APAA 2026, in Hong Kong
Trademark Committee
Group Report - Malaysia

A. Developments

- No changes to the Malaysian Trademarks Act or Regulations over the past year.

B. Statistics

1. The number of new applications

Year	No. of new applications	Increase/Decrease
2024	56,040	Increase (7.3%)
2025	59,812	Increase (6.7%)

Comments and /or additional statistics:

1a. The number of registrations

Year	No. of registrations	Increase/Decrease
2024	43,167	Increase (14.45%)
2025	44,156	Increase (2.3%)

2. Average timeframe from filing up to registration

Year	Average timeframe from filing up to registration (months)
2024	Not available
2025	Not available

Comments and /or additional statistics:

C. CASES

(Note: At least two (2) representing cases are advisable)

Case 1 : Maxcare Success Sdn Bhd v Motionquest Sdn Bhd [2026] 5 MLJ 288

The Malaysian Court of Appeal reaffirmed the principle that the use of a registered trademark in an advertisement *per se* (separate from the application of the registered trademark on the actual products or services offered), would constitute a use "in the course of trade" in the context of trademark infringement. Therefore, any such use without the consent of the registered trademark's proprietor would be infringing the registered trademark

notwithstanding that the registered trademark is not being applied on the products/services offered by the unauthorised user.

Facts

The plaintiff, Maxcare Success Sdn Bhd is the proprietor of a registered trademark containing the word 'Maxoil' (**Maxoil trademark**). The defendant, Motionquest Sdn Bhd is a distributor of United States-manufactured oil and lubricant products in Malaysia, and the said products were offered under the brand 'Maxxoil' (**Maxxoil sign**) in Malaysia.

In a prior litigation in 2019, the plaintiff was successful in expunging a registered trademark of the Maxxoil sign from the Register of Trademarks, by establishing that it is the rightful owner of the Maxoil trademark and that the Maxxoil sign is likely to deceive or cause confusion with the Maxoil trademark. As a result of the prior litigation, the Maxxoil products were rebranded and sold in Malaysia under the trademark 'Maxx Performance' (**Maxx Performance products**) by the defendant.

During August to December 2020, the defendant reposted onto its official Facebook page videos that contained the Maxxoil sign (**Offending Videos**). On this basis, the plaintiff alleged that the defendant infringed their Maxoil trademark.

The High Court found that the defendant did not infringe the Maxoil trademark. The trial judge was of the view that the defendant's act of reposting the Offending Videos onto its Facebook page *per se* was not a use of the Maxxoil sign in the course of trade as the Maxxoil sign is not applied on the Maxx Performance products offered by the defendant. It was held that for the use of a mark in an advertisement to be regarded as a use in the course of trade, the advertisement must necessarily relate to the sale of products bearing the said mark.

The plaintiff appealed against the High Court's finding that there was no trademark infringement by the defendant.

Decision

The defendant's act of reposting the Offending Videos onto its Facebook page infringed the plaintiff's Maxoil trademark in the manner provided under section 54(2)(b) of the Trademarks Act 2019, for the following reasons:

(1) The defendant's act was sufficient to constitute use in the course of trade in the context of trademark infringement because the Offending Videos were reposted onto the defendant's Facebook page, the purpose of which was to promote the Maxx Performance products sold by the defendant.

(2) Considering the purpose of the defendant's Facebook page, the said page is indisputably a 'commercial document' within the meaning of section 54(3)(g) of the said Act and that the reposting of the Offending Video onto the said page was regarded as a use of the Maxxoil sign in advertising (as provided in section 54(3)(h) of the said Act).

Case 2 : Andreas STIHL AG & Co KG v. Wong Chee Seng [2026] 4 CLJ 421

In this case, the Malaysian High Court reaffirmed the trite principle that a plaintiff's omission to pursue an opposition against a trademark application or an unsuccessful opposition proceeding does not give rise to any estoppel to the plaintiff from seeking to expunge or invalidate a registered trademark on the grounds available in the Trademarks Act 2019.

Facts

The plaintiff, Andreas STIHL AG & Co KG, is the owner of several trademarks consisting of 'STIHL' in various classes in Malaysia, with the earliest trademark filed in 1965. The defendant, Wong Chee Seng, filed a trademark application consisting of a stylised 'STHLL' in Class 7 in 2022 and obtained the registration of the same in 2023 (**defendant's trademark**).

The plaintiff is seeking to invalidate the defendant's trademark under section 47 of the Trademarks Act 2019 (**said Act**) on the grounds that the use of the defendant's trademark is likely to deceive or cause confusion to the public and that there exists a likelihood of confusion on the part of the public as the defendant's trademark is similar to the plaintiff's trademarks.

The defendant contended among others that the plaintiff does not qualify as an aggrieved person under section 47 of the said Act and that the plaintiff's failure to pursue an opposition against the defendant's trademark indicated that the plaintiff is not substantially affected by the presence of the defendant's trademark.

Decision

The High Court found that the defendant's trademark is invalid on the grounds that the use of the same is likely to deceive or cause confusion to the public.

In deciding whether the plaintiff is an "aggrieved person" under the said Act, the High Court held that the plaintiff's failure to pursue an opposition against the defendant's trademark does not bar the plaintiff from seeking to invalidate or expunge the registered mark. The same applies even in the event where the plaintiff did not file an appeal after an unsuccessful opposition. In any event, it remains open for the plaintiff to challenge the registration of a trademark in invalidation or rectification proceedings by relying on the relevant provisions in the said Act.