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Land Scheme at Heathrow Airport Uncovered




Profitable Plots Sdn. Bhd., a company incorporated in Malaysia with a paid up capital of RM2 promoted the sale of plots of land at Heathrow Airport to Malaysians a couple of years ago. The purchasers were promised returns of 250% to 500% in a few years. While the purchasers legally owned the plots, having paid between RM104,000 and RM520,000 they could do nothing with the plots because they were situated in green belts where no housing development could take place.

In October 2008, the Companies Commission of Malaysia declared that Profitable Plots Sdn. Bhd. had acted in contravention of the Companies Act 1965 in making the sales. It raided the premises of the company and brought a charge against it in the Kuala Lumpur High Court. The Court upheld the ruling of the Companies Commission of Malaysia on 11 January 2011.

If the purchasers are desirous of recovering the purchase prices paid, they will have to sue Profitable Plots Sdn. Bhd.

Following the recent earthquake and tsunami which hit Japan, we at RamRais® & Partners hope that all our Japanese clients are undergoing a fast recovery. Our thoughts and prayers are with you.



Increase in Service Tax Effective 1 January 2011

On 15 October 2010, Dato' Sri Mohd Najib Bin Tun Abdul Razak, the Honourable Finance Minister of Malaysia, through tabling of the budget 2011 announced an increase in the rate of service tax from 5% to 6% on all taxable services except on credit card and charge card services in the *Dewan Rakyat*.

The date of implementation of the new service tax rate is effective 1 January 2011 and the rate is determined based on the date a service is provided as follows:

- (i) If the taxable service is entirely provided before 1 January 2011, 5% service tax is imposed.
- (ii) If the taxable service is provided on/after 1 January 2011, 6% service tax is imposed. However,
 - (a) If full payment for services provided on/after 1 January 2011 is received before 1 January 2011, 5% service tax is imposed.
 - (b) If part payment for services provided on/after 1 January 2011 is received before 1 January 2011, 5% service tax is imposed. The balance payment received on/after 1 January 2011 is subject to 6% service tax.
- (iii) Service partly rendered before 1 January 2011 is subject to 5% service tax.
- (iv) The balance service rendered on/after 1 January 2011 is subject to 6% service tax. However, if full payment for that service is received before 1 January 2011, 5% service tax is charged.

This amendment is enforced by the Service Tax (Rate of Tax) (Amendment) Order 2010 [P.U. (A) 411/2010].

Asian Patent Attorneys Association (Malaysia) Berhad (APAA Bhd.)

Asian Patent Attorneys Association (APAA) members within a territory in the Asian region can form a Recognised Group with the approval of the APAA council. The Malaysia Group was recognized by APAA in 1990 (refer to Page 7, Issue 15 of the Updates from RamRais® & Partners). The Malaysia Group is administered by the Malaysian Intellectual Property Association (MIPA) as a sub-committee made up of members of the Malaysia Group of APAA. MIPA is a registered society whose members encompass intellectual property practitioners and other interested parties.

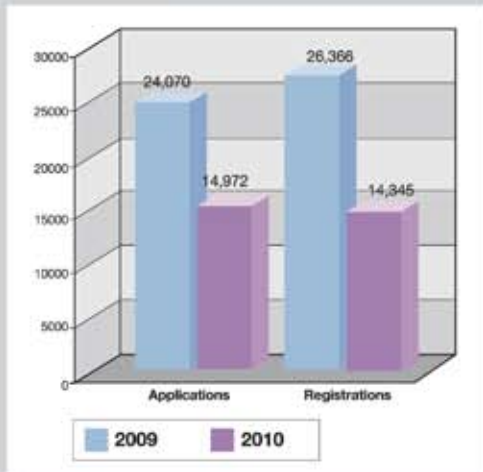
Members of the Malaysia Group saw the need to establish the Group as a legal entity as opposed to the Group being a non-entity sub-committee within MIPA so that the objectives and interests of the Group can be better served. The Malaysia Group has now officially incorporated Asian Patent Attorneys Association (Malaysia) Berhad (APAA Bhd.), a company limited by guarantee. Members of the group remain as members of APAA.

RamRais® & Partners is a long-standing member of MIPA and is now a member of APAA Bhd.

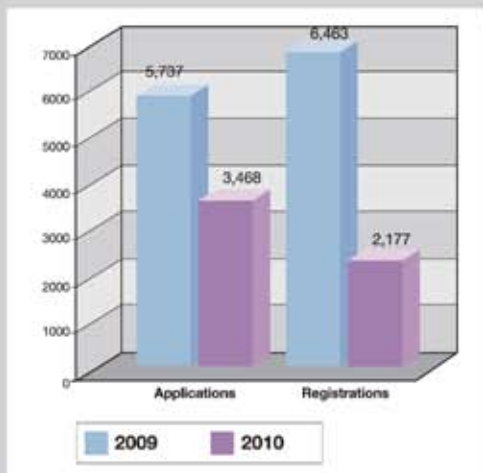
Intellectual Property Statistics: How did Malaysia fare in 2010?

Total Applications & Registrations

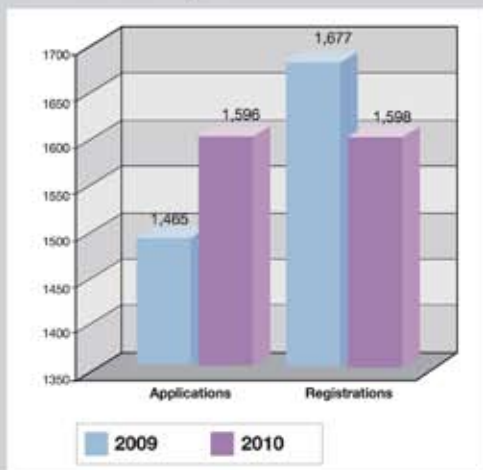
Trade Marks



Patents



Industrial Designs



Top Ten Applicant Countries

Trade Marks

	2009	2010
1	Malaysia	Malaysia
2	USA	USA
3	Japan	Japan
4	Switzerland	China
5	Germany	Singapore
6	United Kingdom	Germany
7	Singapore	United Kingdom
8	China	Switzerland
9	France	France
10	Australia	Australia

Patents

	2009
1	USA
2	Malaysia
3	Japan
4	Germany
5	Switzerland
6	United Kingdom
7	France
8	Netherlands
9	Sweden
10	South Korea

List of Registered Geographical Indications as at 2010

- 1 Sarawak Pepper
- 2 Sabah Tea
- 3 Borneo Virgin Coconut Oil
- 4 Tenom Coffee
- 5 Sabah Seaweed
- 6 Bario Rice
- 7 Buah Limau Bali Sungai Gedung
- 8 Pisco
- 9 Scotch Whisky
- 10 Sarawak Beras Biris
- 11 Sarawak Beras Bajong
- 12 Kuih Lidah Kampung Berundong Papar

Source: <http://www.myipo.gov.my/en/resources/statistics.html>

Source: <http://www.myipo.gov.my/en/resources/statistics.html>

Expedited Examination for Trade Marks and Patents

An expedited examination is a procedure an applicant may go through to speed up the examination of a trade mark or a patent application. The applicant may apply for the expedited examination 18 months after the priority date/filing date of a patent application. As for a trade mark application, the approval of the expedited examination needs to be applied within 4 months from the filing date. The request for approval of expedited examination must be filed together with a statutory declaration stating the grounds for the said request and a prescribed fee.

The Registrar of trade marks and patents may grant the approval for the expedited examination on the following grounds:-

1. The Registrar is reasonably satisfied that the patent or trade mark is for national or public interest;
2. There are infringement proceedings taking place or evidence showing potential infringement of the patent or trade mark;

3. The applicant has commercialized or plans to commercialize the patent or trade mark;
4. The applicant hopes to obtain monetary benefits from the government or institutions recognized by the Registrar; and
5. Any other reasonable grounds which supports the request.

Upon obtaining approval from the Registrar, the applicant shall complete the formalities by filing the "Request for expedited examination" together with the prescribed fee.

The expedited examination procedure flowchart is shown in Figure 1 and Figure 2 for trade marks and patents respectively.

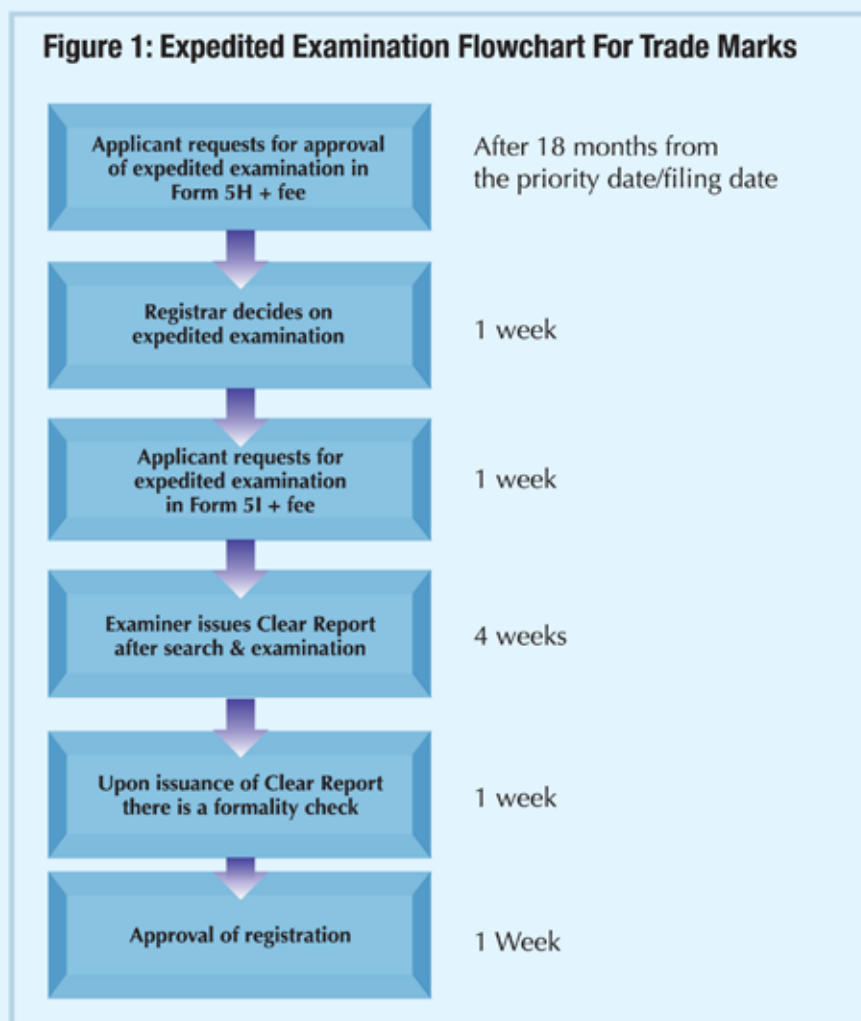
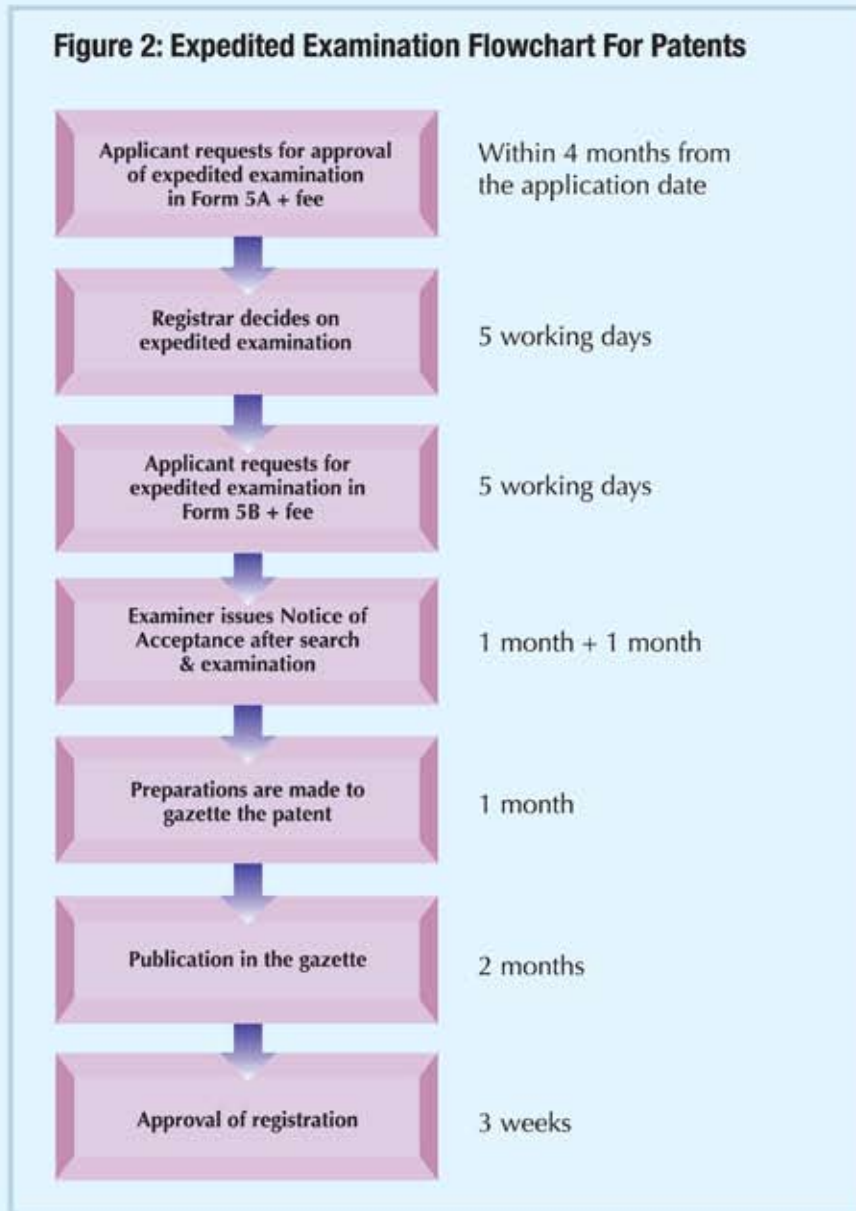


Figure 2: Expedited Examination Flowchart For Patents



It will take about 20 months to complete the examination for a straightforward patent application and about 6 months and 3 weeks to complete the examination for a straightforward trade mark application. The cost for filing the request for expedited examination for trade marks and patents are as follows:-

Expedited Examination for Patents	Govt. Fees (USD)	Expedited Examination for Trade Marks	Govt. Fees (USD)
Request for Approval in Form 5H	84	Request for Approval in Form 5A	84
Request for Expedited Examination in Form 5I	734	Request for Expedited Examination in Form 5B	400

Source: <http://www.myipo.gov.my>

Plea Bargaining Concept: Is it Possible in Malaysia?

Plea bargaining is defined by Wikipedia as

“an agreement in a criminal case whereby the prosecutor offers the defendant the opportunity to plead guilty, usually to a lesser charge or to the original criminal charge with a recommendation of a lighter than the maximum sentence”.

In other words, plea bargaining is a negotiated agreement between the defence and the prosecution where an accused agrees to plead guilty to a specified charge in exchange for an oral promise of a lower sentence.

Plea bargaining would save judges, lawyers and prosecutors' time and resources since they need not attend lengthy trials. With the number of trials reduced, the backlog of cases would be easily dealt with and this would mean less waiting time for remand prisoners waiting for trials and convicted prisoners waiting for appeals.

While the plea bargaining concept may be going on unofficially for some time now in Malaysia, it has not been statutorily authorized as in most jurisdictions around the world including the United States of America.

The Parliament has now amended Section 172 of the Criminal Procedure Code (Amendment) Act 2010 to implement the plea bargaining concept in Malaysia. Section 172A now provides:

(1) *An accused who is charged with an offence shall, by an advocate representing him, participate in a pre-trial conference with the Public Prosecutor before the commencement of the case management.*

- (2) *A pre-trial conference shall commence within thirty days from the date the accused was charged in court or any reasonable time before the commencement of the case management.*
- (3) *A pre-trial conference may be conducted by any means and at any venue as may be agreed upon by the advocate representing the accused and the Public Prosecutor.*
- (4) *During the pre-trial conference, an advocate representing an accused may discuss with the Public Prosecutor the following matters relating to the case:*
 - (a) *identifying the factual and legal issues;*
 - (b) *narrowing the issues of contention;*
 - (c) *clarifying each party's position;*
 - (d) *ensuring the compliance with Section 51A;*
 - (e) *discussing the nature of the case for the prosecution and defence, including any alibi defence that the accused may rely on;*
 - (f) ***discussing any plea bargaining, and reaching any possible agreement thereto; and***
 - (g) *any other matters as may be agreed upon by the advocate representing the accused and the Public Prosecutor that may lead to the expeditious disposal of the case.*
- (5) *All matters agreed upon in the pre-trial conference by the advocate and the prosecutor shall be reduced into writing and signed by the accused, the advocate and the Public Prosecutor.*

Proceeds from Community Hall to Benefit the Needy

When the world was saddened by the devastation of the 2004 tsunami, two persons from RamRais® & Partners visited some areas affected by the tsunami in India as part of the firm's Corporate Social Responsibility (CSR) project. Mr. Hariram Jayaram, the founder of RamRais® & Partners has his roots in India and during his many visits over the years, he offered assistance to the needy especially for education and a series of CSR projects were undertaken.

Mr. Hariram purchased a land to start a self-sustaining project to generate income and support future projects for the benefit of the community at Prathanaramapuram, Poovaihedhi, Tamil Nadu.

On 12 December 2010, the opening ceremony of Gnanambal Jayaram Tirumana Mahal, a community hall named after Mr. Hariram Jayaram's late parents was held. This joyous occasion was celebrated in the presence of the learned Justice of Malaysia, Justice Dr. Hj. Hamid Sultan Bin Abu Backer as the Guest of Honour. Also present were Mr. Hariram Jayaram himself, Ms. Selvarani, Ms. Caroline Francis and Mr. Anthony.

This hall will be an administrative center for numerous charity projects, such as a possible home for poor women; a place of shelter for victims of natural disasters etc. Plans for an IT & Law college for women are also in the pipeline.



Justice Dr. Hj. Hamid Sultan Bin Abu Backer officiating the opening ceremony of the hall



From left: Caroline Francis, Anthony, Dr. Hj. Hamid Sultan Bin Abu Backer, Hariram Jayaram and Selvarani



The Gnanambal Jayaram Tirumana Mahal



Scene at the Gnanambal Jayaram Tirumana Mahal during the opening ceremony

Visitors and Activities at RamRais® & Partners



17 December 2010

From Left: Anita Kaur, Mr. Taizo Nishimoto, a freelance Patent Attorney from Japan, Caroline, Melissa and Enisha



16 February 2011

Madam Aleli Angela G. Quirino and Mr. Victor Leon (left) from Angara Abello Concepcion Regala & Cruz Law Offices, Manila, Philippines with Hariram, Anita Kaur and Caroline

Farewell 2010

On 30 December 2010, the Sports & Recreation Committee together with the Festive Event Committee organised the annual RRP Year – End Event at our office. The event showcased a video screening of RRP's bittersweet memories of 2010 put together by the IT Department. The Staff Development Committee presented the Most Punctual Staff Award while the 5S Committee presented The Cleanest Department Award. To conclude the event, staff were treated to a hearty luncheon.



Right: Nurul Akmar receives the Most Punctual Staff Award

Welcome 2011

On 9 February 2011, RRP ushered in the Chinese New Year by inviting a pair of colourful and vibrant Lions to its premises organised by the Sports, Recreation and CSR Committee. The day also saw the singing of Chinese New Year songs by staff of RamRais® & Partners and the symbolic tossing of yee sang with chants and affirmation that the Year of the Rabbit will bring prosperity, happiness and good fortune to the firm. The event ended with a hearty meal and joyous laughter.



Nor Arfah, Shashila with Hariram tossing the yee sang



IP Division (left) ties with IT Department (right), for the Cleanest Department Award



RamRais® & Partners with the Lion dancers from Persatuan Chung Hwa Shaolin Goh Chor Malaysia

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