

MICA (P) No. 064/05/2005 March — April 2006

inter se

S I N G A P O R E A C A D E M Y O F L A W

Modes of Commencement of Proceedings: Phase 2

New Search Tool on Legal Prospector 2

Peer-to-Peer Technologies and Related Copyright Issues

A number of projects, on both the Singapore courts and the Singapore Academy of Law (“SAL”) fronts, are entering new phases. At the level of the courts, the changes to the modes of commencement of proceedings enter a second phase of implementation. With effect from 1 April 2006, there will be only two modes of commencing legal proceedings in the courts, the writ, and the originating summons for winding up, judicial management and bankruptcy proceedings, as well as for all matrimonial proceedings. As part of this effort to streamline court processes, the relevant subsidiary legislation have also been consolidated. A summary of the changes to the court applications and the relevant subsidiary legislation is featured in this issue of *Inter Se*.

At SAL, LawNet launches its most recent addition to the Legal Prospector 2 search engine. The “Reference Trace” research tool will allow LawNet users to accurately trace references to and annotations of primary legal sources within the Singapore Law Reports (“the SLR”). The search function is also available for all references to secondary legal sources cited in cases reported in the SLR from 2006 onwards. Additionally, the LawNet secretariat is working towards extending the search tool to cover all references to and annotations of primary and secondary legal sources in reported and unreported decisions of the Supreme Court.

Every effort is being taken to ensure that the legal infrastructure is as efficient and comprehensive as possible. Yet, the legal system and all its processes and machinery would mean very little if we did not have great men and women administering and serving in it. The legal community lost one such leading light in February. After grief, what remains is the legacy of legal insight and robust case law delivered with fairness and wit that the late Justice Lai Kew Chai will be remembered for. Through the Honourable Justice Chao Hick Tin and the Honourable Justice Choo Han Teck, we pay tribute to the late Justice Lai Kew Chai in a fitting final farewell.



Serene Wee
Director/Chief Executive Officer
Singapore Academy of Law

Director/Chief Executive Officer: Ms Serene Wee • Editor: Anita Parkash • Editorial Committee: David Quark and Sherina Chan • Singapore Academy of Law, 1 Supreme Court Lane, Level 6, Singapore 178879, Tel: 6332 4388, Fax: 6334 4940 • Design: Chiang Weiyah • Advertising Sales: Florence Long, 9382 0381, florence@mediactive.com.sg • Publisher: Lyon Low • **mediactive** Mediactive Pte Ltd, 65 Ubi Crescent, #06-07 Hola Centre, Singapore 408559, Tel: 6846 4168 • Printed in Singapore by KHL Printing Co Pte Ltd



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[Cover]: Photodisc Green

Together with this issue of *Inter Se*, we at the Singapore Academy of Law have prepared a handy little membership privileges booklet especially for our members. The SAL's membership privileges scheme has been up and running since 2002. The scheme was introduced to extend to members special discounts and offers from a range of dining, retail and leisure outlets across the island. In 2002, there were little over 25 vendors participating in the scheme. This year, members can look forward to enjoying privileges at over 60 outlets and the membership privileges booklet will ensure that members have all the information they need, at their fingertips.

CHANGES TO MODES OF COMMENCEMENT OF PROCEEDINGS: PHASE 2

By CAROLYN WOO AND DAVINIA FILZA ABDUL AZIZ, DEPUTY REGISTRARS, SUBORDINATE COURTS, AND DORCAS QUEK ERN LING, ASSISTANT REGISTRAR, SUPREME COURT

INTRODUCTION

On 1 January 2006, the first phase of amendments to the Rules of Court (Cap 322, R 5) and other relevant statutes, providing for only two modes of commencing legal proceedings, was implemented.¹ The second phase extends the amendments to the following classes of proceedings:

- (a) bankruptcy proceedings under the Bankruptcy Act (Cap 20) and the Bankruptcy Rules (Cap 20, R 1);
- (b) proceedings relating to the winding up of companies under s 410 of the Companies Act (Cap 50) and the Companies (Winding Up) Rules (Cap 50, R 1);
- (c) proceedings relating to judicial management of companies under s 227A of the Companies Act (Cap 50) and the Companies Regulations (Cap 50, Reg 1);
- (d) proceedings relating to the winding up of limited liability partnerships under the Limited Liability Partnerships Act 2005 (No 5 of 2005) and the Limited Liability (Winding Up) Rules 2005 (S 532/2005); and
- (e) proceedings under Pt X of the Women's Charter (Cap 353), the Women's Charter (Matrimonial Proceedings) Rules (Cap 353, R 4) and the Women's Charter (Matrimonial Proceedings – Fees) Rules (Cap 353, R 5) (“matrimonial proceedings”).

The necessary amendments to each of the relevant

parent Acts were effected in the Statutes (Miscellaneous Amendments) (No 2) Act (“the Act”). Amendments to the relevant subsidiary legislation have also been effected. These amendments are scheduled to enter into force on 1 April 2006.² This article highlights the key features of the amendments.

WINDING UP, JUDICIAL MANAGEMENT AND BANKRUPTCY PROCEEDINGS

Winding up proceedings

Applications for winding up of companies and limited liability partnerships will be made by way of originating summons instead of petition. These applications will continue to be heard in open Court according to r 5 of Companies (Winding Up) Rules and the Limited Liability Partnerships (Winding Up) Rules.

The originating summons will state the relief sought for. The supporting facts, which are currently in the petition, will be averred to in an affidavit filed in support of the originating summons. Presently, the affidavit verifying the petition may be filed within four days after the petition. Under the amended r 25 of the Companies (Winding Up) Rules and the Limited Liability Partnerships (Winding Up) Rules, the supporting affidavit is to be filed together with the originating summons.

In voluntary winding up applications, the party is to be named as “applicant” in the originating summons. In all other winding up applications, the parties should be listed as “plaintiff” and

¹ A general overview of the 2006 amendments to the Rules of Court may be found in “Changes to Modes of Commencement of Proceedings”, *Inter Se*, September/October 2005 at p 3. The article, as well as the relevant legislative materials, may be accessed on the Supreme Court website (<http://www.supremecourt.gov.sg>).

² Statutes (Miscellaneous Amendments) (No 2) Act Commencement (No 2) Notification 2006.

“defendant”. Necessary changes have been made to both the Companies (Winding Up) Rules 2005 and the Limited Liability Partnerships (Winding Up) Rules 2005, as well as their parent Acts. The table below summarises the amendments:

| Type of changes | | Existing Companies (Winding Up) Rules | Amended Companies (Winding Up) Rules |
|---|-----------------------------|--|--|
| Mode of commencement | | Originating petition (“petition”) and affidavit verifying petition | Originating summons (“OS”) with supporting affidavit |
| Form to be used | Application by company | Form 2 (petition) and Form 7 (affidavit) | Form 2 (OS) and Form 5 (affidavit) |
| | Application by other person | Form 3 (petition by unpaid creditor on simple contract) and Form 7 (affidavit) | Form 3 (OS) and Form 5 (affidavit) |
| When to file supporting affidavit | | Within 4 days after petition is presented | To be filed together with OS |
| Names of parties on originating process | Application by company | Petitioner | Applicant |
| | Application by other person | Petitioner and respondent | Plaintiff and defendant |
| Validity of originating process | | No validity period | 6 months (for purpose of service) |

Table 1: Amendments to winding up proceedings.

Annex A shows a sample of Form 2 of the amended Companies (Winding Up) Rules. This is an originating summons by a person other than the company. The person applying for the order is listed as “plaintiff” and the company is referred to as “defendant”. The hearing date will be annotated directly in the originating summons instead of being annotated at the top portion of the originating summons, below the case number. A note has been inserted at the end of the originating summons, stating that the originating summons is to be served together with the supporting affidavit. A second note in the form alludes to the new r 17A of the Companies (Winding Up) Rules and the Limited Liability Partnerships (Winding Up) Rules, which provides that the originating summons is valid for only six months for the purpose of service. This period of validity is similar to the duration of an originating summons under O 7 r 5 of the Rules of

Court. An application has to be made to renew the originating summons in the event that it is not served within six months.

There are no amendments made to other time-lines such as the requirement of advertising the winding up application seven clear days before the hearing.

Judicial management proceedings

The amendments to these proceedings are largely similar to the changes to winding up proceedings. Rule 30 of the Companies Regulations (Judicial Management) has been amended to provide that an application for a judicial management order is to be made by originating summons (Form 63A). The supporting facts will also be deposed to in an affidavit in support of the originating summons (Form 63B), which is to be filed together with the originating summons. The current practice

of hearing judicial management applications in open Court in first instance will remain. Pursuant to O 28 r 2 of the Rules of Court, the Registrar has directed in para 29(6)(p) of the Supreme Court Practice Directions (2006 Ed) that these applications are to be heard in open Court.

Bankruptcy proceedings

All applications for bankruptcy orders are to be made by originating summons supported by affidavit. Under rr 106(1) and 138 of the amended Bankruptcy Rules, both the originating summons and affidavit are to be filed together. As in applications for winding up and judicial management, the originating summons for bankruptcy applications will have a limited validity period for the purpose of service. The new r 11A of the Bankruptcy Rules provides that the originating summons will be valid for 12 months where leave is granted to serve the application out of jurisdiction, and six months in all other cases. Where an application to renew the originating summons is successfully made, the originating summons has to be marked with an official stamp in Form 1A showing the period of extension granted.

Creditor's bankruptcy application

Annex B shows a sample of Form 2 of the Bankruptcy Rules. In this originating summons, the parties are no longer named as "petitioning creditor" and "debtor", but "plaintiff" and "defendant" respectively. The normal endorsement addressed to the defendant is still included in the originating summons. A note is also added to remind the plaintiff that the originating summons is to be served together with the affidavit.

Form 3 or Form 4 of the Bankruptcy Rules is to be used for filing the supporting affidavit. All other procedural requirements such as the filing of an affidavit to evidence service of the bankruptcy application have not been amended.

Debtor's bankruptcy application

The existing petition filed by the debtor will also be replaced by an originating summons (Form 9) and a supporting affidavit (Form 10). There will still be the requirement of filing a statement of affairs together with an affidavit verifying the statement of affairs.

Other applications under the Bankruptcy Rules

Rule 97 of the Bankruptcy Rules, which provides that an application to set aside a statutory demand is to be commenced by originating summons, has not been amended. As no specific form for this originating summons has been provided for in the Bankruptcy Rules, the form for an *inter partes* originating summons in the Rules of Court should be used (Form 4 of Appendix A). The parties are to be referred to as plaintiff and defendant.

Rule 11 of the Bankruptcy Rules has been amended to provide that every interlocutory application in the course of a bankruptcy application shall be made by summons. In line with the changes to the Rules of Court, "summons-in-chambers" in the current r 11 has been replaced by "summons". Again, the form for summons has not been stipulated within the Bankruptcy Rules. All interlocutory applications should therefore be made using Form 60 of the Rules of Court.

The above changes are set out the table below:

| Type of changes | | Existing Bankruptcy Rules | Amended Bankruptcy Rules |
|--|-------------------------------|---|---|
| Mode of commencement for application for bankruptcy order | | Originating petition ("petition") and affidavit verifying petition | Originating summons ("OS") with supporting affidavit |
| Form to be used | Creditor's application | Form 2 or 3 (petition) and Form 4 (affidavit) | Form 2 (OS) and Form 3 or Form 4 (affidavit) |
| | Debtor's application | Form 9 (petition) and Form 10 (affidavit); Form 11 (Statement of Affairs) and Form 12 (affidavit) | Form 9 (OS) and Form 10 (affidavit); Form 11 (Statement of Affairs) and Form 12 (affidavit) |

| | | | |
|---|------------------------------------|--|--|
| When to file supporting affidavit | | Within 4 days after petition is presented | To be filed together with OS |
| Names of parties on originating process | Application by company | Petitioner | Applicant |
| | Application by other person | Petitioner and respondent | Plaintiff and defendant |
| Validity of originating process | | No validity period | 6 months (for purpose of service) |
| Mode of commencement for application to set aside statutory demand | | Originating summons (Form 6, Appendix A, Rules of Court prior to 1 January 2006) | Originating summons (Form 5, Appendix A, Amended Rules of Court) |
| Mode for interlocutory applications | | Summons-in-chambers | Summons |

Table 2: Amendments to bankruptcy proceedings.

MATRIMONIAL PROCEEDINGS

Matrimonial proceedings are currently commenced by way of the originating petition. Part X of the Women’s Charter (Cap 353) has been amended (“the new Pt X”) to provide for the commencement of matrimonial proceedings by way of the writ of summons.

The Supreme Court of Judicature (Transfer of Matrimonial, Divorce and Guardianship Proceedings) Order 2005 (“the Transfer Order 2005”) and the Women’s Charter (Matrimonial Proceedings) Rules 2005 (“the MPR 2005”) were also duly gazetted to provide for the procedural changes arising from the new Pt X.

The Transfer Order 2005 preserves the existing transfer mechanism in the Transfer Order 2003, and contains mainly consequential terminological amendments arising from the use of the writ process in matrimonial proceedings.

The MPR 2005 consolidates the existing Women’s Charter (Matrimonial Proceedings) Rules 2003, the Women’s Charter (Matrimonial Proceedings) (Amendment) Rules 2005 and the Women’s Charter (Matrimonial Proceedings – Fees) Rules (“the existing Rules”), so that court users will refer to just one comprehensive set of procedural rules. The forms appear in the First Sched, and the applicable filing fees are annexed

as the Second Sched. The rules, as well as the forms, have also been re-ordered and re-numbered for a more logical flow.

Key features

This section highlights other key features brought about by the MPR 2005. At the outset, practitioners should note that substantive changes to current procedure are minimal, and that the MPR 2005 largely remains faithful to existing practices, while adhering as far as possible to the terminology and procedural steps of the writ process.

Commencement

The MPR 2005 only applies to matrimonial proceedings commenced on or after the operative date. Under r 67(2) of the MPR 2005, proceedings commenced by petition before the operative date will continue to be governed by the existing Rules.

Adoption of writ process

The MPR 2005 amends the existing Rules to account for the adoption of the writ process, introducing several new provisions to account for certain aspects of the writ process. However, not all aspects of the writ process have been adopted under the MPR 2005. For the avoidance of doubt, r 3(2) of the MPR 2005 disapplies specific provisions of the Rules

of Court (Cap 322, R 5), including the provisions on summary judgment (O 14), default of pleadings (O 19), discovery (O 24) and interrogatories (O 26 and O 26A). Provisions that are no longer applicable, such as those governing the petition and motion, have been deleted.

Changes in terminology

The existing names of parties and pleadings are substituted in the appropriate manner. The basic pleading structure familiar to practitioners is, however, preserved.

Commencing proceedings

Instead of filing a Petition, an Affidavit in Support of the Petition and a Notice of Proceedings (Respondent), the plaintiff files a Writ (Form 3), together with the appropriate Statement of Claim (Forms 6, 7, 8, 9 or 10) and a Statement of Particulars (Form 11). The Statement of Claim and Statement of Particulars are provided for in the new r 7. There is no longer a need to file a separate Notice of Proceedings addressed to the defendant as the relevant endorsements in the current Notice of Proceedings (Respondent) are captured in the Writ. The Statement of Claim is to set out the matters previously to be set out in the Petition. The Statement of Particulars is to set out the particulars of the facts pleaded in the Statement of Claim, previously to be set out in the Affidavit in Support of the Petition. The Statement of Particulars shall form part of the Statement of Claim, and is to be signed by the plaintiff, if he or she is acting in person, or the plaintiff's solicitor.

Affidavit of evidence in chief for uncontested divorce hearing

As the contents of the Statement of Particulars need not be affirmed by the plaintiff, a plaintiff in an uncontested divorce case will be required to file a short affidavit of evidence-in-chief ("AEIC") for the purpose of the uncontested divorce hearing. The function of this AEIC is to confirm the contents of the Statement of Claim and Statement of Particulars, and to expedite the uncontested divorce hearing. This requirement will be provided for by way of a Practice Direction to be issued in due course.

Entry of appearance and filing of pleadings by defendant in counterclaim, person named in counterclaim and person named in defence

There is currently no explicit provision for this under the existing Rules, but the accepted practice is that such parties (being the party cited, person named in the answer, or person named in the cross-petition in the current terminology) simply adopt the procedure for entry of appearance, and the filing of pleadings, as provided for a co-respondent or person named in petition. The new rr 18(5), 18(6) and 18(7) clarify the position and encapsulates the current practice.

Amendment procedure: abolition of Supplemental Petition and Supplemental Affidavit in Support of Petition

Rules 17(2), 17(3) and 17(4) of the existing Rules, which governs the Supplemental Petition procedure, have no equivalent in the MPR 2005, nor indeed in the writ process. The concept will not be introduced. If it proves necessary to amend the pleadings, parties must use the amendment procedure set out in the new r 22.

Introduction of two new Forms

- (i) Writ for Divorce/Presumption of Death and Divorce/Judicial Separation/Nullity of Marriage/Rescission of Judgment of Judicial Separation (Form 3).

As stated above, the new Writ incorporates the matters in the current Notice of Proceedings (Respondent).

- (ii) Statement of Particulars (Form 11).

As stated above, this fulfils the purpose of the current Affidavit in Support of Petition. Further, any documents to be exhibited should also be annexed to the Statement of Particulars.

Separation of Annexes from Forms

In addition, Annexes A and B to the current Proposed Matrimonial Property Plan and Proposed Parenting Plan appear as separate Forms (Forms 29, 30, 33 and 34). However, there are no substantive changes to the content of the Forms (apart from the necessary terminological changes), nor to the procedural steps to be taken by parties.

Fees

As for the applicable fees, which are set out in full in the Second Schedule, it is intended that there be no overall increase in the fees. The set down fee has been reduced to \$63. Taking into account the extra affidavit of evidence in chief to be filed

for an uncontested divorce hearing costing \$7, the reduction ensures that the overall amount payable for a simple matter up to the uncontested divorce hearing will remain unchanged.

The table below summarises the key amendments:

| Type of changes | Existing Matrimonial Proceedings Rules | Matrimonial Proceedings Rules 2005 |
|---|---|--|
| Mode of commencement for divorce proceedings | Originating petition, affidavit in support of petition and notice of proceedings (respondent) | Writ of summons, statement of claim and statement of particulars |
| Form to be used | Form 3, 4, 5, 6 or 7 (petition), Form 8 (affidavit in support of petition) and Form 12 (notice of proceedings – respondent) | Form 3 (writ), Form 6, 7, 8, 9, 10 (statement of claim) and Form 11 (statement of particulars) |
| Names of parties | Petitioner | Plaintiff |
| | Respondent | Defendant |
| | Co-Respondent | Co-Defendant |
| | Party Cited | Defendant in Counterclaim |
| | Person Named | No change |
| Names of subsequent pleadings | Answer (and Cross-Petition) | Defence (and Counterclaim) |
| | Reply (and Answer to Cross-Petition) | Reply (and Defence to Counterclaim) |
| Mode for interlocutory applications | Reply to Answer to Cross-Petition | Reply to Defence to Counterclaim |
| | Summons-in-chambers | Summons |

Table 3: Amendments to matrimonial proceedings.

FINAL NOTE

As this article is not meant to be a replacement for reading the legislation and Practice Directions themselves, practitioners and court users are also referred to:

- the relevant amendment legislation for bankruptcy, winding up and judicial management proceedings, and the Supreme Court Practice Directions (2006 Ed). These are available on the Supreme Court website at <http://www.supremecourt.gov.sg>; and
- the complete MPR 2005, as well as the relevant Subordinate Courts Practice Directions (2006 Ed). These are available on the Family Court website at <http://www.familycourtofsingapore.gov.sg/ChangeToModeCommencingMP.htm>.

ANNEX A

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

CWU O.S. No)

of 2006)

In the Matter of the Companies Act (Chapter 50)

AND

In the Matter of DEF Pte Ltd
(RC No. 000000000X)

Between

ABC Pte Ltd *Plaintiff.*
(RC No. 111111111Y)

And

DEF Pte Ltd *Defendant.*
(RC No. 000000000X)**ORIGINATING SUMMONS**

Let all parties concerned attend before the Judge on _____
(date/time) on the hearing of an application by the plaintiff that:

- 1) a winding up order be made against the defendant;
- 2) the Official Receiver be appointed as liquidator of the defendant; and
- 3) the plaintiff's costs in the winding up proceedings be paid out of the assets of the defendant.

Dated this 1st day of April 2006.

Registrar.

This summons is taken out by GGG & Partners, solicitor for the Plaintiff of 10, Rules Lane,
Singapore 123456.

ANNEX B

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Bankruptcy O.S. No)
of 2006)

In the matter of the Bankruptcy Act (Chapter 20)

And

In the matter of BBB (NRIC No. S2222222B)

Between

ABC
(NRIC No. S1111111A)
And

Plaintiff.

BBB
(NRIC No. S2222222B)

Defendant.

CREDITOR'S BANKRUPTCY APPLICATION

Let all parties concerned attend before the Registrar in Chambers on _____
(date/time) on the hearing of an application by the plaintiff that a bankruptcy order be made
against BBB.

Dated this 1st day of April 2006.

Registrar.

This summons is taken out by GGG & Partners, solicitor for the said plaintiff whose address is
10, Rules Lane, Singapore 123456.

Note: This summons shall be served together with an affidavit in support of the application.
This summons may not be served more than 6 calendar months after the above date unless
renewed by order of the Court.

ANNEX B (continued)**Endorsement**

This application has been filed in court on the 1st day of April 2006.

If you intend to oppose this application you must, not later than 3 days before the day fixed for hearing, –

- a) file in court a notice specifying the grounds on which you object to the making of a bankruptcy order;
- b) send a copy of the notice to the plaintiff or his solicitor at the abovementioned address; and
- c) send a copy of the notice to the Official Assignee at 45, Maxwell Road, #06-11, The URA Centre (East Wing), Singapore 069118.

If a defendant does not attend personally or by his counsel or solicitor at the time and place abovementioned such order will be made as the Court may think just and expedient.

THE HONOURABLE JUSTICE ANDREW PHANG BOON LEONG ELEVATED TO JUDGE OF APPEAL

Justice Andrew Phang Boon Leong was elevated to Judge of Appeal on 28 February 2006. Justice Phang had been appointed a judge of the High Court on 8 December 2005 and is currently the youngest justice to sit as a Judge of Appeal.

Inter Se congratulates Justice Andrew Phang Boon Leong on his appointment.

IN MEMORY OF THE LATE JUSTICE LAI KEW CHAI

By THE HONOURABLE JUSTICE CHAO HICK TIN



MR LAI KEW CHAI
(Departed 27 February 2006)

Justice Lai Kew Chai retired from the Supreme Court Bench on 6 February. He was then the longest serving member on the Bench.

Justice Lai was elevated to the High Court on 1 July 1981, at the early age of 40. He had served almost 25 years on the Bench. His contributions to the law of this land are found in the law reports. They cover almost all branches of the law. They testify as to his many significant contributions to the development of the law.

Justice Lai was undoubtedly a strong and fair judge, always anxious to do justice to the parties, whether it was a civil case or a criminal trial. He

was sound in the law and was always prepared to take in arguments from a fresh perspective. A whole new generation of lawyers that qualified after Justice Lai was elevated to the Bench found his open approach very refreshing.

Justice Lai was especially kind to the young and inexperienced lawyers. He would guide and show them how a particular point should be advanced or pleaded. While he would not tolerate any mischief by counsel or parties, he would always hear them with patience and understanding. He was kind and considerate to all concerned.

Justice Lai was undoubtedly a strong and fair judge, always anxious to do justice to the parties, whether it was a civil case or a criminal trial. He was sound in the law and was always prepared to take in arguments from a fresh perspective.

He was also a judge with a tremendous sense of humour. Some people think that judges must always be serious. Not necessarily so. Sometimes when the proceedings got a bit too heated or tedious, Justice Lai would interject with his little anecdotes to cool things down or if the proceedings were too dry, he would make remarks to generate a little laughter, just to liven things up. But make no mistake. He was a judge who would ensure that the proceedings before him were conducted with a firm and even hand.

Justice Lai had made great contributions to legal education and the legal profession. He was the Chairman of the Board of Legal Education for some twelve years, from 1981 to 1993. Then from 1993 until his retirement, Justice Lai chaired the Singapore Academy of Law Committee on Professional Affairs. Justice Lai also kept a keen interest in the affairs of his alma mater, the Law Faculty of what is now the National University of Singapore. That's the measure of the man: being grateful and repaying the institutions which gave him the chance in life.

It was abundantly clear that as a judge, Justice Lai was held in high regard by members of the Bar. He was similarly held by his colleagues on the Bench. I am not able to recall when it was

that I first became acquainted with Justice Lai as we did not go to the same law school. What is clear is that by the time Justice Lai was elevated to the Supreme Court Bench I felt that I knew him well.

When I was elevated to the Supreme Court Bench as a Judicial Commissioner in 1987, he was one of several senior colleagues who warmly received me and guided me. He was generous in offering advice and would go out of his way to help a rookie on the Bench. My change of job from that of a Senior State Counsel to that of a judge on the Bench was made all the more manageable because of colleagues like him, who readily shared with me their experiences and taught me the pitfalls to avoid. I greatly appreciated that.

Over the years, my bond of friendship with him strengthened. A practice which started in the late eighties of meeting for lunch on Fridays, together with several other colleagues, continued until he was struck by this dreadful disease which eventually took him away from us. I had eighteen wonderful years of camaraderie with him, the memory of which I shall treasure. We on the Bench will greatly miss a respected colleague. For me, I have also lost a very dear friend.

DEATH OF A FRIEND

Death rides in from the cold beyond
To pick us off one by one,
With neither reason nor pattern in his moves;
Swelling his vain halls with reluctant company.
Today he came on the sly,
Like the thief he's often said to be
To claim our friend Kew Chai;
But he of stout heart and strong mind,
Looked upon the thieving gaze
With eyes just as stern as his.
Our friend left us only to lead the charge;
So that when our turn comes on the bye and bye
We shall boldly follow suit
And yield to that great Thief
An empty shell, and not the life he came to steal.

– The Honourable Justice Choo Han Teck –

PUPILLAGE AND PRACTICE: THE LOOK BEFORE THE LEAP

By MR ADAM MANIAM, LAW UNDERGRADUATE, NATIONAL UNIVERSITY OF SINGAPORE

What took place in the two hours was a very frank exchange between practitioners and students, providing the students, who comprised mainly second- and third-years, invaluable information to help them decide which career path to choose as the pupillage application deadline looms.

It is an understatement that law undergraduates are busy people; undergraduates from other faculties are often in awe of the huge texts and endless cases that the law undergraduates must get through each day. It is no surprise of course, that after a tiring week in school, most law undergraduates would rather spend their Friday evenings taking a breather. Certainly, it would

be rare to find anyone in the law faculty doing anything “law-related” on a Friday evening, from 6pm to 8pm.

And yet, law undergraduates are also a very discerning bunch. If they think something is useful, they’ll go for it, regardless of the time or place. Thus on 10 February this year, a record 99 students attended the forum on “Pupillage and Practice: The

Look Before the Leap”, organised by the Singapore Academy of Law Membership and Social Committee (“the Committee”). What took place in the two hours was a very frank exchange between practitioners and students, providing the students, who comprised mainly second- and third-years, invaluable information to help them decide which career path to choose as the pupillage application deadline looms.



The panel and a very enthusiastic group of participants.



Adam Maniam (top row, center) with the panel. (Top row, left to right) Anand Nalachandran, Jason Lee, Nicholas Chan and Howard Cheam. (Bottom row, left to right) Sylvia Lim, Vivienne Lim and Sharon Lim.

The diversity and experience of the panel of practitioners certainly played a big part in attracting students for the event. There were seven panellist presenters that night. Mr Anand Nalachandran, an Associate from Messrs Harry Elias Partnership, shared his insights on the realities of criminal practice in Singapore while Mr Howard Cheam, Senior Associate from Messrs Rajah and Tann, was able to give views from both sides of the fence, having made the switch from litigation to corporate practice midway through his career. Ms Vivienne Lim, Director of Genesis Law Corporation, shared her vast experience on working in small, medium and large firms while Mr Nicholas Chan offered some very entertaining testimony on life as an in-house counsel with JP Morgan as head of its Asia Pacific Merger and Acquisition Group (Legal).

Ms Sylvia Lim, a manager of Continuing Education & Training at Temasek Polytechnic, shared her experiences garnered during a unique career which include being a police Inspector while Ms Sharon Lim, an Assistant Registrar of the

Supreme Court of Singapore, gave her insights on work as a Legal Service officer, where she has held various appointments. Finally, Jason Lee, from Legal Labs Recruitment, offered some very interesting views on his career in recruitment consulting.

Two hours is potentially a very long time, but the panellists kept all 99 students engaged throughout in what was unanimously agreed to be an enjoyable and informative session for everyone. The panellists left the students with the following tips to help them as they take their final preparatory steps towards a career in law:

- Try and take subjects which are relevant to your areas of interest. For example, if you intend to do Intellectual Property (“IP”) Law, it would definitely be very important to have done the IP law course back in National University of Singapore. For aspiring litigators, a good participation record in Advocacy and Mooting competitions would put you in a good position to secure spots in the litigation departments of the bigger firms.



“When I grow up, I’m going to be the best lawyer in the whole wide world.”

- Use internships wisely. There is no point in having a whole string of internships just to make your resume look more impressive. Internships should be used to see firsthand what the practice is like, so that you can make an informed decision when applying for pupillage later on.
- Life in practice is not easy. You must be prepared to put in the necessary hours to succeed. All-nighters are common occurrences in the first few years, for the simple reason that when a young lawyer does something, he’s probably doing it for the first time. Thus, he will probably take three to four times longer to get something done than he would after a few years of practice. Working hours do improve as one gets more experienced, so keep faith in the earlier years.

- You should not confine your options to merely “being a lawyer”. A law degree can take you anywhere from being a sole proprietor to a partner in a huge firm; from an in-house counsel in an MNC to an academic, from an advocate to a judge. The possibilities are all out there, so do your research, and go for something that appeals to you.
- Most importantly, always do something you genuinely like. A career in the legal profession pays well, but money will not sustain one’s interest for long, because the workload is high.

The Committee would like to thank Messrs Rajah & Tann for their kind sponsorship of the event.



Food for thought?

FEEDBACK FROM PARTICIPANTS

“The session enabled me to gain insights into the different perspectives of legal personnel from diverse fields. The most important thing I took away from the sharing session was that we should pursue the area of law that we are passionate about. Monetary gain and fame should not be the main motivating factors, because they will not enable us to have a sustained interest in our careers.”

Bernia Tan, undergraduate

“I found the session very entertaining and informative. It certainly broadened my perspectives, especially after I heard the views of practitioners from all over the industry - those in the Legal Service, practitioners, bankers and lecturers. The panelists also provided many frank insights relating to working conditions and prospects”

Louis Ng, undergraduate

WATER WORLD

With the new Sentosa Cove and its developments well underway, the vision of a superlative marine lifestyle at our doorstep is fast becoming a reality.

“The sea is everything ... it is an immense desert, where man is never lonely, for he feels life stirring on all sides.”
– Jules Verne, *20,000 Leagues Under The Sea* –



Artist's impression of One*15 Marina.

Some call the sea a parallel universe, others just love its all-encompassing elements of leisure, sports, relaxation and freedom from the hustle and bustle of city life. To many, the sea is a treasure trove of opportunities and ideas and Singapore holds the key to this undiscovered world.

The local sailing scene has come a long way. Once only a sport for expatriates and a handful

of Singaporeans, it is now a growing passion that spans across all ages and cultures. Thanks to the temperate climate, an expanse of beautiful cruising waters and a wide network of neighbouring resorts and marinas, Singapore is a natural gateway for hundreds of sailing yachts from around the world.

These days the waters in and around Singapore have been churning up a whole slew of sailing

activities. The Singapore Sailing Federation's calendar is jam packed with races and regattas in any given month. Major yachting regattas in the region include the Antigua Sailing Week, Koh Samui Regatta, RORC Admiral's Cup, Phuket Race Week, Raja Muda International Regatta and Singapore Straits Regatta. Local and international entrepreneurs at all disciplines and levels are invited and it is this mixed level of participation which makes the sport so unique. Plus the enjoyment of sailing, being with friends and communing with the elements.

It is timely then for a top-notch marina to complement and encourage this boating lifestyle. The Marina in Sentosa Cove – located on Sentosa island's eastern shores next to the Serapong Championship Golf Course – aims to do that and more. The multi-billion dollar Sentosa Cove development sits on 117ha of land which will have luxury residential properties with many on the oceanfront and boasting private berthing facilities.

Along the Cove, fever pitch excitement builds with the development of ONE°15 Marina Club by the SUTL group. Described as one of the most prestigious and exclusive marina club forming the center for Sentosa Cove's leisure and social milieu, it is the only marina in Asia purpose-built to berth up to 10 mega yachts at any given time.

Its convenient location and calm lagoon appeal to sailors like Richard Good, 39, a British lawyer practising in Singapore since 2001. To him, being out at sea provides that much needed release from the stresses of city life. The father of two, who has been sailing for about a year now, recently bought a Grand Banks Eastbay 43 motoryacht and also signed up for a ONE°15 Marina Club membership. He frequently takes his family and friends out on long cruises to the outlying islands such as Tioman, Riau Islands and Langkawi.

"Sailing gives you that sense of freedom. The weather's warm, the water's cool and inviting enough to jump in for a swim!" says Good. "It's very educational for the kids too, you get to see the biodiversity in terms of wildlife like birds and fish." Just as America and Europe have the countryside to escape to, the sea is a gentle respite for a quick getaway to nature.

Good offers some advice to novice sailors wanting to buy a boat. First, go out and get your

boating licence! Next do your research, find someone who is knowledgeable about boats and is willing to share his expertise with you. Even better if you can meet up with seasoned sailors who can take you out on boating trips or join a sailing club that allows you to try out different boats so as to determine the type of craft you want: Be it for power boating, racing or leisure.

Events like the annual Boat Asia show, now into its third year, can provide a learning platform for Southeast Asia's boating industry. To be held from 20 to 23 April 2006 at ONE°15 Marina Club, it will showcase state-of-the-art yachts, marine equipment and services, a variety of watersports and the Asia Scuba Tour.

"There's a whole slew of boats out there. It makes car choices seem limited," sums up Good.

So if you want to experience a waterfront lifestyle, take a moment and mark your calendar for a visit to the Boat Asia show at ONE°15 Marina.

For more information on ONE°15, please log on to www.one15marina.com



REFERENCE TRACE

BY CLIFFORD WONG, MANAGER, ELECTRONIC PUBLISHING, LAWNET

On 1 February 2006, LawNet introduced “Reference Trace”, a new legal research tool, available to all subscribers of the Legal Workbench at no additional cost.

Reference Trace builds upon the previous application known as “Case Search by Legislation”. Reference Trace gives users the ability to accurately trace references and annotations to legislation and cases, both foreign and local. Reference Trace searches are more accurate and precise than a typical free text search as it draws its results directly from a dedicated database of references and annotations to cases and legislation within Singapore Law Reports (“SLR”) cases.

The Reference Trace link is found on the left side of the Quick Start page in Legal Prospector 2 in the links column.

There are two aspects to Reference Trace: “Legislation Reference Search” and “Case Search by References”.

case and the reference to the legislation using the “Legislation Reference Search”. Reference Trace enables users to locate references to all legislation, including statutes and subsidiary legislation from Singapore as well as foreign jurisdictions such as the United Kingdom, Australia, Canada, New Zealand, Malaysia, and the United States of America.

Users are able to locate references to all sub-parts of legislation, *eg*, section, rule, chapter, schedule *etc*. In addition, the search facility is flexible and forgiving in searching the search terms used, and allows the user to retrieve search results which include sub-sections of the section searched. So for example, when conducting a search for s 300 of the Penal Code (Cap 224), a user will retrieve results which include s 300(a), and s 300(d) of the Penal Code (Cap 224) *etc*. This allows the user to retrieve all cases which contain references to s 300 of the Penal Code, so that no cases are

inadvertently missed out.

Legislation Reference Search also has an Advanced Search feature which allows users to specifically choose the manner and format of their search.

CASE SEARCH BY REFERENCES

Users are also able to locate subsequent SLR case law referring to a particular case by just entering the title or citation of the particular case and clicking search in “Case Search by References”. The search results list will

Reference Trace on the Legal Prospector 2 QuickStart page.

LEGISLATION REFERENCE SEARCH

If specific legislation has been referred to in an SLR case, users will be able to find the

show the user all the subsequent SLR cases that have “Followed” or “Not Followed”, “Overruled”, “Distinguished” and “Referred to” the particular

Reference Trace
 Quick Start > Reference Trace

Note: Reference Trace is the new improved version of "Case Search by Legislation"

Legislation Reference Search
 Search for reported cases which discuss local OR foreign legislation.

Simple Search **Advanced Search**

*Enter your query using one, any or all of the search boxes [Click here for hints.](#)

Local Legislation
 Foreign Legislation
 All

Legislation:

- Statute without Chapter Number
- Statute with Chapter Number
- Subsidiary Legislation without Chapter Number
- Subsidiary Legislation with Chapter Number

Short Title: Year:

No Year: -

Provision:

Search **Reset**

Reference Trace Search page.

Additionally, the above functionality can also be accessed by clicking the link "Reference Trace: Cases, Legislation and References" in the "Information" portion of the headnote within each SLR case. By clicking this link, the user will be able to view the list of cases and reference material that have subsequently referred to that particular case.

REFERENCE TRACE HELP PAGE

Also available is a "Click here for hints" link to a Reference Trace Help page which gives explanations

case concerned. These annotations allow the user to assess the precedent value of the particular case amongst the web of related reported cases.

This feature also allows the user to quickly search for reference material (eg legal journals, textbooks and other legal commentary) that have cited or discussed a particular case (only available for reference material from 2006 forward).

and examples on how to best use the abilities of Reference Trace.

Presently, Reference Trace is confined only to reported SLR cases. The LawNet secretariat is looking into the addition of unreported judgments of the Supreme Court, as well as pre-2006 reference material into Reference Trace in future.

Feedback and suggestions for improvements are welcome, and may be e-mailed to prospector@sal.org.sg.

Quick Start
 Catchwords
Reference Trace
 Advanced Search
 Browse
 Feedback on LP2

Jeyasegaram David (alias David Gerald Jeyasegaram) v Ban Song Long David
[2005] 1 SLR 1; [2004] SGHC 225

Information

NOTE: The headnotes in the PDFs for the SLR cases (1965 - 2002) are different from the on-screen SLR (Reissue) headnotes. The cases with the new SLR (Reissue) headnotes can be printed using the printer icon (top right hand corner).

Some documents require [Adobe Acrobat Reader](#).

Suit No: Suit 898/2003
 Decision Date: 01 Oct 2004
 Court: High Court
 Coram: Tay Yong Kwang J
 Counsel: Andre Yeap SC, Lee Eng Beng and Chan Hoe (Rajah and Tann) for plaintiff, Davinder Singh SC, Hri Kumar, Cheryl Tan, Adrian Tan and Chelsia Wong (Drew and Napier LLC) for defendant

Alternative Case Document: PDF
 Related Documents: [Academy Digest](#) [Unreported Judgments](#)
Reference Trace: [Cases, Legislation and References](#)

Catchwords

Tort - Defamation - Fair Comment - Whether defence of fair comment made out - Factors to consider
 Tort - Defamation - Justification - Whether defence of justification made out - Factors to consider
 Tort - Defamation - Qualified Privilege - Whether defence of qualified privilege made out - Factors to consider
 Tort - Defamation - Defamatory Statements - Plaintiff accused of "playing to the gallery" - Whether statement defamatory in its natural and ordinary meaning - Test for determining natural and ordinary meaning of words

The Reference Trace link can be found in the case information section.

TECH LAW WATCH

Tech Law Watch is a column brought to you by the Technology Law Development Group (“TLDG”), the SAL think-tank for research in and reform of technology law. Tech Law Watch hopes to identify and anticipate key trends and developments in technology law, and to promote dialogue between technology industry players as well as law practitioners from both private and public sectors. An online web forum at <http://sal.infopop.net/3/OpenTopic> has been launched together with this new column. Interested persons are invited to register as members of this web forum to contribute their views and comments for TLDG’s consideration.

THE COPYRIGHT SCOURGE OF P2P NETWORKS: CIVIL COPYRIGHT LIABILITY OF THE P2P PROVIDER

By DR STANLEY LAI, HEAD, INTELLECTUAL PROPERTY DEPARTMENT, MESSRS ALLEN & GLEDHILL

Copyright lawyers are constantly coerced and challenged into adapting often ill-defined concepts and principles to new morphisms of technology. File sharing, or P2P (for peer-to-peer computing) has become the latest out of a long list of ever-pervasive technological advances, which rights owners will immediately exclaim, in loud chorus, will threaten and disrupt the finest of balances between the interests of the right owner and the interests of purveyors of technology. This short article focusses on the

tensions that exist within copyright which render the fixation of civil liability upon the P2P provider (not user) anything but certain.¹

THE NAPSTER BEGINNING

The battle has been raging for sometime. Shawn Fanning started Napster. Napster supplied free software which enabled file sharers to get in touch with each other and download illicit MP3 files using a peer-to-peer (“P2P”) network. Moreover Napster provided a directory for P2P users to source what they wanted and see what was available. Proceedings were brought by the record companies against Napster for vicarious² and contributory³ copyright infringement.⁴ Napster was ordered to rid its site of all listings of unauthorised music, and specifically remove tracks to which the copyright owner produced proof of title.

In a prolonged process, aptly described as “slow stoning”,⁵ Napster had made what many regard as plausible, but ultimately unsuccessful arguments that it was not liable for copyright infringement. First, it argued that it posted or stored no music on



¹ A discussion of the defences that may be available to the P2P service provider lies outside the scope of this article.

² Vicarious liability is strict and is founded on the infringer’s financial interest.

³ Contributory liability for copyright infringement is founded on the knowledge of the infringement.

⁴ See *A & M Records v Napster* 239 F 3d 1004 (9th Cir, 2001).

⁵ *Cornish Intellectual Property – Omnipresent, Distracting, Irrelevant* (OUP, 2004) at p 52.

its servers, and moreover had no control over the content traders that used its service. Napster merely facilitated transfers initiated and controlled by its subscribers. It provided none of the content; rather it supplied a directory service and assisted its subscribers in making connections between their computers, so that material could be transmitted P2P. It claimed to act as an internet service provider and was able to take advantage of the safe harbours under the Digital Millennium Copyright Act (“DMCA”).⁶ The record industry argued that the DMCA “safe harbour” provisions were not intended to protect services like Napster. In any event, these “safe harbour” provisions contained a variety of conditions and prerequisites that the P2P service had failed to comply with, disqualifying the application of the “safe harbours” as a matter of law.

Second, Napster argued that the file transfers were completely legal, because individual users made personal non-commercial copies of music – which was permitted by the Audio Home Recording Act; as well as the doctrine of fair use. In the case of *Sony v Universal*,⁷ right owners proceeded against the purveyors of new copying technologies, ultimately with no success.⁸ The target was the video cassette recorder (“VCR”), which was used to make infringing copies of the proprietary broadcasts and movies. Napster argued that it was a VCR manufacturer who produced a technology with substantial non-infringing uses. The District Court disagreed, and held that the only substantial or commercially significant use of the Napster service was the unauthorised downloading and uploading of popular music, most of which is copyrighted. The non-infringing uses of the Napster service were minimal compared to infringing uses.⁹

Third, Napster argued that its services had legitimate as well as allegedly infringing uses. Many of the music files that moved P2P were authorised or licensed material. In many instances copyright had expired and users signed up because of the easy P2P access to free and copyright-expired recordings. The record companies argued that the Napster business model was based on promoting copyright infringement. They proceeded against Napster on the basis of contributory infringement, which premises copyright liability upon one party who materially contributes to the infringing conduct of others with the knowledge of the infringements. On appeal, the Ninth Circuit opined that Napster could be held contributorily liable for the infringing conduct of its users only if: (a) the copyright holder provided the necessary documentation containing specific information which identified infringing activity to give the defendant actual knowledge that specific infringing material was being transmitted using the system; (b) the defendant had the ability to block access to its system by suppliers of the infringing material; and (c) it failed to purge such material from its system.¹⁰ The court went on to find that the record companies had given Napster “actual notice” of infringing activity by Napster users, having identified “more than 12,000 infringing files” that had appeared in Napster’s database. Napster therefore had actual knowledge that specific infringing material was being transmitted using its system.¹¹ Since it had the ability to block access to its system by the suppliers of infringing material, and failed to purge the same, the Ninth Circuit ordered the District Court’s injunction to stand.

The Napster decision was a ruling of critical importance. There was some speculation

⁶ Thus Napster argued that when Metallica furnished lists of infringing subscribers, it had followed statutory procedures to remove access, and would do so with other copyright owners.

⁷ *Sony Corp of America v Universal City Studios, Inc* 464 US 417 (1984). In *Sony* the motion picture industry tried to prevent the sale of Sony’s Betamax recorder. The majority of the US Supreme Court took the view that time shifting for the later viewing of broadcasts amounted to a “fair use” under US law. It was also envisaged that the recorders would carry a substantial non-infringing use, and therefore manufacturers could not be treated as contributing to such infringement as and when they might occur.

⁸ The decision has been heralded as one which champions the neutrality of copyright towards technology.

⁹ 114 F Supp 2d 896 at 912 (2000).

¹⁰ *Supra* n 4 at 1021–1022.

¹¹ *Ibid.*

The Ninth Circuit formulated a rule which effectively meant no liability for developers and distributors of these technologies without both actual knowledge that specific infringing material is being transmitted using their system and the ability to block access to their systems by the suppliers of the infringing material.

whether other avenues were left open for the development of other kinds of P2P technology. The Ninth Circuit formulated a rule which effectively meant no liability for developers and distributors of these technologies without both actual knowledge that specific infringing material is being transmitted using their system and the ability to block access to their systems by the suppliers of the infringing material. The comment has been made that this would assure the continued development and deployment of P2P systems that would accomplish P2P without Napster-like characteristics.¹² Napster maintained a central database of song listings (and therefore possessed the ability to remove offending material once identified as such by the record companies). Many second generation P2P technologies such as Gnutella, Morpheous and FreeNet have designed around this impediment, allowing P2P without the need for central databases.

The copyright liability of P2P providers under US law has also been further discussed by the US Supreme Court in *Grokster*.¹³ This has put paid to any argument that designing a P2P service around Napster is sufficient to place a party beyond copyright reach. *Grokster* and StreamCast were set up differently. They distributed P2P software (OpenNap) that allowed users to share content directly. In this case the defendants were set up differently from Napster even though they marketed

themselves as Napster-alternatives. There was no evidence that either defendant made an effort to filter copyrighted material from users' downloads or otherwise impeded the sharing of copyright files. In the face of a "decentralised" network, the lower courts were not prepared to hold that the defendants were liable. Applying *Sony v Universal*, the lower courts held that the provision of a file-sharing service that was capable of substantial non-infringing use could not give rise to contributory copyright infringement unless the defendants had knowledge of specific instances of copying.

The Supreme Court disagreed. It felt justified to impose secondary liability for contributory or vicarious liability against the defendants. Justice Souter delivered the opinion of the unanimous Court which stated:

"We hold that one who distributes a device with the object of promoting its use to infringe copyright, as shown by clear expression or other affirmative steps taken to foster infringement, is liable for the resulting acts of infringement by third parties."¹⁴

The *Sony* decision was distinguished in *Grokster* on the basis that there was no evidence that Sony had intended to bring about taping in breach of copyright or taken active steps to increase profits from unlawful taping.¹⁵ The Supreme Court clarified that the ruling in *Sony* was never meant to foreclose rules of fault-based

¹² See *Copy Fights – The Future of Intellectual Property in the Information Age* (Thierer, Crews eds, 2002) at p 112.

¹³ *MGM Studios, Inc v Grokster, Ltd* No 04-480 US Sup Ct, 27 June 2005, reported at 125 S Ct 2764 (2005).

¹⁴ *Ibid* at 2770. Because the court resolved the case based on inducement (contributory liability), it did not see the need to consider the vicarious liability theory propounded by MGM.

¹⁵ *Ibid* at 2778–2779.

secondary liability derived from the common law. An unlawful objective was unmistakable on the record. Each of the defendants aimed to satisfy a known source of copyright infringement – the market of former Napster users (a 50 million user base). This indicated a principal if not exclusive intent to bring about copyright infringement. Neither defendant developed filtering tools to diminish the infringing activity arising from the use of their software. Again, this underscored the intentional facilitation of user infringement. The defendants made money from selling advertising space, and streaming advertising to users. The commercial sense of the enterprise turned on high-volume usage.¹⁶

A RATIONALISATION OF *GROKSTER*

On one analysis it could be said that *Grokster* was decided on its own facts, in the face of overwhelming evidence of an intention to infringe. The evidence was insufficient to demonstrate a reasonable prospect that substantial or commercially significant non-infringing uses were likely to develop over time.

Questions will continue to be asked about the continued application of the *Sony* principles after *Grokster*. The Supreme Court gave notice that these principles may be revisited at a later juncture:

“Because Sony did not displace other theories of secondary liability, and because we find below that it was error to grant summary judgment to the companies on MGM’s inducement claim, we do not revisit Sony further, as MGM requests, to add a more quantified description of the point of balance between protection and commerce when liability rests solely on distribution with knowledge that unlawful use will occur. It is enough to note that the Ninth Circuit’s judgment rested on an erroneous understanding of Sony and to leave further consideration of the Sony rule for a day when that may be required.”¹⁷

LIABILITY FOR PROVIDING A P2P FILE-SHARING SERVICE

In this part of the world we do not recognise the doctrines of contributory liability as applied under US copyright law. The fixation of liability turns on the question of the degree and extent of control that a P2P provider possesses over unauthorised copying by file sharers. Primary acts of infringement such as direct reproductions obviously do not apply.

In Singapore, the copyright liability which may confront the provider of a file-sharing service is hinged on: (a) infringing authorisation and (b) joint-tortfeasorship, based on establishing a “common design” to infringe.

INFRINGING AUTHORISATIONS

The potential liability that may be affixed to a P2P file sharing service provider depends on the control that the P2P provider has over the infringing material. The notion of “authorising” an infringing act is apparent from s 31(1) of the Singapore Copyright Act (Cap 63),¹⁸ but the range of tests for authorisation straddle the broad and narrow. The narrow formulation was stipulated by the Australian High Court in *Moorhouse and Angus & Robertson (Publishers) Ltd v University of New South Wales*,¹⁹ and applies to the authorising infringer who sanctions, approves and countenances an infringing act. Applying this test, a university was found liable for operating photocopy machines in its library, which were used by students to make unlawful copies of the plaintiff’s work.

The narrower formulation of “authorise” takes place when the authoriser “grants or purports to grant the right” to commit the infringing act. Applying this formulation, the House of Lords in *CBS v Amstrad*²⁰ acquitted the manufacturer of home recording machines that were bought by consumers to make high quality recordings of the plaintiff’s copyrighted works.

¹⁶ *Ibid* at 2780–2782.

¹⁷ *Ibid* at 2778–2779.

¹⁸ Copyright is infringed if a person, not being the owner of the copyright and without the licence of such owner, does or authorises the doing in Singapore of the acts comprised in the copyright.

¹⁹ [1976] RPC 151.

²⁰ [1988] AC 1013. See also the judgment of Whitford J in *CBS v Ames Records and Tapes* [1982] Ch 91 at 106.

²¹ [1997] 3 SLR 137. It is a pre-*Grokster* case.

The Singapore Court appears to favour the narrow formulation of authorisation. In *Ong Seow Pheng v Lotus Development Corporation*²¹ the issue was whether and to what extent a software pirate/retailer could be said to have “authorised” the making of further infringing copies of an infringing copy of pirated software and manuals. It could not be said that the software pirate/retailer purported to have any authority with which to grant the right to downstream purchasers to make copies. The Court of Appeal stressed that facilitating, or even inciting the infringing act was not the same as “authorising” the act.²² This could have implications for affixing liability on a P2P file sharing provider. The interpretation given by the Court of Appeal in *Ong Seow Pheng* turns on whether the defendant is in a position to control the party who actually makes the unauthorised copy. The court will also investigate whether there is prior relationship between the authoriser and a downstream copyist to establish whether the authoriser can direct the commission of specific infringing acts. The narrower formulation as applied by the Court of Appeal would appear to favour the file sharing service provider, unless the paramount ingredients of control are established.

The Canadian Supreme Court has also recently had occasion to specify that for the purposes of establishing liability for infringing authorisations, the defendant’s control over infringers and parties who carry out infringing acts was paramount. CCH Canadian Ltd sued the Law Society of Upper Canada for copyright infringement in respect of, *inter alia*, unauthorised copying that took place in respect of a photocopying service which was run in a reference and research library that was maintained by the Law Society.²³ The court concluded that the Law Society did not authorise copyright infringement by providing self-service photocopiers, as well

as copies of the plaintiff publishers’ works, for use by its patrons in the library. What appears to be important is the necessary element of control which must be present such that the Law Society can be said to exercise control over the patrons who might commit infringement.²⁴ The court based its decision on control. The absence of any control over which materials a user wishes to copy accounted for the unsuccessful case for infringing authorisation. What is notable is that the Supreme Court went one further step to restrict the concept of “authorisation”, by introducing a rebuttable presumption in favour of the defendant:

“Courts should presume that a person who authorizes an activity does so only so far as it is in accordance with the law... This presumption may be rebutted if it is shown that a certain relationship or degree of control existed between the alleged authorizer and the persons who committed the copyright infringement.”

²² *Ibid* at para 34. There are still questions over whether a distinct tort exists for inciting or procuring the commission of an infringement. In *Amstrad Consumer Electronics plc v The British Phonographic Industry Limited* [1988] RPC 567, Slade LJ accepted that there was a distinct tort of inciting copyright infringement, provided that the act of incitement or procurement was directed at one or a specific group of persons. *Contra* the view of Glidewell LJ in the same decision, who expressed the view that no distinctive tort of inciting copyright infringement existed.

²³ *CCH Canadian Ltd v Law Society of Upper Canada* [2004] SCC 13.

²⁴ *Ibid* at para 45: “... of the Law Society lacks sufficient control over the Great Library’s patrons to permit the conclusion that it sanctioned, approved or countenanced the infringement ...”

²⁵ *Ibid* at para 38. The court also gave examples of relationships where authorisation could be established because of the degree of control present, *eg* employee-employer relationships.

“Courts should presume that a person who authorizes an activity does so only so far as it is in accordance with the law...This presumption may be rebutted if it is shown that a certain relationship or degree of control existed between the alleged authorizer and the persons who committed the copyright infringement.”²⁵

JOINT TORTFEASORSHIP

There are traditional limitations with imposing the tort of joint tortfeasorship for copyright infringement on a file-sharing provider. More is required than just proof that the defendant sold or supplied materials knowing the buyer or recipient was going to use it for an infringing purpose. The parameters to affix liability appear to be even more tenuous.²⁶ In *CBS v Amstrad* Lord Templeman stated:

“[J]oint infringers are two or more persons who act in concert with another pursuant to a common design in the infringement. Amstrad sold a machine and the purchaser or operator of the machine decided the purpose for which the machine should from time to time be used. The

machine was capable of being used for lawful or unlawful purposes. All recording machines and many other machines are capable of being used for unlawful purposes but manufacturers and retailers are not joint infringers if purchasers choose to break the law.”

With these limitations, it would appear that the obstacles which confront a right-owner when trying to establish joint-tortfeasorship against a file sharing provider are substantial, if not insurmountable.

CONCLUSION

As courts around the world continue to refine and re-calibrate the threshold tests for “authorisation” and “control” against the purveyors of P2P file sharing, one wonders whether the courts will expand the limits of infringing authorisation, perhaps to the point where an affirmative obligation is put in place to block infringing users or filter out protected content. What is also apparent is that copyright law is fast veering away from being technology-neutral, as it has successfully done so in the past.

With these limitations, it would appear that the obstacles which confront a right-owner when trying to establish joint-tortfeasorship against a file sharing provider are substantial, if not insurmountable.

Dr Stanley Lai is Head of Intellectual Property & Technology at Messrs Allen and Gledhill. Dr Lai practices corporate and commercial litigation as well as intellectual property and information technology law. He is currently a panel member of the Technology Law Development Group of the Singapore Academy of Law and he also sits on the panel of adjudicators for the resolution of domain name disputes under the Singapore Domain Name Dispute Resolution Policy. He also serves as a member of the Board of Governors of the Intellectual Property Academy of Singapore and holds an appointment of an Adjunct Associate Professor in the Law Faculty of the National University of Singapore. Dr Lai has published extensively on the topic of intellectual property and information technology law, as well as written many articles for a number of journals and legal publications.

²⁶ In *Amstrad Consumer Electronics plc v the British Phonographic Industry Limited* [1986] FSR 159, Lawton LJ held that Amstrad was not a joint tortfeasor with those members of the public who used the machines to infringe copyright.

LEGISLATION WATCH

By JOYCE CHNG AND EMILY TEO, LEGISLATION DIVISION, ATTORNEY-GENERAL'S CHAMBERS

Bills introduced in January and February 2006

The **Residential Property (Amendment) Bill** (No 1/2006) amends the Residential Property Act (Cap 276) as announced in Parliament by the Minister for National Development on 19 July 2005 for the following purposes:

- (a) to transfer the authority to approve the purchase or acquisition of any residential property by housing developers from the Controller of Housing to the Controller of Residential Property ("the Controller");
- (b) to allow a foreign person to purchase or acquire any flat or unit in a non-restricted residential property development and to prohibit any foreign person from purchasing or acquiring all the flats or units in a non-restricted residential property development;
- (c) to introduce a new procedure requiring a foreign person or his mortgagee or chargee to produce the title deed or certificate of title for any residential property or land to the Controller where the foreign person has been directed by the Controller to dispose of the residential property or land;
- (d) to provide that where the Minister has issued a notice to attach and sell an estate or interest in any residential property or land, any foreign person who is the owner of that estate or interest in the residential property or land has 28 days, after he receives a copy of the notice to attach and sell, to apply to the Controller to fix the reserve price, in default of which the first mortgagee or chargee has 45 days and in default of which any second or subsequent mortgagee or chargee has the next 45 days to apply to the Controller to fix the reserve price;
- (e) to provide that the Registrar of Titles or the Registrar of Deeds may refuse to register an instrument of transfer of a residential property in favour of either a Singapore company or Singapore limited liability partnership on certain grounds;
- (f) to empower the court to confiscate benefits derived by an accused from the commission of an offence under s 23 of purchasing or acquiring residential property as a nominee of a foreign person;
- (g) to raise the penalty for the offences in certain sections of the Act; and
- (h) to streamline the administration of the Act.

The Bill also makes consequential amendments to the Companies Act (Cap 50) and the Singapore Land Authority Act (Cap 301).

The **Mutual Assistance in Criminal Matters (Amendment) Bill** (No 2/2006) amends the Mutual Assistance in Criminal Matters Act (Cap 190A) for the following purposes:

- (a) to provide that the cut-off date for the making of any foreign confiscation order or instrumentality forfeiture order is the date of commencement of the Mutual Assistance in Criminal Matters (Amendment) Act 2006 in the case of a country not declared as a prescribed foreign country before that date;
- (b) to clarify the types of assistance under the Act which may be given to any country and the types of assistance under the Act which may be given only to a prescribed foreign country; and
- (c) to provide that any assistance which may only be given to a prescribed foreign country may be given to a country that is not such a country if that country gives an undertaking to provide similar assistance to Singapore.

The **Casino Control Bill** (No 3/2006) establishes a new statutory body to be known as the Casino Regulatory Authority of Singapore (“the Authority”) and provides for the operation and regulation of casinos and gaming in casinos. The Bill also makes related amendments to the Civil Law Act (Cap 43) and the Income Tax Act (Cap 134).

The Bill, amongst other things —

- (a) empowers the Minister for Home Affairs (“the Minister”) to designate, by order published in the Gazette, a parcel or parcels of land as a “designated site” on which a casino may be located for a specified period and a further period;
- (b) empowers the Minister to revoke an order designating a site or cancel a casino licence if it is necessary in the public interest to do so, and to pay fair compensation to the casino operator affected in that event;
- (c) provides for the licensing of casinos in Singapore by the Authority, including the validity and enforceability of gaming and wagering contracts with the casino operator and related contracts, by excluding the operation of ss 5(1) and 5(2) of the Civil Law Act for those contracts;
- (d) sets out the regime for the supervision and control by the Authority of the casino operator and its associates;
- (e) provides for the licensing of certain casino employees, such as those in managerial positions (defined as “special employees” in the Bill);
- (f) provides for the regulation of various aspects of casino operations such as the layout of the casino, the games that may or may not be played in the casino and the gaming equipment or gaming machines for use in the casino;
- (g) implements certain measures to promote responsible gaming such as security and surveillance requirements, prohibition of automatic teller machines and the regulation of junkets, junket promoters, premium players and casino operators in relation to certain arrangements;
- (h) prohibits any person below 21 years of age (minor) from entering casino premises, and requires casino operators to prevent a minor from entering casino premises;
- (i) provides for the internal controls that a casino operator is required to implement and maintain in relation to the operations of a casino;
- (j) imposes a casino tax on a casino operator to be collected by the Comptroller of Income Tax, and provides for the calculation of the amount of casino tax payable, the recovery of tax and the penalties for late payment of tax and tax evasion;
- (k) establishes the National Council on Problem Gambling (“the Council”) and sets out the functions of the Council which include the appointment of a panel of assessors to decide on applications for family exclusion orders;
- (l) empowers inspectors and authorised persons to require the production of information and documents and to arrest and bring before a Magistrate’s Court persons who are suspected of having committed a non-seizable offence; and
- (m) provides for co-operation and information-sharing between the Authority and foreign casino regulatory bodies, general penalties, fines and financial penalties to be paid to the Authority, and the power of the Authority (with the approval of the Minister) to exempt any person or make regulations.

The **Accountants (Amendment) Bill** (No 4/2006) amends the Accountants Act (Cap 2), amongst other things —

- (a) to enable public accountants to provide public accountancy services in Singapore through accounting limited liability partnerships (accounting LLPs);
- (b) to provide that the Registrar of Public Accountants (“the Registrar”) is to have the case and custody of the Register of Public Accounting Limited Liability Partnerships and to provide to the information to be recorded therein in respect of such accounting LLPs;

- (c) to provide that a certificate issued by the Registrar as to whether a limited liability partnership is or was an accounting LLP approved under the Act is to be admissible as evidence in any proceedings and is to be *prima facie* evidence of the facts stated therein;
- (d) to provide for the approval of limited liability partnerships as accounting LLPs by the Oversight Committee;
- (e) to provide for the legal effects of a limited liability partnership being approved as an accounting LLP;
- (f) to provide that nothing in Part IV of the Act is to affect the application of the Limited Liability Partnerships Act 2005 (Act 5 of 2005) in relation to accounting LLPs; and
- (g) to prohibit a limited liability partnership which is not approved as an accounting LLP from providing public accounting services in Singapore and from advertising, holding itself out or describing itself in any way as being an accounting LLP or being authorised to provide public accountancy services in Singapore.

The **Enlistment (Amendment) Bill** (No 5/2006) amends the Enlistment Act (Cap 93) —

- (a) to increase the maximum fine that may be imposed by the court for the offences under ss 4(2) and 33 from \$5,000 to \$10,000;
- (b) to extend the requirement for an exit permit under s 32 to a person who is a citizen or permanent resident of Singapore and who is not less than 13 years of age but less than 16 years and six months of age (relevant child);
- (c) to make the contravention of s 32(1) or s 32(2) by a relevant child a separate offence from the offence under section 33, so as to provide a lower penalty of a fine not exceeding \$2,000; and
- (d) to provide that where a relevant child contravenes s 32(1) or 32(2), each parent or guardian, or other person having the actual custody of the relevant child, will be guilty of an offence and will be liable on conviction to a fine not exceeding \$2,000.

The **Central Provident Fund (Amendment) Bill** (No 6/2006) amends the Central Provident Fund Act (Cap 36) for the following main purposes:

- (a) to increase the number of members of the Central Provident Fund Board (“the Board”) and to allow the chief executive of the Board to be appointed as a member of the Board;
- (b) to facilitate the transfer of money between a member’s Medisave account and the member’s ordinary account, special account and retirement account (if any);
- (c) to increase the number of grounds, and to align the grounds, on which a member may —
 - (i) withdraw the sum standing to his credit in the Central Provident Fund (“the Fund”) under s 15(2);
 - (ii) withdraw the minimum sum or such part thereof as the Board may determine, or surrender his approved annuity, under s 15(7A); or
 - (iii) be excused from having to deposit the minimum sum, or to use the minimum sum to purchase an approved annuity, under s 15(8),

and to provide for the requirements which the member may have to satisfy in order to make the withdrawal or surrender, or to be excused from having to make the deposit or purchase, as the case may be;

- (d) to allow the amount in a deceased member’s medisave account to be used for the payment of expenses for medical treatment received by the member;
- (e) to restate the ambit of the prohibitions against the transfer or assignment of, and the protection against enforcement conferred on, moneys withdrawn by a member from the Fund and investments under the Central Provident Fund Investment Scheme (CPFIS) under ss 24(1), 24(2) and 24(3); and
- (f) to clarify that where a member fails to make a nomination under s 25(1), the amount payable out of the Fund on his death shall be disposed of in accordance with the Intestate Succession Act (Cap 146) (if the member was

not a Muslim at the time of his death) or with s 112 of the Administration of Muslim Law Act (Cap 3) (if the member was a Muslim at the time of his death), and not in accordance with the member's will, if any.

The **Supplementary Supply (FY 2005) Bill** (No 7/2006) seeks to make additional provision for the financial year 1 April 2005 to 31 March 2006 to meet expenditure in excess of the sums authorised by the Supply Act (Act 12 of 2005).

The **Supply Bill** (No 8/2006) seeks to make provision for the appropriation of moneys from the Consolidated Fund and the Development Fund to meet the estimated expenditure for the financial year 1 April 2006 to 31 March 2007.

The **Private Lotteries (Amendment) Fund Bill** (No 9/2006) seeks to amend the Private Lotteries Act (Cap 25) principally —

- (a) to provide for the appointment by the Minister for Home Affairs of a Permit Officer with the power to grant permits for the promotion or conduct of private lotteries;
- (b) to provide for the appointment by the Minister for Finance of a Commissioner of Betting Duties with the power to collect duties under the Act;
- (c) to provide that duties chargeable under the Act are to be computed against actual turnover; and
- (d) to provide for a power of composition for certain offences under the Act.

The Bill also makes related amendments to the Betting and Sweepstake Duties Act (Cap 22) and the Inland Revenue Authority of Singapore Act (Cap 138A).

The **National Research Fund Bill** (No 10/2006) seeks to establish a new Government fund to be called the National Research Fund to facilitate the better accounting and management of public moneys for research and development activities. The Bill also makes consequential amendments to

the Agency for Science, Technology and Research Act (Cap 5A) and the Standards, Productivity and Innovation Board Act (Cap 303A).

The Bill provides, amongst other things —

- (a) that the source of revenue of the National Research Fund (“the Fund”) comprises mainly of moneys appropriated from the Consolidated Fund;
- (b) that the object of the Fund is to fund research and development activities with a view to —
 - (i) encouraging the development in Singapore of innovative products, processes and services;
 - (ii) increasing investment by the public and private sectors in Singapore in research and development activities that will make Singapore more internationally competitive;
 - (iii) promoting the technological advancement of the public and private sectors through a focus on innovation; and
 - (iv) creating an environment that is conducive to increased commercialisation of new processes and product technologies;
- (c) for the establishment of the National Research Board, principally —
 - (i) to co-ordinate research and development activities undertaken or promoted by the Government, public authorities whose objects are similar to the object of the Fund, enterprises, educational institutions or other persons in Singapore;
 - (ii) to investigate and evaluate the requirement for funding any research and development activity generally or specifically; and
 - (iii) to develop policies and plans for research and development activities in Singapore in the national interest;
- (d) for the establishment of the Research, Innovation and Enterprise Council —
 - (i) to provide advice and guidance to the Government in the formulation of its policies and laws on all types of research

- and development activities and innovation in Singapore; and
- (ii) to lead in the promotion of all aspects of research and development activities and innovation in Singapore, by identifying and promoting activities and programmes that will make Singapore more internationally competitive and alerting the public and private sectors to any new business opportunities that arise from the exploitation of results of any research and development activities or innovation; and
- (e) that the Financial Procedure Act (Cap 109) and its regulations would continue to apply to the Fund unless expressly excluded.

The **Electricity (Amendment) Bill** (No 11/2006) seeks to amend the Electricity Act (Cap 89A) principally to enhance the regulation by the Energy Market Authority of Singapore of the transmission of electricity by —

- (a) licensing a person who transmits electricity for or on behalf of a transmission licensee; and
- (b) providing for the control of —
- (i) the acquisition of equity interests in a transmission licensee, a transmission agent licensee, a designated entity that owns the transmission system and a designated business trust established in respect of a transmission system;
- (ii) the acquisition of the business of a transmission licensee, a transmission agent licensee and a designated entity that owns the transmission system; and
- (iii) the appointments of officers of a transmission licensee and a transmission agent licensee.

Subsidiary Legislation published in January and February 2006

The **Parliamentary Elections (Prescribed Date) Order 2006** (GN No S 1/2006, wef 3 January 2006) sets out that, for the purposes of ss 5(1),

5(1A) and 5(2) of the Parliamentary Elections Act (Cap 218), the prescribed date shall be 1 January in any year instead of 1 July.

The Minister for Education has, *vide* the **Delegation of Powers (Ministry of Education) Notification 2006** (GN No S 5/2006, wef 4 January 2006), deputed the Permanent Secretaries, Ministry of Education, to exercise the powers of the Minister under rr 5(3), 6(2) and 7(1) of the Education Service Incentive Payment (CONNECT Fund) Rules (Cap 87B, R 1).

The Minister for Home Affairs has, *vide* the **Misuse of Drugs (Approved Institution) Notification 2006** (GN No S 22/2006, wef 18 January 2006), declared the Singapore Civil Defence Force Detention Barracks, 91 Jalan Bahar, Singapore 649735 to be an approved institution for the purpose of the treatment and rehabilitation of drug addicts and other persons under the Misuse of Drugs Act (Cap 185).

The **Passports (Authorised Officers) (Amendment) Regulations 2006** (GN No S 49/2006, wef 1 February 2006) provides that the following officers of the Ministry of Defence are empowered to cancel any endorsement relating to the period of validity of a Singapore passport issued to any person who has been registered under s 3 of the Enlistment Act (Cap 93), or is deemed to be registered or is liable to be registered under that Act or to any male citizen of Singapore who is 11 years of age or above but below 16 years and six months of age:

- (a) the proper authority empowered to issue exit permits under s 32 of the Enlistment Act;
- (b) the Commander of the Central Manpower Base;
- (c) Head, National Service Resource Management Centre (NSRMC);
- (d) Manager, National Service Resource (NSR) Branch, NSRMC;
- (e) Management Executive, National Service Resource (NSR) Branch, NSRMC.

The Senior Minister has, *vide* the **Deposit Insurance (Designation of Deposit Insurance**

Agency Notification 2006 (GN No S 60/2006, wef 1 February 2006), designated the Singapore Deposit Insurance Corporation Limited, a company incorporated in Singapore, as the deposit insurance agency for the purposes of the Deposit Insurance Act 2005 (Act 31 of 2005).

The **Small Claims Tribunals (Amendment) Rules 2006** (GN No S 74/2006, wef 15 February 2006) set out the process for making an application for leave under s 38(1A) of the Small Claims Tribunals Act (Cap 308) to appeal against any order of a tribunal.

Acts brought into operation in January and February 2006

1. **Subordinate Courts (Amendment) Act 2005** (Act 26 of 2005) (wef 1 January 2006, *vide* GN No S 614/2005)
2. **Income Tax (Amendment) Act 2005** (Act 34 of 2005) —
 - (a) ss 43, 44 and 46 wef 1 January 2006;
 - (b) ss 2(c) and 2(d), 3, 7, 8, 9, 10(c), 12, 15, 18(b) and 18(c), 22(e) and 22(f), 23, 24(a) to 24(e) and 24(g) to 24(j), 32, 33(c), 33(d) and 33(e) and 41 wef 30 January 2006.
3. **Moneylenders (Amendment) Act 2005** (Act 44 of 2005) (wef 1 January 2006 *vide* GN No S 799/2005)
4. **Statutes (Miscellaneous Amendments) (No 2) Act 2005** (Act 42 of 2005) —
 - (a) ss 1 to 9, 13 to 16, 17(a) to 17(d) and 17(k) to 17(zb), 18, 20(a), 20(b) and 20(d) and 21, items (1), (8), (10), (14), (17) to (21), (23), (24), (26) to (30), (32), (33), (34)(b), (35) and (37) to (40) in the First Sched and the Second, Fourth and Fifth Scheds wef 1 January 2006 *vide* GN No S 804/2005
 - (b) ss 10, 12, 19 and 20(c) wef 30 January 2006 *vide* GN No S 21/2006.
5. **Weights and Measures (Amendment) Act 2005** (Act 30 of 2005) (wef 1 January 2006 *vide* GN No S 842/2005)
6. **Competition Act 2004** (Act 46 of 2004) (Divs 1, 2, 3 and 5 of Pt III, Pts V and VI and the Third Sched wef 1 January 2006 *vide* GN No S 864/2005)
7. **Competition (Amendment) Act 2005** (Act 40 of 2005) (wef 1 January 2006 *vide* GN No S 865/2005)
8. **Goods and Services Tax (Amendment) Act 2005** (Act 38 of 2005) (wef 1 January 2006 *vide* GN No S 890/2005)
9. **Stamp Duties (Amendment No 2) Act 2005** (Act 39 of 2005) (wef 1 January 2006 *vide* GN No S 891/2005)
10. **Biological Agents and Toxins Act 2005** (Act 36 of 2005) (wef 3 January 2006 *vide* GN No S 776/2005)
11. **Companies (Amendment) Act 2005** (Act 21 of 2005) (wef 30 January 2006 *vide* GN No S 878/2005)
12. **Trust Companies Act 2005** (Act 11 of 2005) (wef 1 February 2006 *vide* GN No S 832/2005)
13. **Small Claims Tribunals (Amendment) Act 2005** (Act 43 of 2005) (wef 15 February 2006 *vide* GN No S 73/2006)
14. **Singapore Armed Forces (Amendment) Act 2006** (Act 6 of 2006) (wef 21 February 2006 *vide* GN No S 89/2006)
15. **Road Traffic (Amendment) Act 2006** (Act 4 of 2006) (wef 27 February 2006 *vide* GN No S 101/2006 except ss 17, 22 and 23)

Revision of Acts

The Law Revision Commissioners have prepared and published, in loose-leaf form, a revised edition of the following Acts (wef 31 January 2006 *vide* GN No S 31/2006), incorporating amendments up to 2 January 2006:

1. Building and Construction Industry Security of Payment Act (Cap 30B)
2. Competition Act (Cap 50B)
3. Copyright Act (Cap 63)
4. Plant Varieties Protection Act (Cap 232A)
5. Police Force Act (Cap 235)

LEGAL EDUCATION AND TRAINING CALENDAR FOR APRIL 2006 TO MAY 2006

| DATE | EVENT | SPEAKERS/TRAINERS | ORGANISER |
|---|---|---|-----------|
| 18 Apr (Tue) 2.30pm – 5.00pm | SArbitration of Investment Disputes | Professor M Sornarajah | NUS & SAL |
| 24 Apr (Mon) Session 1: 9.00am – 11.30am Session 2: 2.30pm – 5.00pm | System Administrator for EFS | CrimsonLogic | LTC |
| 25 Apr (Tue) 2.30pm – 5.00pm | Update on Company Charges | Professor Tan Cheng Han SC Associate Professor Dora Neo | NUS & SAL |
| 25 – 27 Apr (Tue – Thu) 9.00am – 5.00pm | Microsoft Office Specialist Certification – Access XP | NTUC Learning Hub | LTC* |
| 26 Apr (Wed) Session 1: 9.30am – 12.30pm Session 2: 2.30pm – 5.30pm | EFS ROC Changes Phase 2 | CrimsonLogic | LTC |
| 27 Apr (Thu) 1.30pm – 5.30pm | STARS eLodgment | BiziBody | LTC |
| 3 – 5 May (Wed – Fri) 9.00am – 5.00pm | PCDT-ICDL Certificate in Spreadsheet (Using MS Excel) | NTUC Learning Hub | LTC* |
| 3 – 5 May (Wed – Fri) 9.00am – 5.00pm | Microsoft Office Specialist Certification – Excel XP (Core) | NTUC Learning Hub | LTC* |
| 4 May (Thu) 2.30pm – 5.30pm | “Some Thoughts on the Real Deal” – Contract Drafting | Professor Michael Furmston Mr Michael Hwang SC (Commentator) Professor Howard Hunter (Chairman) | SAL & SMU |
| 4 – 5 May (Thu – Fri) 9.00am – 5.00pm | Strategic Conflict Management for Professionals | Mr Loong Seng Onn Ms Carol Liew | SMC |
| 8 May (Mon) 9.00am – 5.00pm 11.30am – 2.30pm | MS Word for Legal Professionals | CrimsonLogic | LTC |
| 9 – 11 May (Tue – Thu) 9.00am – 5.00pm | PCDT-ICDL Certificate in Presentation (Using MS Powerpoint) | NTUC Learning Hub | LTC* |
| 11 May (Thu) Session 1: 9.00am – 12.00pm Session 2: 2.00pm – 5.00pm | EFS Phase 4B (Filing to Family Courts) (Auto-generation of Court Doc) | CrimsonLogic | LTC |
| 15 May (Mon) 9.00am – 12.00pm | EFS Criminal Module | CrimsonLogic | LTC |
| 15 May (Mon) 9.30am – 5.30pm | LawNet Services at a Glance | CrimsonLogic | LTC |
| 16 May (Tue) 2.30pm – 5.30pm | Comparative Contract Law: Common Law versus Civil Law | Associate Professor Gary Bell | NUS & SAL |

*Partnership Program with NTUC Learning Hub

For SAL events: Please note that all information is correct at the time of printing. While every effort is made to retain the original arrangements, changes may sometimes be necessary. An updated version of this calendar is available at the following website: http://www.sal.org.sg/events_calendar.htm

For enquiries and more information, please contact the respective organisers:

- LawNet Training Centre (LTC): Ms Helen Leong at 6332 4256 or Ms Aida Bte Abdul Rahman at 6332 4382 or e-mail lrc@sal.org.sg
- Singapore Academy of Law (SAL): Ms Janice See at tel: 6332 4149 or Ms Serene Ong at tel: 6332 4032 or les@sal.org.sg
- Singapore Mediation Cente (SMC): Ms Survinder Kaur at tel: (65) 6332 4213 or survinder_kaur@sal.org.sg

FOR THE RECORD

| | | |
|---------------|----------|--|
| 22 April 2006 | Saturday | <p align="center">“Sail Away” Time: 5.00pm - 9.00pm Venue: One°15 Marina Club</p> |
| 27 April 2006 | Thursday | <p align="center">Cooking Workshop at Conrad Centennial Singapore: “Plan a Party - Sexy Bites & A Roast with Many Surprises” Cost of workshop: \$55 per person (Retail price: \$100) Price includes a cooking workshop, welcome drink, sampling of dishes, as well as a buffet dinner voucher for use at Oscar’s.</p> |
| 20 May 2006 | Saturday | <p align="center">“Memories at Old Ford Factory” Time: 10am - 11.30am Venue: 351 Upper Bukit Timah Road, Singapore 588192.</p> |
| June 2006 | | SAL Movie Night |

*Please note that SAL reserves the right to make any amendments to the calendar if warranted by circumstances beyond its control.

For inquiries on events, please contact Sherina Chan, tel: 6332 0078 or e-mail sherina_chan@sal.org.sg

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