PATENT UPDATES

Jo-Ann See
Director
+65 6303 6211
joann.see@amicalaw.com

Winnie Tham
Director
+65 6303 6217
winnie.tham@amicalaw.com

Lo Wen Yu
Senior Patent Attorney
+65 6303 6227
lo.wenyu@amicalaw.com

Edmund Kok
Senior Patent Attorney
+65 6372 5488
edmund.kok@amicalaw.com

ADDRESS
30 Raffles Place
#14-01 Chevron House
Singapore 048622
Tel: +65 6303 6210
Fax: +65 6303 6222
+65 6536 9332

www.amicalaw.com

MORE AMENDMENTS TO THE PATENTS LEGISLATION ON THE HORIZON?

The Intellectual Property Office of Singapore ("IPOS") has also just released a Public Consultation seeking feedback on proposed amendments to the Singapore Patents Act and Rules.

The main changes relate to the broadening of the grace period for patent applications. Singapore currently has an absolutely novelty requirement. There are only limited situations where a prior disclosure is disregarded, for example, due to a breach of confidence, or made at a recognised international exhibition or to a learned society, and if it occurred within 12 months prior to the date of filing of the patent application in Singapore.

By way of comparison to other countries, it is observed that member countries to the EPC do not enjoy a broad grace period. Japan, Korea and USA on the other hand to provide grace periods.

This amendment is proposed in recognition of the fact that innovation and business landscapes have evolved, and in this fast paced environment, the need for early disclosure is becoming more common and pressing. This will also help inventors or patent applicants who are unaware of the novelty requirement, and may have, for example, disclosed their invention whilst seeking funding. Another example cited are academics and researchers who may have disclosed their invention in a public forum or scientific journal before filing.

Information in a patent application filed without the consent of the inventor/person who obtained information from the inventor may also be disregarded as prior art, as well as erroneous publications by Patent Offices.

This safety net for inventors and applicants is limited insofar as third parties can still claim prior user rights.

Other amendments in the pipeline are the closure of the foreign route, the withdrawal of an initial request for search and examination, examination or supplementary examination accompanied with the filing of a fresh request for examination under another route.

Whilst IPOS has already decided to implement the closure of the foreign route, comments on how the legislation should be implemented are sought.

The Public Consultation will close on 15 November 2016, and we expect further legislation changes in 2017 to be implemented.

New legislation

New legislation to consolidate and streamline existing regulatory controls for health products and to port over the existing regulatory controls of pharmaceutical products from the Medicines Act (Cap. 176) and Poisons Act (Cap. 234) to the Health Products Act (Cap. 122D) has come into effect on 1 November 2016. This includes:

- Health Products Act (Amendment of First Schedule) Order 2016
- Health Products (Therapeutic Products) Regulations 2016
- Health Products (Clinical Trials) Regulations 2016
- Health Products (Therapeutic Products as Clinical Research Materials) Regulations 2016
- Health Products (Advertisement of Therapeutic Products) Regulations 2016
- Health Products (Licensing of Retail Pharmacies) Regulations 2016

Amendments were also made to the following Regulations to ensure consistency with the controls of Therapeutic Products under the Health Products Act:

- Medicines (Clinical Trials) Regulations 2016
- Medicines (Medicinal Products as Clinical Research Materials) Regulations 2016
- Health Products (Medical Devices) (Amendment) Regulations 2016

The amendments were introduced by the Health Sciences Authority (HSA), a statutory board of the Ministry of Health, and discussed after rounds of public consultation.

Pharmaceutical products, conventionally termed as chemical and biologic drugs, is now a new category of health products in the First Schedule of the HPA using the term "therapeutic products". The existing controls for pharmaceutical products under the Medicines Act and Poisons Act no longer apply.

Following from this, consequential amendments have come into effect on 1 November 2016 under the Patents Act. Further, the Patents (Medicinal Health Products) Rules 2016 has been enacted and provides that a "therapeutic product" within the meaning of the Health Products Act, will comply with the definition of "medicinal product" in the Patents Act.

The Health Products Act (HPA) was introduced in 2007 with the eventual aim to consolidate and streamline the regulatory controls of health products under one single Act. This has been done in phases and these latest changes are a significant milestone.