Amazon submitted its proposal for a retail delivery system using unmanned aircraft last September.

The patent awards Amazon exclusive IP related to a "system for aerial delivery" rather than relating to a specific type of drone aircraft. The first claim in the patent describes:
"1. A system for aerial delivery of items to a destination location, comprising: a plurality of unmanned aerial vehicles, each of the plurality of unmanned aerial vehicles configured to aerially transport items; an unmanned aerial vehicle management system, including: a processor; and a memory coupled to the processor and storing program instructions that when executed by the processor cause the processors to at least: receive a request to deliver an item to a destination location; and send to an unmanned aerial vehicle of the plurality of unmanned aerial vehicles, delivery parameters identifying a source location that includes the item and a destination location; wherein the unmanned aerial vehicle, in response to receiving the delivery parameters, is further configured to at least: navigate to the source location; engage the item located at the source location; navigate a navigation route to the destination location; and disengage the item."

A further 19 claims relate to ways the drones in Amazon's fleet would be managed, networked, navigated, receive delivery locations from online purchases, complete deliveries, and more. Patent in hand, Amazon now has a couple more mountains to climb, the BBC noted. Namely, the company must still perfect the technology behind its ambitious drone delivery service and also convince regulators to allow it and others to deploy robot aircraft in U.S. skies in more numbers and with more freedom than currently permitted.



In the latter case, Amazon has been lobbying hard to push the Federal Aviation Administration to change drone-related regulations. In March, just a week after the FAA gave the company permission to test out unmanned aircraft for delivery purposes; Amazon vice president of Global Public Policy Paul Misener visited Capitol Hill to chide the agency for taking too long to approve that testing and restricting the process too much.

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With regards to the March 19 issuance of an experimental airworthiness certificate to Amazon Logistics, Misener said, "the permission the FAA granted is more restrictive than are the rules and approvals by which we conduct outdoor testing in the U.K. and elsewhere."

"Moreover, obtaining permission took far too long, and certainly much longer—over half a year—than it took in other countries," he added.

The 2012 FAA Air Transportation Modernization and Safety Improvement Act include a mandate to loosen up drone restrictions and integrate commercial drones into the National Airspace System. But in 2013, a long-term planning report by the Transportation Department suggested more leeway for drone operators in the U.S. won't be officially instituted until this year at the earliest.

Amazon revealed the first results of PrimeAir testing in December 2013. At the time, Amazon CEO Jeff Bezos said electrically powered PrimeAir drones were being designed to carry objects up to 5 pounds in weight, which covers up to 86 percent of the objects Amazon delivers.

"We're not going to deliver kayaks or table saws with PrimeAir," he quipped.

Apple filed a patent that would let you control touchscreens without touching them

Apple filed a patent on Tuesday for multi-touch surfaces with touch-free proximity sensors, which means we could see Apple devices with gesture-based input in the future.



The patent, which you can view on the website of the U.S. Patent and Trademark Office and was surfaced by Apple Insider, details Apple's work on technology that lets users interact with computers using hover events — described in the patent as “the no-touch, close proximity hovering of fingers or other objects above a touch-sensitive surface but outside the near-field detection capabilities of touch sensors.”

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This combines with multi-touch events to produce several potential outcomes, including using gestures to turn off a display screen, powering down, quitting applications and changing screen brightness. Apple also describes hovering over positions of the surface could highlight a button on the screen, which signifies that the button will be pushed if the user presses down, similar to a cursor hover.

Apple would achieve this with one or more proximity sensors composed of infrared LEDs and photodiodes. Photodiodes alter electrical currents based on how much light they detect, so by bouncing infrared light off your hands, fingers or other objects, multiple sensors could detect their presence and approximate any gestures you make based on light changes.

While Apple doesn't specify which kind of device this technology would be used on, it does include the following image in its patent, which describes non-contact input on a laptop with a standard touchpad.

It's just a patent, so there's a chance we won't see this technology at all — but there's also a chance it could be incorporated into desktop displays and even mice.

PINTAS HIGHLIGHT OF 2015

Intellectual Property Seminar in Shimano, Singapore
(14th December 2015)

Intellectual Property Seminar in Hunan, China
(12th November 2015)

Seminar on Providing Intellectual Property Training for George Kent Group of Companies
(28th October 2015)

Seminar at Patentproofing Your Innovation and Invention
(23rd April 2015 – KL, 8th May 2015 – Penang, 4th June 2015 – Johor)

Seminar on Patent Search for Protection and Commercialisation
(10th February 2015)

Talk at the China-ASEAN Science and Technology Partnership Program, Shen Zhen
(19th April 2015)

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