

Review on Intellectual Property Laws / Taiwan --- June 2022-May 2023

1. Intellectual Property Case Adjudication Act (智慧財產案件審理法)

The Legislative Yuan of Taiwan passed the amendment to 77 articles (including 36 articles added and 41 articles amended) of the Intellectual Property Case Adjudication Act on **January 12, 2023**.

Major points of the amendment are summarized as follows.

1.1. Augmented trade secrets protection—The Intellectual Property and Commercial Court has exclusive jurisdiction over the cases involving trade secrets under reinforced protective measures.

Under the amendment, the Intellectual Property and Commercial Court (hereinafter the "IP&C Court") has exclusive jurisdiction over the first-instance IP-related civil matters, while the first-instance criminal cases involving trade secrets misappropriation (including incidental civil actions) should be heard by the Intellectual Property Courts under the IP&C Court as the court of the first instance, which is to effect professional, appropriate, and expeditious trial. Moreover, for compliance with the National Security Act, the amendment adds stipulation that the criminal cases involving trade secrets with respect to national core technologies should be subject to the jurisdiction of the second instance of the Intellectual Property Courts of the IP&C Court for the first instance proceedings. The amendment also provides that the Supreme Court shall organize special court divisions to exclusively hear IP-related cases to ensure professional trial.

Besides, the amendment adds provisions with respect to the codes or names for identifying the evidentiary documents including trade secrets for de-identification and with respect to the right to access to dossier information. Also, the provisions governing the confidentiality preservation order system are amended to provide full protection for trade secrets. Under the amendment, the offense of violating a confidentiality preservation order is a non-complaint-based one to aggravate the penalty therefor. In addition, the amendment introduces the offense of violating a confidentiality preservation order from abroad to reinforce protection for the trade secrets involved in litigation.

1.2. Concentrated trial of IP-related cases—Introduction of trial plan

According to the amendment, the court should discuss with the parties to a case to determine and adopt a trial plan for the cases where mandatory legal representation is required, where the circumstances of the cases are complicated, or where it is necessary. For reinforcing the efficiency of trial, the amendment sets forth the legal effects of departure from a trial plan.

1.3. Mandatory legal representation by lawyers

In consideration of the fact that IP-related civil cases require legal specialty and in order to protect the rights of the interested parties and to enhance trial efficiency, the amendment requires in new provisions the mandatory legal representation by qualified lawyers for certain types of IP-related civil cases.

1.4. Expansion of experts' participation—Introduction of expert verification and expert witness

For the court's establishing facts of cases that involve highly technical characters and professional aspects and for resolving a possible situation of the unequal status of the access to evidence between the parties and also for enhancing the parties' procedural equality during the course of trial, the amendment, by reference of the Patent Act of Japan, sets forth that the court may select and appoint a neutral expert upon motion after initiation of an action, who will conduct verification of evidence in the evidence gathering procedure. Additionally, the amendment incorporates the "expert witness" system adopted by the Commercial Case Adjudication Act, and the relevant provisions of the Commercial Case Adjudication Act shall apply mutatis mutandis in this amendment.

1.5. One-time resolution and avoidance of inconsistent judgments—Establishment of information exchange system between the court and the administrative authority

The amendment creates the systems for information exchange between the judicial trial and administrative examination, for seeking opinions from the competent authority in charge of intellectual property matters, and also establishes the obligation to disclose the ongoing litigation for the circumstance where the IP rights involved in the litigation have been exclusively licensed, and also sets up restrictions on re-trial due to the discrepancies of patent validity issue.

1.6 Enhancement of trial efficiency—Disclosure of technical examination officer's report

According to the amendment, the court may disclose all or part of the report prepared by the technical examination officers when necessary, and the parties will be provided with an opportunity to express their opinions on the report, before the court adopts the report as a basis for making a ruling. Furthermore, the amendment decreases the standard of proof for the evidence submitted by the infringed party, and also obligates the accused infringer to submit evidence to support his/her defense.

1.7. Promotion of use of technological equipment and electronic judicial services

The amendment enlarges the scope of the parties/people to a lawsuit that can use technological equipment to participate in the proceedings, and facilitates service of original copies of written judgments in electronic forms.

1.8 Introduction of a system allowing victims' participation in trial proceedings

The amendment adds that the provisions governing victim participation in proceedings provided by the Code of Criminal Procedure shall apply mutatis mutandis with an aim to secure victims' rights.

1.9 Resolution of disputes

The provisions governing the "post-grant amendment defense against invalidity defense" and "incidental civil proceedings" are amended to solidify the mechanism for resolution of disputes arising from litigation.

2. Patent

2.1 The Patent Act (專利法)

On May 4, 2022, the Legislative Yuan of Taiwan passed the amendment to Article 60-1 of the Patent Act, and the amendment took effect as of **July 1, 2022**.

Under the amendment, in the scenario where a generic drug applicant has submitted a

declaration with respect to the patent(s) listed for an approved brand-name drug in accordance with Article 48-9, Subparagraph 4 of the Pharmaceutical Affairs Act, the patent owner of the listed patent(s) may act upon Article 96, Paragraph 1 of the Patent Act to initiate an action to seek removal or prevention of patent infringement upon receipt of the notification regarding the aforesaid declaration. Moreover, if the patent owner fails to initiate such an action within a specific time period designated in Article 48-13, Paragraph 1 of the Pharmaceutical Affairs Act, the generic drug applicant may file an action seeking a declaratory judgment for confirming whether the generic drug for which the drug permit is applied infringes upon the patent(s) listed.

2.2 The Enforcement Rules of Patent Act (專利法施行細則)

The Ministry of Economic Affairs promulgated the amendment to Article 67 and Article 80 of the Enforcement Rules of the Patent Act on **October 20, 2022**. An outline of the amendment is provided as follows.

A. On the premise of protecting both the patentee's and the pledgee's rights and interests simultaneously, relevant stipulation of Article 67 is eased to simplify the procedure for requesting for recordation of pledge establishment of a patent right by removing the requirement of patent certificate submission;

B. To fit in with patentees' practical needs, Article 80 is amended by adding a new circumstance for requesting for reissuance or renewal of a patent certificate, and the circumstance is when there are changes to the particulars entered in the certificate to be updated. Also, the original patent certificate will be nullified by a public notice when it is reissued or renewed.

2.3 Taiwan Patent Examination Guidelines (專利審查基準)

2.3.1 Adopted as of 1 December 2022:

Changes made to Part I Procedural Examination And Patent Rights Administration, including changes made to Chapter 1, Chapters 3 ~8, Chapter 14, Chapter 17, Chapter 19 and Chapter 20:

The changes are proposed and made in accordance with the interpretation and construction of the relevant laws and regulations to incorporate the same in the practice of the procedural examination of patent applications. In addition to textual revision, examples are introduced to explain to clearly show the operability and operation of the guidelines in practice. Also, documents supporting and produced attached to the patent application upon filing may be executed electronically in line with the global tendency to digital transformation.

2.3.1.1 Changes made to Chapter 1 concerning the execution of documents

In line with the global tendency to accepting electronic signature and the fact that documents produced in support of the patent application are mostly private documents acceptable upon the consent expressed by the respondent, the Taiwan IPO now accepts that the documents may be executed in any form and manner as long as the signature signed, seal printed or electronic signature given in the document presented is workably intelligible. (Section 1.2.4)

2.3.1.2 Changes made to Chapter 3 concerning the request for name change

Relevant text has been restructured to reflect the practical examination with examples introduced to elucidate the principle of examination at work. Proposing to remove the inconsistency among the documents presented upon filing of the patent application is not proposing a change of the application. Also, examples are introduced by reference to the relevant court decisions to explain the examination of a name change request involving multiple applicants all of whom belong to the same principal. (Sections 3.1, 4.1 and 4.5)

2.3.1.3 Changes made to Chapter 5 concerning the filing date

The exact filing date of an application cannot be determined without the applicant named in the application being conclusively identified in the first place. The Taiwan IPO has identified three groups of applications which must be looked at carefully to determine if a later date should be designated for the filing date: 1) applications involving change of the principal seeking the patent claimed, 2) applications involving additional applicant(s), and 3) applications involving reduction in the number of applicants named. (Section 1.1)

2.3.1.4 Changes made to Chapter 7 concerning priority claim and grace period

Practical examples are introduced to show what types of documents produced as evidence in support of the priority claim will be denied of acceptance. (Section 1.5)

2.3.1.5 Changes made to Chapter 8 concerning evidence of deposit of biological materials

Where the depositary institution with which the biological material is deposited is not an IDA under the Budapest Treaty, the documents produced for proof of the deposit must include the evidence proving the survival of the biological material. (Section 4)

2.3.1.6 Changes made to Chapter 19 concerning the request for registration of placement of pledge on patent right

Required content of the documents to produce upon filing of the request for registration of pledge placed on the patent right is revised up-to-date according to the revision of Article 67 of the Enforcement Rules of the Patent Act announced by the order of 20 October 2022, ref. Jing-Zhi-Zi No. 11104604410. (Section 6.2)

2.3.2 Adopted as of 1 July 2022:

Changes proposed and made to Part II Substantive Examination of Invention Patent Applications as announced on 27 June 2022, including changes made to Chapter 3, Chapter 6, Chapter 7, Chapter 8, Chapter 9 and Chapter 14.

2.3.2.1 Changes made to Chapter 3 concerning patentability requirements

Added and explained the principle to adopt to examine a patent application for invention where the utility model patent granted on the same creation has been revoked and the revocation is

yet to become final with binding effects during the process of examination of the patent application for invention or during the period in between the allowance and the publication of the invention patent. (Points (5) and (6) added to Section 5.7.2)

2.3.2.2 Changes made to Chapter 6 concerning amendments

In cases where, before the Taiwan IPO issues the notice of examination opinion, the applicant has voluntarily proposed to amend the claim(s) specified to remove disclaimer, the applicant shall as well present the prior arts concerned and specify the reasons for the amendment sought for except where the prior arts concerned have been disclosed in the specification, description of scope of patent claimed and/or drawing presented upon filing of the application or the amendment proposed shall be deemed to be introducing new matters. (Section 4.2.2)

2.3.2.3 Changes made to Chapter 7 concerning the notice of examination opinion and publication of patents

Among the examples given in Section 3.1.2 to demonstrate what amendment stands as one that will narrow down the scope of patent, the one given in Point (6) of said Section, which proposes to "remove/reduce in part the claims cited or depended upon with a description given of the remaining claims each" is moved to the newly added Point (7). Said new Point (7) explains further that except in the context as described in the same Section 3.1.2, no amendment giving rise to new claim shall be taken as one to narrow down the scope of claim.

2.3.2.4 Changes made to Chapter 9 concerning proposed post-grant amendments

In line with the change made to Chapter 6 concerning amendments, points for attention are added to lay down the principle to adopt to examine post-grant amendments proposed to remove disclaimer. (Section 6)

2.3.2.5 Changes made to Chapter 14 concerning the evidence of deposit of biological Materials

Documents presented pursuant to paragraph five, Article 27 of the Patent Act to prove the deposit of the biological material must certify the deposit as validly existent and the biological material as surviving and vital if the deposit is made with a domestic depositary institution designated by the foreign country as opposed to an IDA under the Budapest Treaty. (Point (3) newly added to Section 4.2.4)

3. Trademark

3.1 Amendments to the Trademark Act on May 9, 2023.

The Legislative Yuan of Taiwan passed the amendments to the partial provisions of the Trademark Act of Taiwan on May 9, 2023. Key points of the draft amendment to the Trademark Act concerning accelerated examination mechanism, trademark agent management, and other specific and relaxed regulations and simplified procedures

3.1.1 Establishment of “accelerated examination” mechanism in response to urgent demands from the public to obtain trademark rights

For answering to industrial development and for protecting the public’s rights, the draft amendment introduces a fee-based accelerated examination mechanism, under which eligible applicants may seek fast-track trademark examination with the Taiwan Intellectual Property Office (hereinafter “Taiwan IPO”) by paying the “required official fees for expedited examination” when it is necessary for the applicants to obtain their trademark rights promptly (for example, when it is necessary to determine their trademark rights involved in trademark infringement lawsuits or for any special demands, such as, product launch, etc.), except that the accelerated examination mechanism is not applicable to the applications for certification marks, collective membership marks, and collective trademarks. (Article 19, Article 94, and Article 104 of Trademark Act amended)

3.1.2 Under the amendment, Taiwan IPO is authorized to manage registration of trademark agents and set up relevant management regulations for completing and specifying the comprehensive requirements and qualifications for trademark agents so as to ensure trademark applicants’ rights and interests.

3.1.2.1 Except for attorneys and accountants who have been duly certified and may engage in trademark agency services in accordance with the Attorney Regulation Act and Certified Public Accountant Act of Taiwan without registration and receiving training as provided by the current Trademark Act, the draft amendment adds stipulations that individuals who have either (a) passed the exam for trademark-related competence certification or (b) engaged in trademark examination at Taiwan IPO for a certain period of time, and also have completed “registration” and “on-the-job training” on annual basis may act as trademark agents (also with a domicile in Taiwan as legally required) to engage in trademark agency services. (Article 6 of Trademark Act amended)

3.1.2.2 Taiwan IPO shall maintain a trademark agents register (which may be produced and maintained in electronic form) to record the registration and any change of status and/or information of registered trademark agents and also make such records accessible and ready for the public’s search. (Article 12 of Trademark Act amended)

3.1.2.3 According to the draft amendment, the Ministry of Economic Affairs shall have the authority to formulate the regulations for governing the trademark-related competence certification exam, qualifications and requirements for being registered as trademark agents, on-the-job training and required training hours, and other regulative measures for administering the performance of trademark agency services (Article 6 of Trademark Act amended). Also, for any violation of authorization, a trademark agent will receive disciplinary actions in terms of the status of his/her violation, including a warning, reprimand, suspension of practice, cancellation or abolition of registration, and such disciplinary records shall be made public in the trademark agents register. (Paragraph 3 of Article 98-1 added)

3.1.2.4 For also taking care of the interests of those who have been engaged in trademark agency services for a long period of time before the proposal of the draft amendment, it is stated in the draft amendment that those (a) who have been engaged in trademark agency services for three years before the implementation of the draft amendment and (b) who have been handling at least 10 cases of trademark registration applications and other procedural

matters each year, may request for being “registered” as trademark agents within the 1-year period beginning from the second day of the enforcement of the draft amendment (such trademark agents shall also receive “on-the-job training” each year). In addition, those trademark agents who fail to complete the required registration and who are not certified “attorneys” or “accountants” shall cease their practice of trademark agency. However, such trademark agents may continue their practice for and only for these cases that have been received by Taiwan IPO before the enforcement of the draft amendment and pending Taiwan IPO’s examination or disposition. (Article 109-1 added)

3.1.2.5 The draft amendment also incorporates provisions that impose administrative fines and demand cease of practice within a specific period of time in any of the following circumstances where: (a) any individuals act as trademark agents without registration as required, (b) any individuals seek and solicit engagement as trademark agents without registration as required, or (c) any trademark agents still perform trademark agency services “during the period of practice suspension” (with their practice being suspended upon voluntary applications or as ordered by Taiwan IPO), or (d) any trademark agents still perform trademark agency services “after their trademark agent registrations have been revoked and annulled and such revocation and annulment have been made public”. (Paragraph 1 and 2 of Article 98-1 added)

3.1.3 Expansion of the scope of eligible trademark applicants and simplification of the customs procedure of infringement identification

3.1.3.1 Under the draft amendment, eligible applicants of trademark registration applications include (a) natural persons, (b) juridical persons, (c) partnership entities (such as, joint CPA firms, partnership attorney or law firms, architectural firms as joint venture, or any partnership business entities operated by professionals and technologists), (d) legally established non-incorporated groups (such as, the associations established as approved and registered in accordance with the Civil Associations Act of Taiwan), or (e) business entities registered in accordance with the Business Registration Act of Taiwan (such as, sole proprietorships or partnerships), not limited to those with legal capacities as defined by substantive laws (Article 19 amended). In addition, domestic “non-incorporated groups” that have successfully acquired trademark rights may file a criminal complaint, initiate a private prosecution, or institute a civil suit in respect of matters specified in the Trademark Act (Article 99 of Trademark Act amended).

3.1.3.2 In practice, trademark proprietors should be able to conduct authentication and identify infringement based on the files of pictures of clear images provided by the customs (especially when the suspected goods withheld are not among those products the trademark proprietor has ever made). As such, the draft amendment simplifies the aforesaid procedure by removing the requirement that the trademark proprietor(s) has to appear at the customs office to conduct authentication after receiving the customs’ notice. (Article 75 amended)

3.1.4 Other simplification and relaxation of regulations

3.1.4.1 For protecting the names of well-known juridical persons, businesses, or any groups, the occurrence and non-occurrence of likelihood of confusion on the relevant public, instead of the sameness between the character(s)/word(s) of a proposed trademark and a specific portion of a registered trademark, should be the ground for rejecting registration applications. Hence,

the draft amendment revises the ground for registration refusal provided in subparagraph 14 of paragraph 1 of Article 30 of the Trademark Act as “a proposed trademark being identical or similar to the names of a well-known juridical person, business or any groups” for keeping in line with the practice of examination. (Subparagraph 14 of Paragraph 1 of Article 30 amended)

3.1.4.2 The draft amendment makes revisions for specifying the circumstances not subject to the effect of registered trademarks, which include “nominative fair use”, “bona fide prior use”, and “exceptions of trademark right exhaustion” (Article 36 amended).

(1) “Nominative fair use”: Nominative fair use refers to the use of another person’s registered trademark for indicating that person’s goods or services, and such use is necessary for designating the intended purpose of goods or services in accordance with honest practices in industrial or commercial matters; that is, any person (third party) uses any trademark proprietor’s registered trademark to pointing out that proprietor’s goods or services and the proprietor’s trademark is not used as that person’s (that third party’s) trademark. However, such use should not be regarded as fair one if it is likely to cause consumers’ confusion that the proprietor’s goods/services and the person’s (the third party’s) have the same source or that the proprietor and the person (third party) are affiliated entities or in licensor-licensee, franchisor-franchisee or any other similar relationships.

(2) Bona fide prior use: The scope of a prior user’s continued bona fide use of a registered trademark is revised; that is, the continued use is only for “the original scope of use”, instead of for “the original goods or services” as currently provided. Also, the draft amendment provides that the extent of limitation on the “use on the original goods or services, region, scale of production and sale, and marketing channel” should be considered and decided by judicial practice on a case-by-case basis.

(3) Exception of right exhaustion: After goods have been put on the market under a registered trademark by a trademark proprietor, the trademark proprietor may still be allowed to assert his/her trademark rights against “sale of the goods not in the original packaging” in the exceptional circumstance where “the goods are processed or transformed without due authorization and not as legally required by domestic regulations” and are sold not in their original packaging, and such sale has affected the quality of the goods and hence leads to a likelihood of impairing the trademark proprietor’s or the licensee’s goodwill.

3.1.4.3 As currently stipulated, “application and other proceedings of trademark” may be transmitted by electronic means. The draft amendment indicates that Taiwan IPO may also “have documents served by electronic means” and the implementing regulations therefor shall be prescribed by the Ministry of Economic Affairs. (Article 13 amended)

3.2 Definition of well-known marks as ruled by the Grand Panel, Supreme Administrative Court

According to the ruling of 111-Da-Zi no. 1 issued 17 March 2023 by the Grand Panel, Supreme Administrative Court, the term *well-known trademark* provided in the last sentence of subparagraph 11, paragraph one, Article 30 of the Trademark Act means a mark which is widely recognized by and commonly known to the relevant trades or consumers as established by objective evidence. Whether or not the mark is commonly known to the general public is

not a precondition for said sentence of said Article to operate.

4. Copyright

4.1 Amendment to Copyright Act passes legislative three readings to cope with distance education on May 27, 2022.

In response to the development of digital technology and the needs of educational policy and pandemic control nowadays, on May 27, 2022 the Legislative Yuan adopted the amendment to partial provisions of the Copyright Act by a third reading, and the amended provisions are concerning the fair use of copyrighted works in distance education as an extension of the classroom, which will allow schoolteachers to give instruction without worrying about infringement. Also for fitting in with digital education policies, the amendment incorporates provisions that allow textbook preparers to transmit the digital files of textbooks or educational materials to both schoolteachers and students to form e-schoolbags that will alleviate the burden of students' heavy schoolbags. Besides, to actualize cultural development of the country, the amendment also introduces provisions that permit the National Central Library to reproduce its collections in digital forms under specific conditions for readers' online viewing in the library.

Key points of the amendment are summarized as follows.

4.1.1 Schools' fair use of copyrighted works in distance education to enrolled students

Currently schoolteachers are legally allowed to print and distribute to students copyrighted teaching materials, within a reasonable scope, only for face-to-face teaching at schools. Now due to technological development and to enable schoolteachers to provide remote education as they do in classrooms, the amendment adds provisions allowing teachers to provide students with reference materials or information via the Internet within the necessary scope of teaching at schools so as to cope with the needs of remote education when schools shut down due to the pandemic and to enhance teaching efficiency and to keep abreast with international trends and technological development. In addition, in order to avoid excessive infringement upon copyright holders' rights and interests, the amendment also requires schools to take reasonable technical measures (such as, account passwords) to prevent those students who do not take the course from accessing it. Moreover, as distance education involves public interest, schoolteachers will not be required to pay for authorization for using any other persons' copyrighted works (amended Article 46).

4.1.2 Fair use of copyrighted works for non-profit distance education on condition of payment of remuneration

In regard to distance education for general public (e.g. not-for-profit massive open online courses (MOOCs) education platform eDX), the current law regulates only televised education, like national open university and provides no provisions governing fair use of copyrighted works by online education. In this regard, the amendment introduces regulative provisions that permit and govern schools' or educational institutions' fair use of copyrighted works for distance online teaching, which involves more channels of transmission and target audience, including not only traditional broadcasting and TV but also synchronous or asynchronous transmission directed to general public different from enrolled students as mentioned above. Hence, fair use of copyrighted works within the necessary scope of education is legally allowed on condition of remuneration payment to copyright holders so as to ensure their rights and interests. On the other hand, for profit-seeking distance education (e.g. online education

provided by cram schools), due authorization is also required for involving no public interest in order to protect copyright holders' rights and interests (amended Article 46-1).

4.1.3 Digital copies transmission by textbook preparers to schoolteachers and students for the need of e-schoolbags

According to current stipulation, for textbook examination and compilation, textbook preparers may use copyrighted works and can provide schoolteachers and students with only paper copies of textbooks for their use, which is unable to meet the needs of students' use of e-schoolbags in the digital era. In consideration of the foregoing, the amendment is drafted to additionally set forth regulation allowing and governing textbook preparers' digital transmission of textbooks for teachers' and students' fair use. Likewise, remuneration payment is required for the authorized fair use of copyrighted works in the aforesaid situation (amended Article 47).

4.1.4 National Central Library's digital reproduction of collections and availability of collections to libraries' intranet

For the purpose of cultural development, the amendment introduces new provisions that allow the National Central Library to digitally reproduce its collections in advance to avoid their loss or damage so that the National Central Library can preserve contemporary works. Moreover, the amendment also provides that the National Central Library or general libraries may allow readers to access their collections on the libraries' intranet under certain restrictions, in lieu of the lending or viewing of paperbacked collections. This will facilitate not only the digitalization of library services but also preservation of physical library collections (amended Article 48).

The Ministry of Economic Affairs emphasized that digital development leads to use of copyrighted works in diverse ways and that distance education turns into an important form of education as a result of the pandemic impact. As such, the Legislative Yuan greenlighted this amendment in response to the technological developments that have been enhancing educational effects, the use of e-schoolbags, and also facilitating libraries' collections preservation and digitalized services. This amendment will tally with Taiwan's education policies in the digital era, forward diversified developments of education, and establish substantial and positive significance for knowledge distribution.

5. Latest IP Related Court Cases

5.1 For commercial success to be asserted a positive factor affirming the inventive step (nonobviousness) of an invention, the success alleged must be the direct result of the practice of the technical feature of the invention rather than otherwise such as marketing skill, advertising or promotion. *(IP&C Court decision ref. 110-Xing-Zhuan-Su-Zi no. 54 entered 20 July 2022)*

5.2 No trademark licensing contract terminates as a matter of course by reason of the death of the proprietor of the licensed mark. Instead, all of the successors to the deceased as a whole shall assume the rights and obligation under the licensing contract. *(IP&C Court decision ref. 110-Xing-Shang-Su-Zi no. 91 entered 27 July 2022)*

5.3 The artistic aesthetics of **a hotel room design** has nothing pertaining to the essence of the architecture copyright of the building. It is not an inseparable part of the inner structure of the building; nor is it indispensable called for by occupancy of the building. It is **not an architecture copyright as defined under the Copyright Act**. However, as a **strikingly similar imitation of the design** will easily mislead the relevant consumers into believing that there exists franchisor-franchisee or licensor-licensee relationship between the two or they are two of the labels or affiliates belong to the same group, **unfair trade practice remains in issue and the Fair Trade Act applies**. *(IP&C Court decision ref. 110-Min-Zhu-Shang-Gong-(1)-Zi no. 1 entered 13 October 2022)*

5.4 The information to be kept confidential by contract is not necessarily a trade secret defined under the Trade Secret Act. As long as it can be clearly specified, logically acceptable and is not generally known, the information may be defined as confidential information to be kept confidential under a non-disclosure agreement. *(IP&C Court decision ref. 110-Min-Ying-Shang-Zi no. 5 entered 29 July 2022)*

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